

Authorised Version No. 052

Heritage Act 1995

No. 93 of 1995

Authorised Version incorporating amendments as at
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No. 93 of 1995

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1 July 2014

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

- (a) to provide for the protection and conservation of places and objects of cultural heritage significance and the registration of such places and objects; and
- (b) to establish a Heritage Council; and
- (c) to establish a Victorian Heritage Register.

2 Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Sections 215 and 218(2) come into operation on the day which is the second anniversary of the day on which section 214 comes into operation.
- (3) Subject to subsections (4) and (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (4) Subject to subsection (5), if a provision referred to in subsection (3) does not come into operation within the period of 2 years beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

- (5) Part 5 does not apply in or in relation to Victorian coastal waters until a day to be fixed by the Governor in Council by proclamation published in the Government Gazette.

3 Definitions

In this Act—

S. 3 def. of
Administrative Appeals Tribunal
repealed by
No. 52/1998
s. 311(Sch. 1
item 38.1(a)).

* * * * *

advisory committee means—

- (a) an advisory committee established under Division 1 of Part 2; and
- (b) the Historic Shipwrecks Advisory Committee established under Part 5;

alter in relation to a place means to modify or change the appearance or physical nature of a place whether by way of structural or other works, by painting, plastering or other decoration or any other means;

S. 3 def. of
Approved World Heritage Management Plan
inserted by
No. 105/2004
s. 3.

Approved World Heritage Management Plan means a World Heritage Management Plan approved under Part 3A and includes any approved amendments to that plan;

S. 3 def. of
Approved World Heritage Strategy Plan
inserted by
No. 105/2004
s. 3.

Approved World Heritage Strategy Plan means a World Heritage Strategy Plan approved under Part 3A and includes any approved amendments to that plan;

archaeological relic means—

- (a) any archaeological deposit; or
- (b) any artefact, remains or material evidence associated with an archaeological deposit—

which—

- (c) relates to the non-Aboriginal settlement or visitation of the area or any part of the area which now comprises Victoria; and
- (d) is 50 or more years old—

but does not include the remains of a ship or an article associated with a ship;

archaeological site means an area in which archaeological relics are situated;

building includes structure, work and fixture and any part of a building, structure, work or fixture;

committee means a committee established under Division 1 of Part 2;

conservation includes—

- (a) the retention of the cultural heritage significance of a place or object; and
- (b) any maintenance, preservation, restoration, reconstruction or sustainable use of a place or object;

cultural heritage means places and objects of cultural heritage significance;

cultural heritage significance means aesthetic, archaeological, architectural, cultural, historical, scientific or social significance;

develop in relation to a place means—

- (a) to construct or alter a place or a building on the place; or
- (b) to demolish or remove a building or works on the place; or
- (c) to carry out any works on, over or under the place; or
- (d) to subdivide or consolidate land comprising a place, including the buildings or airspace; or
- (e) to place or relocate a building or works on a place; or
- (f) to construct or put up for display signs or hoardings;

dispose in relation to an item, includes—

- (a) any assumption of any of the rights of an owner in relation to that item; and
- (b) without limiting paragraph (a)—
 - (i) any dealing (whether for reward or not) in that item; and
 - (ii) selling, offering to sell, bartering or exchanging and agreeing to sell, barter or exchange that item;

S. 3 def. of
*Executive
Director*
amended by
No. 46/1998
s. 7(Sch. 1).

Executive Director means the Executive Director employed under Part 2;

function includes power and duty;

government building means a building on government land;

government land means—

- (a) Crown land; or
- (b) land vested in a Minister; or
- (c) land vested in a public authority—

but does not include Crown land which is permanently or temporarily reserved under section 4 of the **Crown Land (Reserves) Act 1978** and which is vested in trustees or is under the control of a committee of management under that Act;

government object means an object owned by or vested in—

- (a) the Crown; or
- (b) a Minister; or
- (c) a public authority;

S. 3 def. of
*government
object*
inserted by
No. 19/2004
s. 4(b).

Heritage Council means the Heritage Council established under Part 2;

Heritage Inventory means the Heritage Inventory established under Part 6;

heritage object means an object included in the Heritage Register as a heritage object;

heritage place means a place included in the Heritage Register as a heritage place;

Heritage Register means the Victorian Heritage Register established under Part 3;

historic shipwreck means—

- (a) the remains or any part of the remains of a ship which is included in the Heritage Register as a historic shipwreck under section 98; or

- (b) the remains or any part of the remains of a ship to which section 100 applies; or
- (c) an article appearing to be the remains of a ship which is provisionally registered as a historic shipwreck under section 102; or
- (d) any historic shipwreck included in the Heritage Register under section 19(f);

historic shipwreck relic means—

- (a) an article which is included in the Heritage Register as a historic shipwreck relic under section 98; or
- (b) an article to which section 100 applies; or
- (c) an article which is provisionally registered as a historic shipwreck relic under section 102; or
- (d) any historic relic included in the Heritage Register under section 19(f);

S. 3 def. of *inspector* substituted by No. 19/2004 s. 4(a), amended by No. 37/2014 s. 10(Sch. item 80.1(b)).

inspector means—

- (a) an inspector appointed under Part 8; or
- (b) a police officer;

S. 3 def. of *listed place* inserted by No. 105/2004 s. 3.

listed place means a place in Victoria which is included in the World Heritage List and is recorded in the Heritage Register;

object includes—

- (a) an article associated with a ship; and
- (b) an archaeological relic;

owner means—

- (a) in relation to land which has been alienated in fee by the Crown and is under the operation of the **Transfer of Land Act 1958** (other than land in an identified folio under that Act), the person who is registered or entitled to be registered as proprietor of an estate in fee simple in the land; and
- (b) in relation to land which has been alienated in fee by the Crown and is land in an identified folio under the **Transfer of Land Act 1958** or land not under the operation of the **Transfer of Land Act 1958**, the person who is the owner of the fee or equity of redemption; and
- (c) in relation to Crown land reserved under the **Crown Land (Reserves) Act 1978** and managed or controlled by a committee of management, the Minister administering that Act; and
- (d) in relation to any other Crown land, the Minister or public authority that manages or controls the land;

S. 3 def. of *owner* amended by No. 85/1998 s. 24(Sch. item 33.1 (a)(b)).

place includes—

- (a) a building; and
- (b) a garden; and
- (c) a tree; and
- (d) the remains of a ship or part of a ship; and
- (e) an archaeological site; and

S. 3 def. of
police officer
inserted by
No. 37/2014
s. 10(Sch.
item 80.1(a)).

- (f) a precinct; and
- (g) a site; and
- (h) land associated with any thing specified in paragraphs (a) to (g);

police officer has the same meaning as in the
Victoria Police Act 2013;

possess in relation to an item, includes—

- (a) having the custody or control of the item by any means; and
- (b) controlling access to the item (either alone or in the company or with the assistance of others);

protected zone means an area included in the Heritage Register as a protected zone;

public authority means any body corporate or unincorporate established by or under an Act for a public purpose, but does not include a municipal council;

registered archaeological place means an area of land included in the Heritage Register as an archaeological place;

registered archaeological relic means an object included in the Heritage Register as an archaeological relic;

registered object means an object included in the Heritage Register;

registered place means a place included in the Heritage Register;

responsible authority has the same meaning as in the **Planning and Environment Act 1987**;

shipwrecks regulations means regulations made under section 186;

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3 def. of ***Tribunal*** inserted by No. 52/1998 s. 311(Sch. 1 item 38.1(b)).

Trust means the National Trust of Australia (Victoria);

works includes—

- (a) any physical intervention, excavation or action that may result in a change to the nature, appearance or physical nature of a place; and
- (b) any change to the natural or existing condition or topography of land; and
- (c) any removal or destruction of trees; and
- (d) any removal of vegetation or topsoil;

World Heritage List has the same meaning as in the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth;

S. 3 def. of ***World Heritage List*** inserted by No. 105/2004 s. 3.

World Heritage Environs Area means an area declared to be a World Heritage Environs Area under Part 3A;

S. 3 def. of ***World Heritage Environs Area*** inserted by No. 105/2004 s. 3.

world heritage values has the same meaning as in the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth.

S. 3 def. of ***world heritage values*** inserted by No. 105/2004 s. 3.

4 Crown to be bound

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

5 Application of Act

This Act does not apply to a place or object that is of cultural heritage significance only on the ground of its association with—

- (a) Aboriginal tradition; or
 - (b) Aboriginal traditional use.
-

PART 2—HERITAGE ADMINISTRATION

Division 1—The Heritage Council

6 Heritage Council

- (1) There is established a body to be called the Heritage Council.
- (2) The Heritage Council—
 - (a) is a body corporate with perpetual succession;
 - (b) has a common seal;
 - (c) may sue or be sued in its corporate name;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal of the Heritage Council must be kept as directed by the Heritage Council.
- (4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

7 Constitution and membership of the Heritage Council

- (1) The Heritage Council consists of 10 members appointed by the Governor in Council on the recommendation of the Minister.
- (2) Of the persons appointed to the Heritage Council—
 - (a) 6 persons must possess recognised skills in one of each of the following areas—
 - (i) history;

- (ii) architectural conservation or architectural history;
 - (iii) archaeology;
 - (iv) engineering or building construction;
 - (v) property management;
 - (vi) planning law;
- (b) one must be appointed on the nomination of the Minister from a list of 3 names submitted by the National Trust of Australia (Victoria);
- (c) 3 must be persons having a demonstrated understanding, expertise or interest in Victoria's heritage or in the management of heritage places.
- (3) If the Trust does not submit a list of names to the Minister under subsection (2)(b) within one month of receiving a request in writing to do so, the Governor in Council may appoint a suitable person nominated by the Minister to fill the vacancy.
- (4) Parts 1 and 4 of Schedule 1 apply to the membership and procedure of the Heritage Council.

8 Functions of the Heritage Council

- (1) The functions of the Heritage Council are—
- (a) to advise the Minister on the state of Victoria's cultural heritage resources and on any steps necessary to protect and conserve them;
 - (b) to promote public understanding of Victoria's cultural heritage and develop and conduct community information and education programs;

- (ba) to adopt, and forward to the Minister, World Heritage Strategy Plans and amendments to World Heritage Strategy Plans;
- (c) to develop, revise and publish from time to time the assessment criteria to be used in considering the cultural heritage significance of places and objects and determining whether those places or objects warrant inclusion in the Heritage Register;
- (d) to add places or objects to the Heritage Register;
- (e) to remove places or objects from the Heritage Register, or to amend the registration of a place or object;
- (f) to hear appeals against decisions of the Executive Director relating to permits and applications for permits for undertakings or works affecting a registered place or registered object;
- (g) to advise government departments and agencies and municipal councils on matters relating to the protection and conservation of places and objects of cultural heritage significance;
- (h) to advise the Minister administering the **Planning and Environment Act 1987** on proposed amendments to planning schemes which may affect the protection or conservation of places and objects of cultural heritage significance;
- (i) to liaise with other bodies responsible for matters relating to the protection, conservation, management and promotion of Victoria's cultural heritage;

S. 8(1)(ba)
inserted by
No. 105/2004
s. 4.

-
- (j) to initiate and undertake programs of research related to the identification, conservation or interpretation of Victoria's cultural heritage;
 - (k) to report annually to the Minister on—
 - (i) the carrying out of its functions under this Act; and
 - (ii) the state of Victoria's cultural heritage; and
 - (iii) the operation of this Act;
 - (l) to provide the Minister annually with a business plan of its proposed works and operations for the next year;
 - (m) to carry out any other functions conferred on the Heritage Council under this Act or any other Act.
- (2) In determining assessment criteria for inclusion of places and objects in the Heritage Register under section 8(1)(c), the Heritage Council should have regard to the following matters—
- (a) historical importance, association with or relationship to Victoria's history;
 - (b) good design or aesthetic characteristics;
 - (c) scientific or technical innovations or achievements;
 - (d) social or cultural associations;
 - (e) potential to educate, illustrate or provide further scientific investigation in relation to Victoria's cultural heritage;
 - (f) importance in exhibiting a richness, diversity or unusual integration of features;
 - (g) rarity or uniqueness of a place or object;

- (h) the representative nature of a place or object as part of a class or type of places or objects;
- (i) methods of establishing the extent to which land or objects nominated for inclusion in the Heritage Register in association with a registered place or a place nominated for inclusion, are integral to the cultural heritage significance of the place;
- (j) any other matter which is relevant to the determination of cultural heritage significance.

9 Committees

- (1) For the purposes of this Act, the Heritage Council may appoint committees consisting of not less than 3 members of the Heritage Council and such other persons as the Heritage Council thinks fit.
- (2) A committee may—
 - (a) make recommendations to the Heritage Council on any matter referred to it by the Heritage Council; and
 - (b) carry out any other functions given to it under this Act.
- (3) Parts 2 and 4 of Schedule 1 apply to the membership and procedure of committees.

10 Advisory committees

- (1) The Heritage Council may establish any advisory committees it considers necessary to advise it on any matter relating to the carrying out of its functions under this Act.
- (2) A member of the Heritage Council may be a member of an advisory committee.
- (3) Parts 3 and 4 of Schedule 1 apply to the membership and procedure of an advisory committee established under this section.

11 Consultation and advice

- (1) In carrying out its functions under this Act, the Heritage Council, a committee or an advisory committee may—
 - (a) consult with the Trust and any other person or body; and
 - (b) carry out any investigations it thinks fit; and
 - (c) prepare, commission the preparation of or adopt any guidelines, statements of policy, reports, studies and conservation plans it thinks fit; and
 - (d) have regard to any information it considers relevant.
- (2) The Heritage Council may engage persons with suitable qualifications and experience as consultants.
- (3) An engagement under subsection (2) may be on any terms and conditions that the Heritage Council considers appropriate.

12 Delegation of Heritage Council's functions

- (1) The Heritage Council may, by instrument, delegate to the Executive Director its functions under this Act, other than—
 - (a) a function under section 75 or section 76; or
 - (b) this power of delegation.
- (2) The Heritage Council may, by instrument, delegate its functions under this Act to the members of a committee which consists solely of members of the Heritage Council, other than this power of delegation.

13 Immunity from liability

- (1) A member of the Heritage Council, a member of a committee or a member of an advisory committee is not liable for anything done or omitted to be done in good faith—
 - (a) in carrying out a function or power under this Act or the regulations or any other Act;
or
 - (b) in the reasonable belief that the act or omission was in the carrying out of a function or power under this Act or the regulations or any other Act.
- (2) Any liability resulting from an act or omission that would, but for subsection (1) attach to a member of the Heritage Council, a member of a committee or a member of an advisory committee attaches instead to the Heritage Council.

Division 2—The Executive Director and staff

14 Executive Director

- (1) An Executive Director must be employed under Part 3 of the **Public Administration Act 2004** for the purposes of this Act.
- (2) Part 4 of Schedule 1 applies to the Executive Director.

S. 14(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 98.1).

15 Functions of the Executive Director

The functions of the Executive Director are—

- (a) to establish and maintain the Heritage Register;
- (b) to recommend to the Heritage Council the registration of any place or object or the removal of places and objects from the Heritage Register or the amendment of the Heritage Register;
- (ba) to prepare World Heritage Strategy Plans;
- (c) to determine applications for permits and consents under this Act;
- (d) to develop, revise and distribute appropriate guidelines, forms and other material relating to nominations of places and objects, applications for permits and reporting requirements under this Act;
- (e) to report to the Heritage Council on all actions or decisions taken by the Executive Director in relation to nominations for registration, permits and any other matters on which the Heritage Council requires a report;
- (f) to regulate the investigation and documentation of registered places and registered objects and other places or objects of cultural heritage significance in Victoria;
- (g) to manage the enforcement of this Act;
- (h) to carry out any other functions conferred on the Executive Director under this Act or any other Act.

S. 15(ba)
inserted by
No. 105/2004
s. 5.

16 Delegation of Executive Director's functions

The Executive Director, by instrument, may delegate to an officer or employee appointed or employed pursuant to section 17 the Executive Director's functions under this Act, other than—

- (a) the power to make payments out of the Heritage Fund; or
- (b) this power of delegation.

17 Staff

Any employees that are necessary for the purposes of this Act may be employed under Part 3 of the **Public Administration Act 2004**.

S. 17
substituted by
No. 46/1998
s. 7(Sch. 1),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 98.1).

PART 3—THE VICTORIAN HERITAGE REGISTER

Division 1—The Victorian Heritage Register

18 Victorian Heritage Register

The Executive Director must establish and maintain a register to be called the Victorian Heritage Register.

19 What is in the Register?

The Executive Director must record in the Heritage Register—

- (a) all places and objects registered under this Part; and
- (ab) any place in Victoria which is included in the World Heritage List; and
- (b) all places registered on the register of historic buildings under the **Historic Buildings Act 1981** immediately before the commencement of this section; and
- (c) all buildings declared under section 194 to be included in the Heritage Register; and
- (d) all buildings remaining on the register of government buildings under the **Historic Buildings Act 1981** on the day on which section 215 comes into operation; and
- (e) all historic shipwrecks and historic shipwreck relics to which section 100 applies; and

S. 19(ab)
inserted by
No. 105/2004
s. 6.

- (f) all historic shipwrecks, historic relics and protected zones in respect of which a notice is in force under section 10, 11 or 12 of the **Historic Shipwrecks Act 1981** immediately before the commencement of this section; and
- (g) all historic shipwrecks, historic shipwreck relics and protected zones included in the Heritage Register under Part 5.

20 Categories of registration

- (1) A place or object must be recorded in the Heritage Register in one or more of the following categories—
 - (a) heritage places;
 - (b) heritage objects;
 - (ba) places included in the World Heritage List;
 - (c) archaeological places;
 - (d) archaeological relics;
 - (e) historic shipwrecks;
 - (f) historic shipwreck relics;
 - (g) protected zones.
- (2) The Executive Director must specify the category or categories of the Heritage Register in which a place or object is to be registered.

S. 20(1)(ba)
inserted by
No. 105/2004
s. 7.

21 What details are to be included in the Heritage Register?

- (1) The Executive Director must include in the Heritage Register sufficient details to identify the places or objects included in the Heritage Register.
- (2) The Executive Director is not required to include the name or exact location of a historic shipwreck or a historic shipwreck relic in the Heritage Register if the name or exact location of the historic shipwreck or the historic shipwreck relic is unknown.
- (3) If the Heritage Council determines that a place or object may be damaged or removed if it is fully identified in the Heritage Register, the Heritage Council may direct the Executive Director to limit the identifying details in the Heritage Register to those specified by the Heritage Council.

Division 2—Procedure for registration

22 Division does not apply to shipwrecks

Nothing in this Division applies to the remains of a ship or part of a ship or an article associated with a ship to which Part 5 applies.

23 Nomination for inclusion in Heritage Register

- (1) A person or body may nominate a place or object for inclusion in the Heritage Register.
- (2) A nomination must be made in writing to the Executive Director in a manner approved by the Executive Director.
- (3) The Executive Director may nominate a place or object for inclusion in the Heritage Register.

-
- (4) A nomination must—
- (a) specify reasons as to why the place or object warrants inclusion in the Heritage Register; and
 - (b) include reasons based on the assessment criteria published by the Heritage Council.

24 Certain nominations not to be accepted

- (1) The Executive Director must not accept a nomination of a place or object under this Division if—
- (a) the Heritage Council in the preceding 12 months had refused to register or has revoked the registration of that place or object; or
 - (b) if the Historic Buildings Council in the preceding 12 months had refused to recommend the registration or revocation of the registration of that place or object under the **Historic Buildings Act 1981**; or
 - (c) if the Minister in the preceding 12 months had refused to register the place or object.
- (2) The Executive Director may accept a nomination relating to—
- (a) a place or object referred to in subsection (1)(a) or (b); or
 - (b) with the consent of the Minister, a place or object referred to in subsection (1)(c)—
- if the Executive Director receives significant new information relating to that place or object which was not available to the Heritage Council, the Historic Buildings Council or the Minister in reaching the decision referred to in subsection (1).

S. 25
repealed by
No. 19/2004
s. 5.

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26 Archaeological place

S. 26(1)
amended by
No. 19/2004
s. 6.

- (1) If a place has been nominated for inclusion on the Heritage Register as an archaeological place, the Executive Director may accept a nomination of any archaeological relics associated with that place or any artefact or unique specimen which includes an archaeological relic associated with that place for inclusion in the Heritage Register as an archaeological relic.
- (2) A nomination can be made—
 - (a) in respect of a relic whether or not the relic is located on or under the place or whether or not the exact location of the relic is known; and
 - (b) in respect of all relics associated with the place whether or not the number or nature or the exact location of the relics is known; and
 - (c) without the extraction of the relic from the place.

27 Registration of additional land

- (1) If the Executive Director considers that—
 - (a) the cultural heritage significance of a registered place or a place nominated under this Division for inclusion in the Heritage Register would be substantially less if the land or any part of the land which is or has been used in conjunction with the place were developed; or

(b) land surrounding a registered place or nominated place is important to the protection or conservation of that place or contributes to the understanding of that place—

he or she may accept a nomination that that land be added to the Heritage Register as part of that place.

(2) A nomination may be accepted under this section whether or not the land is in the same ownership as the place.

28 Further information

The Executive Director may ask a person or body nominating a place or object for further information to assist the consideration of the nomination.

29 Notice to owner

- (1) The Executive Director must give the owner of a place or object notice in writing of the nomination of the place or object under this Division within 14 days after the acceptance of that nomination.
- (2) If the Executive Director believes that it is not practicable in a particular case to give notice to an owner in accordance with subsection (1), the Executive Director may apply to the Minister to exempt the Executive Director from the requirements of subsection (1).
- (3) If the Minister exempts the Executive Director from the requirement to give notice under subsection (1), the Executive Director must give notice to the affected owners in any manner that the Minister specifies in the exemption.

S. 29(2)
amended by
No. 18/1997
s. 5(1).

- (4) If the Minister exempts the Executive Director from the requirement to give notice under subsection (1), details of that exemption must be included in the Heritage Council's annual report to the Minister made under section 8(1)(k).

S. 30
amended by
No. 19/2004
s. 7.

30 Deferral of consideration of nomination

If any land or object which is the subject of a nomination has been offered for sale or is offered for sale within 60 days after the making of the nomination, the Executive Director may, with the agreement of the owner of the land or object, defer the consideration of a nomination until after completion of that sale.

31 Owner to notify purchaser of nomination and deferral

- (1) The owner of land or an object which is the subject of a nomination under this Division must before entering into a contract for the sale of that land or object inform the purchaser of the land or object of that nomination and of any deferral of consideration of the nomination.
- (2) If the owner of land or an object which is the subject of a nomination under this Division fails to comply with subsection (1), the contract of sale is not invalid, but is voidable at the option of the purchaser.

S. 32
substituted by
No. 70/2000
s. 3.

32 Decision of Executive Director on nomination

- (1) After considering a nomination and any further information given under section 28, the Executive Director may—
- (a) recommend to the Heritage Council that the place or object be included in the Heritage Register and the category or categories in which it should be included; or

- (b) recommend to the Heritage Council that the place or object should not be included in the Heritage Register.
- (2) If the Executive Director recommends to the Heritage Council that a place not be included in the Heritage Register, the Executive Director may refer the nomination to the relevant planning authority or the Minister administering the **Planning and Environment Act 1987** for inclusion of the place in a planning scheme in accordance with the objectives set out in section 4(1)(d) of that Act.

33 Recommendations in relation to works and activities

- (1) If the Executive Director recommends to the Heritage Council that a place or object be included in the Heritage Register, the Executive Director may include in the recommendation the categories of works and activities which are able to be carried out in relation to the place or the object without the need for a permit under this Act.
- (2) The Executive Director may consult with the owner of the place or object before making a recommendation referred to in subsection (1).

S. 33(2)
amended by
No. 19/2004
s. 8.

34 Statement to be given to owner and nominator and municipal council

- (1) If the Executive Director recommends to the Heritage Council that a place or object be included in the Heritage Register, the Executive Director must give a statement in accordance with this section to—
- (a) the owner of the place or object; and
- (b) the nominator of the place or object; and
- (c) the relevant municipal council.

S. 34(1)
substituted by
No. 70/2000
s. 4(1).

- (2) A statement under subsection (1) must—
- (a) be in writing; and
 - (b) set out the terms of the recommendation; and
 - (c) include a brief statement of the cultural heritage significance of the place or object; and
 - (d) advise the owner or nominator that the Heritage Council will make a decision on the recommendation after a period of 60 days from the date of the notice of that recommendation published under section 35; and
 - (e) advise the owner that the owner may—
 - (i) make a submission on the recommendation to the Heritage Council at any time within that period of 60 days; and
 - (ii) request a hearing in relation to that submission; and
 - (f) set out a summary of the rights and obligations under this Act of the owners of registered places and registered objects of that kind; and
 - (g) set out any recommendations made under section 33 in relation to the place or object and any proposals recommended by the Executive Director for the management of the place or object and invite submissions from the owner in relation to those recommendations and proposals.
- (3) A statement under subsection (1) must include sufficient information to identify the place or object, whether by reference to maps or diagrams or otherwise.

S. 34(2)(e)
substituted by
No. 70/2000
s. 4(2).

S. 34(2)(g)
amended by
No. 19/2004
s. 9(1).

- (4) Despite subsection (3), the Executive Director may determine that, in relation to an archaeological site, some details of identification should not be included in the statement under subsection (1) if he or she believes that, if the details were known, there is a real danger that a person may remove or damage an archaeological relic or damage that site.
- (5) Despite subsection (3), the Executive Director may determine that, in relation to an object, some details of identification should not be included in the statement under subsection (1) if he or she believes that, if the details were known, there is a real danger that a person may remove or damage the object.

S. 34(5)
inserted by
No. 19/2004
s. 9(2).

34A Statement of recommendation that a place or object should not be registered

S. 34A
inserted by
No. 70/2000
s. 5.

- (1) If the Executive Director recommends to the Heritage Council that a place or object should not be included in the Heritage Register, the Executive Director must give a statement in accordance with this section to—
- (a) the owner of the place or object; and
 - (b) the nominator of the place or object; and
 - (c) the relevant municipal council.
- (2) A statement under subsection (1) must—
- (a) be in writing; and
 - (b) set out the terms of the recommendation; and
 - (c) set out the reasons for the recommendation; and

- (d) set out an assessment of the cultural heritage significance of the place or object; and
- (e) advise the owner or nominator that the Heritage Council will make a decision on the recommendation after a period of 60 days from the date of the notice of that recommendation published under section 35; and
- (f) advise the owner that the owner may—
 - (i) make a submission on the recommendation to the Heritage Council at any time within that period of 60 days; and
 - (ii) request a hearing in relation to that submission; and
- (g) advise the owner and the nominator of the provisions of sections 41 and 42.

S. 35
amended by
No. 70/2000
s. 6.

35 Notice of recommendation to be published

The Executive Director must cause a notice of a recommendation under section 32(1) to be published in a newspaper circulating generally in the area in which the nominated place or object is located.

S. 36
substituted by
No. 70/2000
s. 7.

36 Obligations of the owner

- (1) In this section *Heritage Council decision* means a decision of the Heritage Council under section 42.
- (2) This section applies to the owner of a place or object to whom a statement has been given under section 34 or 34A.

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- (3) The owner of a place or object must advise the Executive Director of—
- (a) any works that are being carried out in relation to the place or object at the time the statement is given; and
 - (b) any application for a planning permit or a building permit or for an amendment to a planning permit that has been made in relation to the place, but not determined at the time the statement is given; and
 - (c) any other activities that are being carried out or are proposed to be carried out in relation to the place or object at the time the statement is given.
- (4) An advice under subsection (3) must be given within 10 days after the statement is given under section 34 or 34A.
- (5) If, before the Heritage Council decision on a place—
- (a) an application for a planning permit or a building permit or for an amendment to a planning permit in relation to the place is made; or
 - (b) a planning permit or building permit or an amendment to a permit in relation to the place is granted—
- the owner of the place must advise the Executive Director of the application, permit or amendment.
- (6) An advice under subsection (5) must be given within 10 days after the making of the application or the grant of the permit or amendment.

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- (7) If, before the Heritage Council decision on a place or object—
- (a) any activities are carried out in relation to the place or object that could adversely affect the place or object; or
 - (b) any activities are proposed to be carried out in relation to the place or object that could adversely affect the place or object—
- the owner of the place or object must advise the Executive Director of the activity or proposal.
- (8) An advice under subsection (7) must be given within 10 days after the owner becomes aware of the activity or the proposal, as the case requires.
- (9) If, before the Heritage Council decision on a place or object, a proposal is made to dispose of the whole or any part of the place or object, the owner of the place or object must advise the Executive Director of that proposal.
- (10) An advice under subsection (9) must be given at least 10 days before entering into the contract for the disposal of the place or object.
- (11) The owner of the place or object who proposes to dispose of the whole or any part of the place or object before the Heritage Council decision on the place or object must, before entering into a contract for that disposal, give a copy of the statement under section 34 or 34A to the person who, under the proposed contract, is to acquire the place or object or part of the place or object.
- (12) An advice to the Executive Director under this section must be in writing.

(13) An owner of a place or object must comply with this section.

Penalty: in the case of a natural person:
120 penalty units; and
in the case of a body corporate:
240 penalty units.

S. 36(13)
amended by
No. 74/2003
s. 5(2)(a)(b).

Division 3—Decision of Heritage Council

37 Application of Division

Nothing in this Division applies to the remains of a ship or part of a ship or an article associated with a ship to which Part 5 applies.

38 Submissions

(1) Any person may make a written submission to the Heritage Council in relation to—

- (a) a recommendation of the Executive Director to register a nominated place or object; or
- (b) a recommendation of the Executive Director that a nominated place or object should not be included in the Heritage Register.

S. 38(1)(b)
substituted by
No. 70/2000
s. 8(1).

(2) A submission under subsection (1) must be made within 60 days after the date that notice of the recommendation is published under section 35.

S. 38(2)
amended by
No. 70/2000
s. 8(2).

(2A) Any person may make a written submission to the Heritage Council in accordance with a notice by the Heritage Council under section 39(3)(b) or 40(2)(a).

S. 38(2A)
inserted by
No. 48/2008
s. 4.

(2B) A submission under subsection (2A) must be made within 60 days after the date that notice is given or published by the Heritage Council.

S. 38(2B)
inserted by
No. 48/2008
s. 4.

- (3) A submission must relate only to the issue of whether or not a place or object is of cultural heritage significance or to any recommendations under section 33 in relation to the place or object.
- (4) A person making a submission under this section may in that submission request an opportunity to be heard by the Heritage Council in relation to the submission.

S. 39
repealed by
No. 70/2000
s. 9,
new s. 39
inserted by
No. 48/2008
s. 5.

39 Recommendation not to include place or object in Register and no objections to recommendation

- (1) This section applies if—
 - (a) the recommendation of the Executive Director is that a place or object should not be included in the Heritage Register; and
 - (b) no submissions have been made under section 38(1) objecting to the recommendation.
- (2) Unless the Heritage Council considers that the place or object that is the subject of the recommendation may be of cultural heritage significance, the Heritage Council must determine the matter in accordance with section 42 within 40 days after the end of the submission period.
- (3) If the Heritage Council considers that the place or object that is the subject of the recommendation may be of cultural heritage significance, the Heritage Council must within 60 days after the end of the submission period give notice advising that—
 - (a) the Executive Director has recommended that the place or object, specified in the notice, should not be included in the Heritage Register; and

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- (b) the Heritage Council considers that the place or object may be of cultural heritage significance; and
- (c) written submissions may be made to the Heritage Council within 60 days of the notice.
- (4) Notice under subsection (3) must be—
- (a) given in writing to—
- (i) the owner; and
 - (ii) the nominator of the place or object; and
 - (iii) the relevant municipal council; and
 - (iv) any person who has made a submission under section 38(1) in support of the recommendation; and
- (b) published in a newspaper circulating generally in the area in which the nominated place or object is located.
- (5) After the end of the submission period notified under subsection (3)(c), the Heritage Council must consider any submission made within the required time.
- (6) If no submissions are made within the required time, the Heritage Council must determine the matter in accordance with section 42 within 40 days after the end of the submission period.
- (7) As part of its consideration under subsection (5), the Heritage Council may ask a person who has made a submission for more information in relation to the submission.

- (8) After considering each submission under subsection (5), the Heritage Council may—
- (a) conduct a hearing into whether or not the place or object is of cultural heritage significance; or
 - (b) subject to subsection (8), determine the matter without a hearing.
- (9) The Heritage Council must conduct a hearing under subsection (8)(a) if the Trust or a person with a real or substantial interest in the place or object requests a hearing by the Heritage Council in a submission under section 38(2A).

S. 40
amended by
No. 70/2000
s. 10(1),
substituted by
No. 48/2008
s. 6.

40 Recommendation not to include place or object in Register and objections to recommendation

- (1) This section applies if—
- (a) the recommendation of the Executive Director is that a place or object should not be included in the Heritage Register; and
 - (b) one or more submissions have been received under section 38(1) objecting to the recommendation.
- (2) The Heritage Council must within 14 days after the end of the submission period for section 38(1)—
- (a) give notice advising that—
 - (i) the Executive Director has recommended that the place or object, specified in the notice, should not be included in the Heritage Register; and
 - (ii) submissions have been received objecting to the recommendation; and

- (iii) a hearing into whether or not the place or object should be included in the Heritage Register will be conducted; and
 - (iv) written submissions may be made to the Heritage Council within 60 days of the notice; and
- (b) after the end of the submission period under paragraph (a), conduct a hearing into whether or not the place or object should be included in the Heritage Register.
- (3) Notice under subsection (2)(a) must—
- (a) be given in writing to—
 - (i) the owner; and
 - (ii) the nominator of the place or object; and
 - (iii) the relevant municipal council; and
 - (iv) each person who has made a submission under section 38(1); and
 - (b) published in a newspaper circulating generally in the area in which the nominated place or object is located.

41 Recommendation to include place or object in Register

- (1) This section applies if the recommendation of the Executive Director is to include a place or object in the Heritage Register.
- (2) If no submissions have been received under section 38(1) in relation to the recommendation, the Heritage Council must determine the matter in accordance with section 42 within 40 days after the end of the submission period.

S. 41
amended by
Nos 70/2000
s. 10(2),
19/2004 s. 10,
substituted by
No. 48/2008
s. 7.

s. 41A

- (3) If one or more submissions have been received, the Heritage Council must consider each submission made within the required time.
- (4) As part of its consideration under subsection (3), the Heritage Council may ask a person who has made a submission for more information in relation to the submission.
- (5) After considering each submission under subsection (3), the Heritage Council may—
 - (a) conduct a hearing into the whether or not the place or object should be included in the Heritage Register; or
 - (b) subject to subsection (6), determine the matter without a hearing.
- (6) The Heritage Council must conduct a hearing under subsection (5)(a) if the Trust or a person with a real and substantial interest in the place or object requests a hearing by the Heritage Council in a submission under section 38(1).

S. 41A
inserted by
No. 48/2008
s. 7.

41A Role of Executive Director in determination of recommendation

The Executive Director—

- (a) must provide any information requested by the Heritage Council in relation to a recommendation under section 32(1); and
- (b) may appear and be heard or be represented at any hearing into a recommendation.

S. 41B
inserted by
No. 48/2008
s. 7.

41B Sale of land or object the subject of recommendation

- (1) If any land or object that is the subject of a recommendation under section 32(1) has been offered for sale by auction the Heritage Council may, with the agreement of the owner of the land

or object, defer the consideration of the recommendation until after the auction.

- (2) The owner of land or an object to which subsection (1) applies must inform the purchaser of the land or object of the deferral of consideration of the recommendation.
- (3) If the owner of land or an object which is the subject of a recommendation under section 32(1) fails to comply with subsection (2), the contract of sale is not invalid, but is voidable at the option of the purchaser.

42 Decision of Heritage Council

S. 42
substituted by
No. 70/2000
s. 11.

- (1) After considering a recommendation in respect of a place or object and any submissions and conducting any hearing into those submissions, the Heritage Council may—
 - (a) determine that the place or object is of cultural heritage significance and should be included in the Heritage Register; or
 - (b) in the case of a recommendation in respect of a place, determine that part of the place is of cultural heritage significance and should be included in the Heritage Register; or
 - (c) determine that a place or object or part of a place is not of cultural heritage significance and does not warrant inclusion in the Heritage Register; or

S. 42(1)
substituted by
No. 48/2008
s. 8(1).

(d) in the case of a recommendation in respect of a place, refuse to register the place and—

(i) refer the recommendation and submissions to the relevant planning authority for consideration for an amendment to a planning scheme; or

(ii) determine that it is more appropriate for steps to be taken under the **Planning and Environment Act 1987** or by any other means to protect or conserve the place.

(2) If the Heritage Council determines to include a place in the Heritage Register, it may also, with the consent of the owner of the place, determine to include in the Heritage Register additional land of the owner which is ancillary to that place.

S. 42(3)
repealed by
No. 48/2008
s. 8(2).

* * * * *

(4) In determining that a place or object or part of a place should be registered, the Heritage Council may also determine the works and activities that can be carried out at the place or in relation to the object without the need for a permit under this Act.

S. 42(5)
amended by
No. 48/2008
s. 8(3).

(5) If a member of the Heritage Council has made a submission under section 38(1) or 38(2A) in respect of a recommendation, that member must not take part in the consideration or determination of the Heritage Council on that submission.

(6) The Heritage Council must notify the Executive Director of any determination under this section.

Division 4—Minister's powers

43 Call-in powers

- (1) At any time after notice of a recommendation is published under section 35 and before the decision of the Heritage Council under Division 3 on the recommendation, the Minister may direct the Heritage Council to refer the recommendation to the Minister for determination.
- (2) The Heritage Council must—
 - (a) comply with a direction under subsection (1); and
 - (b) not consider the recommendation.

44 Heritage Council to hear submissions and give report

- (1) If the Minister gives a direction under section 43 in relation to a recommendation under Division 2, the Minister—
 - (a) may require the Heritage Council to consider any submissions and conduct any hearings in relation to the submissions as if the recommendation were being dealt with under Division 3; and
 - (b) must require the Heritage Council to provide a report on the recommendation, including a report on any submissions considered or hearing conducted under paragraph (a).
- (2) The Heritage Council must comply with any requirement of the Minister under this section.

45 Decision of Minister

- (1) After considering the report of the Heritage Council, the Minister may make any determination in relation to a recommendation that the Heritage Council could have made under Division 3.
- (2) A determination of the Minister under this section has the same effect as a determination of the Heritage Council under Division 3.

Division 5—Registration

46 Notice of registration

- (1) The Executive Director must publish notice in the Government Gazette of the making of a determination under this Part that a place or object be included in the Heritage Register.
- (2) On publication of the notice in the Government Gazette, the place or object is added to the Heritage Register.
- (3) The notice must specify the category or categories of the Heritage Register or the item of the Heritage Register to which the place or object is added.
- (4) The notice must include sufficient information to provide reasonable identification of the place or object.
- (5) Despite subsection (4), the Heritage Council may determine that some details of identification should not be included in the notice if it believes that if the details were known, there is a real danger that a person may remove or damage the object or damage the place.

47 Notice to Registrar of Titles

- (1) The Executive Director must lodge with the Registrar of Titles notice of any matter on the Heritage Register which affects land.
S. 47(1) substituted by No. 85/1998 s. 24(Sch item 33.2).
- (2) Each time the Heritage Register is amended the Executive Director must give notice to the Registrar of Titles of any land, other than unalienated Crown land, affected by the amendment.
S. 47(2) substituted by No. 85/1998 s. 24(Sch item 33.2).
- (3) Despite subsection (1), notice is not required to be given of any building or land in respect of which notice has been given under the **Historic Buildings Act 1981** or the **Historic Buildings Act 1974**.
- (4) Despite subsections (1) and (2), notice is not required to be given of any place or object which is deemed to be included in the Heritage Register under section 57.
- (5) On receipt of a notice under this section, the Registrar of Titles must make any recordings in the Register that are necessary or convenient for the purpose of bringing the notice to the attention of persons who search the folios of the Register to which the notice relates.
S. 47(5) substituted by No. 85/1998 s. 24(Sch item 33.3).
- (6) The Registrar of Titles may require any evidence of the identity of any land affected by a notice lodged under this section that he or she thinks fit.
S. 47(6) substituted by No. 85/1998 s. 24(Sch item 33.3).
- (7) A fee must not be charged for the lodging of a notice by the Executive Director under this section.

- (8) If a Crown grant is issued in respect of a registered place that is unalienated Crown land, any matters in the Heritage Register affecting the land must be specified—
- (a) in the Crown grant; or
 - (b) in a notice in the prescribed form to the Registrar of Titles accompanying the Crown grant.

48 Amendment of planning schemes

- (1) The Minister administering the **Planning and Environment Act 1987** must prepare and approve an amendment to any planning scheme applying to a place which is included in the Heritage Register to identify the inclusion of that place in the Heritage Register.
- (2) An amendment under subsection (1) must be prepared—
- (a) as soon as practicable after notice is given under this Act of the inclusion of a place in the Heritage Register; or
 - (b) in the case of any building or land on the Register of Historic Buildings under the **Historic Buildings Act 1981** immediately before the commencement of this section, as soon as practicable after that commencement.
- (3) An amendment under subsection (1) may also make any consequential amendments to the planning scheme that are necessary to remove or modify any provisions which are inconsistent with or duplicate the provisions of this Act.
- (4) The **Planning and Environment Act 1987** (except sections 12(1)(a) and (e), 12(2), 12(3), Divisions 1 and 2 of Part 3 and sections 39(1), 39(2), 39(3), 39(4), 39(5) and 39(6) and any regulations made for the purpose of those

provisions) applies to the preparation and approval of amendments under subsection (1).

49 Copies of Heritage Register

(1) A copy of the Heritage Register, duly amended, must be kept—

- (a) at the office of the Heritage Council; and
- (b) at the office of the Department of Sustainability and Environment.

S. 49(1)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
19/2004
s. 11(1).

(2) A copy of so much of the Heritage Register, duly amended, as relates to any place—

- (a) in an area for which the Minister administering the **Planning and Environment Act 1987** is a responsible authority under that Act; or
- (b) situated within the municipal district of a municipal council—

S. 49(2)
amended by
Nos 46/1998
s. 7(Sch. 1),
19/2004
s. 11(2).

must be kept at the office of the Department of Sustainability and Environment or the municipal council (as the case requires).

(3) The Executive Director must forward notice of any amendment of the Heritage Register to the Minister administering the **Planning and Environment Act 1987**, to any responsible authority under that Act for a place affected by the amendment and to the municipal council required to keep a copy of the Heritage Register or part of the Register under subsection (2).

(4) A copy of the Heritage Register, or any part of it, kept under this section, must be made available for inspection by members of the public at the office concerned during normal office hours.

50 Certificates

- (1) A person may apply to the Executive Director for a certificate under this section.
- (2) An application must—
 - (a) be in a form approved by the Executive Director; and
 - (b) state particulars of the place or object in respect of which the certificate is required; and
 - (c) be accompanied by the prescribed fee.
- (3) The Executive Director or a person authorised by the Executive Director must give or send to the applicant without delay a certificate signed by the Executive Director or authorised person stating in respect of the place or object described in the application—
 - (a) whether or not the place or object is included in the Heritage Register under this Act and the category in which it is registered;
 - (ab) whether or not the place is in a World Heritage Environs Area;
 - (b) whether or not the place is subject to an interim protection order and if so the date of the order;
 - (c) whether or not the place or object is being considered for inclusion in the Heritage Register under this Act;
 - (d) whether or not an application has been made under this Act for inclusion of the place or object in the Heritage Register;

S. 50(3)(ab)
inserted by
No. 48/2008
s. 9.

- (e) whether a place or object is included in the Heritage Inventory;
- (f) whether an order for the carrying out of works is in force under Division 2 of Part 8 in respect of the place or object;
- (g) whether an order under Division 3 of Part 8 is in force in respect of the place or object.

S. 50(3)(f)
amended by
No. 19/2004
s. 12.

51 Notice to owner

- (1) The Executive Director must give written notice without delay and within 7 days to the owner of a place or object of—
 - (a) any decision of the Heritage Council in relation to that place or object under Division 3; and
 - (b) any works or activities which the Heritage Council has determined under Division 3 may be carried out in relation to the place or object without a permit under Part 4.
- (2) In the case of—
 - (a) a place which is a government building or government land; or
 - (b) an object which is in or on a government building or government land—

the Executive Director must give the notice required under subsection (1) to a Minister or any other person or body of persons (whether corporate or unincorporate) responsible for the care, management or control of that building or land.

52 Notice of intention to sell registered place or object

- (1) The owner of a registered place or registered object who enters into a contract of sale of the whole or any part of that place or object must notify the Executive Director in writing of the

S. 52(1)
amended by
Nos 70/2000
s. 12, 19/2004
s. 13.

prescribed information about the existence of that contract within 28 days of the date of the contract.

Penalty: In the case of a natural person:
60 penalty units;

In the case of a body corporate:
120 penalty units.

- (2) Nothing in this section applies to the remains of a ship or article associated with a ship to which Part 5 applies.

S. 52A
inserted by
No. 19/2004
s. 14.

52A Change of owner of registered place or registered object

- (1) A person who purchases or acquires a registered place or registered object must, within 28 days of the date of the completion of the purchase or acquisition, notify the Executive Director in writing of—

(a) that person's name and address; and

(b) in the case of the purchase or acquisition of a building, whether the person intends to occupy the building.

Penalty: In the case of a natural person:
60 penalty units;

In the case of a body corporate:
120 penalty units.

- (2) A person who has notified the Executive Director of information under subsection (1) must, within 28 days of the date of any change to the information provided, notify the Executive Director in writing of the change.

Penalty: In the case of a natural person:
60 penalty units;

In the case of a body corporate:
120 penalty units.

- (3) Nothing in this section applies to the remains of a ship or article associated with a ship to which Part 5 applies.

53 Effect of registration of object

If—

- (a) an object is registered in relation to a place; and
- (b) that place is destroyed—

the object remains on the Heritage Register until removed from the Register under this Division.

54 Amendment or removal of item on Heritage Register

- (1) The Heritage Council may amend an item in or remove an item from the Heritage Register.
- (2) Divisions 2 to 4 and this Division apply to an amendment or removal in the same way as those Divisions apply to a registration.
- (3) Nothing in this section applies to the remains of a ship or article associated with a ship to which Part 5 applies.

Division 6—Interim protection orders

55 Scope of Division

- (1) This Division has effect despite anything in or authorised by the **Building Act 1993** or any other Act but is subject to—
 - (a) any regulation; or
 - (b) any emergency order—under the **Building Act 1993** relating to the securing, pulling down or removal of dangerous buildings.

- (2) This Division does not apply to any remains of a ship or article associated with a ship to which Part 5 applies.

56 Heritage Council or Executive Director may make interim protection order

- (1) The Heritage Council or the Executive Director may make an interim protection order in relation to a place or object if, in the opinion of the Heritage Council or the Executive Director, it is necessary or desirable to do so for the purposes of this Act.
- (2) An interim protection order must be in the prescribed form.
- (3) The Heritage Council or Executive Director must cause the interim protection order or a reproduction of the order to be served on the owner, occupier or person apparently in charge of the place or object.
- (4) In the case of—
- (a) a place which is a government building or government land; or
 - (b) an object which is in or on a government building or government land—

the Executive Director must give the order required to be served under subsection (3) to a Minister or any other person or body of persons (whether corporate or unincorporate) responsible for the care, management or control of that building or land.

57 Effect of interim protection order

- (1) An interim protection order takes effect on the service of the order under section 56.

- (2) A place or object which is subject to an interim protection order is deemed for the period of that order to be included in the Heritage Register in the category specified in the order.

58 Manner of service of order

- (1) An interim protection order may be served on a person—
- (a) by delivering it to that person; or
 - (b) by leaving it at his or her usual or last known place of residence; or
 - (c) by forwarding it by post in a prepaid letter addressed to him or her at his or her usual or last known place of residence; or
 - (d) by forwarding it electronically to that person at his or her usual or last known place of residence or business; or
 - (e) in the case of a place, by displaying it at that place; or
 - (f) in the case of an object, by displaying it on or near the object.
- (2) If an interim protection order—
- (a) is served on a person other than an owner of a place or object; or

S. 58(1)(e)
amended by
No. 19/2004
s. 15(1).

S. 58(1)(f)
inserted by
No. 19/2004
s. 15(2).

s. 59

S. 58(2)(b)
substituted by
No. 19/2004
s. 15(3).

- (b) in the case of a place or object, is served on the owner by displaying it at that place or on or near that object—

the Heritage Council or Executive Director must, as soon as possible after the service of the order—

- (c) cause a copy of the order to be served on the owner in accordance with subsection (1)(a), (b), (c) or (d); or
- (d) if the address of the owner is unknown, cause a copy of the order to be published in a newspaper circulating generally in Victoria.

59 Display of interim protection order

S. 59(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (1) A person who has been served with an interim protection order under section 58(1) in relation to a place must cause a notice of the existence of that order to be continuously displayed in a conspicuous position on the place for the period that the order is in force.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

S. 59(1A)
inserted by
No. 19/2004
s. 16(1).

- (1A) A person who has been served with an interim protection order under section 58(1) in relation to an object must cause a notice of the existence of that order to be continuously displayed in a conspicuous position on or near the object for the period that the order is in force.

Penalty: In the case of a natural person:
120 penalty units;

In the case of a body corporate:
240 penalty units.

- (2) A notice of the existence of an interim protection order must be in the prescribed form.
- (3) A person is deemed to have complied with subsection (1) or (1A) if the Heritage Council is satisfied that he or she took all reasonable steps to ensure that the notice was conspicuously and continuously displayed in accordance with that subsection during the period that the order was in force.

S. 59(3)
amended by
No. 19/2004
s. 16(2).

60 What may be done while an order is in force?

Despite anything to the contrary in Part 4, while an interim protection order is in force in respect of a place or object, the Executive Director may authorise any reasonable works or activities on the place or object which may assist—

- (a) in determining the cultural heritage significance of the place or object; and
- (b) in the consideration of the place or object for inclusion in the Heritage Register.

61 Decision to register

The Executive Director must make a decision under Division 2 to recommend or not to recommend inclusion of a place or object in the Heritage Register under Division 3 within 60 days after an interim protection order is served.

62 Period of interim protection order

- (1) An interim protection order relating to a place or object continues in force—
 - (a) for a period of 4 months or for any further period specified by the Minister under subsection (3); or
 - (b) until—
 - (i) the place or object is included in the Heritage Register; or

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- (ii) the Heritage Council determines that the place or object does not warrant inclusion in the Heritage Register; or
 - (iii) the Heritage Council removes the order—

whichever first occurs.

- (2) The Heritage Council may at any time remove an interim protection order.
- (3) The Minister may, at any time after an interim protection order is served, extend the period of which an interim protection order continues in force.
- (4) A notice of an extension under subsection (3) must be served in the same manner as the interim protection order is served.

PART 3A—WORLD HERITAGE

Division 1—World Heritage Environs Areas

Pt 3A
(Headings
and ss 62A–
62Y)
inserted by
No. 105/2004
s. 8.

62A Declaration of World Heritage Environs Area

S. 62A
inserted by
No. 105/2004
s. 8.

- (1) The Minister must, as soon as practicable after a place is recorded in the Heritage Register in accordance with section 19(ab), consider whether an area in the vicinity of that place should be declared to be a World Heritage Environs Area in order to protect the world heritage values of that place.
- (2) If the Minister considers that an area should be declared to be a World Heritage Environs Area, the Minister may recommend to the Governor in Council that the area be so declared.
- (3) The Governor in Council may, on the recommendation of the Minister, by Order published in the Government Gazette, declare the area to be a World Heritage Environs Area.

Division 2—World Heritage Strategy Plans

62B Preparation of World Heritage Strategy Plan

S. 62B
inserted by
No. 105/2004
s. 8.

- (1) The Executive Director must prepare a draft World Heritage Strategy Plan for a World Heritage Environs Area as soon as practicable after the World Heritage Environs Area is declared.
- (2) A World Heritage Strategy Plan must—
 - (a) set out the world heritage values of the listed place to which the World Heritage Environs Area relates; and

- (b) set out strategies for the appropriate use and development of that area in order to ensure that the world heritage values of the listed place are protected and managed.
- (3) On completion of a draft World Heritage Strategy Plan, the Executive Director must forward the draft plan to the Heritage Council for consideration.

S. 62C
inserted by
No. 105/2004
s. 8.

62C Notice of draft World Heritage Strategy Plan

- (1) On completion of a draft World Heritage Strategy Plan, the Executive Director must cause a notice of the preparation of the draft plan to be published—
 - (a) in a newspaper circulating generally in the World Heritage Environs Area to which the draft plan relates; and
 - (b) in a daily newspaper circulating generally throughout Victoria.
- (2) A notice under subsection (1) must state—
 - (a) the address at which the draft plan is available for inspection; and
 - (b) the date (being not less than 60 days after the date of the notice) that is the submission date for the draft plan; and
 - (c) that any person may make a submission in writing to the Heritage Council on the draft plan on or before that submission date.
- (3) The Executive Director must make a draft World Heritage Strategy Plan available at the offices of the Heritage Council during office hours for any person to inspect free of charge until the submission date for the draft plan.

62D Submissions on draft World Heritage Strategy Plan

S. 62D
inserted by
No. 105/2004
s. 8.

- (1) Any person may make a written submission to the Heritage Council on a draft World Heritage Strategy Plan on or before the submission date for the draft plan.
- (2) A person making a submission under this section may in that submission request an opportunity to be heard by the Heritage Council in relation to the submission.

62E Procedure of Heritage Council where no submissions

S. 62E
inserted by
No. 105/2004
s. 8.

If no submissions are received under section 62D(1) in respect of a draft World Heritage Strategy Plan, the Heritage Council must consider the draft plan as soon as practicable after the submission date for the draft plan.

62F Heritage Council to consider submissions

S. 62F
inserted by
No. 105/2004
s. 8.

The Heritage Council must examine each submission in relation to a draft World Heritage Strategy Plan that is received on or before the submission date for the draft plan and may—

- (a) ask the person making the submission for more information in relation to the submission; or
- (b) conduct a hearing in relation to the draft plan; or
- (c) consider the draft plan and submissions without a hearing.

s. 62G

S. 62G
inserted by
No. 105/2004
s. 8.

62G Decision of Heritage Council

- (1) After considering the draft World Heritage Strategy Plan and any submissions and any other matters it considers relevant and conducting any hearing in relation to the draft plan, the Heritage Council may—
 - (a) adopt the draft plan; or
 - (b) adopt the draft plan with amendments.
- (2) As soon as practicable after it adopts the draft plan, the Heritage Council must forward it to the Minister for approval.

S. 62H
inserted by
No. 105/2004
s. 8.

62H Approval of World Heritage Strategy Plan

- (1) The Minister may, by notice published in the Government Gazette—
 - (a) approve a World Heritage Strategy Plan adopted by the Heritage Council; or
 - (b) approve that plan as amended by the Minister.
- (2) An Approved World Heritage Strategy Plan comes into operation—
 - (a) when the notice under subsection (1) is published in the Government Gazette; or
 - (b) on any later day specified in the notice.

S. 62I
inserted by
No. 105/2004
s. 8.

62I Amendments to Approved World Heritage Strategy Plans

- (1) The Executive Director may prepare an amendment to an Approved World Heritage Strategy Plan.
- (2) Sections 62B, 62C, 62D, 62E, 62F, 62G and 62H apply to an amendment to an Approved World Heritage Strategy Plan as if the amendment were a draft World Heritage Strategy Plan.

62J Approved World Heritage Strategy Plans to be made available to the public

S. 62J
inserted by
No. 105/2004
s. 8.

A copy of each Approved World Heritage Strategy Plan must be kept at the offices of the Heritage Council and the Department of Sustainability and Environment for inspection by members of the public during office hours free of charge.

62K Notice of Approved World Heritage Strategy Plan

S. 62K
inserted by
No. 105/2004
s. 8.

The Minister must cause notice of the approval of a World Heritage Strategy Plan to be given to—

- (a) the Minister administering the **Planning and Environment Act 1987**; and
- (b) each municipal council in the municipal district of which the World Heritage Environs Area is situated.

62L Amendment of planning schemes

S. 62L
inserted by
No. 105/2004
s. 8.

- (1) The Minister administering the **Planning and Environment Act 1987** must prepare and approve an amendment to any planning scheme applying to an area that has been declared to be a World Heritage Environs Area—
 - (a) to identify that area as a World Heritage Environs Area; and
 - (b) to give effect to the Approved World Heritage Strategy Plan for that area.
- (2) An amendment under subsection (1) must be prepared as soon as practicable after the approval of the World Heritage Strategy Plan for the World Heritage Environs Area.

- (3) An amendment under subsection (1) may also make any consequential amendments to the planning scheme that are necessary to remove or modify any provisions which are inconsistent with the Approved World Heritage Strategy Plan.
- (4) The **Planning and Environment Act 1987** (except sections 12(1)(a) and (e), 12(2), 12(3), Divisions 1 and 2 of Part 3 and sections 39(1), 39(2), 39(3), 39(4), 39(5) and 39(6) and any regulations made for the purpose of those provisions) applies to the preparation and approval of amendments under subsection (1).
- (5) The Minister administering the **Planning and Environment Act 1987** must not approve an amendment to a planning scheme applying to an area that has been declared to be a World Heritage Environs Area if the amendment is inconsistent with the Approved World Heritage Strategy Plan for that area.

Division 3—World Heritage Management Plans

62M Steering Committees for listed places

- (1) The Minister must appoint a Steering Committee for each listed place.
- (2) The Steering Committee for a listed place is to consist of—
 - (a) the Executive Director who is to be the Chairperson; and
 - (b) if the listed place is Crown land or land vested in a Minister or public authority, any persons who are responsible for the management of the listed place and who are appointed by the Minister; and

S. 62M
inserted by
No. 105/2004
s. 8.

- (c) in the case of any listed place on other land, any person who is the owner or occupier or is concerned in the management of the listed place and who is appointed by the Minister; and
 - (d) any other persons that the Minister considers appropriate.
- (3) A quorum of a Steering Committee is constituted by a majority of its members for the time being.
- (4) Subject to this Part, a Steering Committee may regulate its own proceedings.

62N Functions of Steering Committee

The functions of the Steering Committee for a listed place are—

- (a) to prepare a World Heritage Management Plan for the listed place; and
- (b) to assist in the implementation of the Approved World Heritage Management Plan for the listed place; and
- (c) to report as required by the Minister on the carrying out of its activities.

S. 62N
inserted by
No. 105/2004
s. 8.

62O Preparation of World Heritage Management Plan

- (1) The Steering Committee for a listed place must prepare a draft World Heritage Management Plan for that place.
- (2) A World Heritage Management Plan must—
- (a) state the world heritage values of the listed place; and
 - (b) set out policies designed to ensure that the world heritage values of the listed place are identified, conserved, protected, presented, transmitted to future generations and, if appropriate, rehabilitated; and

S. 62O
inserted by
No. 105/2004
s. 8.

- (c) set out mechanisms designed to deal with the impacts of actions that individually or cumulatively degrade, or threaten to degrade, the world heritage values of the listed place; and
- (d) provide for management actions for values (other than world heritage values) that are consistent with the management of the world heritage values of the listed place; and
- (e) state that the processes for public consultation set out in Division 3 of Part 3A of the **Heritage Act 1995** apply to the World Heritage Management Plan; and
- (f) not be inconsistent with Australia's obligations under the World Heritage Convention within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth; and
- (g) not be inconsistent with the Australian World Heritage management principles within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth.

S. 62P
inserted by
No. 105/2004
s. 8.

62P Notice of draft World Heritage Management Plan

- (1) On completion of a draft World Heritage Management Plan for a listed place, the Executive Director must cause a notice of the draft plan to be published—
 - (a) in a newspaper circulating generally in the area in which the listed place is located; and
 - (b) in a daily newspaper circulating generally throughout Victoria.

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- (2) A notice under subsection (1) must state—
- (a) the Steering Committee's intention to submit the draft World Heritage Management Plan to the Minister for approval; and
 - (b) the address at which the draft plan is available for inspection; and
 - (c) the date (being not less than 60 days after the date of the notice) that is to be the submission date for the draft plan; and
 - (d) that any person may make a submission in writing to the Steering Committee on the draft plan on or before that submission date.
- (3) The Executive Director must make a draft World Heritage Management Plan available at the offices of the Heritage Council during office hours for any person to inspect free of charge until the submission date for the draft plan.

62Q Submissions on draft World Heritage Management Plan

S. 62Q
inserted by
No. 105/2004
s. 8.

- (1) Any person may make a submission in writing to the Steering Committee on a draft World Heritage Management Plan on or before the submission date for the draft plan.
- (2) A person making a submission under this section may in that submission request an opportunity to be heard by the Steering Committee in relation to the submission.

s. 62R

S. 62R
inserted by
No. 105/2004
s. 8.

62R Steering Committee to consider submissions

The Steering Committee must examine each submission in relation to a draft World Heritage Management Plan that is received on or before the submission date for the draft plan and may—

- (a) ask the person making the submission for more information in relation to the submission; or
- (b) conduct a hearing in relation to the draft plan; or
- (c) consider the draft plan and submissions without a hearing.

S. 62S
inserted by
No. 105/2004
s. 8.

62S Decision of Steering Committee

- (1) After considering the draft World Heritage Management Plan and any submissions and any other matters it considers relevant and conducting any hearing in relation to the draft plan, the Steering Committee may—
 - (a) adopt the draft plan; or
 - (b) adopt the draft plan with amendments.
- (2) As soon as practicable after it adopts the draft plan, the Steering Committee must forward it to the Minister for approval.

S. 62T
inserted by
No. 105/2004
s. 8.

62T Approval of World Heritage Management Plan

- (1) The Minister may, by notice published in the Government Gazette—
 - (a) approve a World Heritage Management Plan adopted by the relevant Steering Committee; or
 - (b) approve that plan as amended by the Minister.

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- (2) An Approved World Heritage Management Plan comes into operation—
- (a) when the notice under subsection (1) is published in the Government Gazette; or
 - (b) on any later day specified in the notice.

62U Amendments to Approved World Heritage Management Plans

S. 62U
inserted by
No. 105/2004
s. 8.

- (1) The Steering Committee for a listed place may prepare an amendment to an Approved World Heritage Management Plan for that listed place.
- (2) Sections 62O, 62P, 62Q, 62R, 62S and 62T apply to an amendment to an Approved World Heritage Management Plan as if it were a draft World Heritage Management Plan.

62V Approved World Heritage Management Plans to be made available to the public

S. 62V
inserted by
No. 105/2004
s. 8.

A copy of each Approved World Heritage Management Plan must be kept at the offices of the Heritage Council and the Department of Sustainability and Environment for inspection by members of the public during office hours free of charge.

62W Review of Approved World Heritage Management Plan

S. 62W
inserted by
No. 105/2004
s. 8.

The Steering Committee for a listed place must undertake a review of the Approved World Heritage Management Plan for the listed place every 7 years from the date on which the plan was first approved under this Part.

s. 62X
inserted by
No. 105/2004
s. 8.

62X Offence to fail to comply with Approved World Heritage Management Plan

- (1) A person who is the owner or occupier of a listed place or part of a listed place must comply with the Approved World Heritage Management Plan relating to that listed place in carrying out any works or activities in relation to the listed place.

Penalty: In the case of a natural person:
2400 penalty units;

In the case of a body corporate:
10 000 penalty units.

- (2) Subsection (1) does not apply to works or activities—
- (a) carried out in accordance with a permit issued under Part 4; or
 - (b) for which the Heritage Council has determined that a permit is not required pursuant to Part 4.
- (3) If—
- (a) an act or omission constitutes an offence under this section and the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth; and
 - (b) the offender has been punished for that offence under that Act—

the offender is not liable to be punished for the offence under this section.

62Y Annual report on condition of property

- (1) The Minister may direct the Executive Director to prepare annual reports on the condition of a listed place.
- (2) The Executive Director must comply with any direction made under subsection (1).

S. 62Y
inserted by
No. 105/2004
s. 8.

PART 4—PERMITS AND COVENANTS

Division 1—Permits

63 Scope of Division

- (1) This Division has effect despite anything in or authorised by the **Building Act 1993** or any other Act but is subject to—
 - (a) any regulation; or
 - (b) any emergency order—
under the **Building Act 1993** relating to the securing, pulling down or removal of dangerous buildings.
- (2) This Division does not apply to the remains of a ship or part of a ship or an article associated with a ship to which Part 5 applies.

64 Certain activities prohibited

- (1) A person must not—
 - (a) remove or demolish; or
 - (b) damage or despoil; or
 - (c) develop or alter; or
 - (d) excavate—

all or any part of a registered place.

Penalty: In the case of a natural person:
2400 penalty units or imprisonment for
5 years or both.

In the case of a body corporate:
4800 penalty units.

S. 64(1)
amended by
No. 74/2003
s. 5(6)(a)(b).

(2) A person must not—

- (a) remove or demolish; or
- (b) damage or despoil; or
- (c) alter—

a registered object.

Penalty: In the case of a natural person:
2400 penalty units or imprisonment for
5 years or both.

In the case of a body corporate:
4800 penalty units.

S. 64(2)
amended by
No. 74/2003
s. 5(6)(a)(b).

(3) A person must not relocate or disturb the position
of a fixed registered object.

Penalty: In the case of a natural person:
2400 penalty units or imprisonment for
5 years or both.

In the case of a body corporate:
4800 penalty units.

S. 64(3)
amended by
No. 74/2003
s. 5(6)(a)(b).

(4) Subsections (1), (2) and (3) do not apply to works
or activities—

- (a) carried out in accordance with a permit
issued under this Part; or
- (b) carried out in accordance with section 65; or
- (c) for which the Heritage Council has
determined that a permit is not required
pursuant to Part 3 or this Part.

(5) An offence against subsection (1), (2) or (3) is an
indictable offence.

S. 64(5)
inserted by
No. 74/2003
s. 6.

S. 65
amended by
No. 70/2000
s. 13 (LA
s. 39B(1)).

65 Exemption for liturgical purposes

- (1) A person may carry out any alteration to—
 - (a) a registered place which is a church or in the precincts of a church; or
 - (b) a registered object which is in a church or in the precincts of a church—

for liturgical purposes without a permit if—

- (c) the owner has given the Heritage Council 28 days' notice of the proposed alterations; and
 - (d) the notice includes a declaration by an officer of the church authorised by the church for that purpose, that the alteration is required for liturgical purposes.
- (2) A notice under subsection (1) must be in the prescribed form.

S. 65(2)
inserted by
No. 70/2000
s. 13.

66 Exemptions from permits

- (1) The Heritage Council, on the recommendation of the Executive Director, may from time to time determine classes of works or activities which may be undertaken for any registered place or registered object or class of registered places or registered objects without a permit under this Part.
- (2) The Executive Director must give written notice without delay to the owner of a registered place or registered object of a determination made under subsection (1) which affects that place or object.
- (3) An owner of a registered place or registered object may apply to the Heritage Council for a determination that a permit is not required in respect of particular works and activities in relation to a registered place or registered object.

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- (4) If the Heritage Council makes a determination under subsection (1) or subsection (3), those works and activities may be carried out in relation to that registered place or registered object without a permit under this Part.
 - (5) The Heritage Council, on the recommendation of the Executive Director, may at any time amend or revoke a determination made under subsection (1).
 - (6) The Executive Director must give written notice without delay to the owner of a registered place or registered object of an amendment or revocation of a determination under subsection (5) which affects that place or object.

67 Applications for permits

- (1) A person may apply to the Executive Director for a permit to carry out works or activities in relation to a registered place or registered object.
- (2) An application must—
 - (a) be accompanied by the prescribed fee; and
 - (b) if the applicant is not the owner, include the consent of the owner of the registered place or registered object in the prescribed form.
- (3) An applicant may at any time—
 - (a) withdraw an application; or
 - (b) with the written approval of the Executive Director, make minor amendments to an application.

s. 68

S. 67(4)
amended by
No. 19/2004
s. 17(2).

(4) In this section *owner* in relation to—

S. 67(4)(b)
amended by
No. 19/2004
s. 17(1).

- (a) a place that is a government building or government land; or
- (b) an object that is a government object or is in or on a government building or government land—

means a Minister or any other person or body of persons (whether incorporate or unincorporate) responsible for the care, management or control of that building, land or object.

68 Public display of applications

(1) On receiving an application under section 67, the Executive Director—

S. 68(1)(a)
amended by
No. 10/2005
s. 3(Sch. 1
item 9).

- (a) must cause notice of the application to be published in a newspaper circulating generally in the area in which the registered place or registered object is situated, if the Executive Director considers that the proposed works or activities may detrimentally affect that place or object; and

S. 68(1)(b)
substituted by
No. 19/2004
s. 18.

- (b) may require—
 - (i) the owner of the registered place to cause a copy of the application to be continuously displayed in a conspicuous position on that place for a specified period not exceeding 14 days; or
 - (ii) the owner of the registered object to cause a copy of the application to be continuously displayed in a conspicuous position on or near that object for a specified period not exceeding 14 days.

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- (2) The Executive Director may require the owner of a registered place or registered object or the applicant to give the notice set out in subsection (1)(a).
 - (3) A person is deemed to have complied with subsection (1)(b) if the Executive Director is satisfied that he or she took all reasonable steps to ensure that the notice was conspicuously and continuously displayed in accordance with subsection (1)(b) during the specified period.
 - (4) If notice of an application is given in accordance with subsection (1)(a), the Executive Director must make a copy of the application available at the office of the Executive Director during office hours for any person to inspect free of charge for the period of 14 days after that notice is given.

69 Submissions

- (1) If notice of an application is given under section 68(1) any person may lodge a written submission with the Executive Director in relation to the application.
- (2) A submission must be lodged within 14 days after the notice is given under section 68(1)(a).

70 Executive Director to refer certain applications to the Heritage Council

- (1) The Executive Director must refer a copy of an application for a permit to the Heritage Council without delay after he or she receives it if the application is in a class to be referred to the Heritage Council under this Division.
- (2) The Heritage Council may from time to time by notice published in the Government Gazette determine the classes of applications for permits to be referred to it under this Division.

71 Executive Director to notify local authorities

The Executive Director must give a copy of an application for a permit within 14 days after he or she receives it—

- (a) to the responsible authority for the area in which the registered place or registered object is situated; and
- (b) if the responsible authority is not a municipal council, to the municipal council in whose municipal district the registered place or registered object is situated.

72 Action by Heritage Council on application

- (1) The Heritage Council must consider every application referred to it and must tell the Executive Director in writing, within 30 days or any longer period approved by the Minister, that—
 - (a) it does not object to the issuing of the permit; or
 - (b) it does not object if the permit is subject to the conditions specified by the Heritage Council; or
 - (c) it objects to the issuing of the permit on any specified ground.
- (2) If an application has been referred to the Heritage Council, the Executive Director must not determine the application until the end of 30 days after the application was referred or, if any longer period was approved by the Minister under subsection (1), that longer period.

73 Matters to be considered in determining applications

(1) In determining an application for a permit, the Executive Director must consider—

(a) the extent to which the application, if approved, would affect the cultural heritage significance of the registered place or registered object; and

S. 73(1)(a)
amended by
No. 19/2004
s. 19(a).

(ab) if the application relates to a listed place or to a registered place or registered object in a World Heritage Environs Area, the extent to which the application, if approved, would affect—

S. 73(1)(ab)
inserted by
No. 105/2004
s. 9.

(i) the world heritage values of the listed place; or

(ii) any relevant Approved World Heritage Strategy Plan; and

(b) the extent to which the application, if refused, would affect the reasonable or economic use of the registered place or registered object, or cause undue financial hardship to the owner in relation to that place or object; and

S. 73(1)(b)
amended by
No. 19/2004
s. 19(b).

(c) any submissions made under section 69; and

(d) any decision of the Heritage Council under section 72 which has been received; and

(e) if the applicant is a public authority, the extent to which the application, if refused, would unreasonably detrimentally affect the ability of the public authority to carry out a statutory duty specified in the application; and

(f) any matters relating to the protection and conservation of the place or object that the Executive Director considers relevant.

S. 73(1A)
inserted by
No. 70/2000
s. 14.

- (1A) In determining an application for a permit, the Executive Director may consider—
- (a) the extent to which the application, if approved, would affect the cultural heritage significance of any adjacent or neighbouring property that is—
 - (i) subject to a heritage requirement or control in the relevant planning scheme; or
 - (ii) included in the Heritage Register; and
 - (b) any other relevant matter.
- (2) The Executive Director may ask the applicant for any additional information that the Executive Director thinks necessary to assist the determination of the application.
- (3) The time within which the Executive Director must decide an application for a permit—
- (a) ceases to run at the time when the request for the additional information is made; and
 - (b) recommences to run only when the information is supplied to the Executive Director.
- (4) The Executive Director must determine an application within 60 days after its receipt unless that period has been extended by the Heritage Council under subsection (5).
- (5) The Heritage Council, on the application of the Executive Director, may extend the period of 60 days specified in subsection (4) by a further period of up to 60 days.
- (6) An application by the Executive Director under subsection (5) may be made before or after the period of 60 days specified in subsection (4).

- (7) If the Executive Director obtains an extension, he or she must notify the applicant within 7 days of that extension.

74 Issue of permits

- (1) After considering an application and any submissions relating to the application and any decision of the Heritage Council under section 72, the Executive Director may determine—

- (a) to issue the permit for the proposed works and activities; or
(b) to issue the permit for some of the proposed works and activities specified in the application; or
(c) to refuse to issue the permit.

S. 74(1)(b)
amended by
No. 18/1997
s. 5(2).

- (2) The Executive Director must determine to refuse to issue the permit if the Heritage Council has objected under section 72 to the issuing of the permit.

- (3) Subject to subsection (5), a permit may be issued on any terms and conditions the Executive Director thinks fit.

- (4) Without limiting subsection (3) but subject to subsection (5), the Executive Director, in granting a permit, may impose a condition that a security be given to ensure—

S. 74(4)
substituted by
No. 48/2008
s. 10.

- (a) the satisfactory completion of the work; or
(b) compliance with another condition imposed on the permit.

- (4A) The form and amount of security must be determined by the Executive Director having regard to—

S. 74(4A)
inserted by
No. 48/2008
s. 10.

- (a) in the case of a security for the purpose of subsection (4)(a), the nature and extent of the work referred to in the permit; or

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- (b) in the case of a security for the purpose of subsection (4)(b), the nature of the condition to be complied with.
- (5) In determining to issue a permit, the Executive Director must—
- (a) include any condition that the Heritage Council requires under section 72 to be included; and
 - (b) not include additional conditions which conflict with any condition included under paragraph (a).
- (6) The Executive Director must, within 7 days after making a determination under subsection (1)—
- (a) issue the permit to the applicant; or
 - (b) issue the permit for some of the works and activities specified in the application and give the applicant a written notice of refusal to issue a permit in respect of the works and activities not approved; or
 - (c) give the applicant written notice of the refusal to issue the permit.
- (7) A notice of refusal under subsection (6) must set out—
- (a) the reasons for the refusal; and
 - (b) a statement of the applicant's rights of appeal under this Part.
- (8) If an application for a permit was referred to the Heritage Council under section 70, the Executive Director must give the Heritage Council a copy of—
- (a) the permit if it is issued under this section; or
 - (b) the notice of refusal to issue a permit given under this section.

74A Noncompliance with permit

A person carrying out works or activities for which a permit is issued under section 74 must ensure that the works and activities comply with the permit and any terms and conditions of the permit.

Penalty: In the case of a natural person,
120 penalty units;

In the case of a body corporate,
600 penalty units.

S. 74A
inserted by
No. 48/2008
s. 11.

75 Appeals

- (1) This section does not apply in relation to a permit or application for a permit if the application for the permit was referred to the Heritage Council under section 70.
- (2) The applicant, the owner of a registered place or registered object or a person with a real and substantial interest in the registered place or registered object may appeal to the Heritage Council against—
 - (a) a determination by the Executive Director to refuse to issue a permit in respect of that place or object; or
 - (b) a determination by the Executive Director to refuse to issue a permit for some of the proposed works and activities in respect of that place or object.
- (3) The applicant or the owner of a registered place or registered object may appeal to the Heritage Council against any condition of a permit imposed by the Executive Director on a permit under this Division in respect of the place or object.

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- (4) An appeal must—
- (a) be in writing; and
 - (b) be lodged within 60 days after the permit is issued or the notice of refusal is given.
- (5) The Heritage Council may ask the appellant for any additional information that the Heritage Council thinks necessary to assist the determination of the appeal.
- (6) The time within which the Heritage Council must decide an appeal—
- (a) ceases to run at the time when the request for the additional information is made; and
 - (b) recommences to run only when the information is supplied to the Heritage Council.
- S. 75(6A)**
inserted by
No. 19/2004
s. 20(1).
- (6A) The appellant may apply in writing to the Heritage Council for an adjournment of the appeal.
- S. 75(6B)**
inserted by
No. 19/2004
s. 20(1).
- (6B) An application under subsection (6A) must set out the reasons for the request.
- S. 75(6C)**
inserted by
No. 19/2004
s. 20(1).
- (6C) If the Heritage Council is satisfied that the request is reasonable the Heritage Council may adjourn the appeal.
- S. 75(6D)**
inserted by
No. 19/2004
s. 20(1).
- (6D) If the Heritage Council adjourns the appeal, the time within which the Heritage Council must decide the appeal—
- (a) ceases to run at the time when the decision to adjourn the appeal is made by the Heritage Council; and
 - (b) recommences to run at the end of the period of adjournment determined by the Heritage Council or 6 months from the date of

lodgement of the appeal, whichever is the earlier.

(7) In this section *owner* in relation to—

- (a) a place that is a government building or government land; or
- (b) an object that is a government object or is in or on a government building or government land—

S. 75(7)
amended by
No. 19/2004
s. 20(3).

S. 75(7)(b)
amended by
No. 19/2004
s. 20(2).

means a Minister or any other person or body of persons (whether incorporate or unincorporate) responsible for the care, management or control of that building, land or object.

76 Determination of Heritage Council

- (1) Subject to section 78, the Heritage Council must determine the appeal within 60 days after the appeal is lodged.
- (2) The Heritage Council must conduct a hearing into the appeal—
 - (a) if the hearing is requested by the Trust; or
 - (b) in any other case, unless the appellant agrees to the determination of the appeal without a hearing.
- (3) The Heritage Council must give the Trust an opportunity to be heard at any hearing requested by the Trust.
- (4) After considering the appeal and conducting the hearing (if any), the Heritage Council may—
 - (a) grant the permit with or without conditions; or
 - (b) confirm the decision of the Executive Director; or
 - (c) vary the conditions on the permit.

- (5) The Executive Director must, within 7 days after a determination is made under subsection (4)—
- (a) give the appellant written notice of the determination; and
 - (b) if the Heritage Council has determined to grant the permit, issue the permit to the applicant.

77 Application for review by Tribunal

- (1) This section applies in respect of a permit or application for a permit if the application for the permit was referred to the Heritage Council under section 70.
- (2) The applicant, the owner of a registered place or registered object or a person with a real and substantial interest in the registered place or registered object may apply to the Tribunal for review of—
- (a) a determination by the Executive Director to refuse to issue a permit in respect of the place or object; or
 - (b) a determination by the Executive Director to refuse to issue a permit for some of the proposed works and activities in respect of that place or object.
- (3) The applicant or the owner of a registered place or registered object may apply to the Tribunal for review of any condition of a permit imposed by the Executive Director on a permit under this Division in respect of the place or object.
- (4) An application for review must be made within 60 days after the permit is issued or the notice of refusal is given.

S. 77(2)
amended by
Nos 52/1998
s. 311(Sch. 1
item 38.2),
19/2004
s. 21(1).

S. 77(3)
amended by
No. 52/1998
s. 311(Sch. 1
item 38.2).

S. 77(4)
substituted by
No. 52/1998
s. 311(Sch. 1
item 38.3).

(5) The applicant is a party to a proceeding for review whether or not the applicant applied for the review.

S. 77(5)
substituted by
No. 52/1998
s. 311(Sch. 1
item 38.3).

(5A) In addition to any other party, the Heritage Council is a party to a proceeding for review—

S. 77(5A)
inserted by
No. 52/1998
s. 311(Sch. 1
item 38.3) (as
amended by
No. 101/1998
s. 22(1)(f)).

(a) of a refusal to issue a permit, if the Heritage Council had objected to the issue of the permit; and

(b) of a permit condition, if the Heritage Council had required the condition to be included in the permit.

(6) In this section *owner* in relation to—

S. 77(6)
amended by
No. 19/2004
s. 21(3).

(a) a place that is a government building or government land; or

(b) an object that is a government object or is in or on a government building or government land—

S. 77(6)(b)
amended by
No. 19/2004
s. 21(2).

means a Minister or any other person or body of persons (whether corporate or unincorporate) responsible for the care, management or control of that building, land or object.

78 Minister's power to call in or refer matter to Tribunal

(1) At any time after an appeal has been lodged with the Heritage Council under this Division but before the appeal is determined, the Minister may direct the Heritage Council—

(a) to refer the appeal to the Minister for determination; or

s. 78

S. 78(1)(b)
amended by
No. 52/1998
s. 311(Sch. 1
item 38.4).

(b) if in the Minister's opinion the determination of the appeal may have a significant effect on the achievement or development of planning and heritage objectives, to refer the appeal to the Tribunal for review of the determination the subject of the appeal.

S. 78(2)
substituted by
No. 52/1998
s. 311(Sch. 1
item 38.5).

(2) If an application for review has been made to the Tribunal under section 77, the Minister may direct the principal registrar of the Tribunal to refer the matter to the Minister for determination.

S. 78(3)
amended by
Nos 18/1997
s. 5(3),
52/1998
s. 311(Sch. 1
item 38.6(a)).

(3) A direction under subsection (2) has no force or effect unless it is given no later than 7 clear days before the date fixed for commencement of hearing of the application for review.

(4) If the Minister gives a direction under—

(a) subsection (1)(a), the Heritage Council must refer the appeal to the Minister for determination; or

S. 78(4)(b)
amended by
Nos 52/1998
s. 311(Sch. 1
item
38.6(b)(i)),
74/2000
s. 3(Sch. 1
item 61.1).

(b) subsection (1)(b), the Heritage Council must refer the appeal to the Tribunal for review of the determination the subject of the appeal;
or

S. 78(4)(c)
amended by
No. 52/1998
s. 311(Sch. 1
item 38.6
(b)(ii)).

(c) subsection (2), the registrar of the Tribunal must refer the matter to the Minister for determination.

- (5) In determining an appeal or matter referred to the Minister under this section that relates to a listed place or to a registered place or registered object in a World Heritage Environs Area relating to a listed place, the Minister must consider the effect of the determination on the world heritage values of the listed place.

S. 78(5)
inserted by
No. 105/2004
s.10.

78A National Trust entitled to notice

The National Trust is entitled to notice of any application to the Tribunal under section 77 and to any referral of a matter to the Tribunal under section 78(4).

S. 78A
inserted by
No. 52/1998
s. 311(Sch. 1
item 38.7),
amended by
No. 74/2003
s. 4.

79 Powers of Tribunal on review

On a review the Tribunal may, by order—

- (a) determine that a permit should be granted with or without conditions; or
- (b) confirm the decision of the Executive Director; or
- (c) determine that the conditions on the permit should be varied.

S. 79
substituted by
No. 52/1998
s. 311(Sch. 1
item 38.8).

80 Exercise of call in power by Minister

- (1) If an appeal is referred to the Minister under section 78(4)(a), the Minister—
 - (a) may require the Heritage Council to give the applicant and the appellant an opportunity to be heard by the Council and to make submissions to the Heritage Council; and
 - (b) must require the Heritage Council to provide a report on the appeal, including a report on any submissions considered or hearing conducted under paragraph (a).
- (2) The Heritage Council must comply with any requirement of the Minister under subsection (1).

- (3) After considering the report of the Heritage Council, the Minister may—
 - (a) grant the permit for the proposed works and activities; or
 - (b) grant the permit for some of the proposed works and activities; or
 - (c) refuse to grant the permit.
- (4) The Executive Director must, within 7 days after a determination is made under subsection (3)—
 - (a) give the appellant written notice of the determination; and
 - (b) if the Minister has determined to grant the permit, issue the permit to the applicant.

81 Determination of Minister of matter called in from Tribunal

S. 81(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 38.9(a)(i)
(ii)).

- (1) If a matter is referred to the Minister under section 78(4)(c), the Minister may, after considering the matter—
 - (a) grant the permit for the proposed works and activities; or
 - (b) grant the permit for some of the proposed works and activities; or
 - (c) refuse to grant the permit.

S. 81(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 38.9(b)).

- (2) The Executive Director must, within 7 days after a determination is made under subsection (1)—
 - (a) give the appellant written notice of the determination; and
 - (b) if the Minister has determined to grant the permit, issue the permit to the applicant.

S. 82
repealed by
No. 52/1998
s. 311(Sch. 1
item 38.10).

* * * * *

83 Applications for permits before registration in urgent cases

- (1) If a place or object has been nominated under Part 3 for inclusion in the Heritage Register, a person may apply to the Executive Director under section 67 for a permit to carry out any works or activities for which a permit would be required if the place or object were registered.
- (2) The Executive Director, if he or she thinks that the matter is urgent, may consider the application before the place or object is registered under Part 3 but must not make a determination in respect of the application until the place or object is so registered.

84 Delegation

- (1) The Executive Director, with the consent of the Minister, may, by instrument, delegate to the responsible authority for the area in which the place or object is situated any of the Executive Director's functions under this Division in relation to that place or object other than this power of delegation.
- (2) Despite subsection (1), a responsible authority, having first obtained the written consent of the Executive Director, may, by instrument, sub-delegate to an officer of the responsible authority any of the Executive Director's functions under this Division which have been delegated to the authority.

S. 84
amended by
No. 70/2000
s. 15 (ILA
s. 39B(1)).

S. 84(2)
inserted by
No. 70/2000
s. 15.

Division 2—Covenants

85 Owner of land may enter covenant with Heritage Council

- (1) An owner of a registered place or land on which a registered place is situated may enter into a covenant with the Heritage Council which binds the owner as to—
 - (a) the development or use of the place or land on which the registered place is situated; or
 - (b) the conservation of the place and any registered object at that place.
- (2) A covenant under subsection (1) may—
 - (a) be released by the Heritage Council; or
 - (b) be varied by agreement between the Heritage Council and all persons having an interest in the land burdened by the covenant who are bound by the covenant.

86 Owner may enter covenant with National Trust

- (1) With the prior approval of the Heritage Council, an owner of a registered place or land on which a registered place or any building which is considered by the Trust to be of cultural heritage significance is situated, may enter into a covenant with the Trust which binds the owner as to—
 - (a) the development or use of the place or the land on which the place is situated; or
 - (b) the conservation of the place or any registered object at that place.

-
- (2) A covenant under subsection (1) may, with the approval of the Heritage Council—
- (a) be released by the Trust; or
 - (b) be varied by agreement between the Trust and all persons having an interest in the land burdened by the covenant who are bound by the covenant.
- (3) If the owner of land has agreed to enter into or vary a covenant made with the Trust under this section, the Trust must send to the Heritage Council—
- (a) details of the proposed covenant or variations of the covenant; and
 - (b) a map of the land concerned and the surrounding area which indicates—
 - (i) the names and addresses of the owners of land in the vicinity of the land concerned; and
 - (ii) the purposes for which the land concerned and the other land is used.

87 Governor in Council may release covenant

- (1) If the owner of land who enters into a covenant with the Heritage Council or the Trust under section 85 or 86 is unable to reach an agreement with the Heritage Council or the Trust for the release of the covenant, the Governor in Council may determine the matter.
- (2) The Heritage Council, Trust or owner (as the case requires) must give effect to any determination of the Governor in Council under subsection (1).

88 Notice of covenants

- (1) If an owner of land has agreed to enter into or vary a covenant under section 85 or 86, the Heritage Council or the Trust, as the case may be, must publish a notice to that effect in—
 - (a) the Government Gazette; and
 - (b) a newspaper circulating generally in the area in which the land concerned is situated.
- (2) A notice under subsection (1) must contain the following—
 - (a) the location of the land; and
 - (b) details of the proposed covenant or variation of the covenant; and
 - (c) a statement that written submissions concerning the proposed covenant or variation of the covenant may be made to the Heritage Council within 28 days after the publication of the notice in the Government Gazette.
- (3) If the Heritage Council considers that owners of land in the vicinity of the land concerned may be affected by the proposed covenant or variation of a covenant, the Heritage Council may—
 - (a) give notice of the details of the proposed covenant or variation of a covenant to those owners; or
 - (b) direct the Trust to give any notice that the Heritage Council may specify to those owners.
- (4) A notice given under subsection (3) must state that written submissions concerning the proposed covenant or variation of the covenant may be made to the Heritage Council within 28 days after the date of the notice.

89 Heritage Council to consider submissions and make decisions

- (1) The Heritage Council must consider any submissions received—
 - (a) within 28 days after the publication of a notice in the Government Gazette under section 88(1); or
 - (b) in the case of a submission received from an owner in response to a notice given under section 88(3), within 28 days after the date of that notice or the publication of the notice in the Government Gazette, whichever is the later.
- (2) The Heritage Council may—
 - (a) if it is proposed to enter into or vary a covenant with the Trust, approve or refuse to approve the covenant or variation; or
 - (b) if it is proposed to enter into or vary a covenant with the Heritage Council, enter or refuse to enter the covenant or agree to or refuse to agree to the variation.
- (3) The Heritage Council must publish notice of its decision under subsection (2) in the Government Gazette.

90 Covenant which affects Crown land

If a covenant entered into under this Division affects unalienated land of the Crown, the Executive Director must amend the Heritage Register by entering a memorandum of the effect of the covenant in the item relating to that land.

91 Registration of covenant or agreement

- (1) This section applies to—
- (a) any covenant entered into under section 85 or 86; and
 - (b) any variation, release or determination of a covenant made under this Division.

S. 91(2)
substituted by
No. 85/1998
s. 24(Sch
item 33.4).

- (2) The Registrar of Titles, on the application of the owner of the land, must make any recordings in the Register as are necessary to record the effect of the agreement, covenant, variation, release or determination.

S. 91(3)
substituted by
No. 85/1998
s. 24(Sch
item 33.4).

- (3) The amendment of this Act by section 24 of the **Transfer of Land (Single Register) Act 1998** does not affect the operation, effect or enforcement of an agreement or covenant registered under the **Property Law Act 1958** and existing immediately before the commencement of that section 24.

92 Effect of registration

If a covenant has been registered under section 91—

- (a) the burden, if any, of that covenant runs with the land affected; and
- (b) the Heritage Council or the Trust, as the case may be, may enforce the covenant against persons deriving title from the person who entered into the covenant as if it were a restrictive covenant, despite the fact that the covenant may be positive in nature, or is not for the benefit of any land of the Heritage Council or the Trust.

PART 5—HISTORIC SHIPWRECKS

Division 1—Preliminary

93 Definitions

(1) In this Part—

article includes any marine concretions and accretions that have become attached to the article;

sea includes any waters within the ebb and flow of the tide;

sea-bed means any land temporarily or permanently covered by Victorian waters;

ship includes—

- (a) any vessel used in navigation by water; and
- (b) any marine concretions and accretions that have become attached to the ship;

Victorian coastal waters has the same meaning as the expression "coastal waters of the State" has in relation to Victoria under the Coastal Waters (State Powers) Act 1980 of the Commonwealth;

Victorian waters means Victorian coastal waters and waters within the limits of the State.

(2) A reference in this Part to the remains of a ship or to an article being situated in any waters includes a reference to the remains of a ship or article—

- (a) being situated in or forming part of the sea-bed or the sub-soil of the sea-bed beneath those waters; or
- (b) being situated in or forming part of a reef in those waters.

- (3) A reference in this Part to the remains of a ship or to an article being no longer situated in any waters includes a reference to the remains of a ship or article being situated on or forming part of land or the sub-soil of land.
- (4) A thing must not be taken not to be an article for the purposes of this Part by reason that it is attached to the remains of a ship, a reef, the sea-bed, land or the sub-soil of the sea-bed or land.
- (5) A reference in this Part to an article associated with a ship must be construed as a reference to an article that appears to have—
 - (a) formed part of a ship; or
 - (b) been installed or carried on a ship; or
 - (c) been constructed or used by a person associated with a ship.

Pt 5 Div. 2
(Heading and
ss 94–96)
repealed by
No. 48/2008
s. 12.

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Division 3—Registration of historic shipwrecks, historic shipwreck relics and protected zones

97 Recommendation in relation to remains of ships and articles

- (1) If the Executive Director is of the opinion that the remains of a ship that are or were situated in Victorian waters are of cultural heritage significance, he or she may recommend to the Heritage Council that the remains be included in the Heritage Register as a historic shipwreck.

- (2) If the Executive Director is of the opinion that an article that was associated with a ship or that all articles that were associated with a particular ship, being an article or articles which are or were situated in Victorian waters, are of cultural heritage significance, he or she may recommend to the Heritage Council that the article or articles be included in the Heritage Register as a historic shipwreck relic or relics.

98 Decision of Heritage Council—remains of ships and articles

- (1) The Heritage Council, after considering the recommendation of the Executive Director under section 97, may—
- (a) determine that the remains of a ship are to be included in the Heritage Register as a historic shipwreck; or
 - (b) determine that the article or articles are to be included in the Heritage Register as a historic shipwreck relic or relics; or
 - (c) determine that the remains of a ship or article or articles should not be included in the Heritage Register.
- (2) The Heritage Council may make a determination under this section in relation to the whole or any part of the remains of a ship that are, or in relation to any article that is, no longer situated in Victorian waters in the same manner as it may make a determination under this section in relation to the remains of a ship, or in relation to an article, situated in those waters.
- (3) If—
- (a) the remains of a ship or an article that were situated in any waters have been included in the Heritage Register as a historic shipwreck or historic shipwreck relic; and

S. 98(3)(a)
amended by
No. 11/2002
s. 3(Sch. 1
item 33).

(b) after that registration any part of those remains of a ship or that article ceases to be situated in those waters—

subject to any amendment to that item in or removal of that item from the Heritage Register, that part of those remains of a ship or that article continues to be registered despite the fact that it is no longer situated in those waters.

(4) The registration of the remains of a ship or an article as a result of a determination under this section revokes any provisional registration made as a result of a determination under section 102 and then in force to the extent that that provisional registration applies to the remains of a ship or an article.

S. 99
repealed by
No. 48/2008
s. 13.

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100 All shipwrecks of a certain age historic

- (1) The remains of all ships that have been situated in Victorian waters for 75 years or more are historic shipwrecks for the purposes of this Part.
- (2) All articles that have been situated in Victorian waters for 75 years or more and that were associated with ships are historic shipwreck relics for the purposes of this Part.
- (3) From time to time the Governor in Council may, by proclamation published in the Government Gazette, reduce the period specified in subsection (1) or (2).
- (4) The Governor in Council may not specify a period of less than 10 years.

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- (5) Subsections (1) and (2) apply regardless of whether or not the existence or location of the remains or articles is presently known.
 - (6) If any remains of a ship or articles have been removed from Victorian waters at any time, subsections (1) and (2) apply to those remains or articles after the 75th anniversary (or the equivalent anniversary if a reduced period has been proclaimed under subsection (3)) of the likely date that the remains or articles first came to rest on the sea-bed.
 - (7) Subsection (6) does not apply to any remains of a ship or articles that have been salvaged or recovered if the salvage or recovery was not contrary to any law in force at the time it occurred.
 - (8) The Governor in Council may, by proclamation published in the Government Gazette, declare that—
 - (a) subsection (1) does not apply to the remains, or part of the remains, of a particular ship or class of ships; or
 - (b) subsection (2) does not apply to any article or class of articles.

101 Recommendation for provisional registration

- (1) If the Executive Director is of the opinion that an article or articles appearing to be the remains of a ship that are or were situated in Victorian waters may be of cultural heritage significance, he or she may recommend to the Heritage Council that the article or articles appearing to be the remains of a ship be provisionally included in the Heritage Register as a historic shipwreck.

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- (2) If the Executive Director is of the opinion that an article that is situated in Victorian waters—
- (a) may have been associated with a ship; and
 - (b) may be of cultural heritage significance—
- he or she may recommend to the Heritage Council that the article be provisionally included in the Heritage Register as a historic shipwreck relic.

102 Decision of Heritage Council—provisional registration

- (1) The Heritage Council, after considering the recommendation of the Executive Director under section 101, may—
- (a) determine that the article or articles appearing to be the remains of a ship are to be provisionally included in the Heritage Register as a historic shipwreck; or
 - (b) determine that the article is to be provisionally included in the Heritage Register as a historic shipwreck relic; or
 - (c) determine that the article or articles should not be included in the Heritage Register.
- (2) The Heritage Council must publish notice of a determination under subsection (1)(a) or (b) in the Government Gazette.
- (3) On publication of the notice in the Government Gazette, the article or articles are provisionally included in the Heritage Register in the category or categories determined by the Heritage Council and specified in the notice.
- (4) The Heritage Council may make a determination under this section in relation to an article that is no longer situated in Victorian waters in the same manner as it may make a determination under this

section in relation to an article situated in those waters.

- (5) If—
- (a) an article that was situated in any waters has been provisionally included in the Heritage Register as a historic shipwreck or historic shipwreck relic; and
 - (b) after that registration that article ceases to be situated in those waters—

subject to any amendment or removal of the item in the Heritage Register, that article continues to be provisionally included in the Heritage Register despite the fact that it is no longer situated in those waters.

- (6) A determination under this section remains in force for 5 years from the date of publication of the determination in the Government Gazette under section 104 unless sooner revoked by the Heritage Council or extended under subsection (7).
- (7) The Heritage Council, by notice published in the Government Gazette, may extend a determination under this section for any further period of 12 months that the Heritage Council considers necessary.

103 Protected zones

- (1) The Executive Director may recommend to the Heritage Council that an area (not exceeding 100 hectares) consisting of water or land or partly of water and partly of land within which a historic shipwreck or a historic shipwreck relic is situated be included in the Heritage Register as a protected zone or be included in the registration of an existing protected zone.

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- (2) The Heritage Council, after considering the recommendation of the Executive Director, may—
- (a) determine that the area or any part of the area determined by the Heritage Council is to be included in the Heritage Register as a protected zone or an addition to an existing protected zone; or
 - (b) determine that the area should not be included in the Heritage Register.
- (3) A protected zone is deemed to include the airspace above the area in the zone and, to the extent to which that area consists of the surface of any water, to include the waters beneath that area, the sea-bed beneath those waters and the sub-soil of that sea-bed and to the extent to which that area consists of any land, to include the sub-soil of that land.
- (4) If the remains of a ship or an article ceases to be registered, the registration of a protected zone in relation to the remains or the article also ceases to be in force.
- (5) Nothing in subsection (4) prevents the making of a further determination under this section in relation to any remains of a ship or article if a further determination is made under section 98 or 102 in relation to the remains or article.

104 Notice of registration

- (1) The Executive Director must publish notice in the Government Gazette of the making of a determination under this Part that—
- (a) the remains of a ship or article be included in the Heritage Register; or
 - (b) an area is included in the Heritage Register as a protected zone; or

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- (c) an article or articles appearing to be the remains of a ship are to be provisionally included in the Heritage Register as a historic shipwreck; or
 - (d) an article is to be provisionally included in the Heritage Register as a historic shipwreck relic.
- (2) On publication of the notice in the Government Gazette of a determination referred to in subsection (1)(a) or (b), the remains of a ship, article or protected zone is included in the Heritage Register.
 - (3) On publication of the notice in the Government Gazette of a determination referred to in subsection (1)(c) or (d), the article or articles are provisionally included in to the Heritage Register.
 - (4) The notice must specify the category or categories of the Heritage Register or the item of the Heritage Register in which the remains of a ship, article or protected zone is included or provisionally included.
 - (5) The notice relating to a protected zone must include sufficient information to provide reasonable identification of the protected zone.

105 Further publication of notices

If a notice of registration under section 104 is published in the Government Gazette, the Executive Director may cause a copy of the notice to be published in any newspapers, periodicals or other publications that he or she thinks appropriate.

106 Amendment or removal of item on Heritage Register

- (1) The Heritage Council may amend an item in or remove any item relating to a historic shipwreck, historic shipwreck relic or protected zone from the Heritage Register.
- (2) This Division applies to an amendment or removal in the same way as it applies to a registration.

Division 4—Protection of historic shipwrecks and historic shipwreck relics

107 Notice of location of historic shipwrecks and historic shipwreck relics

S. 107(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (1) If a person obtains possession of an article which is a historic shipwreck or historic shipwreck relic, the person must notify the Executive Director in writing of the article's description and location within 7 days after obtaining possession of the article.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

S. 107(2)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (2) If a person has possession of an article and the article becomes registered as a historic shipwreck or historic shipwreck relic, the person must notify the Executive Director in writing of the article's description and location within 7 days after the article is registered.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

- (3) If a person has possession of an article and at any time that article becomes registered as a historic shipwreck or historic shipwreck relic as a result of the operation of section 100, the person must notify the Executive Director in writing within 7 days of the article's description and location.

S. 107(3)
amended by
No. 74/2003
s. 5(2)(a)(b).

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

- (4) It is a defence to a prosecution of a person for an offence against this section if the person proves that the person did not know, and had no reasonable grounds for believing, that the article was included in the Heritage Register.

108 Powers of Executive Director to ascertain location of historic shipwrecks and historic shipwreck relics

- (1) If it appears to the Executive Director that—
- (a) a person may have, or may have had, possession of an article; and
 - (b) the article is or may be, or is or may be a part of, a historic shipwreck or is or may be a historic shipwreck relic—

the Executive Director may, by notice in writing to the person, require the person within the time specified in the notice—

- (c) to inform the Executive Director whether the person has, or has had possession of the article; and
- (d) if the person has ceased to have possession of the article, to give the Executive Director particulars of the circumstances in which the person ceased to have possession of the article; and

S. 108(2)
amended by
No. 74/2003
s. 5(2)(a)(b).

(e) if the person has transferred possession, custody or control of the article to another person, to give the Executive Director the name and address of the person to whom possession, custody or control of the article was transferred.

(2) A person to whom a notice is given by the Executive Director under subsection (1) must not—

(a) refuse or fail to comply with the notice to the extent that the person is capable of complying with it; or

(b) in purported compliance with the notice, knowingly furnish information that is false or misleading.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

109 Power of Executive Director to give directions in relation to custody of historic shipwrecks and historic shipwreck relics

(1) If a person has possession of an article being or being part of a historic shipwreck or being a historic shipwreck relic, the Executive Director may, for the purpose of—

(a) the conservation of the article; or

(b) the exhibition of, or the provision of access to, the article—

by notice in writing, require the person to take any action in relation to the article that is specified in the notice.

- (2) The action that a person may be required to take in relation to an article by a notice under subsection (1) includes but is not limited to—
- (a) keeping the article in a particular manner or place;
 - (b) removing the article to a particular place within a particular time;
 - (c) doing a particular act in relation to the article within a particular time, being an act designed to assist in the conservation of the article;
 - (d) making the article available for inspection within a particular time and for the periods specified in the notice;
 - (e) delivering the article into the custody of a particular person for the purpose of operations designed to conserve the article or for the purpose of public exhibition.
- (3) If a notice has been given under subsection (1), this does not prevent the giving of further notices under that subsection in relation to the same article.
- (4) A person to whom a notice is given by the Executive Director under subsection (1) must comply with the notice.
- Penalty: In the case of a natural person:
240 penalty units.
- In the case of a body corporate:
480 penalty units.
- (5) A civil action does not lie against a person in respect of any action taken by the person pursuant to a notice given to him or her under subsection (1).

S. 109(4)
amended by
No. 74/2003
s. 5(4)(a)(b).

110 Offence to remove article from Victoria

S. 110(1)
amended by
No. 74/2003
s. 5(4)(a)(b).

- (1) A person must not remove any article being, or being part of, a historic shipwreck or being a historic shipwreck relic from Victoria otherwise than in accordance with any terms and conditions of a permit issued by the Executive Director.

Penalty: In the case of a natural person:
240 penalty units.

In the case of a body corporate:
480 penalty units.

- (2) An article removed from Victoria in contravention of subsection (1) is forfeited to the Crown.
- (3) It is a defence to a prosecution of a person for an offence against subsection (1) if the person proves that he or she did not know, and had no reasonable grounds for believing, that the article was or was part of a historic shipwreck or was a historic shipwreck relic.
- (4) In this section, a reference to an article being removed from Victoria includes a reference to an article being removed from Victorian coastal waters but does not include a reference to an article being removed directly from Victorian coastal waters to Victoria.

111 Prohibition of certain activities in relation to historic shipwrecks and historic shipwreck relics

S. 111(1)
amended by
No. 74/2003
s. 5(6)(a)(b).

- (1) A person must not, without lawful authority—
 - (a) take, destroy, damage, remove, disturb or otherwise interfere with any historic shipwreck or historic shipwreck relic; or
 - (b) buy, offer to buy, agree to buy or offer or agree to barter or exchange any historic shipwreck or historic shipwreck relic; or

- (c) possess a historic shipwreck or historic shipwreck relic; or
- (d) dispose of a historic shipwreck or historic shipwreck relic.

Penalty: In the case of a natural person:
2400 penalty units or 5 years
imprisonment or both.

In the case of a body corporate:
4800 penalty units.

- (1A) An offence against subsection (1) is an indictable offence.

S. 111(1A)
inserted by
No. 74/2003
s. 7.

- (2) A reference in subsection (1) to the taking or removal of a historic shipwreck or a historic shipwreck relic includes a reference to the taking or removal of the historic shipwreck or historic shipwreck relic from the place in which it was situated at the time of being included in the Heritage Register including taking or removal from a reef, from the sea-bed or the sub-soil of the sea-bed or from land or the sub-soil of land.
- (3) It is a defence to a prosecution of a person for an offence against subsection (1)(b) or (c) if the person proves that the person did not know, and had no reasonable grounds for believing, that the article that is the subject of the offence was a historic shipwreck or historic shipwreck relic.
- (4) It is a defence to a prosecution of a person for an offence against subsection (1)(c) if the person has given the Executive Director notice in writing of the historic shipwreck's or historic shipwreck relic's description or location in accordance with section 107.

s. 112

(5) If the Executive Director, on reasonable grounds, believes that a person has possession of a historic shipwreck or historic shipwreck relic which has been removed from a place in which it was situated at the time of being registered without a permit granted in accordance with section 113, the Executive Director may by notice in writing to the person require that person to deliver the shipwreck or relic to him or her.

S. 111(6)
amended by
No. 74/2003
s. 5(4)(a)(b).

(6) A person to whom a notice is given by the Executive Director under subsection (5) must comply with the notice.

Penalty: In the case of a natural person:
240 penalty units.

In the case of a body corporate:
480 penalty units.

(7) In this section, *take* means to gain possession of an item by any means.

112 Offence to be near historic shipwrecks with certain equipment

S. 112(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

(1) A person must not, without authority or reasonable cause, possess on or near a historic shipwreck or historic shipwreck relic—

(a) any salvage or recovery equipment or any equipment that could be readily adapted or used for the salvage or recovery of the historic shipwreck or historic shipwreck relic; or

- (b) any explosives, instruments or other equipment that could be used to damage or interfere with the historic shipwreck or historic shipwreck relic.

Penalty: In the case of a natural person:
120 penalty units or 12 months imprisonment or both.

In the case of a body corporate:
240 penalty units

- (2) This section does not apply to—
- (a) a person holding a permit under the Navigation Act 1912 of the Commonwealth; or
- (b) the holder of an access licence or general permit under the **Fisheries Act 1995** carrying out an activity under that licence or permit.

S. 112(2)
substituted by
No. 70/2000
s. 16.

113 Permits for exploration or recovery of historic shipwrecks and historic shipwreck relics

- (1) A person may apply to the Executive Director for a permit authorising that person and any other persons named or described in the permit to do an act or thing which would otherwise be prohibited under section 110, 111 or 112 or the shipwrecks regulations.
- (2) An application must be accompanied by the prescribed fee.
- (3) The Executive Director may grant the permit subject to any conditions the Executive Director thinks fit.

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- (4) The Executive Director may, at any time while a permit is in force—
- (a) impose conditions in respect of the permit; and
 - (b) revoke or vary any conditions on the permit.
- (5) The conditions that may be imposed under this section in respect of a permit authorising the doing of an act or thing include but are not limited to—
- (a) a condition requiring the act or thing to be done in a specified manner; and
 - (b) a condition requiring the act or thing to be done only in accordance with the directions of a person named or described in the permit as a person empowered to give those directions; and
 - (c) a condition requiring any articles obtained by the doing of an act that is authorised by the permit to be held in the custody or dealt with in the manner specified in the permit or specified in directions given by a person named or described in the permit as a person empowered to give those directions.
- (6) A condition imposed in respect of a permit (other than a condition contained in a permit) or a revocation or variation of a condition so imposed takes effect when notice of the condition or of the revocation or variation is served on the person to whom the permit was granted.

- (7) A person must not contravene a condition imposed in respect of a permit that has been granted to him or her or is otherwise applicable to him or her.

S. 113(7)
amended by
No. 74/2003
s. 5(4)(a)(b).

Penalty: In the case of a natural person:
240 penalty units or imprisonment for
2 years or both.

In the case of a body corporate:
480 penalty units.

- (8) The Executive Director may at any time, by notice in writing to the person to whom a permit has been granted—
- (a) revoke the permit; or
 - (b) suspend the permit; or
 - (c) cancel the suspension of the permit.
- (9) A suspension of a permit may be of indefinite duration or for a specified period.

114 Defences

It is a defence to a prosecution of a person for an offence against section 111, 112(1) or 113(7) or for an offence against the shipwrecks regulations if the act that constituted the offence was done for the purposes of—

- (a) saving human life; or
- (b) securing the safety of a ship (including a hovercraft, submarine, aircraft or any similar craft) if the ship was endangered by stress of weather or by navigational hazards; or
- (c) dealing with an emergency involving a serious threat to the environment.

115 Discovery of shipwrecks and articles to be notified

S. 115(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (1) A person who finds the remains of a ship, or of part of a ship, or an article associated with a ship must within 7 days give to the Executive Director a notice in writing setting out—
 - (a) a description of the remains or of the article; and
 - (b) a description of the place where the remains are, or the article is, situated, which is sufficient to enable the remains or articles to be located.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

- (2) The notice must be in the prescribed form and must also contain any other prescribed details.
- (3) A person must not in a notice purporting to be given to the Executive Director under subsection (1) make a statement that to his or her knowledge is false or misleading in a material particular.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

- (4) It is a defence to a prosecution of a person for an offence against subsection (1) if the person—
 - (a) proves that he or she did not know and that, in the circumstances, he or she could not reasonably have been expected to know that the articles which he or she found were the remains of a ship or of part of a ship or an article associated with a ship; or

S. 115(3)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (b) proves, or proves that he or she had reasonable grounds for believing, that a notice was given in accordance with subsection (1) by some other person to the Executive Director in respect of the remains or article before it was practicable for the first-mentioned person to give the notice.
- (5) A person must not, having found the remains of a ship or of part of a ship or an article associated with a ship, knowingly carry out operations designed to conceal the location of the remains or article.
- Penalty: In the case of a natural person:
120 penalty units.
- In the case of a body corporate:
240 penalty units.
- (6) A prosecution must not be maintained in respect of an offence under this section unless the court is furnished with a certificate signed by the Executive Director that the remains of a ship are, or the article is, of cultural heritage significance.
- (7) A certificate signed by the Executive Director under subsection (6) is conclusive evidence of the facts stated in it.

S. 115(5)
amended by
No. 74/2003
s. 5(2)(a)(b).

116 Rewards

- (1) The Executive Director may—
- (a) pay a reward not exceeding the prescribed amount to the person who first notifies the Executive Director in accordance with section 115 of the location of any remains of a ship or article—

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- (i) a description of the location of which, being a description sufficient to enable the remains or article to be located, had not previously been published in Australia; and
- (ii) which have been registered under this Part since the notification was made; and
- (b) offer and pay a reward not exceeding the prescribed amount to the person who first furnishes to the Executive Director a description of the location of a historic shipwreck or of a historic shipwreck relic, specified in the offer, being a description sufficient to enable the historic shipwreck or historic shipwreck relic to be located; and
- (c) pay a reward not exceeding the prescribed amount to any person who furnishes information leading to the conviction of a person for an offence against this Part or the regulations made under this Part.
- (2) Payments under subsection (1) are to be made out of money appropriated by Parliament for the purpose.
- (3) In addition to, or as an alternative to, the payment of a reward under subsection (1), the Executive Director may give a person eligible for a reward a plaque, a model, a replica, a medallion or a similar commemorative item.
- (4) Articles referred to in subsection (3) that need to be bought by the Executive Director are to be bought out of the Heritage Fund established under section 135.

117 Arrangements with the Commonwealth

- (1) The Governor may make arrangements with the Governor-General of the Commonwealth for the performance of functions by a competent authority of the Commonwealth in relation to the protection, recovery, preservation and exhibition of historic shipwrecks and historic shipwreck relics.
- (2) The Minister may make arrangements with any Minister or statutory body for the performance of functions by that Minister or body for the purpose of implementing any of the provisions of this Part.

118 Declaration as to Crown ownership of remains of ships or relics

- (1) If the Minister is of the opinion that it is necessary to do so in order to protect the public interest, he or she may, by notice published in the Government Gazette, declare any historic shipwreck or historic shipwreck relic to be vested in the Crown.
- (2) On the publication of a notice under subsection (1), the ownership of the historic shipwreck or historic shipwreck relic vests in the Crown free of any other interest.
- (3) A person who would, but for the publication of a notice under this section, have been entitled to ownership of a historic shipwreck or historic shipwreck relic, or to any interest in a historic shipwreck or historic shipwreck relic, may, within 6 months after the date of publication of the notice claim compensation for his or her loss by action against the Crown in the Supreme Court.
- (4) On a claim under subsection (3), the Supreme Court may award such compensation against the Crown as it considers just in the circumstances.

s. 118A

S. 118(5)
amended by
No. 19/2004
s. 22.

- (5) The Museum of Victoria is the official place of lodgement of historic shipwrecks and historic shipwreck relics which are the property of the Crown unless the Executive Director, after consulting the Chief Executive Officer of the Museums Board of Victoria, otherwise determines.

S. 118A
inserted by
No. 70/2000
s. 17.

118A Permits for the use of historic shipwreck relics

- (1) This section applies to historic shipwreck relics in the custody or control of the Executive Director.
- (2) The Executive Director may grant a permit to any person for the use of an historic shipwreck relic for the purposes of study, conservation or exhibition.
- (3) The Executive Director may impose any conditions on the permit that the Executive Director thinks fit.
- (4) A permit under this section remains in force for the period of time specified in the permit.
- (5) An application for a permit must be in the form approved by the Executive Director.
- (6) The applicant must pay the prescribed fee (if any) for a permit.
- (7) A person who is the holder of a permit must comply with the permit.

Penalty: 10 penalty units.

119 Danger to navigation

- (1) Nothing in this Part derogates from any power granted under any other Act to any person to deal with the remains of a ship that constitute an obstruction to the safe and convenient navigation of any Victorian waters or that are situated on shore in any port in Victoria.

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- (2) Despite subsection (1), if a person has any power or powers of the type referred to in that subsection, the power or powers must not be exercised in relation to any articles, being the remains of a ship unless—
- (a) not less than 60 days have elapsed from the date on which that person has given to the Executive Director a notice in writing containing the following particulars—
 - (i) that person's intention to exercise the power or powers; and
 - (ii) the articles in relation to which it is intended to exercise such power or powers; and
 - (iii) the location of those articles; and
 - (iv) the nature and extent of the action which is to be taken; or
 - (b) the articles constitute an imminent danger to the safe navigation of those waters or are likely to cause damage to persons or property in a port.
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PART 6—PROTECTION OF ARCHAEOLOGICAL PLACES

Division 1—The Heritage Inventory

120 Heritage Inventory

The Executive Director must establish and maintain an inventory to be called the Heritage Inventory.

121 What is in the Heritage Inventory?

The Executive Director must record in the Heritage Inventory—

- (a) all places or objects identified as historic archaeological sites, areas or relics on the register under the **Archaeological and Aboriginal Relics Preservation Act 1972** immediately before the commencement of this section; and
- (b) all known areas where archaeological relics are located; and
- (c) all known occurrences of archaeological relics; and
- (d) all persons known to be holding private collections of artefacts or unique specimens that include archaeological relics.

122 Recommendation for registration

The Executive Director may make a recommendation under Part 3 for the inclusion in the Heritage Register of a place or relic listed in the Heritage Inventory.

123 Copies of Heritage Inventory

- (1) A copy of the Heritage Inventory, duly amended, must be kept—
 - (a) at the office of the Heritage Council; and
 - (b) at the office of the Department of Sustainability and Environment.

- (2) A copy of the Heritage Inventory kept under this section must be made available for inspection by members of the public at the office concerned during normal office hours.

S. 123(1)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
19/2004 s. 23.

Division 2—Protection of archaeological places, objects, sites and relics

124 Erection of notices

- (1) The Executive Director or any person authorised by him or her may cause to be erected at suitable places within or on the boundaries of or near a registered archaeological place notices indicating that the land is a registered archaeological place.
- (2) The fact that a notice is not erected at a place under this section does not affect the liability of any person for a contravention of this Part or any regulations relating to archaeological sites.
- (3) A person must not destroy, damage, remove or interfere with a notice erected under this section.

S. 124(3)
amended by
No. 74/2003
s. 5(1)(a)(b).

Penalty: In the case of a natural person:
60 penalty units.

In the case of a body corporate:
120 penalty units.

125 Archaeological relics in a registered archaeological place deemed property of Crown

All archaeological relics within a registered archaeological place are the property of the Crown and under the protection of the Crown.

126 Museum of Victoria to be place of lodgement

(1) The Museum of Victoria is the official place of lodgement of archaeological relics which are the property of the Crown.

(2) All relics which—

(a) have been removed from a registered archaeological place; or

(b) are directed by the Executive Director to be removed to a place of safe storage under section 130(1); or

(c) are otherwise the property of the Crown—

must be entrusted to the care of the Chief Executive Officer of the Museums Board of Victoria to be lodged in the Museum of Victoria unless the Executive Director, after consulting the Chief Executive Officer of the Museums Board of Victoria, otherwise determines.

S. 126(2)
amended by
No. 19/2004
s. 24.

126A Permits for the use of archaeological relics

(1) This section applies to archaeological relics in the custody or control of the Executive Director.

(2) The Executive Director may grant a permit to any person for the use of an archaeological relic for the purposes of study, conservation or exhibition.

(3) The Executive Director may impose any conditions on the permit that the Executive Director thinks fit.

(4) A permit under this section remains in force for the period of time specified in the permit.

S. 126A
inserted by
No. 70/2000
s. 18.

- (5) An application for a permit must be in the form approved by the Executive Director.
- (6) The applicant must pay the prescribed fee (if any) for a permit.
- (7) A person who is the holder of a permit must comply with the permit.

Penalty: 10 penalty units.

127 Offence to damage or disturb unregistered relics and unregistered archaeological sites

- (1) A person must not knowingly or negligently deface or damage or otherwise interfere with an archaeological relic or carry out an act likely to endanger an archaeological relic except in accordance with a consent issued under section 129.

S. 127(1)
amended by
No. 74/2003
s. 5(5)(a)(b).

Penalty: In the case of a natural person:
600 penalty units or imprisonment for
12 months or both.

In the case of a body corporate:
1200 penalty units.

- (2) A person must not knowingly uncover or expose an archaeological relic or disturb or excavate any land for the purpose of uncovering or discovering an archaeological relic except in accordance with a consent issued under section 129.

S. 127(2)
amended by
No. 74/2003
s. 5(5)(a)(b).

Penalty: In the case of a natural person:
600 penalty units or imprisonment for
12 months or both.

In the case of a body corporate:
1200 penalty units.

- (3) A person is not guilty of an offence under this section if he or she picks up or collects an archaeological relic exposed in or on the surface of land in Victoria.

- (4) This section does not apply to an archaeological relic which is a registered object.

S. 128
amended by
No. 74/2003
s. 5(2)(a)(b).

128 Safeguarding of relics

A person who knowingly picks up or collects an archaeological relic in Victoria or who knowingly brings into Victoria or receives in Victoria an archaeological relic must—

- (a) safeguard it from loss or damage; and
- (b) immediately give notice in writing to the Executive Director describing the relic and stating where it was found or where it came from; and
- (c) if required by the Executive Director, make the relic available for identification or conservation.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

129 Executive Director may issue consents

- (1) A person may apply for a consent authorising him or her—
- (a) to uncover or expose an archaeological relic;
or
 - (b) to excavate any land for the purpose of discovering, uncovering or moving an archaeological relic; or
 - (c) to deface or damage or otherwise interfere with an archaeological relic or carry out an act likely to endanger an archaeological relic; or

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- (d) to possess an archaeological relic for the purposes of sale; or
 - (e) to buy or sell an archaeological relic.
- (2) An application for a consent must—
- (a) be made to the Executive Director; and
 - (b) be accompanied by the prescribed fee; and
 - (c) must include—
 - (i) in the case of an application under subsection (1)(a) or (1)(b), the consent (in a form approved by the Executive Director) of the owner of the land on which the archaeological relic is situated if the applicant is not the owner of that land; and
 - (ii) in any other case, the consent (in a form approved by the Executive Director) of the owner of the archaeological relic, if the applicant is not the owner of the relic.
- (3) In issuing a consent under this section, the Executive Director must consider—
- (a) any relevant anthropological, archaeological, ethnographic or historical research; and
 - (b) the potential of the relic or site to contribute to such knowledge.
- (3A) After considering an application the Executive Director may determine—
- (a) to issue the consent; or
 - (b) to refuse to issue the consent.

S. 129(2)(b) amended by No. 19/2004 s. 25(1)(a).

S. 129(2)(c) inserted by No. 19/2004 s. 25(1)(b).

S. 129(3A) inserted by No. 19/2004 s. 25(2).

s. 129

S. 129(3B)
inserted by
No. 19/2004
s. 25(2).

(3B) If the Executive Director determines to refuse to issue the consent, the Executive Director must give the applicant written notice of the refusal including a statement of the reasons for the refusal.

(4) A consent under this section may be issued subject to the following terms and conditions—

(a) that the activity authorised by the consent be supervised by a person with appropriate professional qualifications and experience as specified in the consent; and

(b) that archaeological relics found in the course of the activity authorised by the consent are to be conserved and curated in a way specified in the consent; and

(c) any other terms and conditions that the Executive Director thinks fit.

S. 129(5)
amended by
No. 74/2003
s. 5(3)(a)(b).

(5) A person must comply with the terms and conditions contained in a consent issued under this section.

Penalty: In the case of a natural person:
240 penalty units.

In the case of a body corporate:
480 penalty units.

S. 129(6)
inserted by
No. 19/2004
s. 25(3).

(6) In this section *owner* in relation to—

(a) an archaeological site that is a government building or government land; or

(b) an archaeological relic that is a government object or is in or on a government building or government land—

means a Minister or any other person or body of persons (whether corporate or unincorporate) responsible for the care, management or control of that building, land or object.

130 Power of Executive Director to direct excavation of area

- (1) The Executive Director may direct the excavation or examination of a registered archaeological place and the removal of archaeological relics from it to a place of safe storage.
- (2) A person must not knowingly obstruct, hinder or otherwise interfere with an excavation or examination being conducted in accordance with subsection (1).

S. 130(2)
amended by
No. 74/2003
s. 5(2)(a)(b).

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

131 Archaeological surveys

- (1) A person who undertakes an investigation or survey of any land for the purposes of finding an archaeological site or relic must—
 - (a) notify the Executive Director of his or her intention to undertake an investigation or survey prior to the commencement of the investigation or survey; and
 - (b) provide all site documentation collected in the investigation or survey to the Executive Director.

S. 131(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

- (2) In this section, *site documentation* includes site records, photographs, maps, plans and field notes and any prescribed documentation relating to the investigation or survey of the site.

132 Discovery of relics to be reported

S. 132(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (1) A person who discovers an archaeological relic must as soon as practicable report the discovery to the Executive Director or an inspector unless he or she has reasonable cause to believe that the relic is recorded in the Heritage Register.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

S. 132(2)
amended by
No. 74/2003
s. 5(2)(a)(b).

- (2) If an archaeological relic is discovered in the course of any construction or excavation on any land, the person in charge of the construction or excavation must as soon as practicable report the discovery to the Executive Director.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

S. 132(3)
amended by
No. 68/2009
s. 97(Sch.
item 66.1).

- (3) It is a defence to any proceedings under this section in relation to an archaeological relic if the accused did not know or could not reasonably have been expected to know that the relic was an archaeological relic.

133 Actions to preserve archaeological relics

- (1) For the purpose of protecting and conserving archaeological relics the Heritage Council may—
- (a) purchase or otherwise acquire a registered archaeological relic on behalf of the Crown; and
 - (b) purchase, on behalf of the Crown, land upon which registered archaeological relics may be present.

(2) For the purpose of protecting and conserving any archaeological relics, the Executive Director may erect screens, shelters or other structures or take any other action that he or she considers is reasonably necessary.

(3) A person must not remove, damage or interfere with a screen, shelter or other structure erected under subsection (2).

S. 133(3)
amended by
No. 74/2003
s. 5(2)(a)(b).

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

134 Offence to buy, sell or possess relics without consent

(1) A person must not, whether as principal or agent, without the consent of the Executive Director—

S. 134(1)
amended by
No. 74/2003
s. 5(2)(a)(b).

(a) knowingly buy or sell an archaeological relic; or

(b) at any time knowingly have in his or her possession an archaeological relic for the purposes of sale.

Penalty: In the case of a natural person:
120 penalty units.

In the case of a body corporate:
240 penalty units.

(2) It is a defence to any proceedings under subsection (1) for possession of an archaeological relic, that the accused had had possession of the archaeological relic before the commencement of the **Archaeological and Aboriginal Relics Preservation Act 1972**.

S. 134(2)
amended by
No. 68/2009
s. 97(Sch.
item 66.2).

PART 7—HERITAGE FUND

135 Heritage Fund

- (1) There is established a Fund to be called the Heritage Fund.
- (2) The Heritage Council must—
 - (a) open and maintain accounts with any authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth from time to time approved by the Treasurer; and
 - (b) maintain at all times one of those accounts to be used for the purposes of the Heritage Fund.

S. 135(2)(a)
amended by
No. 11/2001
s. 3(Sch.
item 34).

136 Payments into Heritage Fund

- (1) There must be paid into the Heritage Fund—
 - (a) all fees paid under this Act; and
 - (b) all money borrowed by the Heritage Council; and
 - (c) all other money received by the Heritage Council.
- (2) The Heritage Council, with the consent of the Minister, may invest money credited to the Heritage Fund that it does not immediately require in any securities that the Treasurer from time to time approves.
- (3) Interest earned by the investment of money in the Heritage Fund must be credited to the Fund.

137 Payments out of the Heritage Fund

The Executive Director may apply money standing to the credit of the Heritage Fund—

- (a) to provide assistance generally for the conservation and management of the cultural heritage;
- (ab) to provide assistance generally for the conservation and management of any listed place;
- (b) with the consent of the Heritage Council, in the making of loans and grants under this Act;
- (c) in payment of any expenses incurred in the administration of this Act;
- (d) in payment of remuneration and allowances payable to members of the Heritage Council, committees and advisory committees under this Act;
- (e) in payment of money borrowed by the Heritage Council under this Act and any charges or interest on that borrowing;
- (f) in payment of money standing to the credit of the Heritage Council in the acquisition of land or objects authorised under this Act;
- (g) in any other way authorised by this Act.

S. 137(ab)
inserted by
No. 105/2004
s. 11.

138 Power of Heritage Council to borrow money

- (1) The Heritage Council, with the consent of the Minister, may borrow and re-borrow (whether by way of overdraft or otherwise) money from any institution, person or body approved by the Treasurer on the terms and conditions approved by the Treasurer.

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- (2) The Treasurer may execute in favour of any institution, person or body lending money to the Heritage Council a guarantee for the repayment of that money.
- (3) A guarantee given by the Treasurer under this section—
- (a) must, subject to this subsection, be in the form and subject to the terms and conditions that the Treasurer thinks fit; and
 - (b) may extend to any interest charges and other expenses chargeable by the institution, person or body making the loan and the expenses of enforcing or obtaining or endeavouring to enforce or obtain repayment of the loan and those interest charges and expenses; and
 - (c) must be subject to the condition that the institution, person or body making the loan must obtain take and hold or retain and hold securities of the nature that the Treasurer requires for the repayment of the loan and the payment of any interest charges and expenses; and
 - (d) must be subject to the condition that the institution, person or body making the loan must not without the prior consent in writing of the Treasurer assign or encumber the benefit of the guarantee; and
 - (e) must not be enforceable against the Treasurer unless the institution, person or body making the loan has, to the Treasurer's satisfaction, exercised its rights and remedies under all securities held by or for it in respect of the loan and any interest charges and expenses.

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- (4) Any sums required by the Treasurer in fulfilling a guarantee given under this section shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) and any sums received or recovered by the Treasurer in respect of any sums so paid by the Treasurer must be paid into the Consolidated Fund.
 - (5) Before a guarantee is given by the Treasurer under this section the Heritage Council must give to the Treasurer any securities that the Treasurer requires and must execute any instruments that are necessary for that purpose.
 - (6) The Heritage Council must apply and use all money borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

139 Power of Heritage Council to accept gifts etc.

- (1) The Heritage Council may—
 - (a) acquire by gift, grant, bequest or demise a registered place or registered object or the land on which a registered place is situated; and
 - (b) agree to carry out any conditions of that gift, grant, bequest or demise.
- (2) A place, land or object acquired under subsection (1) is vested in the Crown.
- (3) In accepting a gift, grant, bequest or demise under this section, the Heritage Council must—
 - (a) take into account the cultural heritage significance of the place or object; and
 - (b) take into account any relevant requirements for the future management of the place, land or object.

140 Making of loans and grants from Heritage Fund

- (1) The Executive Director, with the consent of the Heritage Council may make a grant or loan for the purposes of assisting the conservation of any part of Victoria's cultural heritage.
- (2) Without limiting subsection (1), the Executive Director may make a grant or loan—
 - (a) to assist the owner of—
 - (i) a place or object which has been nominated for inclusion in the Heritage Register; or
 - (ii) a registered place or registered object—
to prepare appropriate analyses and plans for the conservation of the place or object; or
 - (b) with the consent of the Heritage Council, to provide financial and other assistance to owners and managers of registered places or registered objects for the purpose of conserving any part of Victoria's cultural heritage.
- (3) Subject to section 141, the Executive Director may, in making a grant or loan, impose any conditions that he or she considers are appropriate to assist the conservation of the part of the cultural heritage in respect of which the grant or loan is made.

(4) In this section *owner* in relation to—

- (a) a place that is a government building or government land; or
- (b) an object that is a government object or is in or on a government building or government land—

S. 140(4)
amended by
No. 19/2004
s. 26(2).

S. 140(4)(b)
amended by
No. 19/2004
s. 26(1).

means a Minister or any other person or body of persons (whether incorporate or unincorporate) responsible for the care, management or control of that building, land or object.

141 Rates of interest on loans

A loan made from the Heritage Fund must be—

- (a) at the rate of interest for the time being fixed by the Treasurer generally for the purposes of this Part; or
- (b) if the Treasurer so approves—
 - (i) at the rate of interest fixed by the Treasurer in respect of that loan; or
 - (ii) without interest.

142 Acquisition of land by Heritage Council

- (1) The Heritage Council may, with the consent of the Minister, for the purposes of this Act, acquire land which is a registered place or land on which a registered place is situated by lease, purchase or exchange or by compulsory acquisition in accordance with this Part.
- (2) Subsection (1) does not apply to Crown land.
- (3) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—
 - (a) the **Heritage Act 1995** is the special Act; and
 - (b) the Heritage Council is the Authority.

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- (4) Any increase or decrease in the market value of an interest in land arising from the inclusion of the land or a place situated on the land in the Heritage Register under this Act must be taken into account in determining compensation payable in respect of the acquisition of that interest.

143 Power in Heritage Council to sell property

- (1) The Heritage Council, except where it has otherwise agreed may, with the consent of the Minister, in the manner and subject to the terms and conditions that in the opinion of the Council are appropriate—
- (a) sell, lease, exchange or otherwise deal with or dispose of any property that has been acquired by the Heritage Council under this Part; and
 - (b) grant easements or rights of way over any land or any part of the land so acquired.
- (2) The Heritage Council must fix the rental or other consideration to be received by the Heritage Council in respect of a lease of land acquired for the purposes of this Act so as to produce an amount not less than the percentage that the Treasurer directs, in respect of that lease, or of leases of the class to which that lease belongs, of the fair market value of the land leased.
- (3) This section does not apply to an archaeological relic, the remains of a ship or an article associated with a ship.

144 Special assistance

- (1) The Heritage Council may, with the consent of the Minister, provide special assistance to the owner of a registered place for the purpose of conserving that place.
- (2) If the Heritage Council decides to provide special assistance under subsection (1) it may do one or both of the following—
 - (a) subject to this section, with the consent of the Treasurer, by resolution remit or defer the payment of the whole or any part of the tax payable by the owner under the **Land Tax Act 2005** that is attributable to the registered place or the land on which the registered place is situated;
 - (b) subject to this section, after consultation with the relevant rating authority and with the consent of the authority or of the Minister administering the legislation under which the authority is constituted, by resolution remit or defer the payment of the whole or any part of any relevant rates, payable in respect of the registered place or the land on which a building which is included in the Heritage Register is situated.
- (3) If the Heritage Council by resolution remits or defers the payment of any rates or taxes under this section, the rates or taxes are remitted or deferred for the period that the Minister on the recommendation of the Heritage Council and with the approval of the Treasurer or the relevant Minister (as the case requires) may specify.
- (4) The Heritage Council may by resolution revoke or vary a resolution made under subsection (2) in the same manner as that resolution was made.

S. 144(2)(a)
amended by
No. 88/2005
s. 117(Sch. 2
item 3).

- (5) The Commissioner for State Revenue and any rating authority concerned must comply with any resolution made by the Heritage Council under this section.

145 When do the remitted or deferred rates and taxes have to be paid?

- (1) If—
- (a) a place is removed from the Heritage Register on the application of an owner; or
 - (b) a permit has been granted to the owner under Part 4 to remove or demolish a registered place—

any land tax or rate remitted under section 144 or any corresponding previous provision in respect of the place or the land on which the place is situated during the 5 years preceding the removal of the place from the Heritage Register or the grant of the permit becomes payable immediately, unless the Minister after considering a report from the Heritage Council otherwise directs.

- (2) All rates or taxes deferred under section 144 or any corresponding previous provision together with any interest specified by the Minister on the recommendation of the Heritage Council, become payable immediately on the expiry of the period of deferment.

- (3) If—
- (a) a permit has been granted to an owner under Part 4 to alter a registered place; and
 - (b) the Minister after considering a report from the Heritage Council so directs—

any land tax or rate remitted under section 144 or any corresponding previous provision during the 5 years preceding the grant of the permit becomes payable immediately.

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- (4) The Heritage Council, in making a report to the Minister under this section, must consider whether the granting of the permit will result in a substantial increase in the value of the registered place or the land on which the registered place is situated.
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PART 8—ENFORCEMENT AND LEGAL PROCEEDINGS

Division 1—Appointment and powers of inspectors

146 Appointment of inspectors

The Executive Director may, by writing signed by him or her, appoint—

- (a) an officer of the public service; or
- (b) with the consent of the Minister, any other person—

to be an inspector for the purposes of this Act.

147 Identity cards

- (1) The Executive Director must issue an identity card to each inspector under this Act other than an inspector who is a police officer.

S. 147(1)
amended by
No. 37/2014
s. 10(Sch.
item 80.2).

- (2) An identity card must be in accordance with the prescribed form and contain a photograph of the inspector.

- (3) A person who ceases to be an inspector under this Act must immediately return his or her identity card to the Executive Director.

Penalty: 1 penalty unit.

- (4) In this Division, a reference to an identity card in relation to an inspector who is a police officer, is a reference to written evidence of the fact that he or she is a police officer.

S. 147(4)
amended by
No. 37/2014
s. 10(Sch.
item 80.2).

148 Inspector must show identity card

- (1) An inspector, other than a police officer in uniform, must produce his or her identity card—
 - (a) if practicable, on each occasion before he or she proceeds to act under this Part; and
 - (b) subject to subsection (3), on demand.

S. 148(1)
amended by
No. 37/2014
s. 10(Sch.
item 80.2).

- (2) Subject to subsection (3), an inspector who is a police officer in uniform must produce his or her identity card on demand.
- (3) An inspector is not required to produce his or her identity card on demand if to do so would endanger the health or safety of the inspector, but the inspector must in that case produce his or her identity card as soon as practicable after the demand is made.

S. 148(2)
amended by
No. 37/2014
s. 10(Sch.
item 80.2).

149 Inspector may demand name and address

- (1) An inspector may require a person to give his or her name and address to the inspector if the inspector reasonably believes that person has committed, or is committing, an offence against this Act or the regulations.
- (2) Before requiring a person to state his or her name and address, an inspector must—
 - (a) state his or her own name and, unless the inspector is a police officer in uniform, produce his or her identity card and permit it to be inspected by the person; and
 - (b) inform the person of the grounds for his or her belief that the person had committed or was committing an offence, in sufficient detail to allow the person to understand the nature of the offence; and
 - (c) inform the person that he or she is making the requirement under this section.
- (3) If the inspector has complied with subsection (2), the inspector may also require the person to produce any document the person is carrying that contains the person's name or address.
- (4) A person—

S. 149(2)(a)
amended by
No. 37/2014
s. 10(Sch.
item 80.3).

- (a) must comply with any requirement lawfully made under this section; and
- (b) must not knowingly furnish information that is false or misleading

Penalty: In the case of a natural person:
50 penalty units.

In the case of a body corporate:
100 penalty units.

150 Powers of entry—generally

- (1) Subject to this section, an inspector or a person authorised by the Heritage Council in a particular case, may enter on any building or land at any reasonable time for the purpose of—

S. 150(1)(a)
substituted by
No. 19/2004
s. 27.

- (a) investigating the cultural heritage significance of that building or land or of an object located in or on that building or land; or

S. 150(1)(b)
substituted by
No. 19/2004
s. 27.

- (b) in the case of a registered place, determining whether or not this Act has been complied with in relation to that place or an object at that place; or

S. 150(1)(c)
inserted by
No. 19/2004
s. 27.

- (c) in the case of a registered object, determining whether or not this Act has been complied with in relation to that object.

- (2) An inspector or authorised person may not, under this section, enter a residence unless the occupier of the residence has consented in writing to the entry.

- (3) An inspector or authorised person may not, under this section, enter any other building or land—

- (a) unless the occupier of the building or land has consented in writing to the entry; or
 - (b) in the absence of that consent, unless 2 days' clear notice is given to the occupier (if any).
- (4) An inspector or authorised person acting in accordance with this section may—
- (a) take photographs (including video recordings); and
 - (b) make measurements and sketches; and
 - (c) use any other means of recording information necessary for the purposes of this Act.

S. 150(4)(a)
amended by
No. 70/2000
s. 19.

150A Search warrant for residence

S. 150A
inserted by
No. 70/2000
s. 20.

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to a particular registered place which is a residence, or a particular place which is a residence in or on which a registered object is located, if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, on the place a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
- (2) A magistrate may issue a search warrant under this section if the magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on a registered place that is a residence, or on a particular place that is a residence in or on which a registered object is located, a particular thing

S. 150A(1)
amended by
No. 19/2004
s. 28(1).

S. 150A(2)
amended by
No. 19/2004
s. 28(2).

that may be evidence of the commission of an offence against this Act or the regulations.

- (3) The search warrant may authorise an inspector named in the warrant and any assistants the inspector considers necessary—
 - (a) to enter the place, or the part of the place, named or described in the warrant; and
 - (b) to search for a thing named or described in the warrant.
- (4) In addition to any other requirement, a search warrant issued under this section must state—
 - (a) the offence suspected; and
 - (b) the place to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

150B Announcement before entry of residence on warrant

S. 150B
inserted by
No. 70/2000
s. 20.

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must announce that he or she is authorised by the warrant to enter the place and give any person at the place an opportunity to allow entry to the place.
- (2) The inspector or a person assisting the inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the place is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

150C Copy of warrant to be given to occupier

S. 150C
inserted by
No. 70/2000
s. 20.

If the occupier or another person who apparently represents the occupier is present at a place when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

150D Powers of inspectors on entry on warrant

S. 150D
inserted by
No. 70/2000
s. 20.

An inspector who exercises a power of entry of a place under section 150A may if the thing searched for is found during the search—

- (a) inspect and take photographs (including video recordings), or make sketches, of the place or the thing; and
- (b) inspect and make copies of, or take extracts from, the thing if it is a document.

s. 150E

S. 150E
inserted by
No. 74/2003
s. 8.

150E Court order for entry to residence

S. 150E(1)
amended by
No. 19/2004
s. 29.

- (1) An inspector or a person authorised by the Heritage Council (*authorised person*) may apply to a magistrate for an order permitting entry to a residence, other than a registered place, for the purpose of investigating its cultural heritage significance or the cultural heritage significance of an object in or on that residence if—
 - (a) the occupier of the residence refuses to give written consent to entry under section 150(2); or
 - (b) after reasonable efforts have been made by the inspector or authorised person to locate the occupier, the inspector or authorised person is satisfied the residence is unoccupied.
- (2) The inspector or authorised person must serve a copy of an application under subsection (1)(a) on the occupier of the residence, not later than 14 days before the day for hearing the application.
- (3) The magistrate may make an order under this section if the magistrate is satisfied—
 - (a) by evidence on oath, whether oral or by affidavit, of the matters set out in subsection (1); and
 - (b) that entry is warranted in all the circumstances.
- (4) An order under this section—
 - (a) must state a day, not later than 28 days after the making of the order, on which the order ceases to have effect; and

- (b) may authorise an inspector or authorised person named in the order and any assistants the inspector or authorised person considers necessary to enter the residence described in the order.
- (5) An order made under this section has effect and may be enforced as if it were an order or judgment made by the Magistrates' Court under the **Magistrates' Court Act 1989**.
- (6) In this section, *residence* means a building or part of a building ordinarily used as a residence.

150F Announcement before entry of residence using order

S. 150F
inserted by
No. 74/2003
s. 8.

- (1) Before attempting to enter a residence under an order under section 150E, the inspector or authorised person, or a person assisting the inspector or authorised person—
 - (a) must announce that he or she is authorised by the order to enter the residence; and
 - (b) give any person at the residence an opportunity to allow entry to the residence.
- (2) If the occupier or another person who apparently represents the occupier is present at a residence when the inspector or authorised person enters it under an order under section 150E, the inspector or authorised person must—
 - (a) identify himself or herself to that person by producing for inspection—
 - (i) his or her identity card in the case of an inspector; or
 - (ii) the authorisation of the Heritage Council in the case of an authorised person; and
 - (b) give to that person a copy of the order.

s. 150G

S. 150G
inserted by
No. 74/2003
s. 8.

150G Powers on entry using order

An inspector or authorised person, or a person assisting the inspector or authorised person, acting in accordance with an order under section 150E may—

- (a) take photographs (including video recordings); and
- (b) make measurements and sketches; and
- (c) use any other means of recording information necessary for the purposes of this Act.

151 Powers of inspectors in relation to archaeological relics

- (1) An inspector may for the purpose of the administration and enforcement of this Act in relation to archaeological relics—
 - (a) request information from any person in relation to the situation of any archaeological relic or inspect or examine any archaeological relic; and
 - (b) require any person in a registered archaeological place damaging or reasonably suspected of damaging or being likely to damage an archaeological relic to leave the place.
- (2) Subject to subsection (2A), subsection (1)(b) does not apply to a person who holds a permit under Part 4 or a consent under Part 6 in respect of that place.

S. 151(2)
amended by
No. 70/2000
s. 21(1).

- (2A) An inspector may, under subsection (1)(b), require a person who holds a permit or consent to leave a place if the person fails to produce the permit or consent to the inspector on being requested to do so. **S. 151(2A) inserted by No. 70/2000 s. 21(2).**
- (3) A person—
- (a) must comply with a request or requirement lawfully made under subsection (1) to the extent that the person is capable of complying with it; and **S. 151(3)(a) amended by No. 70/2000 s. 21(3)(a).**
 - (b) must not knowingly furnish under this section information that is false or misleading. **S. 151(3)(b) amended by No. 70/2000 s. 21(3)(b).**

Penalty: In the case of a natural person:
10 penalty units.

In the case of a body corporate:
20 penalty units.

152 Seizure and forfeiture of archaeological relics

- (1) If an inspector has reasonable grounds for believing that an offence has been or is being or is about to be committed against this Act in relation to an archaeological relic the inspector may impound and detain that relic.
- (2) Subsection (1) does not authorise the detention of a relic for more than 4 months.
- (3) On conviction for an offence against this Act in relation to an archaeological relic, in addition to imposing the penalty under this Act in respect of the offence, the court by which the person is convicted may order that the archaeological relic be forfeited to the Crown.

153 Powers of inspectors in relation to historic shipwrecks

- (1) If an inspector has reasonable grounds for believing that it is necessary to do so for the purpose of ascertaining whether an offence against Part 5 or the shipwrecks regulations has been or is being committed or that by doing so evidence in relation to the commission of such an offence may be obtained, the inspector may, with or without persons and equipment to assist him or her—
- (a) stop and board a ship;
 - (b) require a person in charge of a ship to take steps to facilitate boarding;
 - (c) open, or require a person to open, any cabins, cargo holds, compartments or containers on any ship boarded in accordance with paragraph (a) and inspect the contents of those cabins, cargo holds, compartments or containers;
 - (d) require any person found in or on a ship boarded in accordance with paragraph (a) to produce any permit in force under Part 5 that is in his or her possession;
 - (e) stop and search any vehicle;
 - (f) require any person found in or near any vehicle stopped in accordance with paragraph (e) to produce any permit in force under Part 5 that is in his or her possession;
 - (g) require a person to produce any document that might be relevant to the commission of an offence against Part 5 or the shipwrecks regulations;
 - (h) search any parcel, basket, bag, box or other receptacle;

- (i) search any premises that are not a residence or any tent, land or caravan (other than a caravan in a caravan park within the meaning of the **Residential Tenancies Act 1997**).
- (2) A person must not, without reasonable excuse, fail to comply with a requirement made of him or her by an inspector in the exercise of a power under subsection (1).
- Penalty: 50 penalty units.
- (3) For the purpose of performing any of his or her functions under this section, an inspector may do anything that a person holding a permit under Part 5 may do.
- (4) In this section, *ship* includes a hovercraft, submarine, aircraft and any similar craft and *vehicle* means any conveyance adapted for moving over land.

S. 153(1)(i)
amended by
No. 109/1997
s. 533(Sch. 2
item 3.1).

154 Arrest without warrant—historic shipwrecks

- (1) An inspector may, without warrant, arrest a person if the inspector reasonably believes—
- (a) that the person has committed an offence against section 111, 112, 149 or 153 or against the shipwrecks regulations; and
 - (b) that proceedings against the person by summons would not be effective.
- (2) If an inspector arrests a person under subsection (1), the inspector must produce his or her identity card for inspection by the person arrested.
- (3) If a person is arrested under subsection (1), an inspector must immediately bring the person, or cause him or her to be brought, before the Magistrates' Court to be dealt with in accordance with law.

- (4) Nothing in this section prevents the arrest of a person in accordance with any other law.

155 Search warrants—historic shipwrecks

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to a particular place if the inspector believes on reasonable grounds that a historic shipwreck or historic shipwreck relic is being held in contravention of Part 5 at the place to be searched.
- (2) If a magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that a historic shipwreck or historic shipwreck relic is being held in contravention of Part 5 at the place, the magistrate may issue a search warrant authorising an inspector named in the warrant and any assistants—
- (a) to enter the place, or part of the place, named or described in the warrant; and
 - (b) to search for and seize a thing named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
- (a) the offence suspected; and
 - (b) the place to be searched; and
 - (c) a description of the thing searched for; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

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- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
 - (5) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

156 Seizure and forfeiture—historic shipwrecks

- (1) An inspector may—
 - (a) seize any ship, vehicle, equipment or article that he or she reasonably believes to have been used or otherwise involved in the commission of an offence against Part 5 or the shipwreck regulations; and
 - (b) may detain the ship, vehicle, equipment or article—
 - (i) until the expiration of a period of 60 days after the seizure; or
 - (ii) if a prosecution for an offence against Part 5 or the shipwrecks regulations in the commission of which the ship, vehicle, equipment or article may have been used or otherwise involved is instituted within that period, until the prosecution is terminated.
- (2) The Minister may authorise any ship, vehicle, equipment or article seized under subsection (1) or under section 30 of the **Historic Shipwrecks Act 1981** to be released to its owner, or to the person from whose possession it was seized either unconditionally or on any conditions that the Minister thinks fit, including conditions as to the giving of security for payment of its value if it is forfeited.

- (3) If a court convicts a person of an offence against Part 5 or the shipwrecks regulations, the court may order the forfeiture to the Crown of any ship, vehicle, equipment or article used or otherwise involved in the commission of the offence.
- (4) A ship, vehicle, equipment or article forfeited under this section or under section 30 of the **Historic Shipwrecks Act 1981** may be sold or otherwise dealt with as the Minister thinks fit.
- (5) A reference in this section to an article involved in the commission of an offence includes a reference to any historic shipwreck, or part of a historic shipwreck, or any historic shipwreck relic to which the offence relates.
- (6) In this section, *ship* includes a hovercraft, submarine, aircraft and any similar craft and *vehicle* means any conveyance adapted for moving over land.

157 Offence to hinder inspector

A person must not, without reasonable excuse, hinder or obstruct an inspector or an authorised person in the exercise of a power under this Part.

Penalty: 100 penalty units or imprisonment for 2 years or both.

158 Offence to impersonate an inspector

A person must not impersonate an inspector acting in his or her official capacity.

Penalty: 50 penalty units or imprisonment for 12 months or both.

159 Police officers must assist inspectors

Police officers must assist an inspector at the request of the inspector in the execution of the inspector's functions if it is practicable to do so.

S. 159
amended by
No. 37/2014
s. 10(Sch.
item 80.4).

159A Confidentiality

S. 159A
inserted by
No. 70/2000
s. 22.

- (1) An inspector must not, except to the extent necessary—
- (a) to carry out functions or to exercise powers under this Act or the regulations; or
 - (b) in connection with the administration or enforcement of this Act or the regulations; or
 - (c) to give any information the inspector is authorised, permitted or required to give under this Act or any other Act or the regulations under this Act—

give to any other person, whether directly or indirectly, any information gained in the exercise of the powers as an inspector.

Penalty: 20 penalty units.

- (2) Subsection (1) does not prevent the giving of information—
- (a) for the purpose of any legal proceedings arising out of this Act or the regulations, or of any report of those proceedings; or
 - (b) with the consent of the Minister.

Division 2—Repair Orders

160 Registered place or object—disrepair and failure to maintain

The owner of a registered place or registered object must not—

- (a) allow that place or object to fall into disrepair; or
- (b) fail to maintain that place or object to the extent that its conservation is threatened.

161 Notices to show cause why works should not be carried out

- (1) If the Executive Director believes that a person has—
- (a) allowed a registered place or registered object to fall into disrepair; or
 - (b) failed to maintain a registered place or registered object to the extent that its conservation is threatened—

the Executive Director may, with the consent of the Heritage Council, serve written notice on the owner of the registered place or registered object requiring the owner to show cause, within 21 days after the date of the notice, why the Executive Director should not make an order requiring the owner to carry out the works specified in the notice within the period specified in the notice.

- (2) In a notice under subsection (1), the Executive Director must only specify works which, in his or her opinion, are necessary to prevent further deterioration in the condition of the registered place or registered object.
- (3) A notice under subsection (1) must inform the owner on whom it is served of the provisions of sections 162 to 164.

162 Orders for the carrying out of works

- (1) If the owner of a registered place or registered object on whom notice is served under section 161 fails to show cause in respect of all or any one or more of the works specified in that notice, the Executive Director, with the consent of the Minister, may order that those works be carried out within a period specified in the order.

- (2) The Executive Director must cause a copy of an order made under subsection (1) to be served on the owner of the registered place or registered object.

163 Review of order to carry out works

S. 163
substituted by
No. 52/1998
s. 311(Sch. 1
item 38.11).

- (1) An owner of a registered place or registered object may apply to the Tribunal for review of an order served on the owner under section 162.
- (2) The application must be made within one month after the service of the order.
- (3) The Tribunal may grant an extension of time for compliance with the order pending the hearing of the application.
- (4) An extension under subsection (3) may be subject to any conditions the Tribunal thinks fit.
- (5) On a review of an order, the Tribunal must quash the order if satisfied that the owner of the registered place or registered object has not—
 - (a) allowed it to fall into disrepair; or
 - (b) failed to maintain it to the extent that its conservation is threatened.
- (6) If the Tribunal is not satisfied as set out in subsection (3) it must confirm the order.

164 Failure to comply with order under section 162

S. 164
amended by
No. 74/2003
ss 5(6)(a)(b), 9
(ILA s. 39B(1)).

- (1) An owner on whom an order under section 162(1) is served must comply with that order within the period specified—
 - (a) in that order; or

s. 165

S. 164(1)(b)
amended by
No. 52/1998
s. 311(Sch. 1
item 38.12).

- (b) in any extension of that period granted by the Executive Director or the Tribunal.

Penalty: In the case of a natural person:
2400 penalty units or 5 years
imprisonment or both.

In the case of a body corporate:
4800 penalty units.

S. 164(2)
inserted by
No. 74/2003
s. 9.

- (2) An offence against subsection (1) is an indictable offence.

165 Executive Director may carry out works

If an owner on whom an order under section 162(1) is served fails to comply with that order within the period required under this Division, the Executive Director, with the consent of the Minister, at the end of that period—

- (a) may carry out or cause to be carried out any works which that repair order required to be carried out and which were not carried out within that period; and
- (b) may recover the costs of works carried out under paragraph (a) from the owner on whom the repair order was served in any court of competent jurisdiction as a debt.

Division 3—Orders of the Supreme Court

166 Interpretation

In this Division—

- (a) a reference to a contravention of this Act includes a threatened or an apprehended contravention.

- (b) a reference to this Act includes a reference to a permit, consent or exemption under this Act or the conditions of a permit, consent or exemption under this Act.

167 Remedy or restraint of contraventions of this Act

The Heritage Council, the Executive Director, the Director of Public Prosecutions or any other person may bring proceedings in the Supreme Court for an order to remedy or restrain a contravention of this Act.

168 Order of the Supreme Court

- (1) If the Supreme Court is satisfied that—
- (a) this Act has been contravened; or
 - (b) this Act will be contravened unless restrained by order of the Court—
- the Court may make any order it thinks fit to remedy or restrain the contravention.
- (2) Without limiting the powers of the Supreme Court under subsection (1), an order made under that subsection may—
- (a) if the contravention of this Act comprises the construction of a building or the carrying out of works, require the demolition or removal of the building or works; or
 - (b) if the contravention of this Act has the effect of altering the appearance or physical nature of a place or the state of land on which there is a registered place or registered object, require the restoration or reinstatement, so far as is possible, of the place or object to the condition it was in immediately before the contravention.

- (3) An order made under subsection (1) has effect and may be enforced as if it were an order or judgment made by the Supreme Court under the **Supreme Court Act 1986**.

Division 4—Infringement notices

169 Infringement notice—general

- (1) An inspector may serve an infringement notice under this section on any person that the inspector has reason to believe has committed a prescribed offence against this Act or the regulations.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (3) For the purposes of subsection (1), an infringement notice must be in the form required by the **Infringements Act 2006** and may contain any additional prescribed details.

S. 169(2)
substituted by
No. 32/2006
s. 94(Sch.
item 26(1)).

S. 169(3)
inserted by
No. 32/2006
s. 94(Sch.
item 26(1)).

170 Infringement notice—additional steps

- (1) An inspector may serve an infringement notice under this section on any person that the inspector has reason to believe has committed a prescribed offence against this Act or the regulations.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (2A) For the purposes of subsection (1), an infringement notice—
- (a) must be in the form required by the **Infringements Act 2006**;
 - (b) must include details of the additional steps (if any) required to expiate the offence;

S. 170(2)
substituted by
No. 32/2006
s. 94(Sch.
item 26(2)).

S. 170(2A)
inserted by
No. 32/2006
s. 94(Sch.
item 26(2)).

- (c) may contain any additional prescribed details.
- (3) Additional steps required to expiate an offence may include, but are not limited to the following—
- (a) taking any action if failure to take that action constitutes the offence;
- (b) stopping any activity that constitutes the offence.
- (4) If an infringement notice requires additional steps to be taken to expiate an offence, and, before the end of the remedy period set out in the notice, or if the inspector allows, at any time before the service of a summons in respect of the offence, the person served with the notice informs the inspector that those steps have been taken—
- (a) the inspector must, without delay, find out whether or not those steps have been taken; and
- (b) serve on the person a notice stating whether or not those steps have been taken.
- (5) A statement in a notice under subsection (4) that additional steps have been taken is for all purposes conclusive proof of that fact.

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Ss 171–173
repealed by
No. 32/2006
s. 94(Sch.
item 26(3)).

Division 5—Evidence and legal proceedings

174 Service of documents

- (1) A document to be served on or given to a person under this Act or the regulations may be served on or given to the person by—

- (a) delivering the document to the person; or
 - (b) leaving the document at the person's usual or last known place of residence or business with a person apparently not less than 16 years of age and apparently residing or employed at that place; or
 - (c) sending the document by post addressed to the person at the person's usual or last known place of residence or business or in any other prescribed manner.
- (2) If a document is to be served on or given to the owner or occupier of any land and the name of that person is not known, the document may be addressed to "the owner" or "the occupier".
- (3) If a document is to be served on or given to the owner or occupier of any land, the document may be displayed in a conspicuous position on the land if the name and address of the owner are not known and there is no occupier of the land.

S. 175
amended by
No. 74/2003
s. 10 (ILA
s. 39B(1)).

175 Prosecutions of offences

- (1) Despite anything in any Act, proceedings for an offence under this Act may be brought within a period of 3 years after the commission of the alleged offence.
- (2) This section does not apply to any indictable offence under this Act.

S. 175(2)
inserted by
No. 74/2003
s. 10.

176 Who may prosecute?

- (1) Proceedings for an offence against this Act may be taken by the Executive Director, an inspector or the Director of Public Prosecutions.

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- (2) Proceedings started under subsection (1) may be taken over and continued at any time by any other person authorised by subsection (1) to take proceedings.
 - (3) All courts must take judicial notice of the fact that any person purporting to be authorised by subsection (1) is authorised to take proceedings.

177 Certificates to be evidence

- (1) In any proceedings for an offence against this Act, a certificate signed by the Executive Director stating—
 - (a) that a person named in the certificate is an inspector under this Act; or
 - (b) that a place or object is included on the Heritage Register; or
 - (c) that a permit has not been issued under Part 4 or Part 5 in relation to a particular place or object; or
 - (d) that no consent under section 129 has been given in a particular case—is evidence of the matters stated in the certificate.
- (2) In any proceedings for an offence against this Act—
 - (a) a certificate signed by the Minister administering the **Conservation Forests and Lands Act 1987** to the effect that any land is Crown land is evidence of that fact; and
 - (b) a certificate purporting to be signed by the Executive Director to the effect that an item is an archaeological relic is evidence of that fact.

- (3) In any proceedings for an offence against this Act or the shipwrecks regulations, a certificate signed by the Executive Director stating—
- (a) that a place specified in a certificate is a place—
 - (i) in Victorian waters; or
 - (ii) in a specified protected zone; or
 - (b) that a shipwreck or article is included on the Heritage Register as a historic shipwreck or a historic shipwreck relic—

is evidence of the matters stated in the certificate.

178 Statement of inspector is evidence

In any proceedings for an offence against Part 5 or the shipwrecks regulations, a statement of an inspector as to—

- (a) the place where an offence against Part 5 or the shipwrecks regulations occurred; or
- (b) the accuracy of any map, photograph or document; or
- (c) any distance or direction or the height of any land or navigational aid calculated by the use of any mechanical, electronic or other device or means—

is evidence of that fact.

179 Possession is evidence of contravention of Part 5

Evidence that a person had possession of a historic shipwreck or historic shipwreck relic—

- (a) in or near a protected zone or historic shipwreck; or
- (b) in or on a vessel or vehicle on or in proximity to Victorian waters; or

(c) on a jetty, dock, wharf, beach, landing or similar place or in an area next to such places—

without a permit under Part 5 is evidence, and in the absence of evidence to the contrary, is proof, that the person took the shipwreck or relic in contravention of Part 5 or the shipwrecks regulations.

180 Provisions relating to offences by bodies corporate

If a body corporate is guilty of an offence against this Act or the regulations, any person who is concerned or takes part in the management of the body corporate who was in any way, by act or omission, directly or indirectly knowingly concerned in or party to the commission of the offence is also guilty of the offence.

Division 6—Additional enforcement provisions

181 Scope of Division

- (1) This Division has effect despite anything in or authorised by the **Building Act 1993** or any other Act but is subject to—
 - (a) any regulation; or
 - (b) any emergency order—
under the **Building Act 1993** relating to the securing, pulling down or removal of dangerous buildings.
- (2) This Division does not apply to the remains of a ship or part of a ship or an article associated with a ship to which Part 5 applies.

182 Declaration by Governor in Council

- (1) If the owner of a registered place or registered object has been convicted of an offence against section 64 or section 164, the Governor in Council, by Order published in the Government Gazette, may declare that the place or object or the place and the object to which the offence related must not be developed or used during a period not exceeding 10 years that is specified in the Order.
- (2) The Governor in Council, by Order published in the Government Gazette, may revoke or vary an Order made under this section.

183 Effect of declaration under section 182

- (1) While an Order under section 182 is in force, a person must not—
 - (a) carry out any works on the place or object; or
 - (b) cause or permit any development of the place or object; or
 - (c) alter that place or object.
- (2) While an Order under section 182 is in force, any planning permit, building permit, demolition permit or any other permit or authority relating to the development or use of that place or object or the land on which a place or object may be situated (whether issued or granted before or after the making of the Order) is of no force or effect.

S. 183A
inserted by
No. 74/2003
s. 11,
substituted by
No. 19/2004
s. 30.

183A Powers of court with respect to contravention

- (1) If, in proceedings for an offence under this Act, a person is found guilty or convicted of that offence, the court may do one or more of the following—
 - (a) make any order that it considers appropriate to remedy or restrain the contravention that constitutes the offence;

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- (b) order the person to do one or more of the following—
- (i) to take any action specified by the court to publicise the offence, any consequences arising or resulting from the offence and any penalties imposed, or other orders made, as a result of the commission of the offence;
 - (ii) to take any action specified by the court to notify one or more persons or classes of person of the matters listed in subparagraph (i) (for example, to publish a notice in an annual report or to distribute a notice to persons affected by the offence);
 - (iii) to carry out, or provide funding for, a specified project for the restoration or enhancement of another place or object for the public benefit (even if the project is unrelated to the offence).
- (2) Without limiting the powers of the court under subsection (1), an order made under that subsection may—
- (a) if the contravention constituting the offence comprises the construction of a building or the carrying out of works, require the demolition or removal of the building or works; or
 - (b) if the contravention constituting the offence has the effect of altering the appearance or physical nature of a place or the state of land on which there is a registered place or registered object, require the restoration or reinstatement, so far as is possible, of the place or object to the condition it was in immediately before the contravention.

s. 183B

- (3) The court may make any order under this section on the application of the Executive Director, or on its own motion.
- (4) In making an order, the court may specify by when specified actions must be taken and may also impose any other requirement that it considers necessary to make the order effective.
- (5) An order made under this section may be enforced in the court by which it was made by any means available to that court of enforcing an order made by it in a civil proceeding.
- (6) This section does not affect the operation of section 168.

S. 183B
inserted by
No. 19/2004
s. 30.

183B Powers of Executive Director with respect to contravention

- (1) If a person is found in contempt of court for failing to comply with an order under section 183A, the Executive Director—
 - (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (2) If a person fails to comply with an order made under section 183A(1) or 183A(2), the Executive Director may give the person a written notice advising the person that the Executive Director intends to carry out specified actions that remain to be done under the order unless the person can, within 14 days after being given the notice, satisfy the Executive Director that the person will carry out those actions within a period of time acceptable to the Executive Director.

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- (3) If a person who has been given a notice under subsection (2) fails to give the Executive Director a satisfactory response within the 14 days, or fails to comply with any undertaking given to the Executive Director in response to a notice under that subsection, the Executive Director—
- (a) may do anything that is necessary or expedient to carry out any action that remains to be done under the order and that it is still practicable to do; and
 - (b) may publicise the failure of the person to comply with the order.
- (4) Nothing in subsections (2) and (3) prevents contempt of court proceedings from being started or continued against a person who has failed to comply with a court order.
- (5) The Executive Director may recover in any court of competent jurisdiction any cost the Executive Director incurs in taking action under subsection (1) or (3) as a debt due and payable by the person against whom the order was made.
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PART 9—GENERAL

184 Supreme Court—Limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court entertaining actions of the kind described in section 109(5).

185 Regulations generally

The Governor in Council may make regulations for or with respect to—

- (a) prescribing the particulars to be included in the Heritage Register;
- (b) prescribing forms for the purpose of this Act;
- (c) the control and conservation of archaeological relics and archaeological sites;
- (d) the keeping of records necessary or expedient for the purposes of this Act;
- (e) the making of returns;
- (f) any fees to be charged for permits, consents and certificates under this Act;
- (g) charging fees for admission to archaeological areas;
- (h) applications for permits and consents and conditions on permits and consents;

* * * * *

- (j) prescribing offences against this Act or the regulations for the purposes of Division 4 of Part 8;

S. 185(j)
repealed by
No. 32/2006
s. 94(Sch.
item 26(3)).

- (k) prescribing penalties not exceeding 10 penalty units for the offences prescribed under paragraph (j);
- (l) prescribing particulars to be included in an infringement notice under Division 4 of Part 8;
- (m) prescribing the manner and place of payment of any penalty under Division 4 of Part 8;
- (n) prescribing penalties not exceeding 20 penalty units for any contravention of regulations made for the purposes of this section;
- (o) generally any matter or thing authorised or required to be prescribed or necessary to be prescribed for carrying this Act into effect.

S. 185(k)
amended by
No. 66/2009
s. 7.

186 Regulations relating to historic shipwrecks and historic shipwreck relics

- (1) Without limiting section 185, the Governor in Council may make regulations for or with respect to the preservation and good management of historic shipwrecks and historic shipwreck relics and protected zones.
- (2) Without limiting subsection (1), the Governor in Council may make regulations—
 - (a) for and in relation to prohibiting or restricting—
 - (i) entry into or remaining in a protected zone;
 - (ii) the bringing into a protected zone of equipment constructed or adapted for the purpose of diving or salvage or recovery operations, whether on land or on or under water, or of any explosives, instruments or tools the use of which would be likely to damage or interfere

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- with a historic shipwreck or a historic shipwreck relic situated within that protected zone;
- (iii) the use within a protected zone of any such equipment, explosives, instruments or tools;
 - (iv) the causing of a ship or other vehicle carrying any such equipment, explosives or tools to enter or remain within a protected zone;
 - (v) cultivating, mining, quarrying or other activity on or below land within a protected zone;
 - (vi) trawling, fishing, diving or other underwater activity, within a protected zone;
 - (vii) the mooring or use of ships or the parking or use of vehicles within a protected zone;
 - (viii) any other activities within a protected zone which would be likely to damage or interfere with a historic shipwreck or a historic shipwreck relic situated within that zone; and
- (b) prescribing fees for permits under Part 5.
- (3) Regulations made for the purposes of this section may prescribe penalties not exceeding—
- (a) 50 penalty units for a contravention of a provision of any regulations made for the purposes of subsection (2)(a); and
 - (b) 20 penalty units for a contravention of any other provisions of the regulations.

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- (4) The provision that may be made by regulations made for the purposes of this section for or in relation to regulations restricting the doing of an act includes a provision prohibiting the doing of that act except in accordance with a permit.
 - (5) Regulations made for the purposes of subsection (1) or (2) may be of general application or may make different provision in relation to different protected zones.
 - (6) In this section, *ship* includes a hovercraft, submarine, aircraft and any similar craft and *vehicle* means any conveyance adapted for moving over land.

187 Additional regulation-making powers

- (1) A regulation may apply, adopt or incorporate by reference any document formulated or published by the Trust or by any authority or body either—
 - (a) without modification or as modified by the regulations; or
 - (b) as in force at the time of the incorporation; or
 - (c) as amended, formulated or published from time to time.
 - (2) Regulations relating to fees—
 - (a) may prescribe different fees for different permitted or consent activities;
 - (b) may prescribe different fees for different classes of permit or consent holder;
 - (c) may exempt particular classes of people from certain fees imposed by the regulations;
 - (d) may authorise the Heritage Council to waive fees in particular cases or classes of cases.
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PART 10—TRANSITIONAL PROVISIONS

Division 1—General transitional provisions

188 General transitional provisions

- (1) This Part does not affect or take away from the **Interpretation of Legislation Act 1984**.
- (2) If this Part provides that a provision of an Act continues to apply to any matter or thing, then any regulation or other instrument having effect under that Act for the purposes of that provision also continues to apply to that matter or thing.
- (3) If, by virtue of this Part, a provision of an Act or a regulation or instrument continues to apply to a matter or thing, it continues to apply as in force immediately before the provision was repealed or revoked.
- (4) This Part applies despite anything to the contrary in any other provision of this Act.

Division 2—Historic Buildings Act 1981

189 Definition

In this Division, *old Act* means the **Historic Buildings Act 1981**.

190 Superseded references

- (1) On the commencement of this section, in any Act (other than this Act or a provision of the old Act continued by this Act), or in any instrument made under any Act or in any other document of any kind—
 - (a) a reference to the old Act is deemed to be a reference to the **Heritage Act 1995**; and
 - (b) a reference to the Historic Buildings Council is deemed to be a reference to the Heritage Council; and

- (c) a reference to the Director of the Historic Buildings Council is deemed to be a reference to the Executive Director; and
 - (d) a reference to the register of historic buildings under the old Act is deemed to be a reference to the Heritage Register; and
 - (e) a reference to a registered building (other than an object) in relation to the old Act is deemed to be a reference to a heritage place; and
 - (f) a reference to an object which is a registered building in relation to the old Act is deemed to be a reference to a heritage object; and
 - (g) a reference to registered land in relation to the old Act is deemed to be a reference to a heritage place; and
 - (h) a reference to a permit in relation to the old Act is deemed to be a reference to a permit under Part 4 of this Act; and
 - (i) a reference to an interim preservation order in relation to the old Act is deemed to be a reference to an interim protection order under Part 3 of this Act; and
 - (j) a reference to a covenant in relation to the old Act is deemed to be a reference to a covenant under Part 4 of this Act; and
 - (k) a reference to the Historic Buildings Fund is deemed to be a reference to the Heritage Fund.
- (2) On the commencement of section 215, in any Act (other than this Act or a provision of the old Act continued by this Act), or in any instrument made under any Act or in any other document of any kind—

S. 190(2)
amended by
No. 74/2000
s. 3(Sch. 1
item 61.2).

- (a) a reference to the register of government buildings under the old Act is deemed to be a reference to the Heritage Register; and
- (b) a reference to a designated building in relation to the old Act is deemed to be a reference to a heritage place; and
- (c) a reference to an object which is a designated building in relation to the old Act is deemed to be a reference to a heritage object.

191 Historic Buildings Council

On the commencement of this section—

- (a) the Historic Buildings Council is abolished and its members go out of office; and
- (b) the Heritage Council is the successor in law of the Historic Buildings Council; and
- (c) all rights, assets, liabilities and obligations of the Historic Buildings Council immediately before its abolition become rights, assets, liabilities and obligations of the Heritage Council; and
- (d) the Heritage Council is substituted for the Historic Buildings Council as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to the Historic Buildings Council; and
- (e) the Heritage Council may continue and complete any other continuing matter or thing commenced by or against or in relation to the Historic Buildings Council.

S. 192
repealed by
No. 46/1998
s. 7(Sch. 1).

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193 Examinations begun under old Act

- (1) Subject to subsection (2), if the Historic Buildings Council had begun the examination of a building or land under the old Act but that examination was not completed before the commencement of this section—
 - (a) that building or land is deemed on that commencement to be nominated under Part 3 of this Act; and
 - (b) anything done under the old Act before the commencement of this section in relation to the examination of that building or land is deemed to have been done for the purposes of this Act.
- (2) Despite section 191, if under the old Act the Historic Buildings Council had commenced a hearing in the course of an examination of a building or land for the purposes of that Act, the Historic Buildings Council must continue and complete the hearing in accordance with the old Act.
- (3) A determination made on a hearing referred to in subsection (2) must be expressed so that it can be given effect to under this Act, and must be given effect accordingly.

194 Declaration of heritage places and objects

- (1) On the recommendation of the Minister, the Governor in Council may, by order published in the Government Gazette, declare—
 - (a) any building or land on the register of government buildings under the **Historic Buildings Act 1981** to be included in the Heritage Register as a heritage place; or

- (b) any object on the register of government buildings under the **Historic Buildings Act 1981** to be included in the Heritage Register as a heritage object.
- (2) This section ceases to have effect on the commencement of section 215.

195 Certificates

On the commencement of this section, an application for a certificate which was made under section 22 of the old Act but for which no certificate had been issued before that commencement is deemed to be an application for a certificate under section 50 of this Act.

196 Permits

- (1) On the commencement of this section—
 - (a) a permit issued by the Historic Buildings Council and in force immediately before that commencement is deemed to be a permit issued by the Executive Director under Part 4 of this Act; and
 - (b) a permit granted by the Governor in Council under section 31 of the old Act and in force immediately before the commencement of this section is deemed to be a permit granted by the Heritage Council under section 76 of this Act.
- (2) Subject to subsection (3), if an application for a permit was made under the old Act and not determined immediately before the commencement of this section—
 - (a) that application is deemed, on that commencement, to be an application made to the Executive Director for a permit under Part 4 of this Act; and

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- (b) anything done under the old Act before the commencement of this section in relation to that application is deemed to have been done for the purposes of this Act.
 - (3) Despite section 191, if under the old Act the Historic Buildings Council had commenced a hearing of an application for a permit, the Historic Buildings Council must continue and complete the hearing in accordance with the old Act.
 - (4) A determination made on a hearing referred to in subsection (3) must be expressed so that it can be given effect to under this Act, and must be given effect accordingly.
 - (5) On the commencement of this section, a notice given under section 26(11) of the old Act and existing immediately before that commencement is deemed to be a notice under section 65 of this Act.

197 Submissions to Minister

- (1) If an applicant has made a submission to the Minister under section 28 of the old Act but a decision had not been made by the Governor in Council in respect of the submission before the commencement of this section, sections 29 to 32 of the old Act continue to apply to that submission as if this Act had not been enacted.
- (2) Any permit granted under section 31 of the old Act pursuant to subsection (1) is deemed to be a permit issued under Part 4.

198 Notices and repair orders

- (1) On the commencement of this section—
 - (a) a notice given to the Historic Buildings Council under section 33 of the old Act and in force immediately before that commencement is deemed to be a notice

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- given to the Executive Director under section 52 of this Act; and
- (b) a notice given by the Historic Buildings Council under section 36 of the old Act and in force immediately before that commencement is deemed to be a notice given by the Executive Director under section 161 of this Act; and
 - (c) an order (other than an order which is subject to an appeal) made by the Historic Buildings Council under section 36 of the old Act and in force immediately before that commencement is deemed to be an order made by the Executive Director under section 162 of this Act.
- (2) If an appeal has been lodged under section 37 of the old Act against an order and that appeal had not been determined before the commencement of this section, section 37 of the old Act continues to apply in relation to that appeal after that commencement as if this Act had not been enacted.

199 Interim preservation orders

On the commencement of this section, an interim preservation order served on a person under section 40 of the old Act and in force immediately before that commencement is deemed to be an interim protection order made under Part 3 of this Act.

200 Covenants

On the commencement of this section—

- (a) any covenant entered into under section 41 of the old Act (whether or not varied under that section) and existing immediately before that commencement is deemed to be a

covenant entered into under Part 4 of this Act; and

- (b) any notice of a proposed covenant given under section 41 of the old Act and in force immediately before that commencement is deemed to be a notice given under section 88 of this Act.

201 Historic Buildings Fund

On the commencement of this section, all money standing to the credit of the Historic Buildings Fund under the old Act shall form part of and be paid into the Heritage Fund under this Act.

202 Guarantees

On and from the commencement of this section any guarantee existing under section 44 of the old Act immediately before that commencement is deemed to be a guarantee given under section 138 of this Act.

203 Regulations

- (1) The Historic Buildings Regulations 1992 are **revoked**.
- (2) The Historic Buildings (Fees) Regulations 1992 are **revoked**.

Division 3—Historic Shipwrecks Act 1981

204 Definition

In this Division *old Act* means the **Historic Shipwrecks Act 1981**.

205 Superseded references

On the commencement of this section, in any Act (other than this Act or a provision of the old Act continued by this Act), or in any instrument made under any Act or in any other document of any kind—

- (a) a reference to the old Act is deemed to be a reference to the **Heritage Act 1995**; and
- (b) a reference to the Protector of Historic Shipwrecks is deemed to be a reference to the Executive Director; and
- (c) a reference to the Historic Shipwrecks Advisory Committee is deemed to be a reference to the Historic Shipwrecks Advisory Committee established under this Act; and
- (d) a reference to a historic shipwreck in relation to the old Act is deemed to be a reference to a historic shipwreck within the meaning of this Act; and
- (e) a reference to a historic relic in relation to the old Act is deemed to be a reference to a historic shipwreck relic within the meaning of this Act; and
- (f) a reference to a protected zone in relation to the old Act is deemed to be a reference to a protected zone within the meaning of this Act; and
- (g) a reference to the Register of Historic Shipwrecks is deemed to be a reference to the Heritage Register.

S. 206
repealed by
No. 48/2008
s. 14.

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207 Provisional declarations

On and from the commencement of this section, a notice in force under section 11 of the old Act at that commencement is deemed to be a determination under section 102 of this Act.

208 Consents and permits

On the commencement of this section—

- (a) any consent given by the Protector of Historic Shipwrecks under section 17(1) of the old Act and in force immediately before that commencement is deemed to be a permit granted by the Executive Director under section 113 of this Act; and
- (b) any certificate of permission given by the Minister under section 17(2) of the old Act and in force immediately before that commencement is deemed to be a permit granted by the Executive Director under section 113 of this Act; and
- (c) any permit granted under section 21 of the old Act and in force immediately before that commencement is deemed to be a permit granted under section 113 of this Act; and
- (d) an application for a consent made under section 17(1) of the old Act but not determined by the Protector of Historic Shipwrecks before that commencement is deemed to be an application to the Executive Director for a permit under section 113(1) of this Act; and
- (e) an application for a certificate of permission made under section 17(2) of the old Act but not determined by the Minister before that commencement is deemed to be an application to the Executive Director for a permit under section 113(1) of this Act; and
- (f) an application for a permit made under section 21 of the old Act but not determined by the Minister before that commencement is deemed to be an application to the Executive

Director for a permit under section 113 of this Act.

209 Regulations

The Historic Shipwrecks Regulations 1992 in force immediately before the commencement of this section have effect, on and from that commencement, as if made under section 186 of this Act, and may be amended or revoked accordingly.

210 Inspectors

On the commencement of this section any person who was an inspector under the old Act immediately before that commencement is deemed to be an inspector for the purposes of this Act.

211 Proceedings

On the commencement of this section, the Executive Director is substituted for the Protector in any proceedings commenced or made by or against the Protector under the old Act and existing immediately before that commencement.

Division 4—Archaeological and Aboriginal Relics Preservation Act 1972

212 Definition

In this Division *old Act* means the **Archaeological and Aboriginal Relics Preservation Act 1972**.

213 Consents

On the commencement of this section—

- (a) any consent given by the Minister under section 21(2) of the old Act in relation to an archaeological relic within the meaning of this Act and in force immediately before that commencement is deemed to be a consent

- granted by the Executive Director under section 129 of this Act; and
- (b) any consent granted by the Minister under section 22 of the old Act in relation to an archaeological relic within the meaning of this Act and in force immediately before that commencement is deemed to be a consent granted by the Executive Director under section 129 of this Act; and
 - (c) an application for a consent or permit made under section 21 or 22 of the old Act in relation to an archaeological relic within the meaning of this Act but not determined by the Minister before that commencement is deemed to be an application to the Executive Director for a consent under section 129 of this Act.

Division 5—Transitional provision arising from Heritage (Amendment) Act 2000

Pt 10 Div. 5
(Heading and
s. 213A)
inserted by
No. 70/2000
s. 23.

213A Transitional provision

This Act as in force immediately before the commencement of section 3 of the **Heritage (Amendment) Act 2000**, continues to apply in respect of any decision or recommendation of the Executive Director made before that commencement.

S. 213A
inserted by
No. 70/2000
s. 23.

s. 213B

**Division 6—Transitional provisions arising from Heritage
(Amendment) Act 2003**

Pt 10 Div. 6
(Heading and
s. 213B)
inserted by
No. 74/2003
s. 12.

**213B Application of amendments made by the Heritage
(Amendment) Act 2003**

S. 213B
inserted by
No. 74/2003
s. 12.

- (1) Sections 64(5), 111(1A) and 164(2) only apply to offences alleged to have been committed on or after the commencement of the **Heritage (Amendment) Act 2003**.
- (2) For the purposes of subsection (1), if an offence is alleged to have been committed between two dates, one before and one after the commencement of the **Heritage (Amendment) Act 2003**, the offence is alleged to have been committed before that commencement.

**Division 7—Transitional provision arising from Heritage
Amendment Act 2008**

Pt 10 Div. 7
(Heading and
s. 214)
inserted by
No. 48/2008
s. 15.

214 Recommendations of Executive Director

New s. 214
inserted by
No. 48/2008
s. 15.

This Act, as in force immediately before the commencement of sections 4 to 8 of the **Heritage Amendment Act 2008**, continues to apply in respect of any recommendation of the Executive Director made before that commencement.

Heritage Act 1995
No. 93 of 1995

s. 214

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**Pt 11
(Heading and
ss 214–218)
amended by
No. 18/1997
s. 4,
repealed by
No. 74/2003
s. 13(1).**

SCHEDULES

SCHEDULE 1

MEMBERSHIP AND PROCEDURE OF BODIES

PART 1—THE HERITAGE COUNCIL

1 Chairperson and Deputy Chairperson

- (1) The Minister must appoint one of the members of the Heritage Council to be Chairperson.
- (2) The Minister must appoint one of the members of the Heritage Council to be Deputy Chairperson.
- (3) If the Chairperson is absent or unable to perform his or her duties as Chairperson, the Deputy Chairperson must act as Chairperson and, while acting as Chairperson, has all the powers and duties of the Chairperson.

2 Terms of appointment

- (1) A member of the Heritage Council holds office for a period, not exceeding 3 years, specified in the instrument of his or her appointment.
- (2) A member of the Heritage Council is eligible for re-appointment.
- (3) The instrument of appointment of a member of the Heritage Council may specify terms and conditions of appointment.
- (4) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

Sch. 1 cl. 2(4)
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 98.2),
80/2006
s. 26(Sch.
item 50).

3 Resignation and removal

- (1) A member of the Heritage Council may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (2) The Governor in Council may at any time remove a member of the Heritage Council from office.

4 Fees and allowances

A member of the Heritage Council, other than a member who is an officer or employee of the public service, is entitled to receive the fees, travelling and other allowances from time to time fixed by the Minister in respect of a member or the Chairperson.

5 Alternate members

- (1) The Governor in Council, on the recommendation of the Minister, may appoint an alternate member for each member of the Heritage Council.
- (2) An alternate member must be appointed in the same manner as the member for whom he or she is the alternate member.
- (3) An alternate member may act in place of the member for whom he or she is the alternate member if—
 - (a) the member is absent or unable to perform the duties of his or her office; or
 - (b) the member and the alternate member agree that the alternate member is to act in the member's place; or
 - (c) the member's position is vacant.
- (4) If subclause (3)(c) applies, the alternate member must not act in that position for longer than 6 months.

- (5) An alternate member has all the functions of the member when acting in the place of that member.

6 Terms and conditions for alternate members

- (1) An alternate member holds office for the term specified in his or her instrument of appointment, being a period of not more than 3 years.
- (2) An alternate member may resign his or her office by writing signed by the alternate member and addressed to the Governor in Council.
- (3) The Governor in Council may at any time remove an alternate member of the Heritage Council from office and appoint another person in his or her place.
- (4) An alternate member, other than an alternate member who is an officer or employee of the public service, is entitled to receive the fees, travelling and other allowances from time to time fixed by the Minister in respect of that alternate member.

7 Procedure at meetings

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, must preside at a meeting of the Heritage Council at which he or she is present.
- (2) If neither the Chairperson or the Deputy Chairperson are present at a meeting, the members present may elect a member to preside at the meeting.
- (3) The person presiding at a meeting has a deliberative vote and a second or casting vote.
- (4) A quorum of the Heritage Council consists of 6 members.

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- (5) An act or decision of the Heritage Council is not invalid only because of a defect or irregularity in or in connection with the qualification or appointment of a member of the Heritage Council or, in the case of a person qualified or appointed to act as an alternate member, because the occasion for that person's so acting had not arisen or had ceased.
- (6) Subject to this Act, the Heritage Council may regulate its own proceedings.

8 Minutes of meetings

The Heritage Council must—

- (a) cause minutes of proceedings and decisions at each meeting of the Heritage Council to be kept; and
- (b) give a copy of those minutes to the Minister as soon as practicable after each meeting.

PART 2—COMMITTEES

9 Procedure

- (1) A quorum of a committee is constituted by 3 members of the Heritage Council.
- (2) A committee must appoint one of its members as chairperson, and the chairperson must preside at all meetings of the committee at which he or she is present and if the chairperson is not present, the members present must elect one of their number to preside at the meeting.
- (3) Subject to this Act, a committee may regulate its own proceedings.

10 Fees and allowances for committee members

A member of a committee of the Heritage Council, other than a member who is an officer or employee of the public service, is entitled to

receive the fees, travelling and other allowances from time to time approved by the Minister in respect of a member or the Chairperson.

PART 3—ADVISORY COMMITTEES

11 Procedure

- (1) A quorum of an advisory committee consists of a majority of the members of the advisory committee for the time being.
- (2) Subject to this Act, an advisory committee may regulate its own proceedings.

12 Remuneration

A member of an advisory committee, other than a member who is an officer or employee of the public service, is entitled to be paid the fees and travelling and other allowances from time to time approved by the Minister on the advice of the Heritage Council.

PART 4—DISCLOSURE OF INTERESTS

13 Disclosure of interests

- (1) In this clause *a person to whom this clause applies* means—
 - (a) a member of the Heritage Council;
 - (b) the Executive Director;

* * * * *

- (d) a member of a committee of the Heritage Council;
- (e) a member of an advisory committee established under section 10.

Sch. 1
cl. 13(1)(c)
repealed by
No. 48/2008
s. 16.

-
- (2) A person to whom this clause applies who has a direct or indirect pecuniary interest—
- (a) in a contract or proposed contract with the Heritage Council; or
 - (b) in a matter being considered or proposed to be considered by the Heritage Council—
- must, as soon as practicable after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Heritage Council.
- (3) Subclause (2) does not apply to an interest which is held as a member in common with other members of a company which has at least 20 members.
- (4) A disclosure made under subclause (2) must be recorded in the minutes of the meeting at which it is made.
- (5) A person who makes a disclosure under subclause (2) must not—
- (a) take any further part in any consideration or discussion of the contract, proposed contract or other matter; or
 - (b) take part in any vote on the contract, proposed contract or other matter; or
 - (c) be counted for the purposes of a quorum.
- (6) A person to whom this clause applies who makes a full and accurate disclosure under subclause (2) and who complies with subclause (5)(a) and (b) is not in breach of any duty owed by him or her to the Heritage Council by reason of his or her pecuniary interest in the contract, proposed contract or other matter about which the disclosure was made.

14 No pecuniary interest in certain circumstances

A member of the Heritage Council does not have any direct or indirect pecuniary interest by reason only of the fact that—

- (a) he or she has been appointed from a list of names submitted by a body; and
 - (b) that body has a direct or indirect pecuniary interest in a place or object which is the subject of a contract or proposed contract with the Heritage Council or in any other matter being considered or proposed to be considered by the Heritage Council.
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Heritage Act 1995
No. 93 of 1995

Sch. 2

* * * * *

Sch. 2
amended by
No. 66/1997
s. 10,
repealed by
No. 74/2003
s. 13(2).

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 7 September 1995

Legislative Council: 22 November 1995

The long title for the Bill for this Act was "A Bill to provide a framework for heritage protection and conservation in Victoria, to repeal the **Historic Buildings Act 1981** and the **Historic Shipwrecks Act 1981** and to amend the **Archaeological and Aboriginal Relics Preservation Act 1972** and other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 7 September 1995

Legislative Council: 22 November 1995

Absolute majorities:

Legislative Assembly: 14 November 1995 and 16 November 1995

Legislative Council: 23 November 1995

The **Heritage Act 1995**, No. 93/1995 was assented to on 5 December 1995 and came into operation as follows:

Part 1 (sections 1–5) on 5 December 1995: section 2(1); rest of Act (*except* sections 215, 218(2)) on 23 May 1996: Government Gazette 23 May 1996 page 1248; sections 215, 218(2) on 23 May 1998, being the day which is the second anniversary of the day on which section 214 came into operation: section 2(3).

2. Table of Amendments

This Version incorporates amendments made to the **Heritage Act 1995** by Acts and subordinate instruments.

Heritage (Amendment) Act 1997, No. 18/1997

Assent Date: 6.5.97
Commencement Date: S. 4 on 15.12.95: s. 2(2); rest of Act on 6.5.97: s. 2(1)
Current State: All of Act in operation

Docklands Authority (Amendment) Act 1997, No. 66/1997

Assent Date: 18.11.97
Commencement Date: 18.11.97: s. 2
Current State: All of Act in operation

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 item 3.1) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998 (as amended by No. 101/1998)

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 38) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 33) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Heritage (Amendment) Act 2000, No. 70/2000

Assent Date: 21.11.00
Commencement Date: 1.4.01: Government Gazette 22.3.01 p. 485
Current State: All of Act in operation

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 61) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Endnotes

Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 34) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Statute Law (Further Revision) Act 2002, No. 11/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. 1 item 33) on 24.4.02: s. 2(1)
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Heritage (Amendment) Act 2003, No. 74/2003

Assent Date: 21.10.03
Commencement Date: 22.10.03: s. 2
Current State: All of Act in operation

Heritage (Further Amendment) Act 2004, No. 19/2004

Assent Date: 18.5.04
Commencement Date: 19.5.04: s. 2
Current State: All of Act in operation

Heritage (World Heritage) Act 2004, No. 105/2004

Assent Date: 21.12.04
Commencement Date: 1.1.06 : s. 2(2)
Current State: All of Act in operation

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 98) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Statute Law Revision Act 2005, No. 10/2005

Assent Date: 27.4.05
Commencement Date: S. 3(Sch. 1 item 9) on 28.4.05: s. 2
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Land Tax Act 2005, No. 88/2005

Assent Date: 29.11.05
Commencement Date: S. 117(Sch. 2 item 3) on 1.1.06: s. 2
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 26) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Heritage Act 1995**

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006,
No. 80/2006**

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 50) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Heritage Act 1995**

Heritage Amendment Act 2008, No. 48/2008

Assent Date: 15.9.08
Commencement Date: Ss 4–16 on 1.12.08: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Heritage Act 1995**

Planning Legislation Amendment Act 2009, No. 66/2009

Assent Date: 17.11.09
Commencement Date: S. 7 on 18.11.09: s. 2
Current State: This information relates only to the provision/s
amending the **Heritage Act 1995**

**Criminal Procedure Amendment (Consequential and Transitional Provisions)
Act 2009, No. 68/2009**

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 66) on 1.1.10: Government Gazette
10.12.09 p. 3215
Current State: This information relates only to the provision/s
amending the **Heritage Act 1995**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014,
No. 37/2014**

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 80) on 1.7.14: Special Gazette
(No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s
amending the **Heritage Act 1995**

Endnotes

3. Explanatory Details

No entries at date of publication.