

2001

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

# Heritage Bill 2001

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2001

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

## Heritage Bill 2001

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### A Bill for

An Act to provide for the recognition and protection of places and objects of natural and cultural heritage significance

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Heritage Act 2001*.

### 2 Commencement

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see *Legislation Act 2001*, s 79).

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*Aboriginal object*—see section 6 (2).' means that *Aboriginal object* is defined in s 6 (2) and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156).

#### 4 Notes

- (1) A note included in this Act is explanatory and is not part of this Act.

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

- (2) In this section:

***note*** includes material enclosed in brackets in section headings.

*Note* For comparison, a number of sections of this Act contain bracketed notes in their headings drawing attention to equivalent or comparable (though not necessarily identical) provisions of the Land Act as in force immediately before the commencement of this Act.

- (3) Subsection (2), this subsection, and the material enclosed in brackets in section headings, expire 2 years after this section commences.

## Part 2 Important concepts

### 5 What is a *place* or *object*?

(1) In this Act:

*place* includes the following:

- (a) a site, precinct or parcel of land;
  - (b) an item in or on a site, precinct or parcel of land;
  - (c) an item historically or physically associated or connected with a place, if the primary importance of the item derives, completely or partly, from its association or connection with the place;
  - (d) equipment, furniture, fittings and articles in, on, or historically or physically associated or connected with, a building or item.
- (2) Also, if a building, or part of a building, is on a place, the *place* includes the building or part.
- (3) An *object* is a natural or manufactured object, and includes an Aboriginal object, but does not include a place.

### 6 What is an *Aboriginal place* or an *Aboriginal object*?

In this Act:

*Aboriginal place* means a place that is of significance in Aboriginal tradition.

*Aboriginal object* means either of the following, if the object is of significance in Aboriginal tradition:

- (a) a natural or manufactured object; or

- (b) human remains not buried in accordance with a Territory or State law.

*Note* **State** includes the Northern Territory (see *Legislation Act 2001*, dict, pt 1).

## 7 Meaning of *heritage significance*

- (1) For this Act, a place or object has *heritage significance* if the place or object satisfies 1 or more criteria declared under this section for working out heritage significance (*heritage significance criteria*).
- (2) The heritage council may, in writing, declare heritage significance criteria.
- (3) A declaration is a disallowable instrument.

*Note 1* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

*Note 2* At the commencement of s 5 (What is a *place* or *object*?), the heritage significance criteria were taken to be those mentioned in the Land Act, sch 2 immediately before that commencement (see s 86 (Transitional heritage significance criteria)). These may be changed by declaration under this section.

## 8 Meaning of *registered*

For this Act, a place or object (including an Aboriginal place or object) is *registered* if it is provisionally registered or permanently registered.

*Note* Section 9 defines *provisionally registered* and *permanently registered*.

## 9 Meaning of *provisionally registered* and *permanently registered*

- (1) For this Act, a place or object is *provisionally registered* while it is declared to be provisionally registered under section 21 (Provisional registration).

*Note* A declaration of provisional registration stops being in force when the place or object is finally registered, or 5 months after the declaration of provisional registration is made (whichever is earlier) (see s 21 (5)).

- (2) For this Act, a place or object is *permanently registered* while—
- (a) the Minister has declared under section 26 that the place or object is permanently registered; and
  - (b) the Minister has not later declared under that section that the place or object is to be removed from the heritage register.

## 10 Meaning of *unregistered* Aboriginal place or object

For this Act, an *unregistered* Aboriginal place or object is an Aboriginal place or object that is not, and has never been, registered.

## 11 Who is an *interested person*?

In this Act:

*interested person* means—

- (a) the planning authority; or
- (b) the conservator of flora and fauna; or
- (c) in relation to a place—
  - (i) the occupier of the place; or
  - (ii) the owner of the place; or
  - (iii) a lessee or sublessee of the place; or
- (d) in relation to an object—
  - (i) the person in possession of the object; or
  - (ii) the owner of the object; or
- (e) in relation to an Aboriginal place or object—a representative Aboriginal organisation.

**12 What is a *representative Aboriginal organisation*?**

(1) In this Act:

*representative Aboriginal organisation* means an organisation declared to be a representative Aboriginal organisation under this section.

(2) The Minister may, in writing, declare an entity to be a representative Aboriginal organisation for this Act.

(3) However, the Minister may make a declaration under subsection (2) in relation to an entity only if satisfied that the entity satisfies the criteria (if any) declared under subsection (5).

(4) A declaration under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

(5) The Minister may, in writing, declare criteria by which an entity must be assessed to decide whether it should be a representative Aboriginal organisation.

(6) A declaration under subsection (5) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Part 3 Heritage council

### 13 Establishment of heritage council

The Australian Capital Territory Heritage Council is established.

### 14 Constitution of heritage council

- (1) The heritage council is made up of 12 members, as follows:
  - (a) a chairperson appointed, in writing, by the Minister;
  - (b) the conservator of flora and fauna;
  - (c) the planning authority;
  - (d) 4 people appointed, in writing, by the Minister as public representatives (see subsection (2));
  - (e) 5 people appointed, in writing, by the Minister as experts (see subsection (3)).
- (2) There must be a public representative for each of the following groups who, in the Minister's opinion, adequately represents the group:
  - (a) the community;
  - (b) the Aboriginal community;
  - (c) the property development sector;
  - (d) the tourism sector.
- (3) Each expert must, in the Minister's opinion, adequately represent 1 or more of the following disciplines:
  - (a) archaeology;
  - (b) Aboriginal culture;
  - (c) history;
  - (d) town planning;

- (e) engineering;
  - (f) architecture and urban design;
  - (g) landscape architecture;
  - (h) nature conservation.
- (4) A person may be appointed under subsection (1) (a), (c) or (d) for a term of not longer than 3 years.

## **15 Functions of heritage council**

The functions of the heritage council are to identify, assess, protect, conserve and promote places and objects in the ACT with natural and cultural heritage significance.

### **Examples of things the heritage council may do to further its functions**

- 1 Encourage proposed entries for the heritage register.
- 2 Work within the planning system to achieve appropriate protection of the ACT's historic, Aboriginal and natural places and objects.
- 3 Advise the Minister about issues affecting the management and promotion of heritage.
- 4 Maintain the heritage register.
- 5 Review and update the criteria for working out heritage significance.
- 6 Manage the consultation process for entry of an item in the heritage register.
- 7 Provide advice to the Minister on development applications under the Land Act that affect heritage places or objects.
- 8 Encourage and assist in suitable management of heritage places and objects.
- 9 Encourage public interest in, and understanding of, issues relevant to the protection and conservation of heritage places and objects.
- 10 Encourage and provide public education about heritage places and objects.
- 11 Assist in the promotion of tourism in relation to heritage places and objects.
- 12 Keep adequate records, and encourage others to keep adequate records, in relation to heritage places and objects.

## **16 Regulation-making power in relation to heritage council**

The regulations may prescribe the following:

- (a) how decisions are made by the heritage council;

(b) any other procedure of the council.

**Examples of what regulations may prescribe**

- 1 The quorum at meetings of the heritage council.
- 2 What happens when votes are tied at meetings of the heritage council.
- 3 Who is to preside at meetings of the heritage council.

## Part 4 Registration and Aboriginal heritage

### Division 4.1 Heritage register

#### 17 Establishment of heritage register

- (1) The heritage council must establish and keep a heritage register.
- (2) The heritage council may correct a formal or technical mistake or omission in the heritage register.

#### 18 What is in the heritage register?

- (1) The details of a registered place or object are included in the heritage register under section 28 (Registered information).

*Note* **Registered** means provisionally or permanently registered (see s 8).

- (2) The details of a stop work order in relation to a place or object are included in the heritage register under section 42 (Who makes a stop work order and how?).
- (3) The heritage register may also include the following:
  - (a) any conservation management plan approved under section 70 (Conservation management plans for public authorities);
  - (b) any heritage agreement;
  - (c) any amendment of a heritage agreement;
  - (d) details of the ending of a heritage agreement;
  - (e) any action notice;
  - (f) any other information the heritage council considers appropriate.

*Note 1* **Heritage places register—places already registered**

At the commencement of s 5 (What is a *place* or *object*?), the places and information registered on the heritage places register under the Land

Act, pt 3 immediately before that commencement are taken to be permanently registered on the heritage register (see s 87 (Heritage register-transitional places)). These places may be removed from the register in the same way as a place permanently registered under this part.

*Note 2* *Heritage objects register—objects already registered*

At the commencement of s 5 (What is a *place* or *object*?), the objects and information registered on the heritage objects register under the *Heritage Objects Act 1991* immediately before that commencement are permanently registered on the heritage register (see s 88 (Heritage register-transitional objects)). These objects may be removed from the register in the same way as an object permanently registered under this part.

## **19 Register publicly available**

- (1) The heritage register must be available for public inspection at all reasonable times.
- (2) However, restricted information may be made available for public inspection only in accordance with the following sections:
  - section 31 (Publication of restricted non-Aboriginal information by public officials);
  - section 33 (Publication of restricted Aboriginal information by public officials).

## **Division 4.2 Registration and removal from heritage register**

### **20 Who may nominate a place or object for registration or for removal from heritage register?**

- (1) Anyone, including the heritage council, may nominate—
  - (a) a place or object for inclusion in the heritage register; or
  - (b) a registered place or object for removal from the heritage register.
- (2) The regulations may prescribe how a nomination may be made.

## 21 Provisional registration

- (1) This section applies if—
  - (a) the Minister considers that a place or object nominated for inclusion in the heritage register has heritage significance; or
  - (b) someone makes a report under section 36 (Reporting unregistered Aboriginal places and objects) in relation to a place or object that is not registered, and has never been registered.
- (2) The Minister may, in writing, declare the place or object to be provisionally registered if the Minister proposes that the place or object should be permanently registered.

*Note* The details of a provisionally registered place or object must be included in the heritage register (see s 28).

- (3) The Minister must ask for and consider the advice of the heritage council before making a declaration, but need not act in accordance with the advice.
- (4) A declaration under subsection (2) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) The declaration stops being in force at the earliest of the following times:
  - (a) when the place or object is permanently registered;
  - (b) 5 months after the declaration is made.

## 22 Nomination for removal from register

- (1) This section applies if someone nominates a registered place or object for removal from the heritage register.
- (2) The Minister may propose to remove the place or object from the heritage register.
- (3) The Minister must ask for and consider the advice of the heritage council before proposing to remove the place or object from the heritage register, but need not act in accordance with the advice.

## **23 Notice to interested people of provisional registration or proposed removal**

- (1) This section applies if the Minister—
  - (a) provisionally registers a place or object; or
  - (b) proposes to remove a registered place or object from the heritage register.
- (2) The Minister must give each interested person in relation to the place or object written notice—
  - (a) stating either—
    - (i) that the Minister has provisionally registered the place or object and proposes that the place or object should be permanently registered; or
    - (ii) that the Minister proposes to remove the place or object from the heritage register; and
  - (b) explaining that the person may make a submission about the Minister's proposed action within the submission period.
- (3) The Minister must, if asked, also make available to an interested person—
  - (a) the name of the person (the *nominator*) who nominated the place or object; and
  - (b) any information given to the Minister by the nominator or in a submission under section 25 (Submissions on Minister's proposal).
- (4) For this section, the Minister is taken to have given notice to an interested person under subsection (2) if the Minister has taken all reasonable steps to identify and give notice to the interested person.

## **24 Notice to public of provisional registration or proposed removal**

At least 2 weeks, but not more than 3 weeks, after notice is given under section 23 in relation to a proposal that a place or object

should be permanently registered, or that a place or object should be removed from the heritage register, the Minister must publish in a daily newspaper a notice—

- (a) identifying the place or object; and
- (b) stating either—
  - (i) that the Minister has provisionally registered the place or object and proposes that the place or object should be permanently registered; or
  - (ii) that the Minister proposes to remove the place or object from the heritage register; and
- (c) inviting written submissions to the Minister within the submission period about what the Minister proposes to do.

## **25 Submissions on Minister's proposal**

Anyone may make a submission in relation to the Minister's proposal that a place or object should be permanently registered, or that a place or object should be removed from the heritage register.

## **26 Declaration about permanent registration or removal**

- (1) This section applies if—
  - (a) the Minister has given notice under section 23 and 24 of the Minister's proposal that a place or object should be permanently registered, or that a place or object should be removed from the heritage register; and
  - (b) the submission period in relation to the proposal has ended.
- (2) After considering any written submission received during the submission period, the Minister may declare in writing that—
  - (a) if the place or object is provisionally registered, and the Minister considers that it has heritage significance—the place or object is permanently registered; or

- (b) if the Minister has proposed that the place or object should be removed from the register—the place or object is to be removed from the register.
- (3) The Minister must ask for and consider the advice of the heritage council before making a declaration, but need not act in accordance with the advice.
- (4) The Minister may only make a declaration within 5 months after—
  - (a) the day the place or object is provisionally registered; or
  - (b) the day the place or object is nominated for removal from the register.
- (5) The validity of a declaration is not affected by a failure to comply with subsection (4).
- (6) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## **27 Action after declaration about registration or removal**

- (1) If the Minister declares under section 26 that a provisionally registered place or object is permanently registered, the heritage council must enter in the heritage register a statement to that effect.
- (2) If the Minister declares under section 26 that a registered place or object is to be removed from the heritage register, the heritage council must remove the place or object from the heritage register.

## **28 Registered information**

- (1) If a place or object becomes a registered place or object, the heritage council must include in the heritage register the following information about the place or object:
  - (a) the name of the place or object (if any);
  - (b) the location or address of the place or object;

*Note* Subsections (3) and (4) contain exceptions to this requirement.

- (c) a description of the place or object including its extent or boundary;

*Note* Subsections (3) and (4) contain exceptions to this requirement.

- (d) the Minister's assessment of the place or object against the heritage significance criteria;

- (e) the date the place or object was registered;

*Note* **Registered** includes provisionally registered (s 9 (1)).

- (f) whether the place or object is finally or provisionally registered.

- (2) The heritage council may also include in the heritage register details of any development control in the Territory Plan in relation to the place or object or land associated with the place or object.

*Note* Development controls are made in the same way as variations to the Territory Plan, under the Land Act, pt 2.

- (3) However, for an Aboriginal place or object, the entry in the heritage register need only contain a general description of the place or object and its general location .

- (4) Also, the entry in the heritage register need only contain—

- (a) if the exact description of the place or object is restricted information—a general description of the place or object; or

- (b) if the exact location of the place or object is restricted information—the general location of the place or object.

## **29 Notice of entry in, or removal from, heritage register**

- (1) This section applies if the Minister has declared that a place or object is permanently registered or is to be removed from the heritage register.
- (2) The heritage council must prepare a written notice of the Minister's action in relation to the place or object.
- (3) The notice must include a description of the place or object.

(4) However, if the exact description of the object or place is restricted information, it is sufficient if the description is a general description.

(5) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

(6) The heritage council must also—

(a) publish a copy of the notice in a daily newspaper; and

(b) give a copy of the notice to—

(i) each interested person; or

(ii) each other person who made a submission in relation to the final registration of the object or place or the removal of the object or place from the heritage register.

(7) The validity of the Minister's action is not affected by a failure of the heritage council to comply with this section.

## **Division 4.3 Restricted information**

### **30 Restricted non-Aboriginal information**

(1) The heritage council may, in writing, declare particular information about a place or object's location or description, to be restricted information if the council considers that the public disclosure of the information would be likely to have a significant adverse effect on the heritage significance of the place or object.

(2) The heritage council must give a copy of a declaration under subsection (1) to the lessee and, if the occupier is not the lessee, the occupier of the land—

(a) that is, or includes, the place in relation to which the declaration is made; or

(b) where the object is located.

- (3) The validity of a declaration is not affected by a failure of the heritage council to comply with subsection (2).

*Note* Restricted Aboriginal information is dealt with in s 32.

### **31 Publication of restricted non-Aboriginal information by public officials (LA s 83)**

- (1) The Territory, the Executive, a Minister or a Territory authority must not publish restricted information about a place or object that is not an Aboriginal place or object except—
- (a) for this Act or the Land Act, part 2 (Planning); or
  - (b) under subsection (2); or
  - (c) under section 35 (Access to restricted information for people interested in the land).
- (2) For subsection (1) (b), restricted information in relation to a place or object may be published if the Minister is satisfied on reasonable grounds that the publication would not have a significant adverse effect on the heritage significance of the place or object.

*Note* Publication of restricted Aboriginal information by public officials is dealt with in s 33.

### **32 Restricted Aboriginal information (LA s 82)**

- (1) The heritage council may, in writing, declare particular information about the location or nature of an Aboriginal place or object to be restricted information if the council considers that the public disclosure of the information would be likely to have a significant adverse effect on—
- (a) Aboriginal tradition; or
  - (b) the heritage significance of the place or object.
- (2) The heritage council may make a declaration under subsection (1) only after consulting with, and considering the views of, each representative Aboriginal organisation about the information.

- (3) The heritage council must give a copy of a declaration under subsection (1) to—
- (a) the lessee and, if the lessee is not the occupier of the land, the occupier of any land in relation to which the declaration is made; and
  - (b) each representative Aboriginal organisation.
- (4) The validity of a declaration under subsection (1) is not affected by a failure to comply with subsection (2) or (3).

**33 Publication of restricted Aboriginal information by public officials**  
(LA s 83)

- (1) The Territory, the Executive, a Minister or a Territory authority must not publish restricted information about an Aboriginal place or object except—
- (a) for this Act or the Land Act, part 2 (Planning); or
  - (b) under subsection (2); or
  - (c) under section 35 (Access to restricted information for people interested in the land).
- (2) For subsection (1) (b), restricted information in relation to a place or object may be published if the Minister is satisfied on reasonable grounds that the publication would not have a significant adverse effect on either of the following:
- (a) Aboriginal tradition;
  - (b) the heritage significance of the place or object.

**34 Publication of restricted Aboriginal information generally**  
(LA s 84)

- (1) A person (other than someone mentioned in section 33 (1)) must not, without reasonable excuse, publish restricted information about an Aboriginal place or object unless—

- (a) the information is published in accordance with an approval under subsection (2); and
- (b) the publication is accompanied by a written statement mentioned in section 35 (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) On application, the heritage council must, by written notice to the applicant, approve the publication of restricted information about an Aboriginal place or object if satisfied on reasonable grounds that the publication would not have a significant adverse effect on either of the following:
  - (a) Aboriginal tradition;
  - (b) the heritage significance of the place or object.
- (3) An application under subsection (2) must be in writing stating—
  - (a) the nature of the restricted information; and
  - (b) the reason for the proposed publication; and
  - (c) the nature of the proposed publication, including the person, people or class of people to whom or to which it is directed.

*Note* If a form is approved under s 82 (Approved forms) for an application, the form must be used.

### **35 Access to restricted information for people interested in the land (LA s 85)**

- (1) This section applies if an application to the heritage council for access to restricted information relevant to the conservation and use of land is made by—
  - (a) a lessee or an occupier of the land; or
  - (b) if an interest in relation to the land is being offered for sale—a person who is considering buying the interest.

*Note* If a form is approved under s 82 (Approved forms) for an application, the form must be used.

- (2) The heritage council must give the applicant the restricted information sought, together with a written statement explaining the effect of the council's declaration that the information is restricted information for this Act.

## **Division 4.4 Reporting discovery of unregistered Aboriginal places and objects**

### **36 Reporting unregistered Aboriginal places and objects (LA s 67)**

- (1) A person who discovers a place or object that the person has reasonable grounds for believing is an unregistered Aboriginal place or object must report the discovery to the heritage council in accordance with subsection (2) within 7 days after the day of discovery.
- (2) The report must—
- (a) be in writing; and
  - (b) include the name and address of—
    - (i) the person giving the report; and
    - (ii) the lessee and, if the lessee is not the occupier, the occupier of the land where the place or object is located, if the person giving the report knows their names and addresses; and
  - (c) describe the nature and location of the discovery.
- (3) A person must not, without reasonable excuse, contravene subsection (1).

**Maximum penalty:** 5 penalty units.

*Note* An **unregistered** Aboriginal place or object is an Aboriginal place or object that is not, and has never been, registered (see s 10).

**37 Exceptions to obligation to report unregistered Aboriginal places and objects**

- (1) Without limiting what is a reasonable excuse for section 36 (3), a person is taken to have a reasonable excuse for not complying with that section if the person establishes that—
  - (a) it was not reasonably practicable for the person to report the discovery of the Aboriginal place or object within 7 days because the person was in a remote area; and
  - (b) the person reported the discovery within 7 days after returning from the remote area.
- (2) Also, section 36 does not apply to someone who, in accordance with Aboriginal tradition, has traditional affiliations with the land where the place or object is located.
- (3) Subsection (2) does not prevent someone who, in accordance with Aboriginal tradition, has traditional affiliations with particular land from reporting the discovery of an Aboriginal place or object on the land under section 36 (1).

## Part 5                      Protection of registered places and objects

### 38      Diminishing heritage significance of objects

A person must not, without reasonable excuse, do anything to, or in relation to, a registered object or an unregistered Aboriginal object that diminishes the object's heritage significance.

Maximum penalty: 5 000 penalty units.

### 39      Work offence

(1) A person must not, other than in accordance with an approval under the Land Act, undertake work that is likely to affect the heritage significance of—

- (a) a registered place; or
- (b) registered object; or
- (c) an unregistered Aboriginal place; or
- (d) unregistered Aboriginal object.

Maximum penalty:

- (a) if the person knew, or should reasonably have known, that the place or object was registered—10 000 penalty units;
- (b) if the person knew, or should reasonably have known, that the place or object was an unregistered Aboriginal place or object—10 000 penalty units;
- (c) in any other case—5 000 penalty units.

*Note*      A person who wishes to undertake work on a registered place or an unregistered Aboriginal place may apply to undertake the work under the Land Act, pt 6 (Approvals and orders) as an application for approval to undertake development.

(2) This section does not apply to work undertaken in accordance with an exemption under a heritage agreement.

## (3) For this section:

**work**, in relation to a place—see the Land Act, section 222 (1) (Interpretation), definition of **development**.

*Note* At August 2001, **development** was defined under the Land Act, s 222 (1) as follows:

**development** means activity in relation to land that consists of 1 or more of the following activities:

- (a) the erection, alteration or demolition of a building or structure on or under the land;
- (b) the carrying out of earthworks or other construction work on or under the land;
- (c) the carrying out of work that would affect the landscape of the land except where the land is leased for residential purposes only and is not specified in the heritage places register, or an interim heritage places register, as a heritage place;
- (d) a use of the land for a business—
  - (i) that is a home business within the meaning of the plan; and
  - (ii) that is not expressly authorised by a current lease;
- (e) a use of the land for an activity—
  - (i) that is prescribed for the purposes of section 175 (3) (a); and
  - (ii) that is not expressly authorised by a current lease;
- (f) if the land is unleased Territory land—a use of the land that is not authorised by a current licence or permit granted in respect of the land under an Act or regulations;
- (g) the erection, fixing or displaying of a sign or advertising material on the land, or on a structure or building on the land, otherwise than in accordance with a right to do so expressly given by a current licence granted under this Act or a current lease;
- (h) a variation of a lease of the land;
- (j) an activity declared by another Act to be a development activity for the purposes of this part;

but does not include a use of unleased Territory land by or on behalf of the Territory for a purpose for which it was used before the commencement of this Act.

(4) Also for this section, **work**, in relation to a place, includes the following:

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- (a) in relation to a place that includes a building or part of a building—decoration of the fabric of the building or part;
  - (b) physical intervention, excavation or other action that may cause a change to the nature or appearance of the fabric of the place.
- (5) Work mentioned in subsection (4) is a development activity for the Land Act, part 6 (Approvals and orders) if undertaken in relation to a registered place or an unregistered Aboriginal place.

*Note* **Registered place** includes an Aboriginal place that is registered (see s 8)).

**40 Damaging Aboriginal places (LA s 70)**

- (1) A person must not, without reasonable excuse—
- (a) disturb, damage or destroy an Aboriginal place (whether registered or unregistered); or
  - (b) allow an Aboriginal place (whether registered or unregistered) to be disturbed, damaged or destroyed.

Maximum penalty: 5 000 penalty units.

*Note* Person includes an Aboriginal person.

- (2) This section does not apply if the Aboriginal place is disturbed, damaged or destroyed in accordance with an approval under the Land Act.

## Part 6                      Stop work orders and action notices

### 41      Offence to breach stop work order

A person must not, without reasonable excuse, contravene a stop work order.

Maximum penalty: 10 000 penalty units.

### 42      Who makes a stop work order and how?

- (1) The Minister may make an order (a *stop work order*) if satisfied that it is necessary for the immediate protection of the heritage significance of a place or object.
- (2) A stop work order may require a person to stop, or not start, any stated work in relation to the place or object.
- (3) The Minister must—
  - (a) serve the stop work order on the owner of the land where the place or object is located; and
  - (b) ensure a copy of the order is attached to the land, place or object in a way that—
    - (i) is readily visible to anyone who might do work to which the notice relates; but
    - (ii) does not destroy or reduce the heritage significance of the place or object.
- (4) The heritage council must enter details of the stop work order in the heritage register as soon as practicable after the order is made.

### 43      Commencement and duration of stop work orders

- (1) A stop work order in relation to a place or object takes effect when the earliest of the following happens:

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- (a) the order is served under section 42 (3) (a);
  - (b) the order is attached under section 42 (3) (b).
- (2) A stop work order remains in force (unless revoked earlier) until the later of the following:
- (a) the end of a period not longer than 14 days stated in the order;
  - (b) the end of any extended period allowed by the Supreme Court under subsection (5).
- (3) The Minister may apply to the Supreme Court to extend the period for which a stop work order remains in force.
- (4) The Minister must serve a copy of an application under subsection (3) on the owner of the land where the place or object is located.
- (5) On application under subsection (3), the Supreme Court may extend the period for which a stop work order remains in force.
- (6) When a stop work order ceases to be in force, the heritage council must remove details of the stop work order from the heritage register.

**44 Revocation of stop work order**

- (1) The Minister may revoke a stop work order.
- (2) If the Minister revokes a stop work order in relation to a place or object, the Minister must, by written notice, tell the owner of the land where the place or object is located that the order has been revoked.
- (3) The revocation of a stop work order takes effect when notice of the revocation is served under subsection (2).

**45 Notice to take or stop action**

- (1) This section applies if someone is affecting, or is likely to affect, the heritage significance of a registered place or object by an act or omission.
- (2) The Minister may serve a notice (the *action notice*) on the person.

- (3) The action notice may require the person—
- (a) to take stated action to repair damage to the place, object or land where the place or object is located; or
  - (b) to stop doing a stated thing in relation to the place, object or land where the place or object is located; or
  - (c) to start or finish stated work in relation to the place, object or land where the place or object is located.
- (4) If the action notice contains a requirement of a kind mentioned in subsection (3) (a) or (c), the notice must state a period within which thing required to be done must be done.
- (5) The stated period must not be shorter than 1 month after the day the action notice is served.
- (6) The action notice must include a notice in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

#### **46 Action notice offence**

A person must comply with an action notice served on the person.

Maximum penalty: 10 000 penalty units.

#### **47 Review of notice**

- (1) A relevant person may apply to the administrative appeals tribunal for a review of a decision to serve an action notice in relation to a place or object.
- (2) The application may be made on 1 or more of the following grounds:
- (a) that any act or omission is not likely to affect the heritage significance of the place or object;
  - (b) financial hardship;
  - (c) that it is unreasonable to have to comply with the notice in all the circumstances.

- (3) For this section, a *relevant person* is any of the following:
- (a) the owner of the place or of land where the place or object is located;
  - (b) the owner of the object;
  - (c) someone in possession of the object.

#### **48 Failure to comply with notice or order**

- (1) This section applies if a person served with an action notice contravenes the action notice and has not applied for review of the decision to service the notice within the period allowed under the *Administrative Appeals Tribunal Act 1989*.
- (2) The heritage council may—
- (a) enter the place or land where the place or object is located; and
  - (b) take any action stated in the notice or order; and
  - (c) start or finish any work stated in the notice or order.
- (3) The heritage council may charge the owner for any cost incurred in doing anything under subsection (2) and, if it does, the amount charged is a debt owing to the Territory.

#### **49 Financial hardship**

- (1) This section applies if—
- (a) someone applies to the administrative appeals tribunal for review of a decision to serve an action notice on the ground of financial hardship; and
  - (b) the administrative appeals tribunal finds that the applicant is justified in claiming financial hardship.
- (2) The heritage council may, at the expense of the Territory—
- (a) enter the place that the action notice related to, or the land where the place or object that the order related to is located; and

- (b) take any action mentioned in the action notice; and
- (c) start or finish any work mentioned in the action notice.

## Part 7 Civil enforcement

### 50 Application for enforcement order

- (1) An application for an order under section 51 may be made to the Supreme Court by—
  - (a) the heritage council on behalf of the Territory; or
  - (b) anyone else with leave of the court.
- (2) The Supreme Court may give leave to a person to apply for an order under section 51 only if satisfied that—
  - (a) the person has asked the heritage council to take action under this Act and the council has failed, within a reasonable time, to tell the person in writing that the council has taken action that is appropriate in the circumstances; and
  - (b) it is in the public interest that the proceeding should be brought.

### 51 Making of enforcement order

- (1) This section applies if the Supreme Court is satisfied—
  - (a) that someone (the *respondent*) has contravened, is contravening or is likely to contravene—
    - (i) a heritage agreement; or
    - (ii) a stop work order; or
    - (iii) an action notice; or
    - (iv) section 38 (Diminishing heritage significance); or
    - (v) section 39 (Work offence); or
    - (vi) section 40 (Damaging Aboriginal places); and

- (b) that, because of the contravention or likely contravention, serious or material harm to the heritage significance of a place or object has happened, is happening or is likely to happen.
- (2) The Supreme Court may make an order—
- (a) requiring the respondent to remedy the contravention; or
  - (b) restraining the respondent from continuing to commit the contravention; or
  - (c) restraining the respondent from committing the threatened or anticipated contravention.
- (3) The Supreme Court may also make any other order the court considers appropriate to give effect to an order under subsection (2).
- (4) An order under subsection (2) must state the time on or before which the order is to be complied with.
- (5) The Supreme Court may make an order under subsection (2) requiring the respondent to stop doing something, whether or not—
- (a) it appears to the court that the respondent proposes to do the thing or to continue to do the thing; or
  - (b) the respondent has previously done a thing of that kind; or
  - (c) there is a potential for serious or material harm to the heritage significance of a place or object if the respondent does the thing or continues to do the thing.
- (6) The Supreme Court may make an order under subsection (2) requiring the respondent to do something, whether or not—
- (a) it appears to the court that the respondent does not intend to do the thing or continue to do the thing; or
  - (b) the respondent has previously not done a thing of that kind; or
  - (c) there is a potential for serious or material harm to result to the heritage significance of a place or object if the respondent does not do the thing.

**52 Interim enforcement order**

- (1) This section applies if—
  - (a) an application for an order has been made in relation to a place or object under section 51 (Making of enforcement order) but not decided; and
  - (b) the Supreme Court is satisfied that there is a real or significant likelihood of serious or material damage to the heritage significance of the place or object.
- (2) The Supreme Court may make an interim order of the kind mentioned in section 51 (2) (b) or (c) in relation to the place or object and any other order the court considers appropriate.
- (3) An order under subsection (2) remains in force—
  - (a) if a copy of the application has not been served on the respondent—until the earlier of the following happens:
    - (i) the Supreme Court otherwise orders;
    - (ii) the end of a period (not longer than 14 days) stated in the order; or
  - (b) if a copy of the application has been served on the respondent—until the earlier of the following happens:
    - (i) the Supreme Court otherwise orders;
    - (ii) the Supreme Court decides the application.

**53 Costs for enforcement proceedings**

In working out the costs to be awarded against a party to a proceeding under section 51 (Making of enforcement order) or 52, the Supreme Court must take into consideration the nature of the public interest in the proceeding being brought.

**54 Security for enforcement proceeding costs etc**

The Supreme Court may order an applicant for an order under section 50 (Application for enforcement order)—

- (a) to provide security for the payment of costs that may be awarded against the applicant if the application is dismissed; or
- (b) to give an undertaking about the payment of an amount that may be awarded against the applicant under section 55.

## **55 Compensation for enforcement proceeding**

- (1) This section applies if, on an application for an order under section 50 (Application for enforcement order) alleging that there has been a relevant contravention, the Supreme Court is satisfied that—
  - (a) there has been no relevant contravention by the respondent; and
  - (b) the respondent suffered loss or damage because of the bringing of the proceeding by the applicant; and
  - (c) in the circumstances, it is appropriate to make an order under this section.
- (2) The Supreme Court may, on the application of the respondent (and in addition to any order about costs), order the applicant to pay to the respondent an amount, decided by the court, to compensate the respondent for the loss or damage suffered by the respondent.
- (3) For this section, a contravention of 1 or more of the following is a **relevant contravention**:
  - (a) a heritage agreement;
  - (b) a stop work order;
  - (c) an action notice;
  - (d) section 38 (Diminishing heritage significance);
  - (e) section 39 (Work offence);
  - (f) section 40 (Damaging Aboriginal places).

## Part 8 Authorised officers

### 56 Authorised officers

The chief executive may, in writing, appoint a public servant to be an authorised officer for this Act or a provision of this Act.

*Note* The *Legislation Act 2001*, division 18.3.1 deals with the making of appointments (other than acting appointments) under a law.

### 57 Power to enter premises

- (1) For this Act, an authorised officer may—
  - (a) at any time, enter premises with the occupier's consent; or
  - (b) enter premises in accordance with a warrant under this part; or
  - (c) at any time, enter premises without a warrant if the authorised officer believes, on reasonable grounds, that the circumstances are of such seriousness and urgency as to require immediate entry to the premises.
- (2) An authorised officer may, without the occupier's consent, enter the land around premises to ask for consent to enter the premises.
- (3) To remove any doubt, an authorised officer may enter premises under subsection (1) without payment of any entry fee or other charge.
- (4) For subsection (1) (c), the authorised officer may enter the premises with any necessary assistance and force.

### 58 Production of identity card

An authorised officer may only remain on premises entered under this part if the authorised officer produces his or her identity card for inspection when asked by the occupier.

**59 Consent to entry**

- (1) When seeking the consent of an occupier for entering premises under section 57 (1) (a) (Power to enter premises), an authorised officer must—
  - (a) produce the officer's identity card; and
  - (b) tell the occupier—
    - (i) the reason for the entry; and
    - (ii) that anything found and seized under this part may be used in evidence in court; and
    - (iii) that consent may be refused.
- (2) If the occupier consents, the authorised officer must ask the occupier to sign a written acknowledgment (an *acknowledgment of consent*)—
  - (a) that the occupier was told—
    - (i) the reason for the entry; and
    - (ii) that anything found and seized under this part may be used in evidence in court; and
    - (iii) that consent may be refused; and
  - (b) that the occupier consented to the entry; and
  - (c) stating the time, and date, when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the authorised officer must immediately give a copy to the occupier.
- (4) A court must find that an occupier of premises did not consent to an entry to the premises by an authorised officer under this part if—
  - (a) the question whether the occupier consented to the entry arises in a proceeding in the court; and
  - (b) an acknowledgment of consent for the entry is not produced in evidence for the entry; and

- (c) it is not proved that the occupier consented to the entry.

## **60 Warrants—application**

- (1) An authorised officer may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

## **61 Warrants—issue**

- (1) The magistrate may issue a warrant under section 60 only if satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity connected with an offence against this Act; and
  - (b) the thing or activity is at the premises, or may be at the premises within the next 14 days.
- (2) The warrant must state—
  - (a) that an authorised officer may, with any necessary assistance and force, enter the premises and exercise the officer's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the things that may be seized under the warrant; and
  - (d) the hours when the premises may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

**62 Warrants—distant application**

- (1) An authorised officer may apply to a magistrate for a warrant by phone, fax, radio or other form of communication if the authorised officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances.
- (2) Before applying for the warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised officer may apply for the warrant before the application is sworn.

**63 Warrants granted on distant application**

- (1) If, on application under section 62, the magistrate issues a warrant, the magistrate must immediately fax a copy to the authorised officer if it is practicable to do so.
- (2) If it is not practicable to fax a copy to the authorised officer—
  - (a) the magistrate must—
    - (i) tell the authorised officer what the terms of the warrant are; and
    - (ii) tell the authorised officer the date and time the warrant was issued; and
  - (b) the authorised officer must complete a form of warrant (*warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the warrant's terms.
- (3) The faxed copy of the warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the authorised officer's powers under this part.

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- (4) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and
  - (b) if the authorised officer completed a warrant form—the completed warrant form.
- (5) On receiving the documents, the magistrate must attach them to the warrant.
- (6) A court must find that a power exercised by an authorised officer was not authorised by a warrant under this section if—
  - (a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and
  - (b) the warrant is not produced in evidence; and
  - (c) it is not proved that the exercise of power was authorised by a warrant under this section.

**64 Information discovery orders**

- (1) This section applies if the heritage council has reasonable grounds for suspecting that a person—
  - (a) has knowledge of information (the *required information*) reasonably required by the council for the administration or enforcement of this Act; or
  - (b) has possession or control of a document containing the required information.
- (2) The heritage council may give the person an information discovery order requiring the person to give the information, or produce the document, to the council.
- (3) The information discovery order must—
  - (a) be in writing; and
  - (b) identify the person to whom the order is given; and
  - (c) state why the required information is required; and

- (d) state the time at or before which the order must be complied with; and
- (e) state the maximum penalty, on conviction, for contravention of the order.

## **65 Contravention of information discovery order**

A person must not, without reasonable excuse, contravene an information discovery order.

Maximum penalty: 100 penalty units.

## **66 Legal immunity**

- (1) This section applies to someone who is, or has been—
  - (a) a member of the heritage council; or
  - (b) an authorised officer.
- (2) A civil proceeding does not lie against the person in relation to anything done or omitted to be done honestly by the person in the exercise or purported exercise of a function under this Act.
- (3) Subsection (2) does not affect any liability that the Territory would, apart from that subsection, have for an act or omission mentioned in the subsection.

## Part 9 Public authorities

### 67 What is a *public authority*?

In this part:

*public authority*—see the *Annual Reports (Government Agencies) Act 1995*, section 4 (Interpretation).

### 68 What is a *heritage place or object* in relation to a public authority?

For this part, a place or object is a *heritage place* or *heritage object* in relation to a public authority if—

- (a) the place or object—
  - (i) is vested in, or subject to the control of, the authority; or
  - (ii) is owned or occupied by the authority; and
- (b) the place or object—
  - (i) is a registered place or object; or
  - (ii) although not registered, meets 1 or more heritage significance criteria; or
  - (iii) is an Aboriginal place or object.

### 69 Annual heritage reports by public authorities

- (1) Within 1 month after the end of each financial year, each public authority must give the heritage council a written report in relation to the financial year that includes the details of each place and object that was a heritage place or object in relation to the authority at any time during the financial year.
- (2) If, during the financial year, the public authority disposed of a heritage place or object, the public authority must include details of the disposal in the report in relation to the financial year.

- (3) However, a public authority is not required to include details of a heritage place or object if—
  - (a) subsection (2) does not apply to the place or object; and
  - (b) the authority has included the details of the place or object in a previous report to the heritage council; and
  - (c) the details given to the council have not otherwise changed.
- (4) Also, a public authority need not comply with this section in relation to the first financial year that ends after the commencement of this section.
- (5) Subsection (4) and this subsection expire 2 years after this section commences.

## **70 Conservation management plans for public authorities**

- (1) The heritage council may, in writing, direct a public authority to prepare a plan (the *conservation management plan*) to manage a threat, or potential threat, to a heritage place or object in relation to the authority.
- (2) The public authority must prepare the conservation management plan and give the plan to the heritage council within the time (not shorter than 1 month) allowed by the council in the direction.
- (3) If the heritage council considers that the conservation management plan adequately manages the threat, or potential threat to the heritage place or object, the council—
  - (a) may approve the plan in writing; and
  - (b) if the council approves the plan—must tell the public authority in writing that it has approved the plan.
- (4) If the heritage council approves the conservation management plan, the public authority must not do anything inconsistent with the plan.

## Part 10 Heritage agreements

### 71 Heritage agreements

- (1) The Minister may, on the heritage council's advice, make an agreement (a *heritage agreement*) with the owner of a registered place or object, or of a place or object of heritage significance, in relation to the conservation of the place or object.
- (2) The regulations may provide that a place that is the subject of a heritage agreement, or the land where a place or object that is the subject of a heritage agreement is located, is exempt from the operation of a stated provision of a Territory law.

### 72 Provisions of heritage agreement

A heritage agreement in relation to a place or object may include provisions about 1 or more of the following:

- (a) conservation of the place or object;
- (b) provision of financial, technical or other professional advice or assistance needed for the conservation of the place or object;
- (c) review of the valuation of the place or object;
- (d) restrictions on the use of the place or object;
- (e) requirements to carry out work;
- (f) standards to which any work is to be carried out;
- (g) restrictions on work that may be carried out;
- (h) exemption of work from the requirement to obtain work approval to comply with section 39 (Work offence);
- (i) public appreciation of the heritage significance of the place or object;
- (j) availability of the place or object for public inspection.

**73 Amending or ending heritage agreement**

The Minister may, on the heritage council's advice, amend or end a heritage agreement—

- (a) by agreement with the owner of the place or object; or
- (b) in accordance with the original agreement.

**74 Duration of heritage agreements**

A heritage agreement begins and ends on dates stated in the agreement.

**75 Binding nature of heritage agreements**

A heritage agreement attaches to the land where the place or object is located and is binding on the owner of the land for the time being.

**76 Enforcement orders**

- (1) A party to a heritage agreement may apply to the Supreme Court for an order to give effect to a heritage agreement (an *enforcement order*) if—
  - (a) someone contravenes the heritage agreement; or
  - (b) there are reasonable grounds for believing that anyone may contravene the heritage agreement.

*Note* **Contravenes** includes fails to comply with (see *Legislation Act 2001*, dict, pt 1).

- (2) The heritage council must enter details of an enforcement order in the heritage register as soon as practicable after the order is made.

**77 Financial and other assistance**

The heritage council may arrange for the provision of financial, technical or other assistance that the council considers necessary for the conservation of a place or object subject to a heritage agreement.

## Part 11                      Liability

### 78    Acts and omissions of representatives

- (1) In this section:

*representative* means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person took reasonable precautions and exercised due diligence to avoid the act or omission.
- (4) An individual who is convicted of an offence cannot be punished by imprisonment for the offence if the individual would not have been convicted of the offence without subsection (2) or (3).

**79 Offences by executive officers**

- (1) If a corporation contravenes, whether by an act or omission, a provision of this Act, each person who is an executive officer of the corporation is taken to have contravened the provision if the person knowingly authorised or allowed the contravention.
- (2) For subsection (1), an executive officer of the corporation may be prosecuted for, and convicted of, the offence whether or not the corporation has been prosecuted for, or convicted of, the offence.
- (3) This section does not affect any liability imposed on a corporation for an offence committed by the corporation against this Act.

## Part 12                      Miscellaneous

### 80      Delegation

- (1) The heritage council may delegate the council's functions under this Act to the chief executive.
- (2) The chief executive may subdelegate the functions delegated to the chief executive under this section to a public servant.

### 81      Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

*Note*      The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note*      A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### 82      Approved forms

- (1) The heritage council may, in writing, approve forms for this Act.
- (2) An approved form is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

### 83      Regulation-making power

The Executive may make regulations for this Act.

*Note*      Regulations must be notified and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### 84      5 year review

- (1) The Minister must review the operation of this Act during the review period as soon as practicable after the review period ends.

- (2) The Minister must present the report of the review to the Legislative Assembly within 6 months after the review period ends.
- (3) This section expires 1 year after the review period ends.
- (4) In this section:  
*review period* means the period of 5 years beginning when this section commences.

## Part 13 Transitional

### 85 Definitions for pt 13

In this part:

*commencement day* means the day section 5 (What is a *place* or *object*?) commences.

*Land Act* means the Land Act as in force immediately before the commencement of this section.

### 86 Transitional heritage significance criteria

The criteria mentioned in the Land Act, schedule 2 (Criteria for the assessment of the heritage significance of places) immediately before commencement day are taken to be the heritage significance criteria under this Act.

### 87 Heritage register—transitional places

- (1) A place included in the heritage places register immediately before commencement day is taken to be permanently registered.
- (2) Any information included in the heritage places register in relation to a place is taken to be included in the heritage register in relation to the place.
- (3) Specific requirements for conservation in relation to a place in the heritage places register immediately before commencement day are taken to be development controls in relation to the place in the heritage register.
- (4) In this section:  
*heritage places register*—see the Land Act, section 4 (definitions).

**88 Heritage register—transitional objects**

- (1) An object included in the heritage objects register immediately before commencement day is taken to be permanently registered.
- (2) Any information included in the heritage objects register in relation to the object is taken to be included in the heritage register in relation to the object.
- (3) In this section:

*heritage objects register*—see the *Heritage Objects Act 1991* as in force immediately before commencement day, section 4 (1) (Interpretation).

**89 Modification of pt 13 operation**

The regulations may modify the operation of this part to make provision with respect to any matter that is not already, or is not (in the Executive's opinion) adequately, dealt with in this part.

**Examples of modifying regulations**

1 Regulations may be made modifying the operation of this part by providing for the status under this Act of places that are, immediately before the commencement day, the subject of an interim heritage places register under the Land Act, s 55 (Effect of interim registers). The regulations might also apply the registration process under this Act to places on an interim heritage places register under the Land Act.

2 Regulations may be made modifying the operation of this part by providing for the status under this Act of objects that are, immediately before the commencement day, the subject of an interim heritage objects register with effect under the *Heritage Objects Act 1991*, s 7 (Effect of interim registers). The regulations might also apply the registration process under this Act to places on an interim heritage objects register under the *Heritage Objects Act 1991*.

**90 Expiry of pt 13**

This part expires 1 year after commencement day.

## Dictionary

(see s 3)

***Aboriginal object***—see section 6 (2).

***Aboriginal place***—see section 6 (1).

***Aboriginal tradition*** means Aboriginal traditions, observances, customs or beliefs, including Aboriginal traditions, observances, customs or beliefs that have evolved or developed since European colonisation of Australia.

***action notice***—see section 45 (Notice to take or stop action).

***authorised officer*** means a public servant appointed as an authorised officer under section 56.

***daily newspaper*** means a newspaper published and circulating in the ACT.

***executive officer***, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

***heritage agreement*** means an agreement made under section 71 (Heritage agreements).

***heritage council*** means the Australian Capital Territory Heritage Council established under section 13.

***heritage object***, in relation to a public authority—see section 68 (What is a *heritage place* or *object* in relation to a public authority?).

***heritage place***, in relation to a public authority—see section 68 (What is a *heritage place* or *object* in relation to a public authority?).

***heritage register*** means the register established and kept by the heritage council under section 17.

**heritage significance**—see section 7 (Meaning of *heritage significance*?).

**heritage significance criteria** means the criteria declared under section 7.

**interested person**—see section 11 (Who is an *interested person*?).

**Land Act** means the *Land (Planning and Environment) Act 1991*.

**object**—see section 5 (3) (What is a *place* or *object*?).

**owner**, of a place, means —

- (a) the registered proprietor of a lease granted under the *Land (Planning and Environment) Act 1991* over land that includes the place; or
- (b) a unit owner within the meaning of the *Unit Titles Act 2001*, if the lease of the unit is over land that includes the place; or
- (c) an owners corporation within the meaning of the *Unit Titles Act 2001*, if the common property covers land that includes the place.

**permanently registered**—see section 9 (2).

**place**—see section 5 (1) and (2) (What is a *place* or *object*?).

**provisionally registered**—see section 9 (1).

**public authority**, for part 9 (Public authorities)—see section 67 (What is a *public authority*?).

**registered**—see section 8.

**registered proprietor**, of a lease, means the person registered under the *Land Titles Act 1925* as the proprietor of the lease.

**representative Aboriginal organisation**—see section 12 (1).

**restricted information**—see section 30 (Restricted non-Aboriginal information) or section 32 (Restricted Aboriginal information).

**stop work order** means an order under section 42 (Who makes a stop work order and how?).

**submission period**, in relation to a proposal for a place or object, means—

- (a) the period of 6 weeks after the day a notice in relation to the proposal is published under section 24 (Notice to public of provisional registration or proposed removal); or
- (b) if a longer period is allowed by the Minister—that period.

**unregistered**, in relation to an Aboriginal place or an Aboriginal object—see section 10.

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## Endnote

### Penalty units

The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.