



Australian Capital Territory

# **Heritage Regulation 2005**

**SL2005-5**

made under the

**Heritage Act 2004**

**Republication No 2**

**Effective: 2 September 2005 – 9 March 2006**

Republication date: 2 September 2005

Last amendment made by SL2005-20

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Heritage Regulation 2005*, made under the *Heritage Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 September 2005. It also includes any amendment, repeal or expiry affecting the republished law to 2 September 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Heritage Regulation 2005

made under the

**Heritage Act 2004**

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of regulation 2
3	Dictionary 2
4	Notes 2
<b>Part 2</b>	<b>Notified Aboriginal places</b>
5	Registration of notified Aboriginal places— Act, s 134 (1) 3
6	Conservation requirements for notified Aboriginal places on old interim heritage places register 3
7	Restricted information on old interim heritage places register 3

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R2  
02/09/05

Heritage Regulation 2005  
Effective: 02/09/05-09/03/06

contents 1

	Page
<b>Part 3</b>	
<b>Declared Aboriginal places</b>	
7A Aboriginal places to which pt 3 applies	4
7B Minister's declaration about heritage significance of relevant Aboriginal place	4
7C Notice of declaration of heritage significance	5
7D Registration of declared Aboriginal places— Act, s 134 (1)	5
7E Declaration of restricted information for relevant Aboriginal place	6
7F Notice of declaration of restricted information	6
7G Reviewable decisions	6
7H Notice of reviewable decisions	7
8 Expiry	7
 <b>Dictionary</b>	 8
 <b>Endnotes</b>	
1 About the endnotes	9
2 Abbreviation key	9
3 Legislation history	10
4 Amendment history	10
5 Earlier republications	11



Australian Capital Territory

# Heritage Regulation 2005

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made under the

**Heritage Act 2004**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Heritage Regulation 2005*.

### 3 Dictionary

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

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition '*relevant Aboriginal place*—see section 7A.' means that the term '*relevant Aboriginal place*' is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

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

## Part 2                      Notified Aboriginal places

### 5                      **Registration of notified Aboriginal places— Act, s 134 (1)**

- (1) Each notified aboriginal place is taken to be registered under the Act, division 6.2.
- (2) The details entered in the old interim heritage places register for each notified Aboriginal place are taken to be the registration details for the place.
- (3) Subsection (2) does not apply to any requirement stated in an old interim heritage places register for the conservation of the heritage significance of the place.
- (4) To remove any doubt, the council may amend the heritage register to reflect the operation of this section.

### 6                      **Conservation requirements for notified Aboriginal places on old interim heritage places register**

- (1) In this section:  
  
*conservation requirement*, for a notified Aboriginal place, means a requirement stated in the old interim heritage places register for the conservation of the heritage significance of the place, including any requirement for the conservation of features identified as intrinsic to that heritage significance.
- (2) A conservation requirement for a notified Aboriginal place is taken to be a heritage guideline applying to the place.

### 7                      **Restricted information on old interim heritage places register**

Restricted information on the old interim heritage places register for a notified Aboriginal place is restricted information under this Act.

## Part 3 Declared Aboriginal places

### 7A Aboriginal places to which pt 3 applies

This part applies to an Aboriginal place (a *relevant Aboriginal place*) if, under the Land Act, section 69 (Aboriginal heritage discoveries—Ministerial directions and declarations) or section 73 (Orders—Ministerial directions and declarations), the Minister—

- (a) had received a report from the heritage council about the heritage significance of the place; and
- (b) had not done either of the following:
  - (i) directed the heritage council to notify an interim heritage places register for the place;
  - (ii) declared that the place was not to be registered.

### 7B Minister's declaration about heritage significance of relevant Aboriginal place

- (1) The Minister must declare whether each relevant Aboriginal place has heritage significance.
- (2) If the Minister declares that a relevant Aboriginal place has heritage significance, the declaration must include—
  - (a) details of the place (the *registration details*); and
  - (b) requirements for the conservation of the place (the *conservation requirements*).
- (3) For making a declaration about a relevant Aboriginal place for which the Minister had received a report under the Land Act, section 69, the Minister must take account of—
  - (a) the heritage council's report under the Land Act, section 68 in relation to the place; and



- (b) the views of the people consulted under the Land Act, section 69 in relation to the place.
- (4) For making a declaration about a relevant Aboriginal place for which the Minister had received a report under the Land Act, section 73, the Minister must take account of—
  - (a) the heritage council's report under the Land Act, section 72 in relation to the place; and
  - (b) the views of the people consulted under the Land Act, section 73 in relation to the place.

#### **7C Notice of declaration of heritage significance**

- (1) A declaration under section 7B in relation to a relevant Aboriginal place—
  - (a) is a notifiable instrument; and
  - (b) must be notified under the Legislation Act within 3 working days after the day the declaration is made; and
  - (c) must be published in a daily newspaper as soon as practicable.

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

- (2) The Minister must give a copy of the declaration to each person consulted under the Land Act, section 69 or section 73 in relation to the relevant Aboriginal place.

#### **7D Registration of declared Aboriginal places— Act, s 134 (1)**

- (1) A relevant Aboriginal place declared under section 7B to have heritage significance is taken to be registered under the Act, division 6.2.
- (2) The registration details mentioned in section 7B (2) (a) for the place are taken to be the registration details for the place.

- (3) The conservation requirements mentioned in section 7B (2) (b) for the place are taken to be heritage guidelines applying to the place.
- (4) To remove any doubt, the council may amend the heritage register to reflect the operation of this section.

**7E Declaration of restricted information for relevant Aboriginal place**

- (1) The Minister may, in writing, declare particular information about the location or nature of a relevant Aboriginal place to be restricted information.
- (2) The Minister may make the declaration only if satisfied, on reasonable grounds, that public disclosure of the information would be likely to have a substantial adverse effect on the heritage significance of the relevant Aboriginal place.
- (3) For this section, the Minister must consider the views of each person consulted under the Land Act, section 82 (Restricted information) in relation to the relevant Aboriginal place.

**7F Notice of declaration of restricted information**

The Minister must give a copy of a declaration under section 7E to each person consulted under the Land Act, section 82 in relation to the relevant Aboriginal place.

**7G Reviewable decisions**

The following are reviewable decisions:

- (a) a declaration under section 7B that an Aboriginal place has heritage significance;
- (b) a declaration under section 7B that an Aboriginal place does not have heritage significance;
- (c) a declaration under section 7E that information is to be restricted information.

**7H Notice of reviewable decisions**

- (1) This section applies to a notice under section 7C or section 7F.
- (2) The notice must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) In particular, the notice must tell the person—
  - (a) that a person whose interests are affected by the decision may apply to the administrative appeals tribunal for review of the decision, and how the application must be made; and
  - (b) about the options available under other territory laws to have the decision reviewed by a court or the ombudsman.

**8 Expiry**

This regulation expires on the day the Act, part 19 expires.

## Dictionary

(see s 3)

*Note* The Legislation Act contains definitions and other provisions relevant to this regulation.

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

***notified Aboriginal place*** means each place notified under the Land Act, section 60 (Public notification) by notifiable instrument NI2002-19.

***old interim heritage places register***, for a notified Aboriginal place, means the interim heritage places register prepared under the Land Act in relation to the place.

***relevant Aboriginal place***—see section 7A.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Heritage Regulation 2005 SL2005-5**

notified LR 8 March 2005

s 1, s 2 commenced 8 March 2005 (LA s 75 (1))

remainder commenced 9 March 2005 (s 2 and see Heritage Act 2004 A2004-57, s 2)

*Note* This regulation exp the day the Act, pt 19 expires. The prescribed date is 9 March 2006 (see s 8 and Heritage Act 2004 A2004-57 s 136).

as amended by

#### **Heritage Amendment Regulation 2005 (No 1) SL2005-20**

notified LR 1 September 2005

s 1, s 2 commenced 1 September 2005 (LA s 75 (1))

remainder commenced 2 September 2005 (s 2)

### 4 Amendment history

#### **Preliminary**

pt 1 hdg ins SL2005-20 s 4

#### **Commencement**

s 2 om LA s 89 (4)

#### **Dictionary**

s 3 sub SL2005-20 s 5

#### **Notified Aboriginal places**

pt 2 hdg ins SL2005-20 s 6

#### **Declared Aboriginal places**

pt 3 hdg ins SL2005-20 s 7

#### **Aboriginal places to which pt 3 applies**

s 7A ins SL2005-20 s 7

#### **Minister's declaration about heritage significance of relevant Aboriginal place**

s 7B ins SL2005-20 s 7

#### **Notice of declaration of heritage significance**

s 7C ins SL2005-20 s 7

**Registration of declared Aboriginal places—Act, s 134 (1)**

s 7D ins SL2005-20 s 7

**Declaration of restricted information for relevant Aboriginal place**

s 7E ins SL2005-20 s 7

**Notice of declaration of restricted information**

s 7F ins SL2005-20 s 7

**Reviewable decisions**

s 7G ins SL2005-20 s 7

**Notice of reviewable decisions**

s 7H ins SL2005-20 s 7

**Dictionary**

dict def **Land Act** ins SL2005-20 s 8  
 def **notified Aboriginal place** am SL2005-20 s 9  
 def **old interim heritage places register** am SL2005-20 s 9  
 def **relevant Aboriginal place** ins SL2005-20 s 8

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 9 Mar 2005	9 Mar 2005– 1 Sept 2005	not amended	new regulation

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