

Heritage (Consequential Provisions) Bill 2000

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Western Australia

LEGISLATIVE ASSEMBLY

Heritage (Consequential Provisions) Bill 2000

A Bill for

An Act to amend various Acts as a consequence of the enactment of the *Heritage Act 2000*.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Heritage (Consequential Provisions) Act 2000*.

5 **2. Commencement**

(1) This Act, other than sections 37, 39, 40, 41 and 42, comes into operation on the day on which the *Heritage Act 2000* comes into operation.

(2) Sections 37, 39, 40, 41 and 42 come into operation —

10 (a) on the day on which Part 3 of the *Planning Legislation Amendment Act 1999* comes into operation; or

(b) if on that day the other provisions of this Act have not yet come into operation, on the day when they come into operation.

Part 2 — Constitution Acts Amendment Act 1899

3. Schedule V amended

5 Schedule V to the *Constitution Acts Amendment Act 1899** is amended in Part 3 in the item that begins “The Heritage Council of Western Australia” by deleting “under the *Heritage of Western Australia Act 1990*” and inserting instead —

“ by the *Heritage Act 2000* ”.

[* *Reprinted as at 19 May 2000.*

10 *For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp.46-50 and Acts Nos. 2, 20, 24 and 25 of 2000.]*

Part 3 — *Government Employees Superannuation Act 1987*

4. Schedule 1 amended

5 Schedule 1 to the *Government Employees Superannuation Act 1987** is amended in Part B by inserting in the appropriate alphabetical position —

“ Heritage Council of Western Australia ”.

[* *Reprinted as at 4 August 2000.*]

**Part 4 — Local Government (Miscellaneous Provisions)
Act 1960**

5. The Act amended

5 The amendments in this Part are to the *Local Government
(Miscellaneous Provisions) Act 1960**.

[* Reprinted as at 28 July 1999.

*For subsequent amendments see 1999 Index to Legislation of
Western Australia, Table 1, pp.145-8 and Act No. 24 of 2000.]*

6. Section 374 amended

10 Section 374(6) is repealed.

7. Section 374A amended

(1) Section 374A(2a) is repealed.

15 (2) Section 374A(3) is amended by deleting “Except where the
condition was by reason of the operation of section 78(4) of the
Heritage of Western Australia Act 1990 imposed so as to be
consistent with conditions imposed under that Act in relation to
a related or similar matter that affects all or part of the same
land, any” and inserting instead —

“ Any ”.

Part 5 — Metropolitan Region Town Planning Scheme Act 1959

8. The Act amended

5 The amendments in this Part are to the *Metropolitan Region Town Planning Scheme Act 1959**.

[* Reprinted as at 4 February 2000.

For subsequent amendments see Act No. 24 of 2000.]

9. Section 6 amended

10 Section 6 is amended by deleting the definition of “Heritage Council”.

10. Section 32A amended

Section 32A(2) is repealed.

11. Section 35B amended

Section 35B(4) is repealed.

15 **12. Section 35C amended**

Section 35C(4) is repealed.

Part 6 — *Planning Appeals Act 2000*

13. The Act amended

The amendments in this Part are to the *Planning Appeals Act 2000*.

5 **14. Section 3 amended**

Section 3(1) is amended in the definition of “Heritage Council” by deleting “*Heritage of Western Australia Act 1990*” and inserting instead —

“ *Heritage Act 2000* ”.

10 **15. Section 4 amended**

Section 4(b) is amended by deleting “*Heritage of Western Australia Act 1990*” and inserting instead —

“ *Heritage Act 2000* ”.

16. Section 15 amended

15 Section 15(4) is amended by deleting “*Heritage of Western Australia Act 1990*” and inserting instead —

“ *Heritage Act 2000* ”.

17. Section 18 amended

20 Section 18(1)(e) is amended by deleting “*Heritage of Western Australia Act 1990*” and inserting instead —

“ *Heritage Act 2000* ”.

18. Section 25 amended

25 Section 25(2)(a) is amended by deleting “*Heritage of Western Australia Act 1990*” and inserting instead —

“ *Heritage Act 2000* ”.

20. Section 33 replaced

Section 33 is repealed and the following section is inserted instead —

“

- 5 **33. Referrals under *Heritage Act 2000* of orders for the payment of remitted taxes, rates or charges**
- (1) A referral under section 90(4) of the *Heritage Act 2000* is to be dealt with as if it were an appeal —
- 10 (a) by the person who is aggrieved by an order set out in a notice under section 90(3)(b)(i) of that Act; and
- (b) that the Director has set down for investigation.
- (2) If a person refers a matter in accordance with section 90(4) of the *Heritage Act 2000* the person must, in addition to the requirements of section 5(1)(c), give the Heritage Council a copy of the notice of appeal and any submissions made under section 5(1)(b)(ii) within 7 days of lodgment of the notice.
- 15
- (3) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeal Panel may —
- 20 (a) determine on the balance of probabilities whether a provision of the *Heritage Act 2000* or a heritage agreement has been contravened;
- 25 (b) determine how liability should be apportioned where land has ceased to be held or occupied by the person in whose favour the tax, rate or charge was remitted; or
- 30 (c) determine whether or not the making of the proposed order would be just in the circumstances.

”.

s. 21

21. Section 34 replaced

Section 34 is repealed and the following section is inserted instead —

“

- 5 **34. Minister’s request to extend protection orders under the *Heritage Act 2000***
- (1) A request under section 96(1) of the *Heritage Act 2000* to extend the time in which a protection order under that Act has effect is to be dealt with as if it were an
- 10 appeal —
- (a) by the Minister;
- (b) with the person who was served with the protection order as the respondent; and
- (c) that the Director has set down for investigation.
- 15 (2) When dealing with a matter under subsection (1), instead of making a determination under section 22, the Planning Appeals Panel may determine that the protection order continue to have effect —
- (a) for a period of time specified by the Panel; or
- 20 (b) until an event specified by the Panel.

”.

22. Section 35 repealed

Section 35 is repealed.

23. Section 36 repealed

25 Section 36 is repealed.

24. Section 37 amended

Section 37 is amended by deleting “36” and inserting instead —

“ 34 ”.

25. Schedule 1 amended

Schedule 1 is amended by deleting “*Heritage of Western Australia Act 1990*” and inserting instead —

“ *Heritage Act 2000* ”.

Part 7 — Public Sector Management Act 1994

26. Schedule 2 amended

Schedule 2 to the *Public Sector Management Act 1994** is amended before item 19A by inserting the following item —

5 “ 19AA. Heritage Council of Western Australia ”.

[* *Reprinted as at 9 June 2000.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp.203-4 and Acts Nos. 24 and 25 of 2000 and Gazette 11 February, 9 May, 11 August and

10 *15 September 2000.]*

Part 8 — *Strata Titles Act 1985*

27. Section 25 amended

- (1) The amendments in this Part are to the *Strata Titles Act 1985**.
- (2) Section 25(7) is repealed.
- 5 (3) Section 25(8) is repealed.

[* *Reprinted as at 1 July 1999.*

For subsequent amendments see Act No. 24 of 2000.]

Part 9 — Swan Valley Planning Act 1995

28. Section 3 amended

Section 3 of the *Swan Valley Planning Act 1995** is amended by deleting the definition of “development” and inserting instead the following definition —

“

“**development**” means the development or use of any land, including any demolition, erection, construction, alteration of or addition to any building or structure on the land and the carrying out on the land of any excavation or other works;

”.

[* Act No. 31 of 1995.

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, p.247.]

Part 10 — *Town Planning and Development Act 1928*

29. The Act amended

The amendments in this Part are to the *Town Planning and Development Act 1928**.

5 [* Reprinted as at 19 March 1999.
For subsequent amendments see 1999 Index to Legislation of
Western Australia, Table 1, pp.252-4 and Act No. 24 of 2000.]

30. Section 2 amended

- 10 (1) Section 2(1) is amended in the definition of “development” by deleting all the words after “works”.
- (2) Section 2(1) is amended by deleting the definition of “Heritage Council”.

31. Section 7 amended

- 15 (1) Section 7(6) is amended by deleting “or on any list maintained under section 46 or section 45 of the *Heritage of Western Australia Act 1990*” and inserting instead —
- “ as defined in the *Heritage Act 2000* ”.
- (2) Section 7(6) is amended by inserting after “Council” the following —
- 20 “ of Western Australia ”.

32. Section 7B amended

- (1) After section 7B(5)(a)(ii) the following is inserted —
- “ or ”.
- (2) After section 7B(5)(a)(iii) “or” is deleted.
- 25 (3) Section 7B(5)(a)(iv) is deleted.

s. 33

(4) Section 7B(6)(c) is amended by deleting “or of any Order made under Part 6, or Order in Council made under section 80, of the *Heritage of Western Australia Act 1990*”.

5 (5) Section 7B(6)(d) is amended by deleting “, or, in the case of land in relation to which the local government has referred the application to the Heritage Council and has so notified the applicant, where a period of 60 days has elapsed since that notification and the local government has failed to make its decision known,”.

10 **33. Section 12 amended**

Section 12(2) is amended by deleting “land to which the *Heritage of Western Australia Act 1990* applies” and inserting instead —

15 “ registered place or registered precinct as defined in the *Heritage Act 2000*

”.

34. Section 18C repealed

Section 18C is repealed.

20 **35. Section 20 amended**

Section 20(4) is repealed.

**Part 11 — Western Australian Planning Commission
Act 1985**

36. The Act amended

5 The amendments in this Part are to the *Western Australian
Planning Commission Act 1985*.*.

[Reprinted as at 19 February 1999.*

*For subsequent amendments see 1999 Index to Legislation of
Western Australia, Table 1, p. 274.]*

37. Section 3 amended

10 Section 3 is amended by deleting the definition of “Heritage
Council”.

38. Section 18 amended

Section 18(1b)(a) is deleted.

39. Section 24 amended

15 Section 24(1)(d) is deleted.

40. Section 25 amended

(1) Section 25(2) is repealed and the following subsection is
inserted instead —

“

20 (2) Subject to subsection (3), if the Commission does not
grant or refuse permission within a period of 60 days
after the receipt by the Commission of an application to
carry out any development referred to in this Part the
Commission shall on the expiry of that period be
25 deemed to have refused that application and the
applicant may within 60 days after that expiry appeal
against that deemed refusal under Part V of the *Town
Planning and Development Act 1928*.

”.

s. 41

- (2) After section 25(3)(a) “or” is inserted.
- (3) After section 25(3)(b) “; or” is deleted and a full stop is inserted instead.
- (4) Section 25(3)(c) is deleted.

5 **41. Section 37A amended**

Section 37A(3) is repealed.

42. Section 37B amended

Section 37B(4) is repealed.

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