



Australian Heritage Council (Consequential and Transitional Provisions) Act 2003

No. 86, 2003

**An Act to repeal and amend certain Acts as a
consequence of the enactment of the *Australian
Heritage Council Act 2003*, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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**An Act to repeal and amend certain Acts as a
consequence of the enactment of the *Australian
Heritage Council Act 2003*, and for related purposes**

[Assented to 23 September 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Heritage Council (Consequential and Transitional Provisions) Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	23 September 2003
2. Schedules 1 and 2	At the same time as Schedule 1 to the <i>Environment and Heritage Legislation Amendment Act (No. 1) 2003</i> commences	1 January 2004

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Repeals and amendments

Australian Heritage Commission Act 1975

1 The whole of the Act

Repeal the Act.

Environment Protection and Biodiversity Conservation Act 1999

2 Subsection 9(3)

Repeal the subsection.

Income Tax Assessment Act 1936

3 Paragraphs 78(8)(l) and (m)

After “*Australian Heritage Commission Act 1975*”, insert “as in force when the gift was made”.

Income Tax Assessment Act 1997

4 Section 30-15 (cell at table item 6, column headed “Type of gift or contribution”)

Repeal the cell, substitute:

A gift of a place included
in:

- (a) the National
Heritage List, or the
Commonwealth
Heritage List, under
the *Environment
Protection and
Biodiversity
Conservation Act
1999*; or
- (b) the Register of the
National Estate
under the *Australian
Heritage Council
Act 2003*.

5 Application of amendment of section 30-15

The amendment of section 30-15 of the *Income Tax Assessment Act 1997* applies to gifts made after the commencement of Divisions 1A and 3A of Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999* and Part 5 of the *Australian Heritage Council Act 2003*.

6 Subsection 995-1(1) (definition of *Heritage Secretary*)

Omit “*Australian Heritage Commission Act 1975*”, substitute
“*Environment Protection and Biodiversity Conservation Act 1999*”.

Regional Forest Agreements Act 2002

7 Subsection 6(3)

Repeal the subsection.

Resource Assessment Commission Act 1989

8 Paragraph 14(b)

Omit “the Australian Heritage Commission,”.

9 At the end of paragraph 14(b)

Add “and”.

10 After paragraph 14(b)

Insert:

- (c) the Secretary of the Department that administers the *Environment Protection and Biodiversity Conservation Act 1999*;

11 Section 31

Repeal the section, substitute:

31 Evidence on heritage values of a place

If a matter relating to heritage values of a place (within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999*) is relevant to an inquiry:

- (a) the Secretary of the Department that administers that Act; or
 - (b) an employee in that Department authorised in writing by the Secretary for the purposes of this section;
- must give evidence about the matter to the inquiry.

Telecommunications Act 1997

12 Subparagraphs 27(7)(d)(i) and (ii) of Schedule 3

Repeal the subparagraphs, substitute:

- (i) included in the National Heritage List or Commonwealth Heritage List, within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999*; or
- (ii) included in the Register of the National Estate, within the meaning of the *Australian Heritage Council Act 2003*; or

13 Subclause 28(4) of Schedule 3

Repeal the subclause.

Schedule 2—Transitional provisions

1 Meaning of *Australian Heritage Commission*

In this Schedule:

Australian Heritage Commission means the body established by section 6 of the *Australian Heritage Commission Act 1975* as in force immediately before this Schedule commences.

2 References to the Australian Heritage Commission

- (1) After this Schedule commences, a reference in an instrument to the Australian Heritage Commission is taken to be a reference to the Commonwealth.
- (2) This item does not modify any register kept by a land registration official under a law of a State or Territory.
- (3) In this item:
instrument includes a will or other testamentary instrument.

3 Assets and liabilities of the Australian Heritage Commission

- (1) When this Schedule commences, any rights, property or assets that, immediately before that time, were vested in the Australian Heritage Commission are vested in the Commonwealth.
- (2) When this Schedule commences, the Commonwealth becomes liable to pay and discharge any debts, liabilities or obligations of the Australian Heritage Commission that existed immediately before that time.

4 Registration of transfers of land

- (1) This item applies if:
 - (a) any right, title or interest in particular land vests in the Commonwealth under item 3; and
 - (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by the Minister; and

- (ii) identifies the land; and
 - (iii) states that the right, title or interest has become vested in the Commonwealth under item 3.
- (2) The land registration official may:
 - (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
 - (b) deal with, and give effect to, the certificate.
- (3) A document that appears to be a certificate under subitem (1) is to be taken to be such a certificate, and to have been properly given, unless the contrary is established.
- (4) In this item:

land registration official, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

5 Certificates concerning assets other than land

- (1) This item applies if:
 - (a) an asset other than land vests in the Commonwealth under item 3; and
 - (b) there is lodged with an assets official a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in the Commonwealth under item 3.
- (2) The assets official may:
 - (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions concerning assets of that kind; and
 - (b) make such entries in the register as are necessary having regard to the effect of this Schedule.
- (3) A document that appears to be a certificate under subitem (1) is to be taken to be such a certificate, and to have been properly given, unless the contrary is established.

(4) In this item:

assets official means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

6 Lands Acquisition Act does not apply to this Schedule

The *Lands Acquisition Act 1989* does not apply in relation to anything done under this Schedule.

7 Exemption from stamp duty and other taxes

Stamp duty or other tax is not payable under a law of a State or Territory in respect of:

- (a) the transfer of an asset or liability under this Schedule; or
- (b) anything done (including a transaction entered into or an instrument or document made, executed, lodged or given) because of such a transfer, or for a purpose connected with or arising out of such a transfer.

8 Pending proceedings

If proceedings to which the Australian Heritage Commission is a party are pending in any court immediately before this Schedule commences, the Commonwealth is substituted for the Australian Heritage Commission, when this Schedule commences, as a party to the proceedings.

9 Final report on operations of the Australian Heritage Commission

The first report under section 516 of the *Environment Protection and Biodiversity Conservation Act 1999* given after this Schedule commences must include a report on the operations of the Australian Heritage Commission during the period:

- (a) starting on the last 1 July before this Schedule commences; and
- (b) ending when this Schedule commences.

10 Regulations

(1) The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
 - (2) In particular, the regulations may prescribe arrangements to deal with any issues of a transitional nature that may arise as a result of the repeal by this Act of the *Australian Heritage Commission Act 1975*.
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[*Minister's second reading speech made in—
House of Representatives on 27 June 2002
Senate on 15 November 2002*]

(151/02)