



Western Australia

Aboriginal Heritage Act 1972

## **Aboriginal Heritage Regulations 1974**

**Reprint 2: The regulations as at 9 January 2004**

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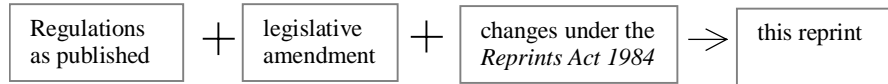
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## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original regulations and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the regulations being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

1. If the reprint includes a regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

### *Reprint numbering and date*

1. The reprint number (in the footer of each page of the document) shows how many times the regulations have been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3<sup>rd</sup> reprint since the regulations were published. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the regulations are reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

## **THE TEXT OF THE LEGISLATION FOLLOWS**



Reprinted under the  
*Reprints Act 1984* as at  
9 January 2004

Western Australia

## Aboriginal Heritage Regulations 1974

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Aboriginal Heritage Act 1972

## Aboriginal Heritage Regulations 1974

### 1. Citation

These regulations may be cited as the *Aboriginal Heritage Regulations 1974*<sup>1</sup>.

[*Regulation 1 amended in Gazette 30 Jun 1995 p. 2783.*]

### 2. Interpretation

In these regulations —

“**warden**” means an honorary warden appointed by the Minister under section 50 of the Act.

[*Regulation 2 inserted in Gazette 30 Jun 1995 p. 2783.*]

### 3. Application

These regulations —

- (a) apply in relation to any Aboriginal site or protected area or land held subject to a covenant in favour of the Minister in relation to which the Minister has a duty under the Act;

- (b) do not affect the rights of any person of Aboriginal descent who usually lives subject to Aboriginal customary law;
- (c) do not apply to any traditional custodian or member of the Aboriginal Cultural Material Committee, to the Minister, the Registrar, any officer of the Department, or to any person duly authorised under the Act, whilst lawfully acting in the performance of his duties in relation to any land or buildings to which these regulations apply.

*[Regulation 3 amended in Gazette 30 Jun 1995 p. 2783-4.]*

**4. Minister's powers**

The Minister —

- (a) may determine to what protected areas or portion of a protected area the public, or any person or class of persons specified by the Minister, shall be admitted and the conditions upon which admittance shall be allowed; and
- (b) may restrict access to any protected area, or any portion thereof, either generally or in relation to a specified person or class of persons, at any time, whether otherwise open to admission or not.

*[Regulation 4 amended in Gazette 30 Jun 1995 p. 2784.]*

**5. Minister may prohibit access to areas**

(1) The Minister may, by notice —

- (a) served personally;
- (b) erected or displayed in a prominent position on or near that land; or
- (c) published in the *Gazette*,

prohibit access to any protected area, or any portion thereof, either generally or in relation to any specified person or class of



persons, and any such prohibition may vary as to time, circumstance or otherwise as specified in the notice.

- (2) A person shall not, without the consent of the Minister or the Registrar, enter or remain on any protected area to which the public is not admitted or contrary to the conditions upon which the public is admitted, or contrary to the provisions of a notice given under subregulation (1).

Penalty: \$100.

*[Regulation 5 amended in Gazette 30 Jun 1995 p. 2784.]*

## 6. Offences

Whilst on any land to which these regulations apply a person who —

- (a) fails to obey any reasonable direction of the Minister, the Registrar, or any officer of the Department or a warden;
- (b) wilfully obstructs the Minister, the Registrar, or any officer of the Department or a warden in the execution of his duty, or fails or refuses to state his name and address when lawfully required to do so, or states a false name or address, or fails or refuses to leave that land when required to do so;
- (c) behaves in a disorderly manner, or uses violent or abusive or offensive language, or creates or takes part in any disturbance, or causes a nuisance, or wilfully disturbs or annoys any other person in the proper use of that land, or permits any animal belonging to him or under his control to enter upon or cause damage to any land; or
- (d) without the consent of the Minister or the Registrar, handles, marks, defaces, moves, disturbs, uncovers, damages, destroys, or removes any specimen, relic, artifact, inscription, arrangement, or other object or

r. 7

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exhibit in the possession or care of the Minister, or wilfully disturbs the general surrounding environment, commits an offence.

*[Regulation 6 amended in Gazette 30 Jun 1995 p. 2784.]*

**7. Approval required before plant, etc. brought onto land**

A person who, except under and in accordance with the prior approval of the Minister or the Registrar, brings on to any land to which these regulations apply any digging equipment, lifting equipment, or explosive, commits an offence.

*[Regulation 7 amended in Gazette 30 Jun 1995 p. 2785.]*

**8. Persons may be removed from land**

The Minister, the Registrar, or any officer of the Department, or a warden, with such assistants as he thinks necessary, may remove from any land to which these regulations apply —

- (a) any person behaving in a disorderly manner;
- (b) any person who appears to be intoxicated;
- (c) any person who appears to be using the land for any unlawful purpose or for a purpose contrary to the objects of the Act;
- (d) any person who has committed a breach of these regulations if it appears that his continued presence may lead to a further breach of the regulations.

*[Regulation 8 amended in Gazette 30 Jun 1995 p. 2785.]*

**9. Penalties**

A person convicted of an offence against these regulations is liable, where no penalty is expressly provided by these regulations for that offence, to the penalties provided by the Act.

**10. Activities requiring consent**

On any land to which these regulations apply, a person shall not, without the written consent of the Minister or the Registrar or a person authorised in writing by the Minister or the Registrar —

- (a) alter, damage, or destroy any notice, boundary, fence, shelter, grille, cutting, drain, protective work or other thing which the Registrar or any officer of the Department has, or has caused to be, erected, constructed, made or placed thereon or therein;
- (b) dig any hole or otherwise disturb the surface of the ground, or remove or disturb any stone, soil, sand, rock or gravel, or any other natural object;
- (c) cut, pick, pull, break, remove, take, injure, poison, strip or destroy any tree, shrub, herb, grass or other plant or part thereof whether living or dead;
- (d) post, stick, stamp, stencil, paint, draw or otherwise affix or make any mark, symbol, lettering, notice, advertisement poster, sign or document of any description;
- (e) except in a place approved or provided for the purpose —
  - (i) drive, tow, operate or park any vehicle;
  - (ii) camp, erect tents or shelters, light fires or make fireplaces;
  - (iii) deposit or leave any refuse, rubbish or litter; or
  - (iv) take, ride or drive, graze or agist any horse, cattle, sheep, goat, camel, donkey or pig, or allow any such animal to remain;
- (f) sell any food, beverage or other article;
- (g) unlock, unfasten or leave open any gate unless duly authorised to do so; or
- (h) except with the prior written approval of the Minister, or the Registrar, and in accordance with such requirements

as he may impose, take any photograph or make any recording for the purpose of commercial reproduction or publication.

Penalty: \$50.

*[Regulation 10 amended in Gazette 30 Jun 1995 p. 2785.]*

**11. Powers of warden, and certificate (section 50)**

- (1) For the purposes of section 50(1) of the Act, the powers of a warden are those set out in the Act and these regulations, limited according to the terms of his appointment.
- (2) For the purposes of section 50(2) of the Act, a warden shall be furnished with a certificate in the form of Form 1 set out in the Schedule.

*[Regulation 11 inserted in Gazette 30 Jun 1995 p. 2785.]*

**12. Authorised officer to have certificate**

An officer of the Department, authorised to administer the provisions of the Act in respect to Aboriginal sites, shall be furnished with a certificate in the form of Form 2, set out in the Schedule.

*[Regulation 12 inserted in Gazette 29 Oct 1976 p. 4178; amended in Gazette 30 Jun 1995 p. 2785.]*

**Schedule**

**Form 1**

*ABORIGINAL HERITAGE ACT 1972*

[s. 50 and reg. 12]

**HONORARY WARDEN**

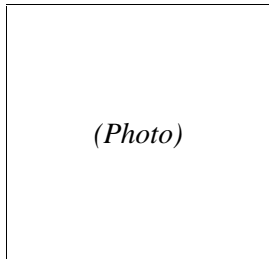
Name .....

of (Address) .....

is hereby certified to have been appointed as an honorary warden by the  
Minister in relation to —

Area in which the }  
warden is authorised }  
to act. }  
.....  
.....  
.....

The validity of this certificate expires on .....  
(Date)



*[Seal of Minister]*

.....  
Signature of warden

\_\_\_\_\_

**Schedule**

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**Form 2**<sup>2</sup>

*ABORIGINAL HERITAGE ACT 1972*

[reg. 12(b)]

**TO WHOM IT MAY CONCERN**

This is to certify that .....

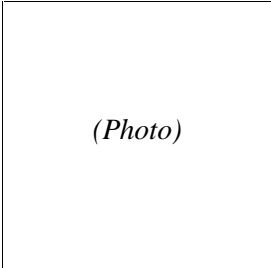
.....

is an officer of the Aboriginal Affairs Department of Western Australia, and that he/she is empowered to administer the *Aboriginal Heritage Act 1972*, and the regulations made under that Act.

.....  
Chief Executive Officer

.....  
Registrar of Aboriginal Sites

.....  
Date



Officer's signature .....

*[Schedule inserted in Gazette 30 Jun 1995 p. 2786.]*

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## Notes

- <sup>1</sup> This reprint is a compilation as at 9 January 2004 of the *Aboriginal Heritage Regulations 1974* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Aboriginal Heritage Act Regulations 1974</i> <sup>3</sup>	26 Apr 1974 p. 1407-8	26 Apr 1974
Untitled regulations	29 Oct 1976 p. 4178	29 Oct 1976
<i>Aboriginal Heritage Amendment Regulations 1995</i>	30 Jun 1995 p. 2783-6	1 Jul 1995 (see r. 2 and <i>Gazette</i> 30 Jun 1995 p. 2781)
<b>Reprint of the <i>Aboriginal Heritage Regulations 1974</i> as at 2 Oct 1996</b> (includes amendments listed above)		
<b>Reprint 2: The <i>Aboriginal Heritage Regulations 1974</i> as at 9 Jan 2004</b> (includes amendments listed above)		

- <sup>2</sup> Under the *Alteration of Statutory Designations Order (No. 3) 2001* a reference in any law to the Aboriginal Affairs Department is to be read and construed as a reference to the Department of Indigenous Affairs.
- <sup>3</sup> Now known as the *Aboriginal Heritage Regulations 1974*; citation changed (see note under r. 1).