

Notes

¹ This is a compilation of the *Aboriginal Heritage Act 1972* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Aboriginal Heritage Act 1972</i>	53 of 1972	2 Oct 1972	15 Dec 1972 (see s. 2 and <i>Gazette</i> 15 Dec 1972 p. 4681)	
<i>Aboriginal Heritage Amendment Act (No. 2) 1980</i>	8 of 1980	23 Sep 1980	23 Sep 1980	
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3	98 of 1985 (as amended by No. 4 of 1986, section 3)	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)	S. 4: savings and transitional
<i>Acts Amendment (Land Administration) Act 1987</i> Pt. XIV	126 of 1987	31 Dec 1987	16 Sep 1988 (see s. 2 and <i>Gazette</i> 16 Sep 1988 p. 3637)	
<i>Guardianship and Administration Act 1990</i> s. 123	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)	
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(1)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)	
<i>Aboriginal Heritage Amendment Act 1995</i>	24 of 1995	30 Jun 1995	1 Jul 1995 (see s. 2 and <i>Gazette</i> 30 Jun 1995 p. 2781)	S. 19(2), (3) and (4): validation and savings ² ; s. 51(2) and (3): transitional ³
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 3 and s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 3 and s. 141	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)	
<i>Gas Corporation (Business Disposal) Act 1999</i> s. 39	58 of 1999	24 Dec 1999	24 Dec 1999 (see s. 2(1))	
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 35	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)	
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 1 ⁵	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)	

1a On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 ⁴	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 & 82 ⁶	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

N.B. The *Aboriginal Heritage Act 1972* is affected by the *Aboriginal Heritage (Marandoo) Act 1992* (No. 2 of 1992), section 3.

The *Aboriginal Heritage Act 1972* is affected by the *Dampier to Bunbury Pipeline Act 1997* (No. 53 of 1997), Division 2 of Schedule 4 which reads as follows —

“

8. Persons who are to be included as owners

A person who —

- (a) is the holder of rights conferred under section 34 of this Act in respect of land or is the holder's nominee approved under section 34(3) of this Act; or
- (b) has authority under section 7 of the *Petroleum Pipelines Act 1969* to enter upon land,

is included as a person who is an owner of the land for the purposes of section 18 of the *Aboriginal Heritage Act 1972*.

”

2

Section 19(2), (3) and (4) of the *Aboriginal Heritage Amendment Act 1995* (No. 24 of 1995) reads as follows —

“

- (2) Subject to subsection (3), the performance or purported performance and exercise or purported exercise, during the period beginning on the commencement of the principal Act and ending on the day before the day that this Act comes into operation, by the Committee of the duties imposed and powers conferred by section 18 of the principal Act on the Trustees shall be deemed to have been lawful and valid.
- (3) Subsection (2) does not apply to or in relation to legal proceedings instituted before 1 July 1990 in respect to the performance or purported performance of duties, or the exercise or purported exercise of powers, referred to in that subsection.
- (4) In this section, “**Trustees**” has the meaning given to it by the principal Act before its amendment by this Act.

”

3

Section 51(2) and (3) of the *Aboriginal Heritage Amendment Act 1995* (No. 24 of 1995) reads as follows —

“

- (2) After the commencement of the *Aboriginal Heritage Amendment Act 1995*, moneys standing to the credit of the Aboriginal Material Preservation Fund shall be transferred to an account forming part of the Trust Fund referred to in section 9 of the *Financial Administration and Audit Act 1985* established by the Treasurer and to be administered by the Department for the purposes of the protection of Aboriginal heritage.
- (3) On the commencement of the *Aboriginal Heritage Amendment Act 1995* the Trustees (as the accountable authority within the meaning in the *Financial Administration and Audit Act 1985*) are to report in respect of the Aboriginal Material Preservation Fund, as opened and kept under Part VIII of the principal Act prior to its amendment by this Act, as required by section 66 of that Act, for the period from the preceding 1 July to the time of the commencement, and Division 14 of Part II of the *Financial Administration and Audit Act 1985* applies as if that period were a full financial year.

”

4

On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

142. Other amendments to various Acts

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”

Schedule 2 cl. 1 reads as follows:

“

Schedule 2 — Other amendments to Acts

1. Aboriginal Heritage Act 1972

s. 43(3)	Delete “Local Court at Perth” and insert instead — “ Magistrates Court ”.
s. 43(4)	Delete “Local Court” in the 2 places where it occurs and in each place insert instead — “ Magistrates Court ”.
s. 43(5)	Delete “Local Court” in the 2 places where it occurs and in each place insert instead — “ Magistrates Court ”.
s. 43(6)	Delete “Local Court” in the 3 places where it occurs and in each place insert instead — “ Magistrates Court ”.
s. 44	Delete “Local Court” and insert instead — “ Magistrates Court ”.
s. 46(3)	Delete “Local Court held nearest to the place where the object is then located, or, at his option, to the Local Court at Perth,” and insert instead — “ Magistrates Court ”.
s. 46(4)	Delete “Local Court” and insert instead — “ Magistrates Court ”.
s. 47(2)	Delete “Local Court” and insert instead — “ Magistrates Court ”.

”

5 The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administration Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

6 On the date as at which this compilation was prepared, the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* s. 80, which gives effect to Sch. 2, and s. 82 had not come into operation. They read as follows:

“

80. Various Acts amended (Sch 2)

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”

Schedule 2 cl. 3 reads as follows:

“

Schedule 2 — Amendments to change terminology

[s. 80]

3. *Aboriginal Heritage Act 1972*

s. 53	Delete “complaint preferred by the Minister” and insert instead — “ charge ”.
s. 60(3)	Delete “complaint” and insert instead — “ charge ”.

”.

“

82. **References to “defendant” changed to “accused”**

Each provision listed in Table 2, 3 or 4 to this section is amended by deleting any expression listed in Table 1 column 1 in each place it occurs (whether in ordinary type, italics, bold or capitals) and in each place inserting instead (in corresponding type) the expression opposite the deleted expression in Table 1 column 2.

Table 1

Delete	Insert instead
A defendant	An accused
a defendant	an accused
a defendant’s	an accused’s
defendant	accused
defendants	accused
Defendants’	Accused’s
Defendants	Accused
the defendant	the accused
the defendant’s	the accused’s

Table 2 — Various provisions

<i>Aboriginal Heritage Act 1972</i>	s. 60(2)
-------------------------------------	----------

”.