

43. Restrictions on dealing with Aboriginal cultural material

- (1) A person shall not —
 - (a) sell, exchange or otherwise dispose of;
 - (b) take, or cause or permit to be taken, out of the State; or
 - (c) wilfully damage, destroy, or conceal,
any object that is classified as Aboriginal cultural material unless —
 - (d) he is a person of Aboriginal descent acting in a manner sanctioned by relevant Aboriginal custom; or
 - (e) he has first, in writing, offered that object for sale to the Minister, and has been advised, in writing, by the Minister that he does not wish to purchase it; or
 - (f) the object has previously been offered for sale to the Minister pursuant to this subsection, and when it was so offered the Minister advised that he did not wish to purchase it; or
 - (g) he is expressly authorised by the Minister so to do.
- (2) Where an object that is classified as Aboriginal cultural material is offered for sale to the Minister, the Minister may accept the offer and so purchase the object or may, subject to subsection (3), decline the offer, in which event he shall as soon as practicable, in writing, advise the person by whom it was offered to the Minister that he does not wish to purchase it.
- (3) Where the Minister is of the opinion that the price at which an object of Aboriginal cultural material has been offered to him for the purposes of subsection (1) is excessive, the Minister may apply to the Local Court at Perth which may determine a reasonable price for the object.
- (4) Where the Local Court, in determining a reasonable price for an object pursuant to subsection (3), determines a price which is greater than the price at which it was offered for sale to the Minister, the person by whom the object was offered for sale to the Minister shall be deemed for all purposes to have offered the object for sale to the Minister at the price so determined, and within 14 days of the determination by the Local Court the Minister shall —
 - (a) accept the offer so deemed to have been made by the person and so purchase the object; or
 - (b) decline to purchase the object, in which event the Minister shall as soon as practicable, in writing, advise the person that the Minister does not wish to purchase it.
- (5) Where the Local Court, in determining the reasonable price for an object pursuant to subsection (3), determines a price which is less than the price at which it was offered for sale to the Minister, the person by whom the object was offered for sale to the Minister shall not, for the purpose of subsection (1), be deemed to have offered the object for sale to the Minister until he offers the object for sale to the Minister at the price determined by the Local Court.
- (6) Every application made to the Local Court pursuant to this section shall be made and dealt with as prescribed by the rules of Court, or in the absence of

those rules, as the Court determines, and the costs of making and hearing such an application shall be borne —

- (a) by the person who offered the object for sale to the Minister where —
 - (i) the price determined by the Local Court for the object was less than the price at which the person offered the object for sale to the Minister; and
 - (ii) the person fails, within one month of the determination of the price by the Local Court, to offer the object for sale to the Minister at the price so determined;

or

- (b) in any other case, by the Minister.

(7) A person who contravenes the provisions of this section commits an offence.

[Section 43 amended by No. 24 of 1995 s. 37.]