

## OFFICE OF TRADITIONAL USAGE

OF301

## LAND (TITLES AND TRADITIONAL USAGE) ACT 1993

## LAND (TITLES AND TRADITIONAL USAGE) REGULATIONS 1993

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Land (Titles and Traditional Usage) Regulations 1993*.

**Definitions**

2. In these regulations —

“**Commissioner**” means the Commissioner for Aboriginal Planning referred to in section 10 of the *Aboriginal Affairs Planning Authority Act 1972*;

“**declaration**” means a declaration under section 10, 11, 12 (2) or 34 (1) of the Act;

“**general newspaper**” means a newspaper circulating generally in Western Australia.

**How the Minister gives notice under section 26**

3. (1) This regulation applies when the Minister proposes to issue a notice under section 26 of the Act (“**the notice**”) extinguishing or suspending rights of traditional usage (“**the affected rights**”).

(2) If the affected rights are the subject of a declaration the Minister is to give the notice, in writing, to the Aboriginal group whose members are identified in the declaration as being entitled to exercise the affected rights.

(3) If the affected rights are not the subject of a declaration —

(a) the Minister is to give the notice, in writing, to any Aboriginal group whose members may, in the opinion of the Commissioner, be entitled to exercise the affected rights; or

(b) if the Commissioner is unable to identify such an Aboriginal group, the Minister is to publish the notice in the *Gazette*.

(4) The Minister is to cause a copy of the notice to be published, for public information —

(a) in the *Gazette* and in a general newspaper, if the notice was given under subregulation (2) or (3) (a); or

(b) in a general newspaper, if the notice was published under subregulation (3) (b).

(5) The notice has effect from —

(a) the day on which it is given under subregulation (2) or (3) (a) or published under subregulation (3) (b); or

(b) such later day as is specified in the notice.

(6) Section 43 (1) of the Act applies if the notice is given under subregulation (2) or (3) (a).

**Details that have to be set out in compensation claims**

4. (1) A compensation claim under section 28 of the Act has to contain the information required by section 31 (2) of the Act and has to include particulars of —

- (a) the nature of the rights claimed to have existed under native title in relation to the land about which the claim is made; and
- (b) the historical and continuing use, occupation and connection of the claimants' group with the land about which the claim is made; and
- (c) the other Aboriginal groups (if any) that were entitled, or that may have been entitled, to exercise similar or other rights under native title in relation to the land about which the claim is made, or any part of it; and
- (d) the times or periods at or during which the rights referred to in paragraph (a) were exercised; and
- (e) the way in which the entitlement to exercise the rights referred to in paragraph (a) is said to have been lost or interfered with; and
- (f) any other form of compensation that the Crown or any other person has already provided, or arranged to provide, for the extinguishment or impairment of the rights referred to in paragraph (a); and
- (g) any other matters or information that the claimants believe to be relevant to the claim.

(2) A compensation claim under section 29 of the Act has to contain the information required by section 31 (2) of the Act and has to include particulars of —

- (a) the nature of the rights of traditional usage claimed to have existed in relation to the land about which the claim is made; and
- (b) the historical and continuing use, occupation and connection of the claimants' group with the land about which the claim is made; and
- (c) the other Aboriginal groups (if any) that were or are entitled, or that may have been or may be entitled, to exercise similar or other rights of traditional usage in relation to the land about which the claim is made, or any part of it; and
- (d) the times or periods at or during which the rights referred to in paragraph (a) were or are able to be exercised; and
- (e) the way in which the entitlement to exercise the rights referred to in paragraph (a) is said to have been lost or interfered with; and
- (f) any other form of compensation that the Crown or any other person has already provided, or arranged to provide, for the extinguishment, suspension or impairment of the rights referred to in paragraph (a); and
- (g) any other matters or information that the claimants believe to be relevant to the claim.

(3) A compensation claim has to state an address at which, or method by which, documents and information about the claim can be given to the people who are to represent the claimants in accordance with section 43 (3) of the Act.

**Minister has to give notice of, and advertise, compensation claims**

5. (1) As soon as reasonably practicable after the Minister receives a compensation claim the Minister is to cause —

- (a) a copy of the claim to be recorded in the register of declarations and claims; and

- (b) notice in writing of the claim to be given to each Aboriginal group (if any) referred to in regulation 4 (1) (c) or (2) (c); and
- (c) notice of the claim to be published in a general newspaper.

(2) The Minister may also publish notice of the claim in any other newspaper circulating in the region where the land about which the claim is made is situated.

(3) A notice given or published under this regulation has to include a statement to the effect that submissions or objections may be given to the Minister within 42 days after the date of the giving or publication of the notice.

(4) If the Minister considers that notice in writing of the compensation claim should be given to any person or class of persons (in addition to notices under subregulations (1) and (2)), the Minister is to cause notice to be given accordingly.

### **How submissions and objections are made about compensation claims**

**6.** (1) If a compensation claim has been submitted to the Minister, an interested person may make a submission or objection in relation to the claim.

(2) A submission or objection has to be in writing and may be given to the Minister within 42 days after the latest day on which a copy of the notice of the compensation claim was given or published under regulation 5 but the Minister may, if he or she thinks fit, accept an objection or submission after the expiration of that period.

(3) A submission has to include —

- (a) the name of the person making the submission; and
- (b) the matters relating to the compensation claim, or to the extinguished or impaired native title or extinguished, suspended or impaired rights of traditional usage, that the person wishes to be considered in the settling or determination of the claim.

(4) An objection has to include —

- (a) the name of the objector; and
- (b) particulars of the grounds on which the objector objects to the claim and the matters the objector wishes to be considered in opposition to the claim; and
- (c) an address at which, or method by which, documents or information about the claim can be given to the objector.

(5) The Minister is to cause copies of a submission or objection under this section to be —

- (a) recorded in the register of declarations and claims; and
- (b) given to the claimant,

as soon as practicable after the submission or objection is given to the Minister.

### **Notice to objector of agreement under section 33**

**7.** (1) The notice required to be given by the Minister to an objector under section 33 (3) of the Act is to be given to the objector in writing within 14 days after the agreement is entered into.

(2) The notice is to include —

- (a) a copy of the agreement; and
- (b) the names and addresses of the parties to the agreement.

(3) Within 28 days after receiving a notice under section 33 (3) of the Act an objector may object to the agreement by a notice of objection, in writing, to the Minister.

(4) An objection under subregulation (3) has to include —

- (a) the name of the objector; and
- (b) particulars of the grounds on which the objector objects to the agreement and the matters the objector wishes to be considered in opposition to the agreement.

(5) The objector has to give a copy of the objection to each of the other parties to the agreement.

By His Excellency's Command,

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D. G. BLIGHT, Clerk of the Council.