

**HERITAGE ACT, 1977**

**New South Wales**



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 136, 1977.**

An Act to conserve the environmental heritage of the State.  
[Assented to, 21st December, 1977.]

**BE**

---

*Heritage.*

---

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title.      1. This Act may be cited as the "Heritage Act, 1977".

Commence-      2. (1) Section 1 and this section shall commence on the  
ment.            date of assent to this Act.

(2) Except as provided in subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division      3. This Act is divided as follows :—  
of Act.

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—THE HERITAGE COUNCIL OF NEW SOUTH WALES—*ss.* 6–23.

DIVISION 1.—*Constitution of the Heritage Council*—*ss.* 6–20.

DIVISION 2.—*Functions of the Heritage Council*—*ss.* 21–23.

PART III.—INTERIM CONSERVATION ORDERS AND PERMANENT CONSERVATION ORDERS—*ss.* 24–55.

DIVISION 1.—*Interim Conservation Orders*—*ss.* 24–35.

DIVISION

---

*Heritage.*

---

DIVISION 2.—*Permanent Conservation Orders*—ss. 36–55.

PART IV.—CONTROLS IMPOSED BY INTERIM CONSERVATION ORDERS AND PERMANENT CONSERVATION ORDERS—ss. 56–79.

DIVISION 1.—*Preliminary*—s. 56.

DIVISION 2.—*Controlled Activities*—s. 57.

DIVISION 3.—*Applications for Approval*—ss. 58–69.

*Subdivision 1.—Applications generally*—ss. 58–65.

*Subdivision 2.—Prescribed local government applications*—ss. 66–69.

DIVISION 4.—*Appeals*—ss. 70–79.

*Subdivision 1.—Appeals in respect of applications other than prescribed local government applications*—ss. 70–74.

*Subdivision 2.—Appeals in respect of prescribed local government applications*—ss. 75–79.

PART V.—CONSERVATION SCHEMES—ss. 80–100.

DIVISION 1.—*Preliminary*—s. 80.

DIVISION 2.—*Nature of Conservation Schemes*—ss. 81–84.

DIVISION 3.—*Preparation and Making of Conservation Schemes*—ss. 85–98.

DIVISION 4.—*Appeals*—s. 99.

DIVISION 5.—*Amendment and Revocation of Conservation Schemes*—s. 100.

PART VI.—OTHER MEASURES FOR THE CONSERVATION OF THE ENVIRONMENTAL HERITAGE—ss. 101–146.

DIVISION

---

*Heritage.*

---

DIVISION 1.—*Preliminary*—ss. 101, 102.

DIVISION 2.—*Finance*—ss. 103–111.

DIVISION 3.—*Acquisition and Disposal of Property*—  
ss. 112–116.

DIVISION 4.—*Offence of Demolition by Wilful Neglect*  
—s. 117.

DIVISION 5.—*Orders for the Carrying Out of Repairs*  
—ss. 118–122.

DIVISION 6.—*Rating and Taxing*—ss. 123–128.

DIVISION 7.—*Curtailment or Modification of Laws  
Affecting the Environmental Heritage*—s. 129.

DIVISION 8.—*Controlling and Restricting Demolition  
of Buildings and Works not subject to Conserva-  
tion Instruments*—ss. 130–137.

DIVISION 9.—*Protection of Relics not subject to Con-  
servation Instruments*—ss. 138–146.

PART VII.—IMPLEMENTATION AND ENFORCEMENT—  
ss. 147–165.

DIVISION 1.—*General*—ss. 147–151.

DIVISION 2.—*Orders of the Supreme Court*—ss. 152–  
155.

DIVISION 3.—*Offences*—ss. 156–164.

DIVISION 4.—*Regulations*—s. 165.

PART VIII.—MISCELLANEOUS—ss. 166–169.

SCHEDULE.

---

*Heritage.*

---

4. (1) In this Act, except in so far as the context or Interpretation. subject-matter otherwise indicates or requires—

“approval” includes an authority or a consent or permission;

“area” has the meaning ascribed thereto in the Local Government Act, 1919;

“building” includes a part of a building, a structure or a part of a structure;

“Commission” means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;

“consent authority”, in relation to any act, matter or thing specified in or of a kind specified in the Local Government Act, 1919, any instrument made under that Act, the Local Government (Regulation of Flats) Act, 1955, or the Strata Titles Act, 1973, means—

- (a) the person or body with whose approval that act, matter or thing may be done or without whose approval that act, matter or thing may not be done; or
- (b) where an appeal, objection or reference is remitted to the Tribunal by the Minister pursuant to section 77 (1) (b)—the Tribunal;

“conservation” includes preservation, protection, maintenance, restoration and enhancement;

“conservation instrument” means an interim conservation order, a permanent conservation order or a conservation scheme;

“conservation

---

*Heritage.*

---

“conservation scheme” means a conservation scheme made by the Minister under section 93 that is in force;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“development”, in relation to land, means—

- (a) the erection of a building on that land;
- (b) the carrying out of a work in, on, over or under that land;
- (c) a change of the purpose for which that land or any building on or work in, on, over or under that land is used; or
- (d) the subdivision of that land;

“environmental heritage” means those buildings, works, relics or places of historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance for the State;

“functions” includes powers, authorities and duties;

“Heritage Council” means the Heritage Council of New South Wales constituted under this Act;

“heritage precinct” means a precinct for the time being designated as a heritage precinct in an interim conservation order;

“interim conservation order” means an order made under section 26 (1) that is in force;

“owner” has the meaning ascribed thereto in the Local Government Act, 1919;

“permanent conservation order” means an order made under section 44 (1) that is in force;

“place”

---

*Heritage.*

---

“place” means an area of land, with or without improvements;

“precinct” means—

- (a) an area;
- (b) a part of an area; or
- (c) any other part of the State,

containing buildings, works, relics or places, the majority of which are items of the environmental heritage;

“regulations” means the regulations made under this Act;

“relic” means any deposit, object or material evidence relating to the settlement prior to 1st January, 1900, or such other date as may be prescribed of the area that comprises New South Wales, not being aboriginal settlement;

“Supreme Court” means the Supreme Court of New South Wales;

“Tribunal” means the Local Government Appeals Tribunal constituted under Part XII B of the Local Government Act, 1919;

“Valuer-General” means the valuer-general appointed under the Valuation of Land Act, 1916.

(2) A reference in this Act to an item of the environmental heritage is a reference to a building, work, relic or place that comprises part of the environmental heritage.

(3) A reference in this Act to the exercise of a function includes, where that function is a duty, the performance of that duty.

(4)

---

*Heritage.*

---

(4) Where functions are conferred or imposed by or under this Act on a council, those functions may be exercised in respect of an area by the council of that area.

(5) A reference in this Act to—

- (a) the erection of a building includes a reference to the rebuilding, enlargement or extension of a building or the placing or relocating of a building on land;
- (b) the alteration of a building or work is a reference to the making of changes to the internal or external fabric or appearance of that building or work whether or not involving—
  - (i) the carrying out of structural work; or
  - (ii) the repair or renovation, or the painting, plastering or other decoration, of that building or work;
- (c) the carrying out of a work includes a reference to the rebuilding, enlargement or extension of a work;
- (d) the subdivision of land is a reference to—
  - (i) the subdivision of land within the meaning of the Local Government Act, 1919;
  - (ii) any other division of land into two or more parts which, after the division, would be obviously adapted for separate occupation; or
  - (iii) the redivision of land, by such a subdivision or by any other division, into different parts which, after the redivision, would be obviously adapted for separate occupation,and includes a reference to a subdivision effected under Division 1 of Part II of the Strata Titles Act, 1973; and

(e)



---

*Heritage.*

---

(e) the demolition of a building or work is a reference to the damaging, defacing, destruction, pulling down or removal of that building or work, in whole or in part.

(6) A reference in this Act to a prescribed form includes a reference to a form that is to the effect of that prescribed form.

5. This Act binds the Crown not only in right of New Act South Wales but also, as far as the legislative power of binds Parliament permits, the Crown in all its other capacities. Crown.

---

PART II.

THE HERITAGE COUNCIL OF NEW SOUTH WALES.

DIVISION 1.—*Constitution of the Heritage Council.*

6. In this Division—

“appointed member” means a member appointed by the Minister under section 8 (2);

Interpreta-  
tion:  
Pt. II,  
Div. 1.

“Chairman” means the person appointed under section 8 (2) (a) as the Chairman of the Heritage Council;

“member” means a member of the Heritage Council and includes, where an alternate member is acting during the absence or illness of an appointed member, that alternate member.

---

*Heritage.*

---

The  
Council.

7. There is hereby constituted a Heritage Council of New South Wales.

Members  
of the  
Heritage  
Council.

8. (1) The Heritage Council shall consist of 11 members.

(2) Nine of the members shall be appointed by the Minister and shall be—

- (a) a person who shall, in and by the instrument of his appointment, be appointed as the Chairman of the Heritage Council;
- (b) a person appointed from a panel of 5 persons nominated by The National Trust of Australia (New South Wales);
- (c) a person appointed from a panel of 5 persons nominated by the Royal Australian Historical Society;
- (d) a person nominated by the Commission who shall be a person who for the time being holds the office of commissioner of the Commission or is an officer of the Public Service employed in the administration of the New South Wales Planning and Environment Commission Act, 1974;
- (e) a person appointed from a panel of 5 persons nominated jointly by the Council of the Royal Australian Institute of Architects (New South Wales Chapter) and the Royal Australian Planning Institute (New South Wales Division);
- (f) a person nominated by the Minister for Local Government who shall be a person who, in the opinion of that Minister, is a representative of local government;

(g)

---

*Heritage.*

---

- (g) a person appointed from a panel of 5 persons nominated by the Labor Council of New South Wales;
- (h) a person who, in the opinion of the Minister, possesses suitable qualifications relating to the conservation of the environmental heritage; and
- (i) a person who, in the opinion of the Minister, possesses suitable qualifications relating to the property rights of citizens.

(3) Where, for the purposes of subsection (2) (b)–(g), a nomination of a person for appointment as a member or a panel of such persons is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any person to be a member instead of the person required to be appointed on that nomination or from that panel, as the case may be.

(4) The other 2 members shall be—

- (a) the person who for the time being holds the office of Government Architect; and
- (b) the person who for the time being holds the office of Director of National Parks and Wildlife.

(5) The Government Architect may appoint an architect employed in the Government Architect's Branch of the Department of Public Works as a deputy to act on his behalf at any meeting of the Heritage Council which he is unable to attend and the deputy so appointed shall be entitled to act accordingly.

(6) The Director of National Parks and Wildlife may appoint an officer of the National Parks and Wildlife Service as a deputy to act on his behalf at any meeting of the Heritage Council which he is unable to attend and the deputy so appointed shall be entitled to act accordingly.

9. An appointed member shall, subject to this Part, hold office for a period of 3 years and shall, if otherwise qualified, be eligible for reappointment as a member.

10.

---

*Heritage.*

---

Removal  
from  
office.

**10.** The Minister may for any cause which to him seems sufficient remove from office any appointed member.

Vacation  
of office.

**11.** An appointed member shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister and the Minister accepts his resignation;
- (c) is absent from 4 consecutive ordinary meetings of the Heritage Council of which reasonable notice has been given to him, unless with leave granted to him by the Heritage Council;
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (f) is convicted in New South Wales of a felony or a misdemeanour punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;

(g)

---

*Heritage.*

---

- (g) being the member appointed under section 8 (2) (d), ceases to hold the qualification by virtue of which he was nominated for appointment; or
- (h) is removed from office by the Minister.

**12.** On the occurrence of a vacancy in the office of an appointed member, otherwise than by the expiration of the term for which he was appointed, the Minister may appoint a person to hold that office for the balance of his predecessor's term of office, being a person qualified or nominated under section 8 (2) in the same manner, if any, as that predecessor.

Filling  
of casual  
vacancy.

**13.** (1) The Minister may at any time appoint, as an alternate member to act during the absence or illness of an appointed member, a person qualified or nominated under section 8 (2) in the same manner, if any, as the person for whom he is the alternate member.

Alternate  
members.

(2) An alternate member, other than an alternate member for the Chairman, shall have and may exercise, while acting as a member of the Heritage Council, the functions, as such a member, of the person for whom he is the alternate member.

(3) An alternate member for the Chairman, unless he is nominated by the Chairman as referred to in section 15 (1), shall have and may exercise, while acting as a member of the Heritage Council, the functions, as such a member, of a member of the Heritage Council other than the Chairman.

**14.** The Chairman shall preside at all meetings of the Chairman. Heritage Council at which he is present.

**15.**

---

*Heritage.*

---

Absence of  
Chairman.

**15.** (1) In the absence of the Chairman at any meeting of the Heritage Council, a member nominated by the Chairman or the alternate member for the Chairman, if so nominated, shall preside as chairman at that meeting.

(2) Where both the Chairman and any member nominated by the Chairman are absent from any meeting of the Heritage Council or where no member has been nominated to preside at that meeting, the members present shall appoint one of their number to preside at that meeting.

Chairman's  
vote.

**16.** The Chairman or member presiding at a meeting of the Heritage Council shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Quorum.

**17.** (1) Six members shall form a quorum at any meeting of the Heritage Council and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Council.

(2) Questions arising at a meeting of the Heritage Council shall be determined by a majority of votes of the members present and voting.

Procedure.

**18.** The procedure for the calling of meetings of the Heritage Council and for the conduct of business at those meetings shall, subject to this Part and any regulations made in relation thereto, be as determined by the Council.

---

*Heritage.*

---

**19.** (1) The Heritage Council shall cause minutes of the proceedings and decisions at each meeting of the Council to be kept and shall furnish the Minister with a copy of those minutes as soon as practicable after each meeting. Minutes of meetings.

(2) A copy of those minutes which have been furnished to the Minister in accordance with subsection (1) shall be available for public inspection without charge at the office of the Heritage Council during ordinary office hours.

**20.** Each member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him. Remuneration.

*DIVISION 2.—Functions of the Heritage Council.*

**21.** The functions of the Heritage Council are—

- Functions of the Heritage Council.
- (a) to make recommendations to the Minister for or with respect to the exercise by him of any functions conferred or imposed on him by or under this Act or the regulations;
  - (b) to make recommendations to the Minister relating to the taking of measures for or with respect to—
    - (i) the conservation of;
    - (ii) the exhibition or display of;
    - (iii) the provision of access to; **and**
    - (iv) the publication of information concerning, items of the environmental heritage;
  - (c) to carry out investigations, research and inquiries relating to the matters referred to in paragraph (b);

(d)

---

*Heritage.*

---

- (d) to arrange and co-ordinate consultations, discussions, seminars and conferences relating to the matters referred to in paragraph (b); and
- (e) to exercise such other functions as are conferred or imposed on it by or under this or any other Act or the regulations.

**Register.**      **22.** (1) The Heritage Council shall keep a register of buildings, works, relics and places which are and land (other than those places) which is subject to conservation instruments, orders made under this Act and notices served under this Act.

(2) The register shall be available for public inspection without charge at the office of the Heritage Council during ordinary office hours.

**Annual report.**      **23.** (1) As soon as practicable after 30th June in each year, the Heritage Council shall prepare and present to the Minister a report on its operations and activities during the year ending on that day.

(2) The report shall, in respect of the year for which it is prepared, include—

- (a) a summary of all recommendations made by the Heritage Council to the Minister during that year;
- (b) in the case of—
  - (i) the first report—a copy of the register kept under section 22 (1); and
  - (ii) each subsequent report—particulars of all additions to, deletions from and other amendments of, that register during that year; and

(c)



---

*Heritage.*

---

- (c) particulars of such financial assistance as is provided under Division 2 of Part VI during that year.

(3) The Minister shall lay the report, or cause it to be laid, before both Houses of Parliament as soon as practicable after its receipt by him.

---

PART III.

INTERIM CONSERVATION ORDERS AND PERMANENT  
CONSERVATION ORDERS.

DIVISION 1.—*Interim Conservation Orders.*

24. The Heritage Council may recommend to the Minister the making of an interim conservation order in respect of—

Recommendation to make interim conservation order.

- (a) an item of the environmental heritage; or
- (b) a precinct,

the conservation of which it considers may be found, on further inquiry and investigation, to be so necessary as to warrant the making of a permanent conservation order or a conservation scheme with respect to that item or a conservation scheme with respect to that precinct.

---

*Heritage.*

---

Request by  
Minister  
for recom-  
mendation  
to make  
interim  
conservation  
order.

**25.** (1) The Minister may request the Heritage Council to furnish to him, within such period as is specified in the request, a recommendation with respect to the making of an interim conservation order in respect of—

(a) an item of the environmental heritage; or

(b) a precinct,

specified or described in that request.

(2) The Heritage Council shall comply with the Minister's request.

Interim  
conservation  
orders.

**26.** (1) The Minister may—

(a) after consideration of a recommendation made under section 24; or

(b) in respect of a request for a recommendation made under section 25 (1), after—

(i) consideration of the recommendation made in compliance with that request; or

(ii) where no recommendation is made within the period specified in that request, the expiration of that period,

make an order, designated in the order as an interim conservation order, in respect of—

(c) an item of the environmental heritage; or

(d) a precinct,

specified or described in the order.

(2)

---

*Heritage.*

---

(2) An interim conservation order made in respect of an item of the environmental heritage may be expressed to apply, and, if so expressed, shall apply, to—

(a) where that item is a building—the curtilage of that building or the site of that building, being the curtilage or site specified or described in the order;  
**or**

(b) where that item is a work or relic—the site specified or described in the order of that work or relic.

(3) Where an interim conservation order is made in respect of a precinct, that precinct shall be designated in the order as a heritage precinct.

**27.** (1) An interim conservation order shall take effect on and from the date of publication of that order in the Gazette. Publication of interim conservation orders in Gazette.

(2) For the purposes of subsection (1), an interim conservation order shall be deemed to have been published in the Gazette notwithstanding that any map or plan referred to in the order is not so published.

**28.** The Minister is not required, before making an interim conservation order, to notify any person who will be affected by that order of his intention to make that order. No notice required of intention to make interim conservation orders.

**29.**

---

*Heritage.*

---

Notice of making of interim conservation orders.

**29.** (1) The Minister shall cause notice of an interim conservation order to be given, as soon as practicable after the date of publication of that order in the Gazette, to—

- (a) each person who appears to him to be an owner or occupier of land on which a building, work or relic which is subject to the order is situated or that comprises a place or is land (other than such a place) which is subject to the order;
- (b) the council of the area, if any, in which a building, work, relic or place which is subject to the order is situated;
- (c) the Heritage Council;
- (d) the Commission; and
- (e) any prescribed person.

(2) A notice given to a person referred to in subsection (1) (a) shall include a statement as to the effect of the interim conservation order.

(3) An interim conservation order shall not be rendered invalid by reason of—

- (a) the failure to give notice of that order under subsection (1);
- (b) the failure to include in that notice the statement referred to in subsection (2); or
- (c) an error in or omission from the statement referred to in subsection (2).

---

*Heritage.*

---

**30.** (1) Subject to subsection (2) and section 34, an interim conservation order shall remain in force for a period of 2 years after the date on which that interim conservation order took effect.

Duration  
of  
interim  
conserva-  
tion  
orders.

(2) An interim conservation order ceases to apply in respect of—

- (a) an item of the environmental heritage if a permanent conservation order is made in respect of that item;
- (b) an item of the environmental heritage or a heritage precinct if a conservation scheme takes effect in respect of—
  - (i) the land on which that item is situated or, where that item is a place, the land that comprises that place; or
  - (ii) the land within that heritage precinct; or
- (c) an item of the environmental heritage being a building or work if the Heritage Council approves the demolition of the whole of that building or work.

**31.** As soon as practicable after the making of an interim conservation order with respect to an item of the environmental heritage or a heritage precinct, the Heritage Council shall carry out such inquiry and investigation as will enable it to determine whether or not the conservation of that item or precinct is so necessary as to warrant the making of a permanent conservation order or a conservation scheme with respect to that item or a conservation scheme with respect to that precinct.

Inquiry,  
etc., by  
Heritage  
Council.

---

*Heritage.*

---

**Recommendation to revoke interim conservation order.**

**32.** The Heritage Council may recommend to the Minister the revocation of an interim conservation order specified in the recommendation.

**Request by Minister for recommendation to revoke interim conservation order.**

**33.** (1) The Minister may request the Heritage Council to furnish to him, within such period as is specified in the request, a recommendation with respect to the revocation of an interim conservation order specified in that request.

(2) The Heritage Council shall comply with the Minister's request.

**Revocation of interim conservation orders.**

**34.** (1) The Minister may—

(a) after consideration of a recommendation made under section 32; or

(b) in respect of a request for a recommendation made under section 33 (1), after—

(i) consideration of the recommendation made in compliance with that request; or

(ii) where no recommendation is made within the period specified in that request, the expiration of that period,

revoke an interim conservation order in whole or in part by notice of revocation.

(2) A notice of revocation shall take effect on the date of publication of that notice in the Gazette.

(3)

---

*Heritage.*

---

(3) The Minister shall cause notice of the revocation of an interim conservation order to be given, as soon as practicable after the date of publication of the notice of revocation in the Gazette, to the persons referred to in section 29 (1) (a)–(e).

**35.** (1) The Minister may, by instrument in writing, delegate to the Chairman of the Heritage Council the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Minister by this Division as may be specified in the instrument of delegation and may, by such an instrument, revoke wholly or in part any such delegation. **Delegation by the Minister.**

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the Chairman of the Heritage Council.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Minister may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by the Chairman of the Heritage Council while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing done or suffered had been done or suffered by the Minister.

(6)

---

*Heritage.*

---

(6) An instrument purporting to be signed by the Chairman of the Heritage Council in his capacity as a delegate of the Minister shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Minister and, until the contrary is proved, shall be deemed to be an instrument signed by the Chairman of the Heritage Council under this section.

DIVISION 2.—*Permanent Conservation Orders.*

Recom-  
mendation  
to make  
permanent  
conservation  
order.

**36.** The Heritage Council may recommend to the Minister the making of a permanent conservation order in respect of an item of the environmental heritage the permanent conservation of which it considers to be necessary.

Request by  
Minister for  
recom-  
mendation  
to make  
permanent  
conservation  
order.

**37.** (1) The Minister may request the Heritage Council to furnish to him, within such period as is specified in the request, a recommendation with respect to the making of a permanent conservation order in respect of an item of the environmental heritage specified or described in that request.

(2) The Heritage Council shall comply with the Minister's request.

(3) The Heritage Council shall not recommend, under this section, the making of a permanent conservation order unless the item of the environmental heritage specified or described in the Minister's request is an item the permanent conservation of which it considers to be necessary.

**38.**



---

*Heritage.*

---

**38.** (1) The owner of an item of the environmental heritage may apply to the Minister for the making of a permanent conservation order in respect of that item.

Applica-  
tion by  
owner for  
making of  
permanent  
conserva-  
tion order.

(2) On receipt of the application, the Minister may request the Heritage Council to furnish to him, within such period as is specified in the request, a recommendation with respect to the making of a permanent conservation order in respect of the item of the environmental heritage the subject of that application.

(3) The Heritage Council shall comply with the Minister's request.

(4) The Heritage Council shall not recommend, under this section, the making of a permanent conservation order unless the item of the environmental heritage the subject of the application is an item the permanent conservation of which it considers to be necessary.

**39.** (1) Where—

(a) after consideration of a recommendation made under section 36; or

Notice of  
proposed  
permanent  
conserva-  
tion order.

(b) in respect of a request for a recommendation made under section 37 or 38, after—

(i) consideration of the recommendation made in compliance with that request; or

(ii) where no recommendation is made within the period specified in that request, the expiration of that period,

the

---

*Heritage.*

---

the Minister proposes to make a permanent conservation order in respect of an item of the environmental heritage, he shall—

- (c) cause notice of the proposal to be given to—
  - (i) each person who appears to him to be an owner or occupier of the land on which that item is situated or, where that item is a place, the land that comprises that place;
  - (ii) the council of the area, if any, in which that item is situated;
  - (iii) the Commission; and
  - (iv) any prescribed person; and
- (d) cause public notice of the proposal to be given in a daily newspaper circulating throughout the State and in a weekly newspaper, if any, circulating throughout such area, if any, as is referred to in paragraph (c) (ii).

(2) A notice given under subsection (1) shall invite submissions to be made to the Minister in respect of the proposal of which the notice is given and shall specify the period, being a period of not less than 28 days, during which and the manner in which those submissions shall be made.

**Submis-  
sions—  
making of  
permanent  
conserva-  
tion order.**

**40.** Any person may, during the period and in the manner specified in a notice given under section 39 (1), make a submission to the Minister on any ground with respect to the proposal of which the notice is given.

**41.**

---

*Heritage.*

---

**41.** Where an owner (not being an owner referred to in section 38 (1)), a mortgagee or a lessee of a building, work, relic or place the subject of a proposal of which notice is given under section 39 makes a submission by way of objection on any one or more of the following grounds, namely—

Inquiry into objections by owner, mortgagee or lessee.

- (a) that the building, work, relic or place the subject of that proposal should not be subject to a permanent conservation order by reason that it is not an item of the environmental heritage;
- (b) that the building, work, relic or place the subject of that proposal should not be subject to a permanent conservation order by reason that its permanent conservation is not necessary;
- (c) that the building, work, relic or place the subject of that proposal should not be subject to a permanent conservation order by reason that such an order would render the building, work, relic or place incapable of reasonable or economic use; or
- (d) that conservation of the building, work, relic or place the subject of that proposal could not be achieved without causing undue financial hardship to the owner, mortgagee or lessee,

the Minister shall appoint a person to hold an inquiry into that submission.

**42.** At an inquiry held under section 41—

- (a) the owner, mortgagee or lessee;
- (b) the Heritage Council; and
- (c) any other person with the leave of the person appointed by the Minister to hold that inquiry,

Right of appearance at inquiry held under s. 41.

may appear before that person so appointed either personally or by counsel, solicitor or agent.

**43.**

---

*Heritage.*

---

**Report of  
inquiry  
held under  
s. 41.**

**43.** (1) At the conclusion of an inquiry held under section 41, the person appointed by the Minister to hold the inquiry shall furnish a report in writing to the Minister containing a summary of the submissions made at the inquiry, the findings of that person with respect to those submissions and a recommendation as to how those submissions should be dealt with.

(2) The Minister shall make copies of the report available to the public.

**Permanent  
conservation  
orders.**

**44.** (1) Where the Minister has caused notice of a proposal to make a permanent conservation order to be given under section 39 (1), the Minister may—

(a) if no inquiry is required to be held under section 41, after—

(i) the expiration of the period during which submissions may be made pursuant to the giving of that notice; and

(ii) consideration of any submissions so made;  
or

(b) if an inquiry is required to be held under section 41, after consideration of the report furnished as a consequence of that inquiry,

make an order, designated in the order as a permanent conservation order, in respect of an item of the environmental heritage specified or described in the order.

(2)

---

*Heritage.*

---

(2) A permanent conservation order made in respect of an item of the environmental heritage may be expressed to apply, and, if so expressed, shall apply, to—

- (a) where that item is a building—the curtilage of that building or the site of that building, being the curtilage or site specified or described in the order; or
- (b) where that item is a work or relic—the site specified or described in the order of that work or relic.

**45.** (1) A permanent conservation order shall take effect on and from the date of publication of that order in the Gazette.

Publication of permanent conservation orders in Gazette.

(2) For the purposes of subsection (1), a permanent conservation order shall be deemed to have been published in the Gazette notwithstanding that any map or plan referred to in the order is not so published.

**46.** (1) The Minister shall cause notice of a permanent conservation order to be given, as soon as practicable after the date of publication of that order in the Gazette, to—

Notice of making of permanent conservation orders.

- (a) each person who appears to him to be an owner or occupier of the land on which the item of the environmental heritage the subject of that order is situated or, where that item is a place, the land that comprises that place;
- (b) the council of the area, if any, in which that item is situated;
- (c) the Heritage Council;

(d)

---

*Heritage.*

---

- (d) the Commission;
- (e) the Valuer-General;
- (f) the Commissioner of Land Tax; and
- (g) any prescribed person.

(2) A notice given to a person referred to in subsection (1) (a) shall include a statement as to the effect of the permanent conservation order.

(3) A permanent conservation order shall not be rendered invalid by reason of—

- (a) the failure to give notice of that order under subsection (1);
- (b) the failure to include in that notice the statement referred to in subsection (2); or
- (c) an error in or omission from the statement referred to in subsection (2).

Effect of  
conserva-  
tion  
scheme  
on  
permanent  
conserva-  
tion  
order.

**47.** Subject to section 55, a permanent conservation order ceases to apply in respect of an item of the environmental heritage if a conservation scheme takes effect in respect of the land on which that item is situated or, where that item is a place, the land that comprises that place.

Recom-  
mendations  
to  
revoke  
permanent  
conserva-  
tion  
order.

**48.** The Heritage Council may recommend to the Minister the revocation of a permanent conservation order specified in the recommendation.

---

*Heritage.*

---

**49.** (1) The Minister may request the Heritage Council to furnish to him, within such period as is specified in the request, a recommendation with respect to the revocation of a permanent conservation order specified in that request.

Request  
by  
Minister  
for  
recom-  
mendation  
to  
revoke  
permanent  
conserva-  
tion  
order.

(2) The Heritage Council shall comply with the Minister's request.

**50.** (1) Where—

(a) after consideration of a recommendation made under section 48; or

(b) in respect of a request for a recommendation made under section 49 (1), after—

(i) consideration of the recommendation made in compliance with that request; or

(ii) where no recommendation is made within the period specified in that request, the expiration of that period,

the Minister proposes to revoke a permanent conservation order in whole or in part, he shall—

(c) cause notice of the proposal to be given to—

(i) each person who appears to him to be an owner or occupier of the land on which the item of the environmental heritage the subject of that permanent conservation order is situated or, where that item is a place, the land that comprises that place;

(ii) the council of the area, if any, in which that item is situated;

(iii) the Commission; and

(iv) any prescribed person; and

(d)

---

*Heritage.*

---

- (d) cause public notice of the proposal to be given in a daily newspaper circulating throughout the State and in a weekly newspaper, if any, circulating throughout such area, if any, as is referred to in paragraph (c) (ii).

(2) A notice given under subsection (1) shall invite submissions to be made to the Minister in respect of the proposal of which the notice is given and shall specify the period, being a period of not less than 28 days, during which and the manner in which those submissions shall be made.

Submis-  
sions—  
revoca-  
tion of  
permanent  
conserva-  
tion  
order.

**51.** Any person may, during the period and in the manner specified in a notice given under section 50 (1), make a submission to the Minister on any ground with respect to the proposal of which the notice is given.

Inquiry  
into sub-  
missions.

**52.** Where a person makes a submission by way of objection to a proposal of which notice is given under section 50 (1), the Minister shall appoint a person to hold an inquiry into all submissions made with respect to that proposal.

Right of  
appearance  
at  
inquiry  
held  
under  
s. 52.

**53.** At an inquiry held under section 52—

- (a) any person who has made a submission under section 51;
- (b) the Heritage Council; and
- (c) any other person with the leave of the person appointed by the Minister to hold that inquiry,

may appear before that person so appointed either personally or by counsel, solicitor or agent.

**54.**



---

*Heritage.*

---

**54.** (1) At the conclusion of an inquiry held under section 52, the person appointed by the Minister to hold the inquiry shall furnish a report in writing to the Minister containing a summary of the submissions made at the inquiry, the findings of that person with respect to those submissions and a recommendation as to how those submissions should be dealt with.

Report  
of  
inquiry  
held  
under  
s. 52.

(2) The Minister shall make copies of the report available to the public.

**55.** (1) Where the Minister has caused notice of a proposal to revoke a permanent conservation order to be given under section 50 (1), the Minister may—

Revocation  
of perman-  
ent  
conservation  
orders.

(a) if no inquiry is required to be held under section 52, after—

(i) the expiration of the period during which submissions may be made pursuant to the giving of that notice; and

(ii) consideration of any submissions so made;  
or

(b) if an inquiry is required to be held under section 52, after consideration of the report furnished as a consequence of that inquiry,

revoke a permanent conservation order in whole or in part by notice of revocation.

(2) A notice of revocation shall take effect on the date of publication of that notice in the Gazette.

(3)

---

*Heritage.*


---

(3) The Minister shall cause notice of the revocation of a permanent conservation order to be given, as soon as practicable after the date of publication of the notice of revocation in the Gazette, to the persons referred to in section 46 (1) (a)–(g).

---

PART IV.

CONTROLS IMPOSED BY INTERIM CONSERVATION ORDERS AND  
PERMANENT CONSERVATION ORDERS.

DIVISION 1.—*Preliminary.*

**Inter-  
pretation:  
Pt. IV.**

**56.** In this Part, “prescribed local government application” means an application for the approval of a consent authority under—

- (a) Part XI of the Local Government Act, 1919;
- (b) Part XII of the Local Government Act, 1919;
- (c) a prescribed scheme within the meaning of Part XIIA of the Local Government Act, 1919;
- (d) an interim development order within the meaning of section 342r (1) of the Local Government Act, 1919, or section 342v of that Act;
- (e) Ordinance No. 105 made under the Local Government Act, 1919;
- (f) section 510 (1) of the Local Government Act, 1919, or any ordinance relating to section 510 (1) of that Act;

(g)

---

*Heritage.*

---

- (g) any prescribed provision of the Local Government Act, 1919, or any prescribed provision of any instrument made under that Act;
- (h) section 2 (1) (a) of the Local Government (Regulation of Flats) Act, 1955; or
- (i) Division 4 of Part II of the Strata Titles Act, 1973, in respect of the doing or carrying out of an act, matter or thing the doing or carrying out of which requires an approval of the Heritage Council under Subdivision 1 of Division 3.

DIVISION 2.—*Controlled Activities.*

57. (1) A person shall not, in respect of a building, work, relic or place to which an interim conservation order or a permanent conservation order applies or any land (other than such a place) which is subject to an interim conservation order or a permanent conservation order—

Effect of interim conservation orders and permanent conservation orders.

- (a) demolish that building or work;
- (b) damage or despoil that relic, place or land or any part of that relic, place or land;
- (c) excavate any land for the purpose of exposing or moving that relic;
- (d) carry out any development in relation to the land on which that building, work or relic is situated, the land which comprises that place, or that land;
- (e) alter that building, work or relic;
- (f) display any notice or advertisement on that building, work, relic, place or land; or

(g)

---

*Heritage.*

---

- (g) damage or destroy any tree on or remove any tree from that place or land,

except in pursuance of an approval granted by the Heritage Council under Subdivision 1 of Division 3.

(2) The Minister, on the recommendation of the Heritage Council, may, by order published in the Gazette, grant an exemption from subsection (1) or such of the provisions of that subsection as are specified in the order in respect of the engaging in or carrying out of such activity or class of activities by such person or class of persons in such circumstances as may be so specified.

DIVISION 3.—*Applications for Approval.*

*Subdivision 1.—Applications generally.*

Application  
of Sub-  
division.

**58.** (1) This Subdivision applies to an application for approval in respect of the doing or carrying out of an act, matter or thing referred to in section 57 (1).

(2) This Subdivision applies in addition to, and not in derogation from, the provisions of any other Act or statutory instrument under which an application for approval in respect of the doing or carrying out of an act, matter or thing referred to in section 57 (1) is required to be made.

Making of  
application.

**59.** An application for approval may be made by—

- (a) the owner of the building, work, relic, place or land the subject of that application;
- (b) any person with the consent in writing of that owner; or

(c)

---

*Heritage.*

---

- (c) where that building, work or relic is situated on or that place or land comprises Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, the lawful occupier of those Crown lands.

**60.** An application for approval shall be made to the Heritage Council in the prescribed form and shall be accompanied by such fee as may be prescribed. Form of application.

**61.** (1) Where an application for approval is made in respect of an item of the environmental heritage and that application, if approved, would, in the opinion of the Heritage Council, materially affect the significance of that item as an item of the environmental heritage, the Heritage Council shall cause public notice of that application to be given in a daily newspaper circulating throughout the State. Public notice of certain applications.

(2) A notice referred to in subsection (1) shall contain a statement to the effect that the application for approval referred to in that notice and any plans, specifications or similar documents lodged in connection with that application and in the custody of the Heritage Council may be inspected at the office of the Heritage Council by any person during ordinary office hours within a period of 21 days after the day on which that notice is published in the newspaper in accordance with subsection (1).

(3) During the period specified in subsection (2), any person may inspect the application and any documents referred to in that subsection which have been lodged in connection with that application at the office of the Heritage Council during ordinary office hours and make representations in writing to the Heritage Council with respect to that application.

(4)

---

*Heritage.*

---

(4) The Heritage Council shall not determine the application until the expiration of the period specified in subsection (2).

**Matters  
for con-  
sideration.**

**62.** In determining an application for approval in respect of a building, work, relic, place or land, the Heritage Council shall take into consideration—

- (a) the extent to which that application, if approved, would affect the significance of any building, work, relic or place as an item of the environmental heritage;
- (b) the representations, if any, made with respect to that application under section 61 (3);
- (c) such matters relating to the conservation of that building, work, relic, place or land as to it seem relevant; and
- (d) such other matters as to it seem relevant.

**Determina-  
tion of  
application.**

**63.** (1) Except as provided by subsection (2), the Heritage Council may determine an application for approval by granting approval to that application, either unconditionally or subject to conditions, or by refusing approval.

(2) Where a building or work is subject to a permanent conservation order and—

- (a) an application for approval is made to demolish the whole of that building or work; or
- (b) an application for approval is made which would, if it were approved, necessitate the demolition of the whole of that building or work,

the

---

*Heritage.*

---

the Heritage Council shall determine that application by refusing approval.

(3) Nothing in subsection (2) prevents the Heritage Council from approving an application referred to in that subsection if—

- (a) it is of the opinion that the building or work constitutes a danger to the users or occupiers of that building or work, the public or a section of the public; or
- (b) it is a condition of the approval that the building or work be relocated on other land.

(4) Without limiting or restricting the power of the Heritage Council to impose conditions under subsection (1), it may, in granting approval to an application for approval, impose, as a condition of its approval, a condition—

- (a) that the applicant give security in such form and such amount as is determined by the Heritage Council having regard to the nature and extent of the work referred to in the approval to ensure the satisfactory completion of that work; and
- (b) that where the approval is to the demolition, in whole or in part, of a building or work, such measures as are specified in the approval be taken in the interests of public safety and convenience with respect to the demolition.

**64.** (1) The Heritage Council shall give notice in writing of its determination of an application for approval to the applicant. **Notice of determination.**

(2)

---

*Heritage.*

---

(2) Where the Heritage Council determines an application for approval by granting approval subject to conditions or by refusing approval, the notice shall—

- (a) indicate the reasons for the determination; and
- (b) except in relation to the determination of an application referred to in section 63 (2) which is required to be determined by refusing approval, notify the applicant that he has a right of appeal under this Act against the determination.

Effect of failure to make determination.

**65.** (1) Where the Heritage Council has not determined an application for approval within a period of 40 days, or, where public notice of that application has been given under section 61, within a period of 60 days, after service of that application on it, it shall, for the purposes only of section 70, be deemed to have determined that application by refusing approval.

(2) Nothing in subsection (1) prevents the Heritage Council from determining an application after the expiration of the period referred to in subsection (1) in relation to that application.

(3) The determination of an application as referred to in subsection (2) shall not, where an appeal in respect of that application has been made under section 70, prejudice or affect the making, continuance or determination of that appeal.

*Subdivision 2.—Prescribed local government applications.*

Application of Sub-division.

**66.** To the extent of any inconsistency between this Subdivision and the Local Government Act, 1919, any instrument made under that Act, the Local Government (Regulation of Flats) Act, 1955, and the Strata Titles Act, 1973, this Subdivision shall prevail.

**67.**



---

*Heritage.*

---

**67.** (1) A prescribed local government application made to a consent authority before an approval of the Heritage Council required under Subdivision 1 of this Division has been granted, either unconditionally or subject to conditions, to the doing or carrying out of the act, matter or thing the subject of that prescribed local government application is void.

Avoidance of certain prescribed local government applications.

(2) Where a prescribed local government application is made, as referred to in subsection (1), to a consent authority, that consent authority shall notify the applicant in writing that his application is void and that a further application should not be made until an approval of the Heritage Council, as referred to in that subsection, has been granted.

**68.** Where a prescribed local government application is made to a consent authority in respect of the doing or carrying out of an act, matter or thing for which an approval of the Heritage Council under Subdivision 1 of this Division has been granted subject to conditions and that consent authority determines that prescribed local government application by granting approval subject to conditions, the conditions subject to which the approval of that consent authority is granted shall not be inconsistent with the conditions subject to which the approval of the Heritage Council has been granted.

Consistency of approvals.

**69.** An approval granted to a prescribed local government application by a consent authority otherwise than in accordance with this Subdivision shall be void, but nothing in this section affects the liability of a consent authority in respect of such an approval.

Avoidance of approvals.

---

*Heritage.*


---

 DIVISION 4.—*Appeals.*
*Subdivision 1.—Appeals in respect of applications other than prescribed local government applications.*

Appeal to the Minister against certain determinations of the Heritage Council.

**70.** An applicant dissatisfied with a determination of the Heritage Council with respect to an application for approval made under Subdivision 1 of Division 3 may appeal to the Minister—

- (a) within 12 months after the date on which he received notice of that determination;
- (b) within 12 months after the expiration of the period of 40 days or the period of 60 days, as the case may require, referred to in section 65 (1); or
- (c) within such longer period as the Minister may in special circumstances allow.

Appointment of person to furnish report to the Minister.

**71.** Where an appeal is made to the Minister under section 70, the Minister may appoint a person to furnish a report to him with respect to that appeal containing—

- (a) a recommendation as to whether that appeal should, in the opinion of that person, be dismissed or allowed either unconditionally or subject to such conditions as may be specified in the report; and
- (b) the reasons for that recommendation.

Right of appearance.

**72.** Before making a report under section 71, the person appointed by the Minister to furnish that report shall, if either the appellant, the Heritage Council or a person who has made representations to the Heritage Council under section 61 (3) with respect to the application for approval from the determination of which the appeal has been made so desires, afford him or it an opportunity of appearing personally or by counsel, solicitor or agent.

---

*Heritage.*

---

**73.** (1) The Minister, after considering such report as Minister's decision.  
may be furnished to him pursuant to section 71, may—

- (a) dismiss the appeal;
- (b) allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose;
- (c) where the appeal is against the imposition of conditions, refuse to approve the application for approval from the determination of which the appeal has been made; or
- (d) require further consideration of the report.

(2) Where a report is returned under subsection (1), sections 71 and 72 and subsection (1) apply in respect of the further consideration of the report in the same way as they apply in respect of the furnishing of the report.

**74.** The decision of the Minister under section 73 (1), Effect of the Minister's decision.  
other than a decision under section 73 (1) (d), shall be final and shall have effect as if it were a determination of the Heritage Council.

*Subdivision 2.—Appeals in respect of prescribed local government applications.*

**75.** In this Subdivision, “appeal” includes objection or Interpretation: Pt. IV, Div. 4, Subdiv. 2.  
reference.

**76.** Where, under the Local Government Act, 1919, any Appeal to Minister in respect of prescribed local government applications.  
instrument made under that Act, the Local Government (Regulation of Flats) Act, 1955, or the Strata Titles Act, 1973, an applicant has a right of appeal arising from the making of a prescribed local government application, that right shall, notwithstanding those Acts or any such instrument, be exercised by making that appeal to the Minister.

**77.**

---

*Heritage.*

---

Manner of determining appeal.

**77.** (1) Where an appeal is made to the Minister under section 76—

- (a) if the Minister is of the opinion that the matter the subject of the appeal has special significance for the conservation of an item of the environmental heritage, he shall determine that appeal; or
- (b) if the Minister is not of that opinion, he shall remit that appeal for hearing and determination by the Tribunal.

(2) The Minister shall cause notice of his decision under subsection (1) to be given to the person making the appeal.

Determination of appeal by the Minister.

**78.** Where the Minister, pursuant to section 77 (1) (a), decides to determine an appeal, Subdivision 1 of this Division (section 70 excepted) applies to the determination of that appeal in the same way as it applies to the determination of an appeal made under section 70 and so applies as if—

- (a) the reference in section 72 to the Heritage Council included a reference to the consent authority from whose determination or neglect or delay to make a determination the appeal is made; and
- (b) the reference in section 74 to the Heritage Council were a reference to the consent authority from whose determination or neglect or delay to make a determination the appeal is made.

Determination of appeal by the Tribunal.

**79.** Where the Minister, pursuant to section 77 (1) (b), remits an appeal to the Tribunal, Part XIIB of the Local Government Act, 1919, applies to the determination of that appeal in the same way as it applies to the determination of an appeal made under any of the provisions of that Act.

---

**PART**

---

*Heritage.*

---

PART V.

CONSERVATION SCHEMES.

DIVISION 1.—*Preliminary.*

**80.** In this Part, “control”, in relation to development or any other act, matter or thing, means— Interpretation: Pt. V.

- (a) approve, regulate or restrict that development or that other act, matter or thing, either unconditionally or subject to conditions, or prohibit that development or that other act, matter or thing; or
- (b) confer on the Minister, the Heritage Council, the Commission, any other public authority or a council functions with respect to approving, regulating or restricting that development or that other act, matter or thing, either unconditionally or subject to conditions, or prohibiting that development, or that other act, matter or thing.

DIVISION 2.—*Nature of Conservation Schemes.*

**81.** A conservation scheme shall apply to such land as is specified or described in that scheme. Land to which a conservation scheme applies.

**82.** A conservation scheme may make provision for or with respect to— Contents of conservation schemes.

- (a) conserving, enhancing or utilising, to the best advantage, the environment; and
- (b) without limiting the generality of paragraph (a)—
  - (i) controlling any act, matter or thing referred to in section 57 (1); and

(ii)

---

*Heritage.*

---

- (ii) designating land for use exclusively for the purpose of a public place or a public reserve within the meaning of the Local Government Act, 1919, a public cemetery, a public hospital, a public railway, a public school or any other purpose that is prescribed as a public purpose for the purposes of this section.

Revocation of designation of certain land.

**83.** Where a conservation scheme designates land for use exclusively for a purpose referred to in section 82 (b) (ii) the scheme shall, except where that land is owned by or otherwise vested in a public authority and held or used for that purpose, provide for the revocation of the designation if, following the receipt of a written request from the owner of that land to a public authority specified or described in the scheme, the land is not acquired by that public authority within a period so specified.

Determination, etc., of matters under conservation schemes.

**84.** A conservation scheme may be made so as to authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified in that conservation scheme.

*DIVISION 3.—Preparation and Making of Conservation Schemes.*

Decision by Commission to prepare draft conservation scheme.

**85.** The Commission may resolve to prepare a draft conservation scheme with respect to such land as is specified in its resolution.

Direction by the Minister to prepare a draft conservation scheme.

**86.** (1) The Minister may direct the Commission to prepare a draft conservation scheme with respect to such land as is specified in his direction.

(2)

---

*Heritage.*

---

(2) The Commission shall comply with the Minister's direction.

**87.** The Commission, in the preparation of a draft conservation scheme, shall consult with the Heritage Council. Consultation with Heritage Council.

**88.** When the Commission has prepared a draft conservation scheme pursuant to section 85 or 86, it shall— Public exhibition of draft conservation scheme.

- (a) give public notice, in a form and manner determined by the Commission, of the place at which, the dates on which, and the times during which, that draft conservation scheme may be inspected by the public;
- (b) publicly exhibit that draft conservation scheme at the place, on the dates and during the times set out in the notice referred to in paragraph (a); and
- (c) specify, in the notice given under paragraph (a), the period during which submissions may be made to the Commission in accordance with section 89.

**89.** Any person may, during the period referred to in section 88 (c), make submissions to the Commission with respect to a draft conservation scheme publicly exhibited under section 88 (b). Submissions.

**90.** The Commission shall consider any submissions made to it under section 89. Consideration of submissions.

**91.**

---

*Heritage.*

---

Amendment  
of draft  
conservation  
scheme.

**91. (1) The Commission—**

- (a) may, whether or not as a consequence of its consideration of any submissions made to it under section 89, amend a draft conservation scheme;
- (b) may, if it thinks fit, publicly exhibit that amended draft conservation scheme at such places, on such dates and during such times as it determines; and
- (c) where it publicly exhibits that amended draft conservation scheme under paragraph (b), shall give public notice, in a form and manner determined by the Commission, specifying the period during which submissions may be made to the Commission in accordance with section 89, as applied by subsection (2).

(2) Where the Commission publicly exhibits an amended draft conservation scheme under subsection (1) (b), sections 89 and 90 and subsection (1) apply in respect of that amended draft conservation scheme in the same way as they apply in respect of a draft conservation scheme.

Submission  
of draft  
conservation  
scheme to  
the Minister.

**92. (1) The Commission may, after consultation with the Heritage Council, submit a draft conservation scheme, whether amended or not, to the Minister.**

(2) A draft conservation scheme submitted to the Minister under subsection (1) shall be accompanied by a summary of any submissions made to the Commission under section 89 or section 89 as applied by section 91 (2).

Making of  
conservation  
schemes by  
the Minister.

**93. The Minister may, on the submission to him by the Commission of a draft conservation scheme, make a conservation scheme—**

(a)



---

*Heritage.*

---

- (a) in accordance with the draft conservation scheme submitted to him; or
- (b) in accordance with the draft conservation scheme with such alterations as he thinks fit.

**94.** (1) A conservation scheme shall take effect on and from the date of publication of that scheme in the Gazette. Publication of conservation schemes in Gazette.

(2) For the purposes of subsection (1), a conservation scheme shall be deemed to have been published in the Gazette notwithstanding that any map, plan or other instrument referred to in the scheme is not so published.

**95.** Sections 18, 42 and 43 of the Interpretation Act, 1897, apply to a conservation scheme in the same way as they apply to instruments or regulations respectively referred to in those sections. Application of Interpretation Act, 1897, to conservation schemes.

**96.** (1) In this section, "planning instrument" means— Suspension or revocation of certain instruments by conservation schemes.

- (a) a proclamation made under section 309 (1) of the Local Government Act, 1919;
- (b) Ordinance No. 105 made under the Local Government Act, 1919;
- (c) a prescribed scheme within the meaning of Part XIII A of the Local Government Act, 1919; and
- (d) an interim development order within the meaning of section 342T (1) of the Local Government Act, 1919.

*Heritage.*

(2) On the date on which a conservation scheme takes effect—

- (a) section 309 and Part XIIA of the Local Government Act, 1919, shall, to the extent to which they apply to the land to which that conservation scheme applies, be suspended; and
- (b) any interim conservation order, permanent conservation order or planning instrument applying to the land to which that conservation scheme applies shall, to the extent to which that interim conservation order, permanent conservation order or planning instrument applies to that land, be revoked.

(3) Section 43 of the Interpretation Act, 1897, applies to the revocation of a planning instrument referred to in subsection (2) (b) in the same way as it applies to the revocation of a regulation referred to in that section.

Notice of  
conservation  
schemes.

**97.** (1) The Minister shall cause notice of a conservation scheme to be given, as soon as practicable after the date of publication of that scheme in the Gazette, to—

- (a) each person who appears to him to be an owner or occupier of land the subject of that scheme;
- (b) the council of the area, if any, affected by that scheme;
- (c) the Heritage Council;
- (d) the Commission;
- (e) the Valuer-General;
- (f) the Commissioner of Land Tax; and
- (g) any prescribed person.

(2)

---

*Heritage.*

---

(2) A notice given to a person referred to in subsection (1) (a) shall inform that person of the place at which, the dates on which, and the times during which, the conservation scheme may be inspected.

(3) The failure to give notice of a conservation scheme under subsection (1) shall not render that scheme invalid.

98. A conservation scheme shall be available for public inspection without charge at the office of the Commission during ordinary office hours.

Public inspection of conservation schemes.

DIVISION 4.—*Appeals.*

99. (1) Where a conservation scheme provides expressly or impliedly that any act, matter or thing specified in that conservation scheme shall be done only with the approval of a person or body specified in that conservation scheme or shall not be done except with the approval of such a person or body, that scheme shall also provide for or with respect to the making of appeals by any applicant for approval who is dissatisfied with—

Appeals.

- (a) the determination of such a person or body upon an application for that approval;
- (b) any condition imposed in respect of the determination of such a person or body; or
- (c) any neglect or delay of such a person or body to make a determination with respect to his application within such period after service of his application on such a person or body not exceeding 60 days, as is specified in that scheme,

by adopting by reference either or both of the Subdivisions of Division 4 of Part IV.

(2)

---

*Heritage.*

---

(2) The adoption, in accordance with subsection (1), of either or both of the Subdivisions referred to in that subsection shall be made with such amendments and modifications as are necessary to enable the provisions of those Subdivisions to conform to the provisions of this Part.

DIVISION 5.—*Amendment and Revocation of Conservation Schemes.*

**Amend-  
ment, etc.,  
of conserva-  
tion schemes.**      **100.** A conservation scheme may be amended, added to, altered, varied or revoked in whole or in part by another conservation scheme.

---

PART VI.

OTHER MEASURES FOR THE CONSERVATION OF THE  
ENVIRONMENTAL HERITAGE.

DIVISION 1.—*Preliminary.*

Interpre-  
tation:  
Pt. VI.

**101.** In this Part—

“corporation” means the corporation constituted by section 102;

“Fund” means the Heritage Conservation Fund established under section 103.

Minister  
to be  
corpora-  
tion  
sole for  
certain  
purposes.

**102.** (1) The Minister is, for the purpose of exercising those functions expressed to be conferred or imposed on the corporation under this Part, hereby incorporated as a corporation sole with the corporate name “Minister administering the Heritage Act, 1977”.

(2)

---

*Heritage.*

---

(2) The corporation—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may do and suffer all other things that a body corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which the corporation is constituted; and
- (e) is, for the purpose of any Act, a statutory body representing the Crown.

(3) The seal of the corporation shall not be affixed to any instrument or document except in the presence of the Minister, and he shall attest by his signature the fact and date of the affixing of the seal.

(4) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the corporation that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

DIVISION 2.—*Finance.*

**103.** There shall be established in the Special Deposits Account in the Treasury a Heritage Conservation Fund. Heritage  
Conser-  
vation  
Fund.

---

*Heritage.*


---

Payments  
into the  
Fund.

- 104.** (1) There shall be paid into the Fund—
- (a) any money appropriated by Parliament for the purposes of the Fund;
  - (b) money borrowed by the corporation;
  - (c) all money received in respect of—
    - (i) fees and charges under this Act or the regulations;
    - (ii) penalties recovered pursuant to this Act or the regulations; and
    - (iii) policies of insurance under which money is paid to the corporation with respect to any property in the custody or under the control of the corporation;
  - (d) any money acquired by the corporation pursuant to section 115;
  - (e) any money received by the corporation pursuant to section 116; and
  - (f) any other money received in connection with the administration of this Act, other than money received in such circumstances as may be prescribed.

(2) Where any money acquired by the corporation pursuant to section 115 is subject to any condition to which it has agreed, the money shall be carried to a separate account in the Fund and shall be applied in accordance with the condition.

(3) Any money referred to in subsection (2) may, pending application in accordance with the condition so referred to, be invested by the corporation with the Treasurer or in any manner in which trustees are for the time being authorised to invest trust funds.

**105.**

---

*Heritage.*

---

- 105.** (1) There may be paid out of the Fund— Payments  
out of  
the Fund.
- (a) all charges, costs and expenses incurred by the Minister and the corporation in exercising his or its functions under this Act;
  - (b) the remuneration payable to the members of the Heritage Council under this Act;
  - (c) money required—
    - (i) to repay money borrowed under this Division;
    - (ii) to pay interest on money so borrowed; and
    - (iii) to pay the expenses of the corporation in borrowing money under this Division;
  - (d) the cost of acquiring land under Division 3;
  - (e) the cost of conserving any item of the environmental heritage vested in the corporation;
  - (f) grants or loans for the purpose of promoting and assisting the conservation of items of the environmental heritage;
  - (g) money required for the purpose of discharging any liability of the corporation under a guarantee given by the corporation;
  - (h) all money which the Minister directs shall be set aside to provide a reserve for insurance; and
  - (i) all costs incurred under sections 115 and 116.

(2)

---

*Heritage.*

---

(2) Any money set aside, as referred to in subsection (1) (h), may be invested by the corporation with the Treasurer or in any manner in which trustees are for the time being authorised to invest trust funds.

(3) Where—

(a) any lands are purchased under section 112 out of money wholly or partly appropriated by Parliament for the purposes of the Fund; and

(b) those lands, or any part of those lands, are sold under section 116,

there shall be paid from the Fund to the Treasurer, out of the proceeds of sale referred to in paragraph (b), such amount as the Treasurer may determine.

**Making of loans and grants by the corporation.**

**106.** (1) The corporation may, on the recommendation of the Heritage Council, make a grant or loan for the purpose of promoting and assisting the conservation of an item of the environmental heritage.

(2) Subject to section 107, the corporation may, in making a grant or loan, impose such conditions as, in its opinion, are appropriate to promote and assist the conservation of the item of the environmental heritage in respect of which the grant or loan is made.

**Rates of interest on loans, and rental, etc., on leases by corporation.**

**107.** (1) A loan made by the corporation shall be—

(a) at the rate of interest for the time being fixed by the Treasurer generally for the purposes of this Act; or

(b) if the Treasurer so approves—

(i) at such rate of interest as may be fixed by him in respect of that loan; or

(ii) without interest.

(2)



---

*Heritage.*

---

(2) The rental or other consideration to be received by the corporation in respect of a lease of property acquired for the purposes of this Act shall be fixed by the corporation so as to produce an amount not less than such percentage as the Treasurer may direct, in respect of that lease, or of leases of the class to which that lease belongs, of the fair market value of the property leased.

**108.** (1) The corporation may, with the concurrence of the Treasurer and subject to this section, execute a guarantee, either alone or jointly with some other person, in favour of a bank or other person for the repayment of any money expended or to be expended on any one or more of the following :—

- (a) the acquisition of an item of the environmental heritage;
- (b) the conservation of an item of the environmental heritage; or
- (c) the acquisition of personal property—
  - (i) which is associated with and contributes to the significance of an item of the environmental heritage as such an item; or
  - (ii) which is required for the purpose of furnishing or decorating an item of the environmental heritage.

(2) The corporation may, in agreeing to execute a guarantee, impose such conditions as, in the opinion of the corporation, are appropriate.

---

*Heritage.*

---

(3) A guarantee executed by the corporation is not enforceable against the corporation until the creditor has exercised all his rights and remedies under all other securities held by or for him in respect of the debt guaranteed, other than the guarantee.

(4) The corporation may, as a condition of a guarantee, require the creditor to obtain, take and hold, or retain and hold, such securities for the payment of the principal debt and interest thereon as the corporation requires.

(5) The corporation may execute a guarantee notwithstanding that it includes any interest (including compound interest), charges and expenses chargeable by the creditor against the principal debtor and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt guaranteed, that interest and those charges and expenses.

(6) Where the corporation executes a guarantee, any assignment or encumbrance of the guarantee by the creditor without the consent of the corporation has no force or effect.

(7) The corporation shall not execute a guarantee—

(a) if the amount guaranteed would exceed 90 per centum of the estimated cost, ascertained as directed by the corporation, of—

(i) the acquisition of the item of the environmental heritage;

(ii) the conservation of the item of the environmental heritage; or

(iii)

---

*Heritage.*

---

(iii) the acquisition of the personal property, as the case may be; or

(b) if the amount guaranteed would, together with the amounts of all other guarantees executed by the corporation and then in force, or agreed to by the corporation but not then executed, exceed such amount as may be determined from time to time by the Treasurer and notified to the corporation.

(8) The execution by the corporation of a guarantee referred to in this section is, in favour of the creditor, conclusive evidence that the requirements of this section with respect to the guarantee have been complied with.

**109.** (1) For the temporary accommodation of the corporation, it may obtain advances by overdraft of current account in any bank or banks upon the credit of the corporation's funds to such extent as may from time to time be approved by the Governor. Temporary accommodation.

(2) The Treasurer may advance such money to the corporation, upon such terms and conditions as to repayment and interest, as may be agreed upon.

**110.** The corporation may from time to time, with the concurrence of the Treasurer and the approval of the Governor, borrow money— Purposes for which money may be borrowed.

- (a) for the purpose of exercising its functions;
- (b) to renew loans; or
- (c) to discharge, or partially discharge, any indebtedness of the corporation.

**111.** (1) The corporation shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the corporation. Reserves for repayments of loans.

(2)

---

*Heritage.*

---

(2) The corporation shall during each year transfer from the Fund to each fund established under subsection (1) a sum not less than the sum that the corporation in the application for approval of the loan specified as the sum proposed to be so transferred.

(3) Where any land or property which has been acquired with loan money is sold before the loan has been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender.

(4) Money held as reserve for loan repayment may be invested in Government securities of the Commonwealth or of the State, or in any securities guaranteed by the Government of the State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(5) Any interest or profits realised on investments made under subsection (4) shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(6) All money paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(7) If, after a loan has been repaid, there remains in the reserve for loan repayment fund in respect of that loan any balance, that balance shall be paid to the credit of the Fund.

(8) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(9)

---

*Heritage.*

---

(9) This section does not apply to a loan to be repaid by instalments at intervals of one year or less.

DIVISION 3.—*Acquisition and Disposal of Property.*

**112.** The corporation may, for the purposes of this Act, acquire land, including land previously appropriated or resumed for any purpose, by lease, purchase or exchange or by resumption or appropriation in accordance with this Division. Acquisition of land by corporation.

**113.** (1) For the purposes of this Act, the Governor may under the Public Works Act, 1912, and in accordance with the provisions of this section, resume any land, and appropriate any land vested in Her Majesty or in any person in trust for Her Majesty. Resumption.

(2) A resumption or appropriation under subsection (1) shall be deemed to be for an authorised work within the meaning of the Public Works Act, 1912, and the corporation shall be deemed to be the Constructing Authority within the meaning of that Act.

(3) Sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not, but section 38 of that Act does, apply in respect of the expenditure on any works constructed under this Act.

**114.** The corporation may, in respect of an item of the environmental heritage vested in it, acquire, by lease, purchase or exchange, personal property— Acquisition of personal property by corporation.

- (a) which is associated with and contributes to the significance of that item as an item of the environmental heritage; or

(b)

---

*Heritage.*

---

- (b) which is required for the purpose of restoring, enhancing, furnishing or decorating that item.

Power of  
corporation  
to accept  
gifts, etc.

**115.** (1) The corporation may acquire, by gift inter vivos, devise or bequest, any property for the purposes of this Act and may agree to the condition of any such gift, devise or bequest.

(2) The rule of law against remoteness of vesting shall not apply to any such condition to which the corporation has agreed.

(3) Where the corporation acquires property under subsection (1)—

- (a) neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the Stamp Duties Act, 1920; and
- (b) the property, or the value of the property, shall not be included in the dutiable estate of the donor or testator for the purposes of assessing death duty under that Act.

Disposal of  
lands, gifts,  
etc.

**116.** (1) The corporation, except where it has otherwise agreed, may, in such manner and subject to such terms and conditions as in the opinion of the corporation are appropriate, sell, lease, exchange or otherwise deal with or dispose of any property that has been acquired by the corporation under this Division and grant easements or rights-of-way over any land or any part thereof that has been so acquired by the corporation.

(2) The functions of the corporation under subsection (1) shall not be exercised in respect of an item of the environmental heritage except upon the recommendation of the Heritage Council.

DIVISION

---

*Heritage.*


---

**DIVISION 4.—***Offence of Demolition by Wilful Neglect.*

**117.** A person shall not allow a building or work being an item of the environmental heritage subject to a conservation instrument to fall into disrepair for the purpose of—

Allowing building or work to fall into disrepair.

- (a) effecting or enabling the demolition of that building or work;
- (b) enabling the development of the land on which that building or work is situated; or
- (c) enabling the development of any land adjoining the land on which that building or work is situated.

**DIVISION 5.—***Orders for the Carrying Out of Repairs.*

**118.** (1) Where the Heritage Council is of the opinion that a building or work, being an item of the environmental heritage subject to a conservation instrument, has been or is being allowed to fall into disrepair for the purpose of—

Notices to show cause why certain repairs should not be carried out.

- (a) effecting or enabling the demolition of that building or work;
- (b) enabling the development of the land on which that building or work is situated; or
- (c) enabling the development of any land adjoining the land on which that building or work is situated,

it may serve written notice on the owner of that building or work requiring that owner to show cause, within 21 days after the date of that notice, why it should not make an order requiring that owner to carry out such repairs as are specified in the notice within such period as is so specified.

---

*Heritage.*

---

(2) The Heritage Council, in a notice referred to in subsection (1), shall specify only such repairs as, in its opinion, are necessary to prevent any further deterioration in the condition of the building or work the subject of that notice.

(3) A notice referred to in subsection (1) shall inform an owner on whom it is served of the provisions of sections 119, 120 and 121.

Orders for  
the carrying  
out of  
repairs.

**119.** (1) Where an owner on whom a notice is served under section 118 (1) fails to show cause, as referred to in section 118 (1), in respect of all or any one or more of the repairs specified in that notice, the Heritage Council may order that those repairs be carried out within such period as is specified in the order.

(2) The Heritage Council shall cause a copy of an order made under subsection (1) to be served on the owner referred to in that subsection.

Appeal to  
the District  
Court.

**120.** (1) An owner on whom a copy of an order made under section 119 (1) is served may appeal against the order to the District Court of New South Wales within the time and in the manner provided by the rules of the District Court.

(2) Where the District Court—

- (a) is satisfied that the building or work the subject of the order made under section 119 (1) has not been or is not being allowed to fall into disrepair for any of the purposes referred to in section 118 (1) (a), (b) or (c), it shall quash the order; or
- (b) is not so satisfied, it shall confirm the order.

(3)



---

*Heritage.*

---

(3) A decision of the District Court under subsection (2) shall be final and shall, in the case of a decision made under subsection (2) (b), have effect, from the date of the decision, as if it were an order of the Heritage Council under section 119 (1).

(4) The District Court, in respect of a decision under subsection (2), may make such order, if any, as to costs as it thinks fit and any such order may be enforced as if it were an order made by it under the District Court Act, 1973.

**121.** (1) Where an owner on whom an order under section 119 (1) is served fails to comply with that order within the period specified in that order or any extension, granted by the Heritage Council on application of that owner, of that period—

Failure to  
comply with  
order under  
s. 119 (1).

- (a) the corporation may, in pursuance of section 113, resume or appropriate the land on which the building or work the subject of that order is situated; or
- (b) the Minister may, by order published in the Gazette, direct that no development or use of that land, other than the conservation of that building or work, shall be carried out or made during such period, not exceeding 10 years, as is specified in the order.

(2) In determining the amount of compensation payable in respect of a resumption or an appropriation of land by the corporation under subsection (1) (a), the value of that land shall be—

- (a) the value determined in accordance with section 147; or

(b)

---

*Heritage.*

---

- (b) the value determined on the assumption that no approval may be given under this Act or a conservation scheme in respect of the building or work situated on that land other than to restore that building or work to a reasonable state of repair,

whichever is the lesser.

(3) The Minister may, by order published in the Gazette, at any time at which an order made by him under subsection (1) (b) remains in force, revoke, alter or vary that order.

(4) An order made by the Minister under subsection (1) (b) or (3) shall take effect on and from the date of publication of that order in the Gazette.

(5) The Minister shall cause notice of an order made by him under subsection (1) (b) or (3) to be served, as soon as practicable after the date of publication of that order in the Gazette, on—

- (a) the owner or occupier of the land subject to that order;
- (b) the Heritage Council;
- (c) the Commission; and
- (d) the council of the area, if any, in which that land is situated.

---

*Heritage.*

---

**122.** A person shall not fail to comply with an order made by the Minister under section 121 (1) (b), or that order as altered or varied by the Minister under section 121 (3), while that order is in force.

Failure to  
comply with  
order under  
s. 121 (1)  
(b).

DIVISION 6.—*Rating and Taxing.*

**123.** In this Division—

Interpreta-  
tion:  
Pt. VI,  
Div. 6.

“heritage valuation”, in relation to land, means a valuation of that land obtained by adding to or by deducting from a valuation for rating or taxing purposes of that land any allowance determined as a consequence of making the following assumptions with respect to that land, namely :—

- (a) that that land may be used only for the purpose, if any, for which it was used at the relevant date;
- (b) that all improvements on that land as at the relevant date may be continued and maintained in order that the use of that land as referred to in paragraph (a) may be continued; and
- (c) that no improvements, other than those referred to in paragraph (b), may be made to or on that land;

“land” includes stratum within the meaning of the Valuation of Land Act, 1916;

“rating or taxing authority” means—

- (a) a council;

(b)

---

*Heritage.*

---

- (b) a county council within the meaning of Part XXIX of the Local Government Act, 1919;
- (c) the Metropolitan Water Sewerage and Drainage Board;
- (d) the Hunter District Water Board;
- (e) the Broken Hill Water Board; and
- (f) the Commissioner of Land Tax;

“relevant date”, in relation to a heritage valuation, means—

- (a) where that heritage valuation is made pursuant to a request made by the Minister under section 124 (1)—the date determined in accordance with section 124 (1) (a) or (b); or
- (b) where that heritage valuation is made pursuant to section 125—the date on which that heritage valuation is made;

“valuation for rating or taxing purposes”, in relation to land, means a valuation of that land made under a valuing law and which is the valuation on which a rate is made and levied or a tax is levied in respect of that land by a rating or taxing authority;

“valuing law” means the Valuation of Land Act, 1916, the Local Government Act, 1919, the Metropolitan Water, Sewerage, and Drainage Act, 1924, the Hunter District Water, Sewerage and Drainage Act, 1938, the Broken Hill Water and Sewerage Act, 1938, or the Land Tax Management Act, 1956.

---

*Heritage.*

---

**124.** (1) As soon as practicable after the date on which a permanent conservation order or a conservation scheme takes effect with respect to land, the Minister shall, by instrument in writing, request each person by whom a valuation for rating or taxing purposes of that land has been made or caused to be made or cause to be made a heritage valuation or heritage valuations of that land as at—

Request to make heritage valuations.

- (a) except as provided by paragraph (b)—the date on which that permanent conservation order or that conservation scheme took effect with respect to that land; or
- (b) where, immediately before that date, that land was subject to an interim conservation order—the date on which that interim conservation order took effect with respect to that land.

(2) Where, immediately before the date on which a permanent conservation order or conservation scheme took effect with respect to land the subject of a request by the Minister under subsection (1) that land was subject to an interim conservation order, the Minister shall notify the person to whom that request is made that that land was subject to an interim conservation order and of the date on which that interim conservation order took effect with respect to that land.

(3) A person to whom a request under subsection (1) is made shall comply with that request as soon as practicable after its receipt.

**125.** Whenever, pursuant to a valuing law, a person makes or causes to be made a valuation for rating or taxing purposes of land, he shall, in addition, where that land is subject to a permanent conservation order or a conservation scheme, make or cause to be made a heritage valuation or heritage valuations of that land.

Making of heritage valuations with other valuations.

---

*Heritage.*

---

Applica-  
tion of  
valuing  
laws to  
heritage  
valua-  
tions.

**126.** Except to the extent of any inconsistency with this Division—

- (a) the Valuation of Land Act, 1916, applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Act in the same way as it applies to that valuation for rating or taxing purposes;
- (b) the Local Government Act, 1919 (Schedule 3 excepted), applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Act (that Schedule excepted) in the same way as it applies to that valuation for rating or taxing purposes;
- (c) Schedule 3 to the Local Government Act, 1919, applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Schedule in the same way as it applies to that valuation for rating or taxing purposes;
- (d) the Metropolitan Water, Sewerage, and Drainage Act, 1924, applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Act in the same way as it applies to that valuation for rating or taxing purposes;
- (e) the Hunter District Water, Sewerage and Drainage Act, 1938, applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Act in the same way as it applies to that valuation for rating or taxing purposes;
- (f) the Broken Hill Water and Sewerage Act, 1938, applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Act in the same way as it applies to that valuation for rating or taxing purposes; and

(g)

---

*Heritage.*

---

- (g) the Land Tax Management Act, 1956, applies to a heritage valuation derived from a valuation for rating or taxing purposes made under that Act in the same way as it applies to that valuation for rating or taxing purposes.

**127.** (1) Where land is subject to a permanent conservation order or a conservation scheme, a rating or taxing authority which would, but for this Act, make and levy a rate or levy a tax on a valuation for rating or taxing purposes of that land shall make and levy that rate or levy that tax on the heritage valuation of that land derived from that valuation for rating or taxing purposes. <sup>Payment of rates and taxes.</sup>

(2) Where a heritage valuation is made with respect to land pursuant to a request made by the Minister under section 124 (1), the amount of any rates or taxes payable in respect of that land shall be redetermined on the basis of that heritage valuation as from the date determined in accordance with section 124 (1) (a) or (b), as the case may be, of that heritage valuation and any amount paid in excess shall be refunded and any amount short-paid shall be recoverable as arrears.

(3) Where land ceases to be subject to a permanent conservation order or a conservation scheme, the amount of any rates or taxes levied in respect of that land shall, as from the date on which that land ceases to be subject to that permanent conservation order or that conservation scheme, be redetermined on the basis of the valuation for rating or taxing purposes of that land and any amount paid in excess shall be refunded and any amount short-paid shall be recoverable as arrears.

---

*Heritage.*

---

Calcula-  
tion of  
land  
tax.

**128.** Notwithstanding the Land Tax Management Act, 1956, where a person is the owner, within the meaning of that Act, of two or more parcels of land, one or more of which is subject to a permanent conservation order or a conservation scheme, the amount of land tax, within the meaning of that Act, payable by that person shall, in respect only of such land as is subject to a permanent conservation order or a conservation scheme, be—

- (a) calculated separately in respect of each parcel of that land that is not exempt from taxation; and
- (b) so calculated in the case of each such parcel as if it were the only land owned by that person.

**DIVISION 7.—*Curtailment or Modification of Laws Affecting the Environmental Heritage.***

Making of  
orders to  
curtail or  
modify other  
laws.

**129.** (1) In this section, “instrument” means any Act (other than this Act), rule, regulation, by-law, ordinance, proclamation, agreement, covenant or instrument by or under whatever authority made.

(2) Where the conservation of an item of the environmental heritage to which a conservation instrument applies is regulated, restricted or prohibited by an instrument, the Minister, if he is of the opinion that the conservation of that item is so necessary as to warrant it, may, by order published in the Gazette, declare that the instrument or such part of that instrument as is specified in the order shall not apply to or in respect of that item or shall apply to or in respect of that item subject to such modifications as are so specified in such circumstances, if any, as are so specified.

(3) Where a Minister is responsible for the administration of an instrument referred to in subsection (2), the Minister shall not make an order with respect to that instrument under that subsection except with the prior concurrence in writing of the first-mentioned Minister.

(4)



---

*Heritage.*

---

(4) The Minister may, by order published in the Gazette, at any time at which an order made by him under subsection (2) remains in force, revoke that order in whole or in part.

(5) An order made by the Minister under subsection (2) or (4) shall take effect on and from the date of publication of that order in the Gazette.

*DIVISION 8.—Controlling and Restricting Demolition of Buildings and Works not subject to Conservation Instruments.*

**130.** (1) For the purpose of preventing the demolition of buildings or works the conservation of any one or more of which the Minister considers may be found, on further inquiry and investigation, to be so necessary as to warrant the making of a conservation instrument with respect to any such building or work or any such buildings or works, he may, by order published in the Gazette, declare that such buildings or works as are specified or described in the order shall not be demolished except in accordance with this Division.

(2) The specification or description of buildings or works in an order made by the Minister under subsection (1) may be made by reference to any one or more of the following :—

- (a) the age of the buildings or works;
- (b) the type or style of the buildings or works;
- (c) a designer, builder or occupier of the buildings or works;
- (d) any other characteristic of the buildings or works; and
- (e) the State or a part of the State.

(3) An order made by the Minister under subsection (1) shall take effect on and from the date of publication of that order in the Gazette.

---

*Heritage.*

---

Notice of  
order  
under  
s. 130 (1).

**131.** The Minister shall, as soon as practicable after the date of publication of an order made under section 130 (1)—

- (a) cause notice of that order to be given to—
  - (i) the Heritage Council;
  - (ii) the council of the area, if any, in which the buildings or works the subject of the order are situated; and
  - (iii) the Commission; and
- (b) cause public notice of that order to be given—
  - (i) where those buildings or works are, or in the opinion of the Minister are likely to be, situated in more than one area—in a daily newspaper circulating throughout the State; or
  - (ii) where those buildings or works are, or in the opinion of the Minister are likely to be, situated in one area or in a place other than an area—in a newspaper circulating at least once each week throughout that area or place.

Notice of  
proposal to  
demolish.

**132.** A person who proposes to demolish a building or work which is subject to an order made by the Minister under section 130 (1) may give notice to the Heritage Council by registered mail of his proposal.

Duration  
of order  
under  
s. 130 (1).

**133.** An order made by the Minister under section 130 (1) in respect of a building or work shall remain in force until—

- (a) a conservation instrument is made in respect of that building or work;

(b)

---

*Heritage.*

---

(b) the expiration of 40 days after a notice is given to the Heritage Council in accordance with section 132 in respect of that building or work; or

(c) that order is revoked by the Minister,  
whichever first occurs.

**134.** (1) The Minister may revoke an order made under section 130 (1) in whole or in part by notice of revocation. Revocation of order under s. 130 (1).

(2) A notice of revocation shall take effect on the date of publication of that notice in the Gazette.

(3) The Minister shall, as soon as practicable after the date of publication in the Gazette of a notice of revocation of an order made under section 130 (1), cause notice of the revocation to be given to the bodies referred to in section 131 (a) (i)–(iii) and public notice of the revocation to be given in the manner specified in section 131 (b).

**135.** A person shall not, while an order made by the Minister under section 130 (1) is in force, demolish a building or work specified or described in that order. Unlawful demolition.

**136.** (1) Where the Minister or the Chairman of the Heritage Council is of the opinion that— Order restricting demolition of buildings or works or damage to places.

(a) a building or work, not being a building or work the subject of a conservation instrument, is being or is about to be demolished; or

(b) a place, not being a place the subject of a conservation instrument, is being or is about to be damaged or destroyed,

he may order that any work being carried out with respect to that building, work or place shall cease and that no work, other than such work as may be specified in his order, shall be carried out with respect to that building, work or place within a period of 28 days after the date of his order.

(2)

---

*Heritage.*

---

(2) An order made by the Minister or the Chairman of the Heritage Council under subsection (1) shall take effect on and from the date on which a copy of that order is affixed to the building, work or place the subject of that order.

(3) Where the Minister makes an order under subsection (1), he shall immediately request the Heritage Council to furnish to him, within the period of 28 days after the date of that order, a recommendation with respect to the making of an interim conservation order and a recommendation with respect to the making of a permanent conservation order in respect of the building, work or place the subject of his order.

(4) The Heritage Council shall comply with the Minister's request.

(5) Where the Chairman of the Heritage Council makes an order under subsection (1), he shall take all such steps as are necessary to enable the Heritage Council to furnish to the Minister, within the period of 28 days after the date of that order, a recommendation with respect to the making of an interim conservation order and a recommendation with respect to the making of a permanent conservation order in respect of the building, work or place the subject of his order.

(6) The Minister may revoke an order made under subsection (1) at any time after he has received the recommendations of the Heritage Council under subsection (3) or (5) but only during the period of 28 days after the date of that order.

---

*Heritage.*

---

**137.** A person shall not, while an order made by the Minister or the Chairman of the Heritage Council under section 136 (1) is in force, carry out any work, other than such work as may be specified in that order, with respect to the building, work or place the subject of that order.

Unlawful work.

DIVISION 9.—*Protection of Relics not subject to Conservation Instruments.*

**138.** In this Division, “excavation permit” means a permit issued by the Heritage Council under section 141 (1) (a) which is in force.

Interpretation:  
Pt. VI,  
Div. 9.

**139.** A person shall not disturb or excavate any land for the purpose of discovering, exposing or moving a relic, not being a relic subject to a conservation instrument, except in accordance with an excavation permit.

Disturbing or excavating land containing certain relics.

**140.** (1) A person may make an application to the Heritage Council for the issue to him of an excavation permit.

Application for excavation permit.

(2) The application shall be in the prescribed form and shall be accompanied by such fee as may be prescribed.

**141.** (1) The Heritage Council may determine an application for an excavation permit—

Determination of application.

(a) by issuing an excavation permit, either unconditionally or subject to such conditions as it thinks proper to impose; or

(b)

---

*Heritage.*

---

(b) by refusing to issue an excavation permit.

(2) Where the Heritage Council fails to determine an application for an excavation permit within 21 days after the date of that application, it shall, for the purpose only of section 142, be deemed to have determined that application by refusing to issue an excavation permit.

Appeals arising from applications for excavation permits.

**142.** An applicant dissatisfied with a determination of the Heritage Council with respect to his application for an excavation permit may appeal to the Minister.

Minister's decision.

**143.** (1) The Minister may, with respect to an appeal made under section 142—

- (a) dismiss the appeal;
- (b) allow the appeal, either unconditionally or subject to such conditions as he thinks proper to impose; or
- (c) where the appeal is against the imposition of conditions, refuse to approve the application for an excavation permit from the determination of which the appeal has been made.

(2) The decision of the Minister under subsection (1) shall be final and shall have effect as if it were a determination of the Heritage Council.

Variation or revocation of excavation permit.

**144.** The Heritage Council may, by notice in writing to the holder of an excavation permit—

- (a) where that excavation permit has been issued unconditionally, impose conditions to which that excavation permit shall be subject;

(b)

---

*Heritage.*

---

- (b) where that excavation permit has been issued subject to conditions, vary the conditions of that excavation permit; or
- (c) revoke that excavation permit.

**145.** (1) The holder of an excavation permit dissatisfied with the variation or revocation of that excavation permit may appeal to the Minister.

Appeals arising from variation or revocation of excavation permits.

(2) Section 143, section 143 (1) (c) excepted, applies in respect of an appeal made under subsection (1) in the same way as it applies in respect of an appeal made under section 142.

**146.** Except as prescribed, a person who is aware or believes that he has, in any circumstances, discovered or located a relic, not being a relic subject to a conservation instrument, shall, within a reasonable time after he first becomes aware or believes that he has discovered or located that relic, notify the Heritage Council of the location of that relic unless he believes, on reasonable grounds, that the Heritage Council is aware of the location of that relic.

Notification of location of certain relics.

---

*Heritage.*


---

## PART VII.

## IMPLEMENTATION AND ENFORCEMENT.

DIVISION 1.—*General.*

Value of  
land com-  
pulsorily  
acquired.

**147.** (1) Where land the subject of an interim conservation order or a permanent conservation order is—

- (a) resumed or appropriated under this Act; or
- (b) resumed or appropriated under any other Act for a public purpose,

the value of that land shall be determined as if that land were not the subject of that interim conservation order or permanent conservation order.

(2) Where land the subject of a conservation scheme is—

- (a) resumed or appropriated under this Act; or
- (b) resumed or appropriated under any other Act for a public purpose,

the value of that land—

- (c) shall, except as provided by paragraph (d), be determined as if that land were subject only to those provisions, if any, of that conservation scheme which control the purposes for which that land may or may not be used; or
- (d) shall, where that conservation scheme designates that land for use exclusively for a purpose referred to in section 82 (b) (ii) and that land is resumed or appropriated for that purpose, be determined as if that land were not subject to that conservation scheme.

**148.**



---

*Heritage.*

---

**148.** (1) Subject to subsection (2) the Minister may authorise a person to carry out inspections, for the purposes of this Act, of buildings, works, relics and places and a person so authorised shall be provided by the Minister with a certificate of his authority in the prescribed form.

Entry and  
inspection.

(2) Where a person authorised under subsection (1) believes on reasonable grounds that a building, work, relic or place, is or contains an item of the environmental heritage, he may—

- (a) at any reasonable time after giving reasonable notice of his intention to do so to the person apparently in charge of or having the custody of that building, work, relic or place; or
- (b) at any time with the consent of the person referred to in paragraph (a),

carry out an inspection of that building, work, relic or place.

(3) A person authorised under subsection (1), in exercising his functions under this section in respect of a building, work, relic or place, shall, if so required by a person apparently in charge of that building, work, relic or place, produce the certificate of his authority to that person.

**149.** A person shall not obstruct, hinder, prevent or interfere with a person authorised under section 148 (1) in the exercise of his functions under section 148.

Obstruc-  
tion of  
authorised  
person.

---

*Heritage.*

---

## Notices.

**150.** (1) Where under this Act any notice or other document is required to be given to or served upon any person, the notice or other document may be given or served—

(a) in the case of an individual—

- (i) by delivering it to him; or
- (ii) by sending it by prepaid post addressed to him at the address, if any, specified by him for the giving of notices or service of documents under this Act, or, where no such address is specified, at his usual or last known place of abode or his last known place of business; or

(b) in the case of a person not being an individual—

- (i) by leaving it at that person's place of business, or, if that person is a corporation, at the registered office of that corporation, with a person apparently not less than 16 years of age and apparently in the service of the person to whom the notice or other document is required to be given or on whom the notice or other document is required to be served; or
- (ii) by sending it by prepaid post addressed to that person at the address, if any, specified by that person for the giving of notices or service of documents under this Act, or, where no such address is specified, at that person's last known place of business.

(2)

---

*Heritage.*

---

(2) A notice or other document shall, in respect of a notice or other document sent by prepaid post in accordance with subsection (1) (a) (ii) or (b) (ii), be deemed to have been given or served at the time at which the notice or other document would be delivered in the ordinary course of post.

**151.** (1) A document purporting to be a conservation **Evidence.** instrument is admissible in evidence in any legal proceedings and is prima facie evidence of the due making of that instrument and the contents thereof if it purports to be printed by the Government Printer or by the authority of the Government.

(2) A document purporting to be a copy or extract of any document, map or plan embodied, incorporated or referred to in a conservation instrument is admissible in evidence in any legal proceedings if—

- (a) it purports to be printed by the Government Printer or by the authority of the Government; or
- (b) it purports to be certified, where the original document, map or plan is in the custody of the Commission, under the hand of the Chief Administrative Officer or other prescribed officer of the Commission.

(3) Where the original document, map or plan is in the custody of the Commission, the Commission shall furnish the certified copy or extract to the person applying for it upon payment of such fee as is determined by the Commission.

(4) For the purposes of this section, a copy or extract of a map or plan may be to the same scale as the original or may be an enlarged or reduced copy.

DIVISION

---

*Heritage.*


---



---

 DIVISION 2.—*Orders of the Supreme Court.*


---

Interpre-  
tation:  
Pt. VII,  
Div. 2.

**152.** In this Division—

- (a) a reference to a breach of this Act is a reference to—
- (i) a contravention of or failure to comply with this Act; and
  - (ii) a threatened or an apprehended contravention of or a threatened or an apprehended failure to comply with this Act; and
- (b) a reference to this Act includes a reference to—
- (i) a conservation instrument;
  - (ii) an approval given under this Act or a conservation instrument; and
  - (iii) a condition subject to which an approval referred to in subparagraph (ii) is given.

Restraint,  
etc., of  
breaches  
of this  
Act.

**153.** (1) Any person may bring proceedings in the Supreme Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been infringed by or as a consequence of that breach.

(2) Proceedings brought under subsection (1) shall be brought in accordance with the rules of Court.

Order of  
the Supreme  
Court.

**154.** (1) Where the Supreme Court is satisfied that a breach of this Act has been committed or that a breach of this Act will, unless restrained by order of the Court, be committed, it may make such order as it thinks fit to remedy or restrain the breach.

(2)

---

*Heritage.*

---

(2) Without limiting the powers of the Supreme Court under subsection (1), an order made under that subsection may—

- (a) where the breach of this Act comprises a use of a building or work or of land—restrain that use;
- (b) where the breach of this Act comprises the erection of a building or the carrying out of a work—require the demolition or removal of the building or work; or
- (c) where the breach of this Act has the effect of altering the appearance of a building or work or the state of land—require the restoration of the building or work or the reinstatement, so far as is practicable, of the land to the condition the building, work or land was in immediately before the breach was committed.

(3) An order made under subsection (1) shall have effect and may be enforced as if it were an order or judgment made by the Supreme Court under the Supreme Court Act, 1970.

**155.** The functions of the Supreme Court under this Division are in addition to and not in derogation from any other functions of that Court. Application  
of Division.

DIVISION 3.—*Offences.*

**156.** (1) Where any matter or thing is by or under this Act, other than by or under the regulations, directed or forbidden to be done, or where the Minister, the Heritage Council or any other person or body is authorised by or under this Act, other than by or under the regulations, to direct any matter or thing to be done, or to forbid any matter or thing Offences  
against  
this Act  
and the  
regulations.

to

---

*Heritage.*

---

to be done, and that matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, a person offending against that direction or prohibition shall be guilty of an offence against this Act.

(2) Where any matter or thing is by or under the regulations directed or forbidden to be done, or where the Minister, the Heritage Council or any other person or body is authorised by the regulations to direct any matter or thing to be done, or to forbid any matter or thing to be done, and that matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, a person offending against that direction or prohibition shall be guilty of an offence against the regulations.

(3) Nothing in subsection (1) or (2) applies in respect of a direction given under this Act by the Minister to the Heritage Council or the Commission.

**Penalties.**

**157.** (1) A person guilty of an offence against this Act shall be liable to a penalty not exceeding \$10,000 or imprisonment for a period not exceeding 6 months, or both.

(2) A person guilty of an offence against the regulations shall be liable to a penalty not exceeding \$500.

**Proceedings  
for offences.**

**158.** (1) Proceedings for an offence against this Act may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(2) Proceedings for an offence against the regulations may be taken before a court of petty sessions held before a stipendiary magistrate sitting alone.

(3)

---

*Heritage.*

---

(3) Proceedings for an offence against this Act shall not be instituted in the Supreme Court in its summary jurisdiction without the written consent of the Minister or of such prescribed person or person of a class or description of persons prescribed for the purposes of this section.

(4) If proceedings for an offence against this Act are brought in a court of petty sessions held before a stipendiary magistrate, the maximum penalty that the court may impose is, notwithstanding any other provision of this Act, \$2,000 or imprisonment for a period not exceeding 3 months, or both.

(5) If proceedings for an offence against this Act are brought in the Supreme Court in its summary jurisdiction, the maximum penalty that the Court may impose is \$10,000 or imprisonment for a period not exceeding 6 months, or both.

(6) Proceedings in the Supreme Court in its summary jurisdiction for an offence against this Act may be commenced not later than 6 months after the offence was committed.

**159.** A person who is a director or an employee of a corporation which commits an offence against this Act or the regulations is guilty of the same offence, and liable to be punished as an individual guilty of that offence, unless he satisfies the court that—

- (a) the offence committed by the corporation was committed without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

---

*Heritage.*


---

Notices to show cause why certain restrictions on development, etc., should not be imposed.

**160.** (1) Where the owner of an item of the environmental heritage is convicted of an offence against this Act involving the demolition, damaging or despoliation of that item, the Minister may serve written notice on that owner requiring him to show cause, within 21 days after the date of that notice, why the Minister should not make an order directing that no development or use of the land on which that item is or was situated, or, where that item is a place, that place, shall be carried out during such period, not exceeding 10 years, as is specified in the notice other than development or use of that land or place for the purpose of restoring that item to the condition it was in before the demolition, damaging or despoliation took place.

(2) A notice referred to in subsection (1) shall inform an owner on whom it is served of the provisions of sections 161 and 162.

Orders restricting development, etc.

**161.** (1) Where an owner of an item of the environmental heritage on whom a notice is served under section 160 (1) with respect to that item fails to show cause as referred to in section 160 (1), the Minister may, by order published in the Gazette, direct that no development or use of the land on which that item is or was situated, or, where that item is a place, that place, shall be carried out during such period, not exceeding 10 years, as is specified in the order other than development or use of that land or place for the purpose of restoring that item to the condition it was in before the demolition, damaging or despoliation took place.

(2) An order made by the Minister under subsection (1) shall take effect on and from the date of publication of that order in the Gazette.

**162.**



---

*Heritage.*

---

**162.** The Minister shall, as soon as practicable after the date of publication in the Gazette of an order made under section 161 (1), cause notice of that order to be served on—

Notice of order under s. 161 (1).

- (a) the owner of the land or place the subject of that order; and
- (b) the Heritage Council.

**163.** (1) The Minister may, at any time during which an order made under section 161 (1) remains in force, revoke that order by notice of revocation.

Revocation of order under s. 161 (1).

(2) A notice of revocation shall take effect on the date of publication of that notice in the Gazette.

(3) The Minister shall, as soon as practicable after the date of publication in the Gazette of a notice of revocation of an order made under section 161 (1), cause notice of the revocation to be given to the persons referred to in section 162 (a) and (b).

**164.** A person shall not fail to comply with an order made by the Minister under section 161 (1) while that order is in force.

Failure to comply with order under s. 161 (1).

DIVISION 4.—*Regulations.*

**165.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

(2) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.

(3)

---

*Heritage.*

---

(3) A regulation may be made so as to authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified in the regulation.

---

**PART VIII.**

**MISCELLANEOUS.**

**Submissions  
by councils  
to the  
Heritage  
Council.**

**166.** (1) A council may submit to the Heritage Council particulars of a building, work, relic or place which, in the opinion of the council, is an item of the environmental heritage and worthy of conservation in accordance with this Act.

(2) The Heritage Council shall consider a submission made to it under subsection (1) and may recommend to the Minister the taking of such action under this Act with respect to that submission as it thinks fit.

(3) The Heritage Council shall notify the council of any recommendation made by it with respect to the council's submission.

**Certificates.**

**167.** (1) A person may, on payment of the prescribed fee, apply to the Heritage Council for a certificate under this section with respect to such land as is specified or described in the application.

(2)

---

*Heritage.*

---

(2) The Heritage Council may issue a certificate that on the date specified in the certificate—

- (a) land specified or described in the certificate is—
  - (i) land to which a conservation instrument applies and, in the case of a conservation instrument being a conservation scheme, in such manner as is specified in the certificate, or is not land to which a conservation instrument applies; or
  - (ii) land to which an order made under this Act applies or is not land to which an order made under this Act applies; and
- (b) a building or work specified or described in the certificate is a building or work in respect of which a notice has been served under this Act or is not a building or work in respect of which a notice has been served under this Act.

(3) A certificate issued under subsection (2) shall specify such other matters as may be prescribed.

(4) For the purpose of any proceedings for an offence against this Act or the regulations taken against a person who has obtained a certificate under this section, that certificate shall, in favour of that person, be conclusively presumed to be true and correct.

**168.** A person aggrieved as a consequence of the issue to him of a certificate under section 167—

- (a) shall not be entitled to make any claim or demand against the Heritage Council or any member of the Heritage Council in respect of that certificate; and

Claims arising out of issue of certificates under s. 167.

(b)

---

*Heritage.*


---

(b) shall be deemed to be a person deeming himself to have a just claim or demand against the Government of New South Wales within the meaning of section 3 (1) of the Claims against the Government and Crown Suits Act, 1912.

Elizabeth  
Farm.

**169.** Schedule 1 has effect.

**Sec. 169.**

**SCHEDULE 1.**

**ELIZABETH FARM.**

**PART 1.**

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2) in respect of section 169;

“corporation” means the corporation constituted by section 102;

“real property”, in relation to the Trust, means the land described in Part 2 of this Schedule;

“Trust” means the Elizabeth Farm Museum Trust constituted by trust deed dated 5th March, 1968.

2. On the appointed day, the Trust is dissolved.

3. On and from the appointed day—

(a) the real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Trust shall vest in or belong to the corporation;

**SCHEDULE**

---

*Heritage.*

---

SCHEDULE 1—*continued.*

ELIZABETH FARM—*continued.*

PART 1—*continued.*

- (b) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable to, or recoverable by, the Trust shall be debts due and moneys payable to and claims recoverable by the corporation;
- (c) all proceedings commenced before that day by the Trust and pending immediately before that day shall be deemed to be proceedings pending on that day by the corporation and all proceedings so commenced by any person against the Trust and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the corporation;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Trust and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the corporation;
- (e) the corporation may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this clause and for the prosecution of actions and proceedings so referred to as the Trust might have done but for the enactment of this Act;
- (f) the corporation may enforce and realise any security or charge existing immediately before that day in favour of the Trust and may exercise any functions thereby conferred on the Trust as if the security or charge were a security or charge in favour of the corporation;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Trust shall be debts due and moneys payable by and claims recoverable against the corporation; and
- (h) all liquidated and unliquidated claims for which the Trust would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the corporation shall be liable.

SCHEDULE

---

*Heritage.*

---

SCHEDULE 1—*continued.*ELIZABETH FARM—*continued.*PART 1—*continued.*

4. On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Trust shall be construed as a reference to the corporation.

5. On the appointed day, the Minister shall be deemed to have made and published in the Gazette a permanent conservation order in respect of the real property that, immediately before that day, was vested in the Trust and sections 47 and 55 shall apply in respect of that permanent conservation order.

6. (1) The corporation shall, subject to this Act, do all such things as may, in its opinion, be necessary to conserve the real and personal property that, immediately before the appointed day, was vested in or belonged to the Trust.

(2) The corporation shall use the property referred to in subclause (1) of this clause solely for the purpose of exercising the functions referred to in that subclause.

---

**PART 2.**

All that parcel of land situate in the City of Parramatta, Parish of St. John and County of Cumberland having an area of approximately 1 acre 1 rood and 10 perches, being Lot D in the plan annexed to Transfer H80207 and being the residue of the land in Certificate of Title Volume 10991 Folio 194.

---