



New South Wales

Heritage Amendment Act 1996 No 129

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New South Wales

Heritage Amendment Act 1996 No 129

Act No 129, 1996

An Act to amend the *Heritage Act 1977* to change the constitution of the Heritage Council. [Assented to 4 December 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Heritage Amendment Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Heritage Act 1977 No 136

The *Heritage Act 1977* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Omit the definitions of *Department* and *Director* from section 4 (1).
Insert in alphabetical order:

Department means the Department of Urban Affairs and Planning.

Director means the Director-General of the Department.

[2] Section 6 Definitions

Omit the definition of *Chairman*. Insert instead:

Chairperson means the person appointed under section 8 (2) (a) (i) as Chairperson of the Heritage Council.

[3] Section 8

Omit the section. Insert instead:

8 Members of the Heritage Council

- (1) The Heritage Council is to consist of 15 members, 12 of whom are to be appointed by the Minister.
- (2) Of the members to be appointed by the Minister:
 - (a) six are to be:
 - (i) a person who is appointed, in and by the person's instrument of appointment, as the Chairperson of the Heritage Council, and
 - (ii) a person appointed from a panel of 3 persons nominated by the National Trust of Australia (New South Wales), and

- (iii) a person appointed from a panel of 3 persons nominated by the Royal Australian Historical Society, and
 - (iv) a person nominated by the Director who is an officer of the Department, and
 - (v) a person appointed from a panel of 3 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), and
 - (vi) a person appointed from a panel of 3 persons nominated by the Labor Council of New South Wales, and
- (b) six are to be persons who, in the opinion of the Minister, possess suitable qualifications, knowledge and skills relating to any of the following areas:
- (i) aboriginal heritage,
 - (ii) the building, development and property industries,
 - (iii) corporate promotion,
 - (iv) the conservation of the environmental heritage,
 - (v) local government,
 - (vi) moveable heritage,
 - (vii) natural heritage,
 - (viii) the property rights of citizens,
 - (ix) rural interests.
- (3) The other 3 members are to be:
- (a) the Government Architect, and
 - (b) the Director-General of National Parks and Wildlife, and
 - (c) the Director of the Heritage Office.

- (4) If, for the purposes of this section, 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.
- (5) The Government Architect may appoint an architect employed in the Government Architect's Branch of the Department of Public Works and Services as a deputy to act on his or her behalf at any meeting of the Heritage Council that he or she is unable to attend. The deputy *so* appointed is entitled to act accordingly.
- (6) The Director-General of National Parks and Wildlife may appoint an officer of the National Parks and Wildlife Service as a deputy to act on his or her behalf at any meeting of the Heritage Council that he or she is unable to attend. The deputy *so* appointed is entitled to act accordingly.
- (7) The Director of the Heritage Office may appoint an officer employed in the Heritage Office as a deputy to act on his or her behalf at any meeting of the Heritage Council that he or she is unable to attend. The deputy *so* appointed is entitled to act accordingly.

[4] Section 9

Omit the section. Insert instead:

9 Term of office

Subject to this Part, an appointed member holds office for such period not exceeding 3 years as is specified in the instrument by which the appointment is made and, if eligible for reappointment, may be reappointed for one further term of office for such period not exceeding 3 years as is specified in the instrument by which the reappointment is made.

[5] Section 11 Vacation of office

Omit section 11 (e). Insert instead:

- (e) becomes a mentally incapacitated person,

[6] Section 11 (g)

Omit the paragraph. Insert instead:

- (g) being the member appointed under section 8 (2) (a) (iv), ceases to be an officer of the Department,

[7] Section 13 Alternate members

Omit “Chairman” from section 13 (2).

Insert instead “Chairperson or Deputy Chairperson”.

[8] Section 13 (3)

Omit the subsection. Insert instead:

- (3) Any alternate member for the Chairperson or Deputy Chairperson has 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 Chairperson or Deputy Chairperson.

[9] Sections 14 and 14A

Omit section 14. Insert instead:

14 Chairperson

The Chairperson is to preside at all meetings of the Heritage Council at which the Chairperson is present.

14A Deputy Chairperson

- (1) The Minister may appoint a member to be the Deputy Chairperson.
- (2) The Deputy Chairperson is to preside at a meeting of the Heritage Council in the absence of the Chairperson.

[10] Section 15

Omit the section. Insert instead:

15 Absence of Chairperson and Deputy Chairperson

If both the Chairperson and the Deputy Chairperson are absent from a meeting of the Heritage Council, a member appointed by the members present at the meeting is to preside at the meeting.

[11] Section 16 Chairperson's vote

Omit "Chairman". Insert instead "Chairperson".

[12] Section 17 Quorum

Omit "Seven" from section 17 (1). Insert instead "Eight".

[13] Sections 136, 137 and 169

Omit "Chairman" wherever occurring.
Insert instead "Chairperson".

[14] Section 169 (4) (a)

Omit "Chairman's". Insert instead "Chairperson's".

[15] Section 171

Insert after section 170:

171 Savings and transitional provisions

Schedule 1 has effect.

[16] Schedule 1

Insert after Part 8:

Schedule 1 Savings and transitional provisions

(Section 171)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

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- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of Heritage Amendment Act 1996

2 Members of Heritage Council

- (1) A person holding office as a member or alternate member of the Heritage Council appointed by the Minister under section 8 (2) or section 13 (as in force immediately before the amendment of those sections by the *Heritage Amendment Act 1996*) ceases to hold that office on that commencement.

- (2) A person who ceases to hold office by virtue of this clause is not entitled to any remuneration or compensation in respect of ceasing to hold office but is eligible (if otherwise qualified) for re-appointment to the Heritage Council.

[Minister's second reading speech made in —
Legislative Assembly on 25 September 1996
Legislative Council on 31 October 1996]