

Authorised Version No. 004
Heritage (General) Regulations 2005

S.R. No. 18/2005

Authorised Version incorporating amendments as at
1 November 2014

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1 Objective

The objective of these Regulations is to prescribe—

- (a) various forms, documentation and procedures authorised by the **Heritage Act 1995**; and
- (b) fees payable in relation to certain permits, consents and certificates under the Act; and
- (c) particular classes of people who are exempt from the payment of fees in relation to permits or consents; and
- (d) particular cases or classes of cases in which the Heritage Council may waive fees imposed by these Regulations; and
- (e) other matters authorised by the Act.

2 Authorising provisions

These Regulations are made under sections 185 and 187 of the **Heritage Act 1995**.

3 Commencement

These Regulations come into operation on 15 April 2005.

4 Revocation

The Heritage (General) Regulations 1996¹ are **revoked**.

Reg. 6
amended by
S.R. No.
174/2014
reg. 4.

5 Definition

In these Regulations *the Act* means the **Heritage Act 1995**.

6 Fee for certificate as to protection of a place or object

For the purposes of section 50(2)(c) of the Act the prescribed fee is 2 fee units.

7 Information about a contract of sale of a registered place or object

For the purposes of section 52(1) of the Act the prescribed information about a contract of sale of the whole or any part of a registered place or registered object is as follows—

- (a) the name, address and contact telephone number of the vendor;
- (b) the name, address and contact telephone number of the purchaser;
- (c) the location address of the place or object including any property name;
- (d) a detailed location plan or copy of title of the place showing the full extent of the property boundary and distance from the nearest intersecting street;
- (e) the settlement day for the sale of the registered place or registered object.

8 Form of interim protection order

For the purposes of section 56(2) of the Act the prescribed form of an interim protection order is the form set out in Schedule 1.

9 Form of notice of existence of an interim protection order

For the purposes of section 59(2) of the Act the prescribed form of a notice of the existence of an interim protection order is the form set out in Schedule 2.

10 Form of notice for alterations for liturgical purposes

For the purposes of section 65(2) of the Act the prescribed form of notice to carry out alterations for liturgical purposes without a permit is the form set out in Schedule 3.

11 Fee for permit to carry out works or activities in relation to registered place or object

- (1) Except as provided in subregulation (2), for the purposes of section 67(2)(a) of the Act the prescribed fee to accompany an application for a permit is the relevant fee in relation to applications of that particular class as follows—

<i>Class of application</i>	<i>Description</i>	<i>Fee</i>
Class 1	An application to subdivide a building or land which is a registered place into 2 lots	26 fee units
Class 2	An application to subdivide a building or land which is a registered place into more than 2 lots	26 fee units
Class 3	An application to demolish the whole of a registered place or object	127 fee units
Class 4	An application to— realign the boundary of; or consolidate— land which is a registered place	26 fee units

Reg. 11(1)
(Table)
substituted by
S.R. No.
174/2014
reg. 5.

Heritage (General) Regulations 2005

r. 11

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<i>Class of application</i>	<i>Description</i>	<i>Fee</i>
Class 5	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities to a single dwelling which is a registered place, where the estimated cost of the works or activities is at least \$5000 but less than \$100 000	9 fee units
Class 6	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities to a single dwelling which is a registered place, where the estimated cost of the works or activities is \$100 000 or more	13 fee units
Class 7	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is less than \$5000	13 fee units
Class 8	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is at least \$5000 but less than \$250 000	16 fee units
Class 9	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is at least \$250 000 but less than \$500 000	31 fee units

<i>Class of application</i>	<i>Description</i>	<i>Fee</i>
Class 10	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is at least \$500 000 but less than \$1 000 000	37 fee units
Class 11	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is at least \$1 000 000 but less than \$10 000 000	133 fee units
Class 12	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is at least \$10 000 000 but less than \$30 000 000	333 fee units
Class 13	An application, other than a Class 1, 2, 3 or 4 application, to carry out works or activities, in relation to a registered place or object that is not a single dwelling, where the estimated cost of the works or activities is \$30 000 000 or more	541 fee units

- (2) If an applicant under section 67 of the Act for a permit makes one application relating to two or more classes of works or activities set out in subregulation (1), then the applicant is required to pay a fee determined by adding the highest of the

fees that would have applied if separate applications had been made plus 50% of each of the other fees which would have applied if separate applications had been made.

- (3) In subregulation (1), *single dwelling* means a Class 1a building and an associated Class 10 building within the meaning of the Building Regulations 1994².

12 Waiver of fee for permit to carry out works or activities in relation to registered place or object

The Heritage Council may waive the fee in relation to an application for a permit under section 67(1) of the Act, if it is satisfied that the works or activities to which the application relates—

- (a) are for the purposes of conservation, maintenance, repair or restoration of a registered place or registered object; or
- (b) are for the safety of the public; or
- (c) are the same, or primarily the same, as those for which a permit has previously been issued to the applicant in relation to a registered place or registered object; or
- (d) are to assist in relevant conservation or historical research; or
- (e) are to educate the public as to the cultural heritage significance of a registered place or registered object.

13 Form of consent of owner to application for a permit to carry out works or activities on registered place or object

For the purposes of section 67(2)(b) of the Act the prescribed form of the consent of the owner is the form set out in Schedule 4.

14 Fee for permit for the use of historic shipwreck relics

For the purposes of section 118A(6) of the Act the prescribed fee is 8 fee units.

Reg. 14
amended by
S.R. No.
174/2014
reg. 6.

15 Waiver of fee for permit for use of historic shipwreck relics

The Heritage Council may waive the fee for the grant of a permit under section 118A(2) of the Act if it is satisfied that the use to which the permit relates—

- (a) is for the purposes of protection of an historic shipwreck relic; or
- (b) will assist in relevant anthropological, archaeological, ethnographic, historical or scientific research.

16 Fee for permit for the use of archaeological relics

For the purposes of section 126A(6) of the Act the prescribed fee is 8 fee units.

Reg. 16
amended by
S.R. No.
174/2014
reg. 7.

17 Waiver of fee for permit for use of archaeological relics

The Heritage Council may waive the fee for the grant of a permit under section 126A(2) of the Act if it is satisfied that the use to which the permit relates—

- (a) is for the purposes of protection of an archaeological relic; or
- (b) will assist in relevant anthropological, archaeological, ethnographic, historical or scientific research.

18 Fee for consent to undertake activities with respect to archaeological relics

- (1) Except as provided in subregulation (2), for the purposes of section 129(2) of the Act the prescribed fee to accompany an application for a consent is the relevant fee in relation to applications of that particular class as follows—

Reg. 18(1)
(Table)
substituted by
S.R. No.
174/2014
reg. 8.

<i>Class of application</i>	<i>Description</i>	<i>Fee</i>
Class 1	An application for consent to uncover or expose an archaeological relic or excavate any land for the purpose of discovering, uncovering or moving an archaeological relic	17 fee units
Class 2	An application for consent to deface, damage or otherwise interfere with an archaeological relic, or carry out an act likely to endanger an archaeological relic, where the damage will affect less than 50% of the relic	32 fee units
Class 3	An application for consent to deface, damage or otherwise interfere with an archaeological relic, or carry out an act likely to endanger an archaeological relic, where the damage will affect 50% or more of the relic	48 fee units
Class 4	An application for consent to possess an archaeological relic for the purposes of sale or to buy or sell an archaeological relic	7 fee units

- (2) If an applicant under section 129 of the Act for a consent makes one application relating to two or more classes of works or activities set out in subregulation (1), then the applicant is required to pay a fee determined by adding the highest of the fees that would have applied if separate

applications had been made plus 50% of each of the other fees which would have applied if separate applications had been made.

19 Waiver of fee for consent to undertake activities with respect to archaeological relics

The Heritage Council may waive the fee in relation to an application for a consent under section 129(1) of the Act if it is satisfied that the activities to which the application relates—

- (a) are for the purposes of conservation or protection of an archaeological relic; or
- (b) are to assist in relevant anthropological, archaeological, ethnographic, historical or scientific research; or
- (c) are to educate the public as to the cultural heritage significance of an archaeological relic in its context; or
- (d) are for the safety of the public; or
- (e) are the same, or primarily the same, as those for which a consent has previously been issued to the applicant in relation to an archaeological relic.

20 Exemption from payment of fees

A person who is an eligible beneficiary under section 5 of the **State Concessions Act 1986** is exempt from paying fees in relation to the following—

- (a) an application under section 67(1) of the Act, if the application relates to—
 - (i) a registered place of which he or she is the owner and which is his or her principal place of residence; or
 - (ii) a registered object of which he or she is the owner;

- (b) an application under section 129(1) of the Act, if the application relates to an archaeological relic which is situated in, on or under land which that person owns;
- (c) the grant of a permit under section 118A of the Act, if the application relates to an historic shipwreck relic which is situated in, on or under land which that person owns;
- (d) the grant of a permit under section 126A of the Act, if the application relates to an archaeological relic which is situated in, on or under land which that person owns.

21 Documentation of archaeological investigations or surveys

For the purposes of section 131(2) of the Act the prescribed documentation relating to the investigation or survey of archaeological sites is as follows—

- (a) a detailed description of the site including any name or names of the site;
- (b) the full cadastral description of the land on which the site is located;
- (c) the name and address of the owner of the land and of any body responsible for its administration;
- (d) a detailed plan of the site which locates all objects and features referred to in the site description;
- (e) a concise map of the place where the site is located including a description of how to get to the site;
- (f) either full Latitude and Longitude Co-ordinates or Australian Map Grid Co-ordinates or a map on which the site is located which allows specific Latitude and

-
- Longitude Co-ordinates or Australian Map
Grid Co-ordinates to be determined;
- (g) a concise statement describing the
significance of the site;
 - (h) the full name of the person recording the site
and the date(s) on which the site was
recorded;
 - (i) a photograph or photographs of the site
which include the major features referred to
in the site description;
 - (j) two copies of any report which may result
from the survey;
 - (k) a written transcript of any other site
information obtained during an investigation
or survey of the site including information
obtained by research or by traversing the
land by any means.

22 Identity card for inspectors

For the purposes of section 147(2) of the Act the
prescribed form of identity card to be issued to an
inspector is set out in Schedule 5.

SCHEDULES

SCHEDULE 1

Regulation 8

Heritage Act 1995

Heritage (General) Regulations 2005

INTERIM PROTECTION ORDER UNDER SECTION 56

TO: (name)

..... (address)

..... (post code)

You are the *owner/occupier/person apparently in charge of the *place/object located at

..... (insert address) which is categorised
 as a (insert category) under section 20
 of the **Heritage Act 1995**.

4

In the opinion of the *Heritage Council/Executive Director it is *necessary/desirable to make an interim protection order under section 56 of the **Heritage Act 1995** for the purposes of the Act.

TAKE NOTICE THAT:

1. The *Heritage Council/Executive Director causes this interim protection order to be served on you.
2. On service of this order on you and while this order remains in force the *place/object at (insert address) is deemed to be included in the Heritage Register in the category specified.

3. While a place is deemed to be a registered place, subject to the Act, section 64(1) of the **Heritage Act 1995** provides that, a person must not—

- (a) remove or demolish; or
- (b) damage or despoil; or
- (c) develop or alter; or
- (d) excavate—

all or any part of that registered place.

The maximum penalty for a contravention of section 64(1) is—

- (a) in the case of a natural person: 2400 penalty units or imprisonment for 5 years or both;
- (b) in the case of a body corporate: 4800 penalty units.

4. While an object is deemed to be a registered object, subject to the Act, section 64(2) of the **Heritage Act 1995** provides that, a person must not—

- (a) remove or demolish; or
- (b) damage or despoil; or
- (c) alter—

that registered object.

The maximum penalty for a contravention of section 64(2) is—

- (a) in the case of a natural person: 2400 penalty units or imprisonment for 5 years or both;
- (b) in the case of a body corporate: 4800 penalty units.

5. While an object is deemed to be a registered object, subject to the Act, section 64(3) of the **Heritage Act 1995** provides that, a person must not relocate or disturb the position of a fixed registered object.

The maximum penalty for a contravention of section 64(3) is—

- (a) in the case of a natural person: 2400 penalty units or imprisonment for 5 years or both;
- (b) in the case of a body corporate: 4800 penalty units.

6. This order takes effect on service of the order under section 56 of the **Heritage Act 1995**.

7. This order—
- (a) continues in force for a period of 4 months or for any further period specified by the Minister; or
 - (b) until—
 - (i) the place or object is included in the Heritage Register; or
 - (ii) the Heritage Council determines that the place or object does not warrant inclusion in the Heritage Register; or
 - (iii) the Heritage Council removes the order—
- whichever occurs first.

8. Under section 59 of the **Heritage Act 1995** on service of this order on you, you must cause a notice in the prescribed form of the existence of the order to be continuously displayed in a conspicuous position on the place to which this order relates during the period that the order is in force.

The maximum penalty for a contravention of section 59 is—

- (a) in the case of a natural person: 120 penalty units;
- (b) in the case of a body corporate: 240 penalty units.

DATED:

***EXECUTIVE DIRECTOR:/ HERITAGE COUNCIL (seal):**

.....

*Strike out words which are inapplicable.

SCHEDULE 2

Regulation 9

Heritage Act 1995

Heritage (General) Regulations 2005

**NOTICE UNDER SECTION 59 OF THE EXISTENCE OF AN
INTERIM PROTECTION ORDER**

An interim protection order made by the *Executive Director/Heritage Council has been served for the undermentioned *place/object:

NAME OF *PLACE/OBJECT (if any):

ADDRESS:

SPECIFIED CATEGORY:

TAKE NOTICE THAT:

1. While the order remains in force the above *place/object is deemed to be included in the Heritage Register in the category specified.
2. While a place is deemed to be a registered place, subject to the Act, section 64(1) of the **Heritage Act 1995** provides that, a person must not—
 - (a) remove or demolish; or
 - (b) damage or despoil; or
 - (c) develop or alter; or
 - (d) excavate—

all or any part of that registered place.

The maximum penalty for a contravention of section 64(1) is—

- (a) in the case of a natural person: 2400 penalty units or imprisonment for 5 years or both;
- (b) in the case of a body corporate: 4800 penalty units.

3. While an object is deemed to be a registered object, subject to the Act, section 64(2) of the **Heritage Act 1995** provides that, a person must not—

- (a) remove or demolish; or
- (b) damage or despoil; or
- (c) alter—

that registered object.

The maximum penalty for a contravention of section 64(2) is—

- (a) in the case of a natural person: 2400 penalty units or imprisonment for 5 years or both;
- (b) in the case of a body corporate: 4800 penalty units.

4. While an object is deemed to be a registered object, subject to the Act, section 64(3) of the **Heritage Act 1995** provides that, a person must not relocate or disturb the position of a fixed registered object.

The maximum penalty for a contravention of section 64(3) is—

- (a) in the case of a natural person: 2400 penalty units or imprisonment for 5 years or both;
- (b) in the case of a body corporate: 4800 penalty units.

*Strike out words which are inapplicable.

SCHEDULE 3

Regulation 10

Heritage Act 1995

Heritage (General) Regulations 2005

**NOTICE UNDER SECTION 65 OF ALTERATIONS FOR
LITURGICAL PURPOSES**

NAME OF REGISTERED *PLACE/OBJECT

HERITAGE REGISTER NUMBER

CHURCH

ADDRESS

OWNER DETAILS

Name

Address

Telephone

PROPERTY MANAGER/AGENT DETAILS

Name

Address

Telephone

A DETAILED DESCRIPTION OF ALTERATIONS

(including 3 copies of appropriately scaled drawings to show the extent and nature of proposed works for the alterations)

**STATE LITURGICAL PURPOSE FOR WHICH THE ALTERATION
IS REQUIRED**

DECLARATION

**I am an officer of the church authorised by the church to give notice that
the alterations outlined above are required for liturgical purposes.**

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Name

Address

Position

Signature

Date

*Strike out words which are inapplicable.

SCHEDULE 4

Regulation 13

Heritage Act 1995

Heritage (General) Regulations 2005

**CONSENT OF OWNER UNDER SECTION 67 TO AN APPLICATION
FOR A PERMIT TO CARRY OUT WORKS OR ACTIVITIES IN
RELATION TO A REGISTERED PLACE OR OBJECT**

STATEMENT OF CONSENT BY OWNER:

I am the owner of the *registered place/registered object described in the permit application dated (*insert date*) and I hereby consent to the application to carry out the works or activities specified in the application.

NAME:

ADDRESS:

SIGNATURE:

DATE:

*Strike out words which are inapplicable.

Heritage (General) Regulations 2005

Sch. 5

S.R. No. 18/2005

SCHEDULE 5

Regulation 22

Heritage Act 1995

Heritage (General) Regulations 2005

IDENTITY CARD FOR INSPECTORS UNDER SECTION 147

Heritage Act 1995

and regulations under that Act

I certify that the bearer,

has been appointed an inspector under
the provisions of section 146 of the
Heritage Act 1995.

(Signed)

Executive Director/Delegate

(Date)

(Signed)

Inspector No.

ENDNOTES

1. General Information

The Heritage (General) Regulations 2005, S.R. No. 18/2005 were made on 12 April 2005 by the Lieutenant-Governor, having assumed the administration of the government of the State, with the advice of the Executive Council, under sections 185 and 187 of the **Heritage Act 1995**, No. 93/1995 and came into operation on 15 April 2005: regulation 3.

The Heritage (General) Regulations 2005 will sunset 10 years after the day of making on 12 April 2015 (see section 5 of the **Subordinate Legislation Act 1994**).

Heritage (General) Regulations 2005

Endnotes

S.R. No. 18/2005

2. Table of Amendments

This Version incorporates amendments made to the Heritage (General) Regulations 2005 by statutory rules, subordinate instruments and Acts.

Heritage (General) Amendment (Fees) Regulations 2014, No. 174/2014

Date of Making: 21.10.14

Date of Commencement: 1.11.14: reg. 3

3. Explanatory Details

¹ Reg. 4: S.R. No. 85/1996 as amended by S.R. No. 23/2001.

² Reg. 11(3): S.R. No. 81/1994. Reprint No. 6 as at 1 July 2002.
Reprinted to S.R. No. 27/2002. Subsequently amended by
S.R. Nos 132/2002, 43/2003, 79/2003, 2/2004, 46/2004 and 113/2004.