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Australian Heritage Council (Consequential and
Transitional Provisions) Bill 2000

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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Australian Heritage Council (Consequential and transitional
Provisions) Bill 2000

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30 March 2001

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Australian Heritage Council (Consequential and transitional Provisions) Bill 2000

Date Introduced: 7 December 2000

House: Senate

Portfolio: Environment and Heritage

Commencement: At the same time as the Environment and Heritage Legislation Amendment Bill (No.2) receives Royal assent.

Purpose

To repeal the *Australian Heritage Commission Act 1975* and establish transitional arrangements in relation to the proposed new Commonwealth heritage regime.

Background

The Australian Heritage Council (Consequential and Transitional Provisions) Bill 2000 (the Bill) is part of a package of three Bills designed to replace the *Australian Heritage Commission Act 1975*.

The major Bill of the package is the Environment and Heritage Legislation Amendment Bill (No.2) 2000 and readers are referred to [Bills Digest](#) No.105, 2000-01 for discussion of the proposed new Commonwealth heritage regime.

Main Provisions

Schedule 1 - Repeals and Amendments

Item 1 repeals the *Australian Heritage Commission Act 1975*.

Item 2 repeals subsection 9(3) of the *Environment Protection and Biodiversity Conservation Act 1999*. Subsection 9(3) provides that a decision or a granting of an approval under the *Environment Protection and Biodiversity Conservation Act 1999* does

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not constitute an action under section 30 of the *Australian Heritage Commission Act 1975*.¹ **Item 1** makes subsection 9(3) redundant.

Schedule 2 - Transitional provisions

Item 3 provides that any rights, properties, assets, debts, liabilities or obligations of the Australian Heritage Commission become vested in the Commonwealth upon the Bill coming into force.

Item 4 allows for the registration by the relevant State or Territory's land titles office of the Commonwealth's right, title or interest in any land vested in it as a result of **item 3**. The Minister must provide written certification of the vesting in order for Commonwealth's right, title or interest to be registered.

Item 5 is similar to **item 4** but deals with assets other than land. In this case, registration would be by an 'assets official'. An 'assets official' is defined in **item 5** as the 'person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned'.

Item 6 provides that the *Lands Acquisition Act 1989* does not apply to anything done under **Schedule 2**. Such a provision commonly appears in legislation dealing with the sale of Commonwealth assets or the winding up of Commonwealth statutory authorities.²

Item 7 exempts the Commonwealth from having to pay any State or Territory stamp or other tax as a result of the vesting or transfer of an asset or liability under **Schedule 2**.

Item 8 relates to any Court proceedings involving the Australian Heritage Commission at the time the Commission is abolished by **item 1**. In such cases, the Commonwealth is substituted as the relevant party in place of the Australian Heritage Commission.

Section 516 of the *Environment Protection and Biodiversity Conservation Act 1999* requires the Environment Secretary to prepare an annual report on the operation of that Act. **Item 9** provides that this report must include a report on the Australian Heritage Commission for the period from the last July 1 before the Bill commences to the date the Bill commences.

Item 10 allows for regulations to prescribe arrangements to deal 'with any issues of a transitional nature arising as a result of the repeal of the *Australian Heritage Commission Act 1975*'.

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Endnotes

- 1 The effect of subsection 9(3) is that a decision or a granting of an approval under the EPBCA *would not* trigger the Commonwealth's obligation under the *Australian Heritage Commission Act 1975* to avoid adversely affecting a place on the Register of the National Estate unless there is 'no reasonable or prudent alternative'.
- 2 For example, the *Airports (Transitional) Act 1996* which deals in part with the transfer of assets from the old Federal Airports Corporation to the Commonwealth.

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