

First print



New South Wales

# Heritage Amendment Bill 1996

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Heritage Act 1977*:

- (a) to change the constitution of the Heritage Council to ensure a skills oriented composition of members, and
  - (b) to make other consequential amendments.
-

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Heritage Act 1977* as set out in Schedule 1.

## Schedule 1 Amendments

### Reconstitution of the Heritage Council

At present the Heritage Council consists of 12 members of whom 10 are appointed by the Minister. The other 2 members are ex officio members, being the Government Architect and the Director-General of National Parks and Wildlife.

The amendments to the Act contained in this Bill will increase the number of members of the Heritage Council to 15, introduce a new method for appointing 6 of the members and give the Minister a discretion to appoint members from additional areas of expertise.

The method of appointment and qualifications of 8 of the members will not be changed by the Bill. They are the person appointed as Chairperson of the Heritage Council, the representative of the National Trust of Australia (NSW), the representative of the Department of Urban Affairs and Planning, the representative of the Labor Council of New South Wales, the representative of the Royal Australian Historical Society, the representative of the Royal Australian Institute of Architects and the Royal Australian Planning Institute, the Government Architect and the Director-General of National Parks and Wildlife.

The Director of the New South Wales Heritage Office becomes an ex officio member of the Heritage Council.

The 6 remaining members of the Heritage Council are to be appointed from a range of areas of expertise, some of which are presently found in the Act and some of which are new areas that will be introduced by this Bill. These new areas are aboriginal heritage, corporate promotion, moveable heritage, natural heritage and rural interests. These areas of expertise are added to the existing areas of local government, property rights of citizens, conservation of environmental heritage, and the building, development and property industry.

**Schedule 1 [3]** makes the principal amendment and **Schedule 1 [1], [2], [5], [6], [11], [13]** and **[14]** make consequential amendments.

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Explanatory note

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### **Term of office**

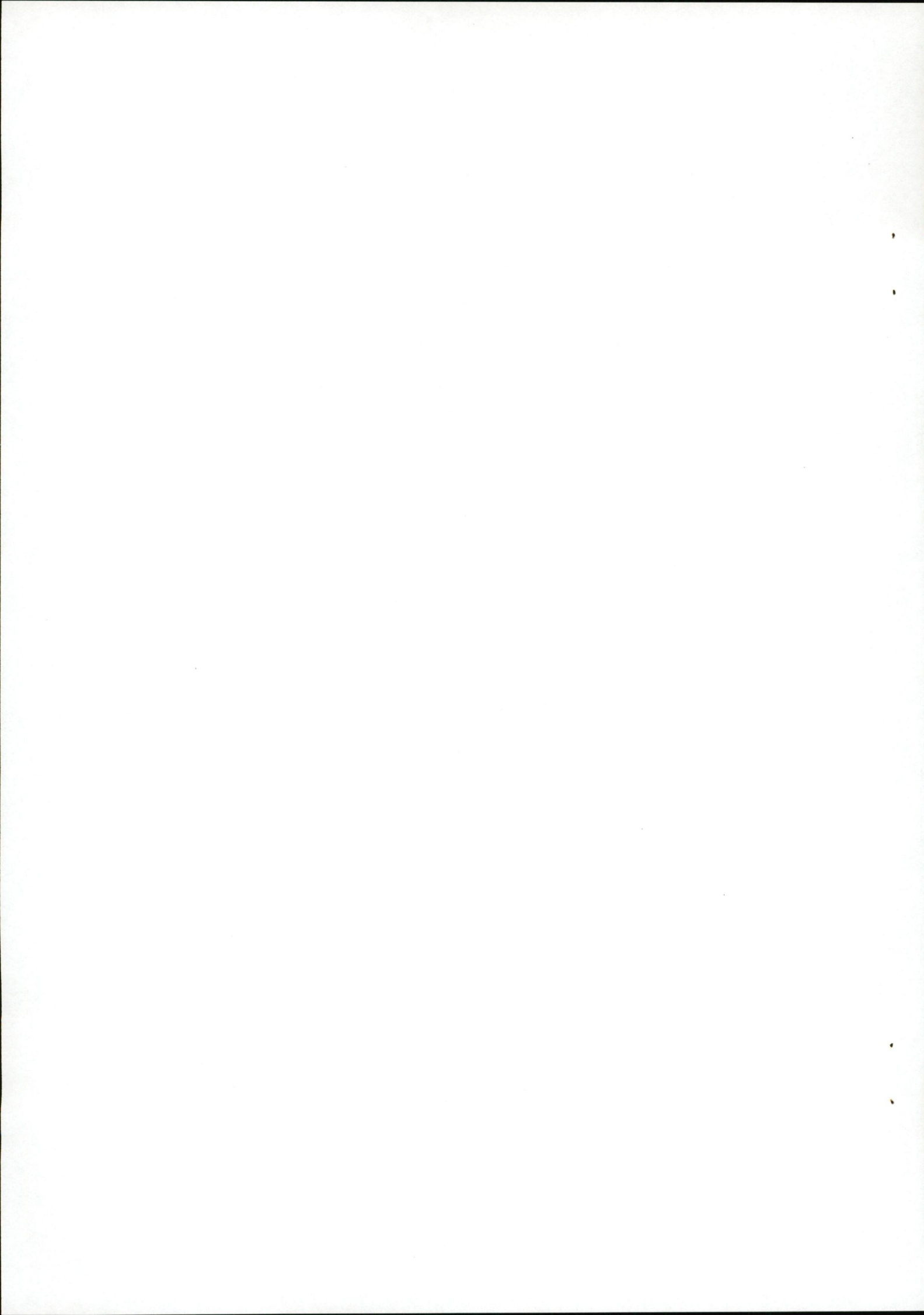
At present the term of office of a member of the Heritage Council is 3 years. A member may be reappointed. The amendment to the Act contained in **Schedule 1 [4]** will allow the Minister to appoint a member for a maximum period of 3 years with one reappointment being possible for a maximum period of 3 years.

### **Other amendments**

Amendments to the Act made by **Schedule 1 [7], [8], [9] and [10]** will allow for the appointment of a member of the Heritage Council as Deputy Chairperson.

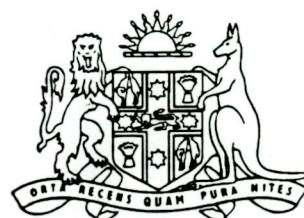
The number required for quorum is increased from 7 to 8 by the amendment made by **Schedule 1 [12]**.

**Schedule 1 [15] and [16]** make savings and transitional provisions as a consequence of the amendments to the Act.





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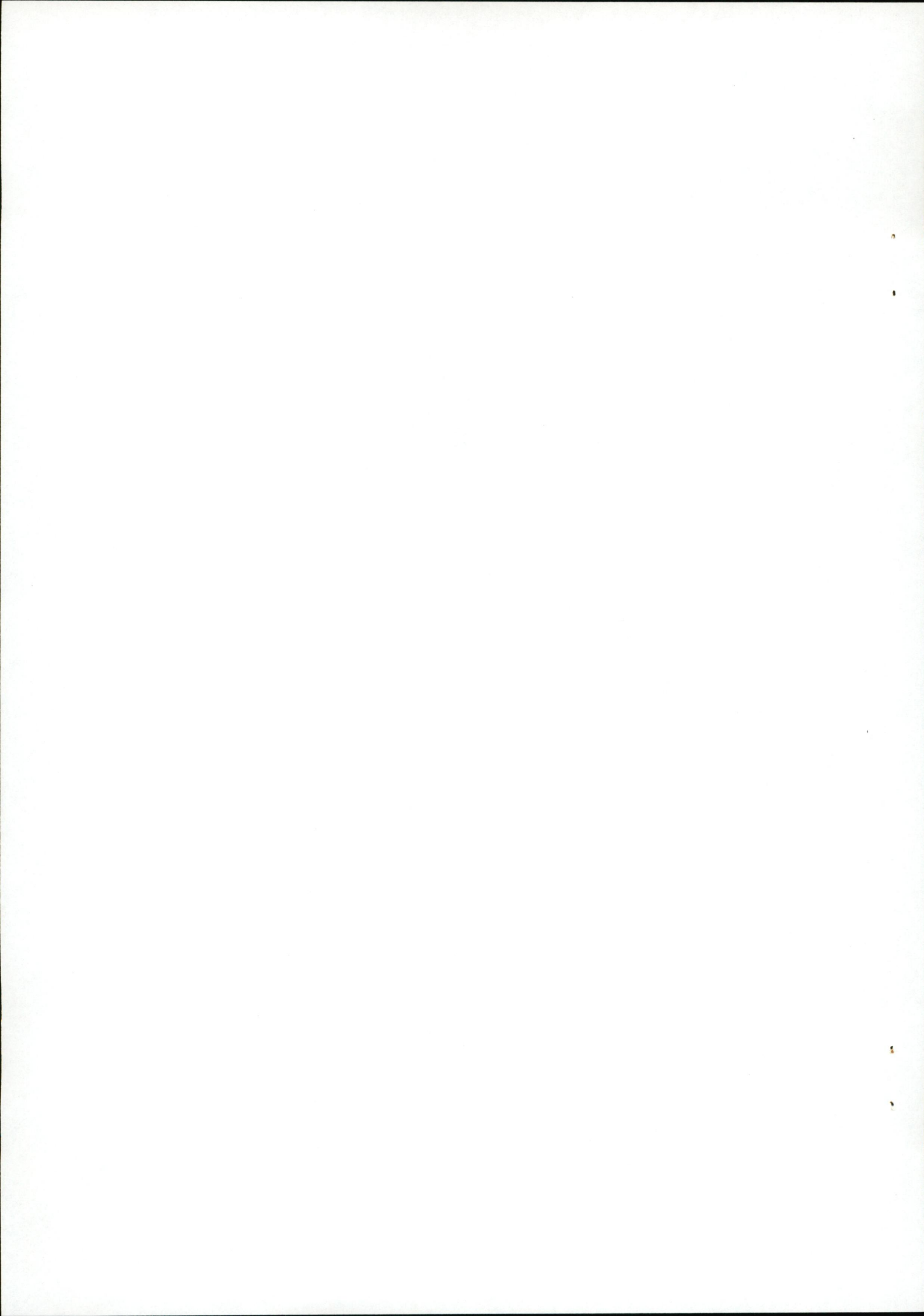
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New South Wales

## Heritage Amendment Bill 1996

No. , 1996

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### **A Bill for**

An Act to amend the *Heritage Act 1977* to change the constitution of the Heritage Council.

---

**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.          5

**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:

5

*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:

10

*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

15

(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

20

(ii) a person appointed from a panel of 5 persons nominated by the National Trust of Australia (New South Wales), and

25



Heritage Amendment Bill 1996

Schedule 1 Amendments

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- (iii) a person appointed from a panel of 5 persons nominated by the Royal Australian Historical Society, and
- (iv) a person nominated by the Director who is an officer of the Department, and 5
- (v) 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), and 10
- (vi) a person appointed from a panel of 5 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: 15
  - (i) aboriginal heritage,
  - (ii) the building, development and property industries, 20
  - (iii) corporate promotion,
  - (iv) the conservation of the environmental heritage,
  - (v) local government, 25
  - (vi) moveable heritage,
  - (vii) natural heritage,
  - (viii) the property rights of citizens,
  - (ix) rural interests.
- (3) The other 3 members are to be: 30
  - (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
- (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. 10
- (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. 15  
20
- (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. 25

**[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. 30  
35

**[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:

5

(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".

10

**[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.

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**[9] Sections 14 and 14A**

Omit section 14. Insert instead:

**14 Chairperson**

20

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.

5

**[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.

10

**[11] Section 16 Chairperson's vote**

Omit "Chairman". Insert instead "Chairperson".

**[12] Section 17 Quorum**

15

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)**

20

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**

5

Insert after Part 8:

**Schedule 1 Savings and transitional provisions**

(Section 171)

**Part 1 Preliminary**

**1 Regulations**

10

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

*Heritage Amendment Act 1996*

- (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.

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- (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:

20

- (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.

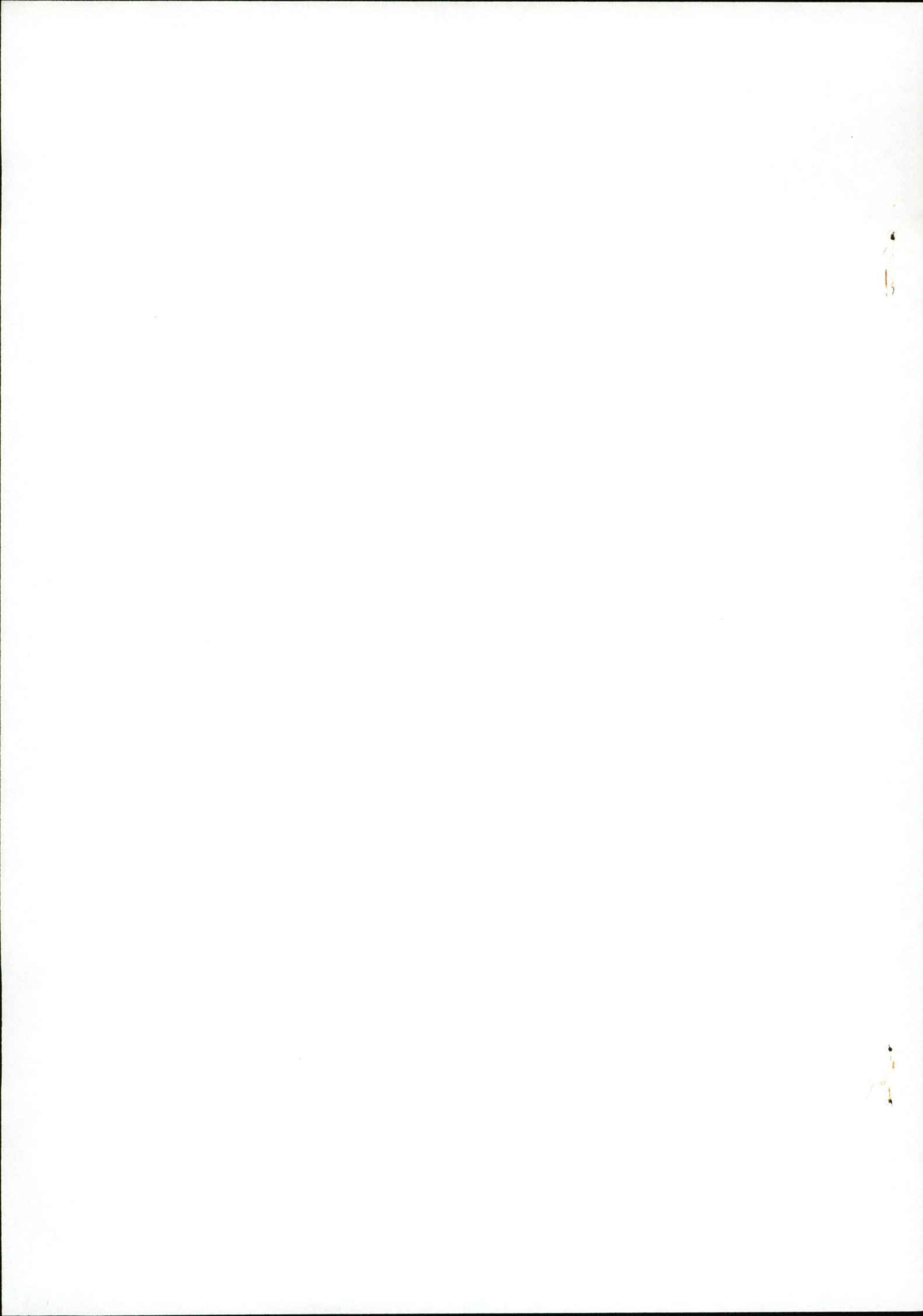
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**Part 2 Provisions consequent on enactment of  
Heritage Amendment Act 1996**

**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. 5
- (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. 10



Second print



New South Wales

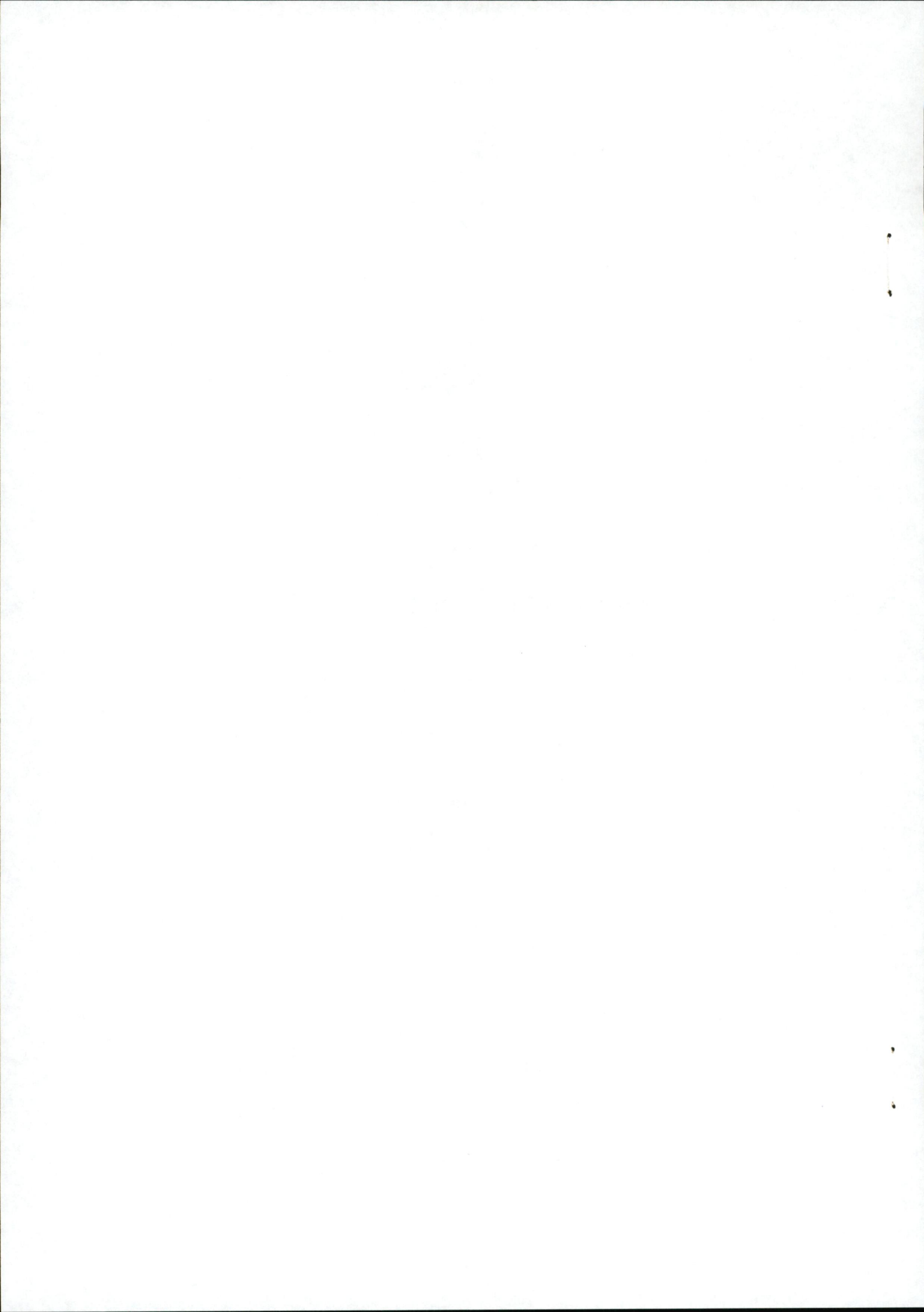
# Heritage Amendment Bill 1996

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.  
Legislative Assembly*



New South Wales

## **Heritage Amendment Bill 1996**

Act No      , 1996

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An Act to amend the *Heritage Act 1977* to change the constitution of the Heritage Council.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Heritage Amendment Act 1996*.

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This Act commences on a day or days to be appointed by proclamation.            5

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

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## Schedule 1 Amendments

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### [2] Section 6 Definitions

Omit the definition of *Chairman*. Insert instead:

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*Chairperson* means the person appointed under section 8  
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Omit the section. Insert instead:

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(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 20

(ii) a person appointed from a panel of 3  
persons nominated by the National Trust of  
Australia (New South Wales), and 25

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Schedule 1 Amendments

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- (iii) a person appointed from a panel of 3 persons nominated by the Royal Australian Historical Society, and
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- (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 10
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  - (iv) the conservation of the environmental heritage,
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  - (vi) moveable heritage,
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- (3) The other 3 members are to be: 30
  - (a) the Government Architect, and
  - (b) the Director-General of National Parks and Wildlife, and
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- (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
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- (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. 15  
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**[4] Section 9**

Omit the section. Insert instead:

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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. 30  
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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,

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Omit "Chairman" from section 13 (2).

Insert instead "Chairperson or Deputy Chairperson".

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**[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.

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**[9] Sections 14 and 14A**

Omit section 14. Insert instead:

**14 Chairperson**

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



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- (1) The Minister may appoint a member to be the Deputy Chairperson.
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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.

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**[11] Section 16 Chairperson's vote**

Omit "Chairman". Insert instead "Chairperson".

**[12] Section 17 Quorum**

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

**[13] Sections 136, 137 and 169**

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Insert instead "Chairperson".

**[14] Section 169 (4) (a)**

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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**

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Insert after Part 8:

**Schedule 1 Savings and transitional provisions**

(Section 171)

**Part 1 Preliminary**

**1 Regulations**

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

*Heritage Amendment Act 1996*

- (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.

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- (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:

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**Part 2 Provisions consequent on enactment of  
Heritage Amendment Act 1996**

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- (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. 10





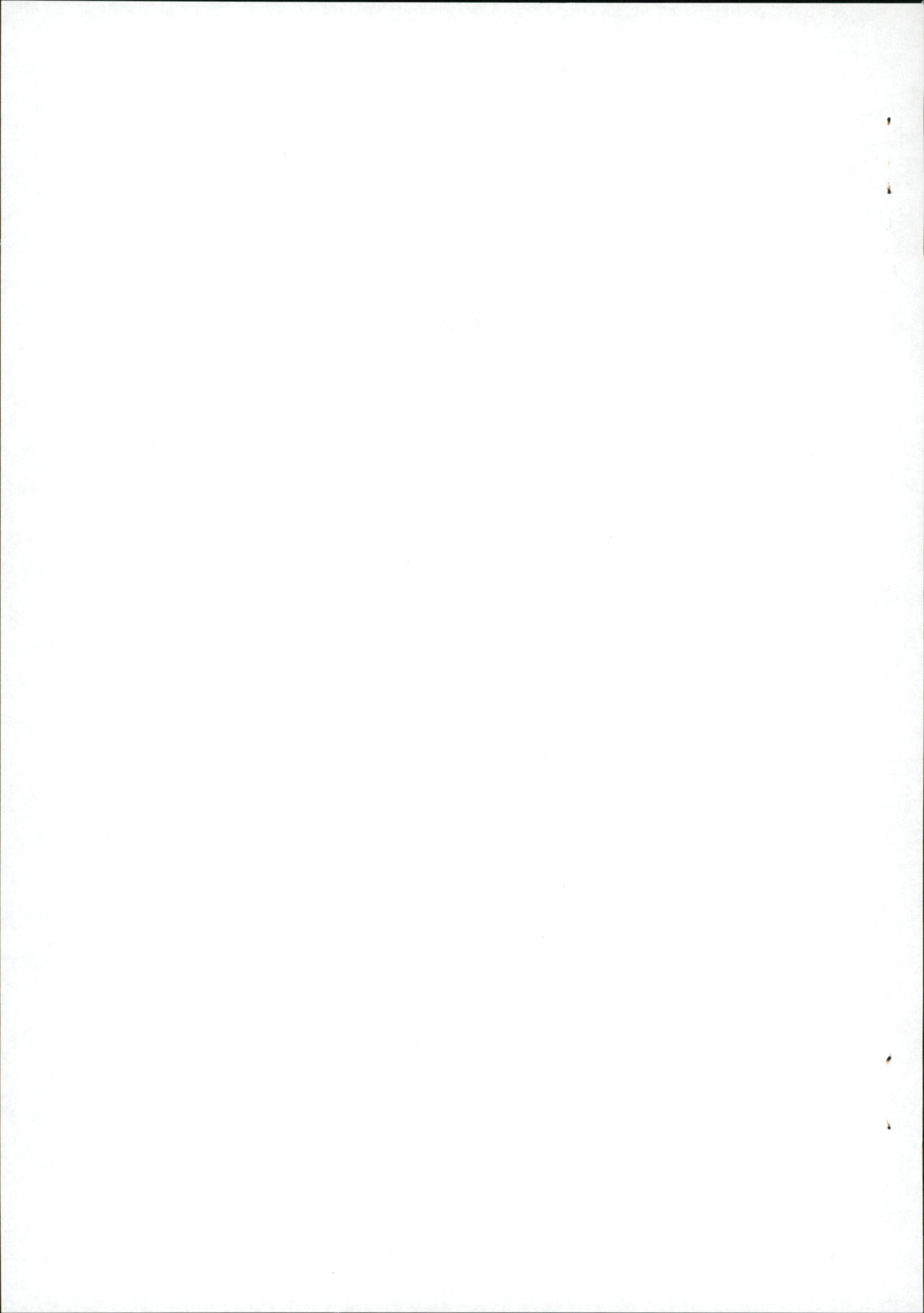
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# Heritage Amendment Act 1996 No 129

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New South Wales

# Heritage Amendment Act 1996 No 129

Act No 129, 1996

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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.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 4 Definitions

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Omit the definition of *Chairman*. Insert instead:

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

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Omit the section. Insert instead:

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- (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
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- (3) The other 3 members are to be:
- (a) the Government Architect, and
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- (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.
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- (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**

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Omit section 11 (e). Insert instead:

- (e) becomes a mentally incapacitated person,

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Omit the paragraph. Insert instead:

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

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Omit "Chairman" from section 13 (2).

Insert instead "Chairperson or Deputy Chairperson".

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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**

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**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**

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**[12] Section 17 Quorum**

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**[13] Sections 136, 137 and 169**

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Insert after section 170:

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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:

*Heritage Amendment Act 1996*

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**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]

BY AUTHORITY

