

Aboriginal and Torres Strait Islander Heritage Protection Regulations 2017

EXPLANATORY STATEMENT

Issued by the authority of the Minister for the Environment and Energy

Aboriginal and Torres Strait Islander Heritage Protection Act 1984

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (**the Act**) is an Act to preserve and protect places, areas and objects of particular significance to Aboriginals, and for related purposes.

Section 32 of the Act empowers the Governor-General to make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Aboriginal and Torres Strait Islander Heritage Protection Regulations 2017* (**the Regulations**) repeals and replaces the *Aboriginal and Torres Strait Islander Heritage Protection Regulations 1984* (**the 1984 Regulations**) which are due to sunset on 1 April 2018.

Part IIA of the Act, relating specifically to Victorian Aboriginal cultural heritage, was repealed under the *Aboriginal and Torres Strait Islander Heritage Protection Amendment Act 2006 (Cth) - Repeal No. 152, 2006*. Regulations 3A, 5-10 and associated Schedules 2-4 in the 1984 Regulations refer to the repealed Part IIA of the Act, making the 1984 Regulations out of date.

The Regulations will promote the effective operation of the Act by only including regulations that are in line with the current operation and obligations of the Act. Details of the Regulations are outlined in Attachment A.

Consultation was not undertaken in relation to the Regulations. The Regulations purely address the administrative requirements for the Act that were included in the previous version of the Regulations and do not impact on the rights or interests of stakeholder groups.

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required, as the Regulations do not appear to have a direct or significant indirect impact on business (OBPR Ref: 21961).

A statement of the Regulations' compatibility with human rights is set out in Attachment B.

The Regulations commence on the day after registration on the Federal Register of Legislation.

Details of the Aboriginal and Torres Strait Islander Heritage Protection Regulations 2017

Part 1—Preliminary

1 – Name

This regulation provides that the title of the Regulations is the *Aboriginal and Torres Strait Islander Heritage Protection Regulations 2017*.

2 – Commencement

This regulation provides the commencement information for the whole of the instrument.

3 – Authority

This regulation states that the instrument is made under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

4 – Schedules

This regulation states that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 – Definitions

This regulation sets out the relevant definitions for the Regulations.

Part 2—Matters prescribed for purposes of Act

6 – Identity cards for authorized officers

This regulation provides that, for the purposes of subsection 17(2) of the Act, the form of the identity card for authorised officers in Schedule 1 is prescribed. It also prescribes the particulars of an identity card for the purposes of paragraph 17(3)(b) of the Act.

7 – Prescribed authority

This regulation provides that for the purposes of paragraph 21(1)(c) of the Act, the National Museum of Australia is a prescribed authority for safekeeping.

Schedule 1—Form of identity card

This schedule prescribes the form of the identity card for an authorized officer.

Schedule 2 – Repeals

This schedule repeals the *Aboriginal and Torres Strait Islander Heritage Protection Regulations 1984*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Aboriginal and Torres Strait Islander Heritage Protection Regulations 2017

These Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

By accurately reflecting the compliance requirements of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (the Act), the Regulations work to preserve and protect places, areas and objects of particular significance to Aboriginals, and for related purposes.

Human rights implications

The Regulations do not engage any of the applicable human rights or freedoms.

Conclusion

The Regulations are compatible with human rights as it does not raise any human rights issues.

The Hon Josh Frydenberg MP
Minister for the Environment and Energy