

FACT SHEET

Aboriginal Relics Amendment Bill 2017

The Bill seeks to amend the *Aboriginal Relics Act 1975* ("the Act") to change its title, to remove or amend some very outdated or objectionable elements of the Act, and to insert a small number of new provisions to supplement the other amendments. It also includes some minor updates to drafting or references in the Act. A small number of consequential amendments to other legislation, to reflect the Act's new title, are in a separate Bill.

An essential inclusion in the Bill is provision for a statutory review after three years, which is expected to lead to new legislation to replace the Act. This Bill is intended as an interim step to remove the worst aspects of the Act, and it is acknowledged that there will still be much to do to bring the legislation up to date.

The key elements of the Bill provide for:

- The change of the title to the *Aboriginal Heritage Act 1975*.
- The removal of references to 1876 as being a cut-off date beyond which relics cannot exist (and thus be protected). Additional criteria will define 'relics' as being of significance to the Aboriginal people of Tasmania. The term 'significance' is further qualified as being in accordance with Tasmanian Aboriginal history and tradition.
- The establishment of a new Aboriginal Heritage Council, replacing a long-defunct Aboriginal Relics Advisory Council. The new Council consists of Aboriginal people and has broad advisory functions, as well as a specific role to advise in cases of uncertainty about whether something is a relic and thus falls under the scope of the Act.
- Introduction of new sets of penalty provisions. The first set covers the offences related to harm to relics, in sections 9 and 14. Maximum penalties (for deliberate acts) are 10,000 penalty units (currently \$1.57 million) for bodies corporate other than small business entities and 5,000 penalty units (currently \$785,000) for individuals or small business entities; for reckless or negligent offences, the maximum penalties are 2,000 and 1,000 penalty units respectively (currently \$314,000 and \$157,000 respectively). Businesses that are "small business entities" under Federal income tax legislation are treated as individuals rather than bodies corporate for the purpose of all the penalty provisions in the Bill.
- The second set covers lesser offences, with maximum penalties of 100 penalty units (currently \$15,700) for bodies corporate other than small business entities and 50 penalty units (currently \$7,850) for individuals or small business entities. They apply in sections 10, 12, 17 and 18.
- Creation of two new defences. One is for acts during an emergency response. The other, more general one is a defence of "compliance with the guidelines", specifically for offences under sections 9 and 14. The Minister must issue the guidelines (which are disallowable by the Parliament). The guidelines will provide an opportunity for people and businesses to be pro-active in seeking to minimise the harm they might do, and avoid the chance of their actions being negligent.
- Extension of the time available for commencing prosecutions from 6 months to 2 years.

- The requirement to undertake a review of the Act within 3 years, and to report on it to the Parliament.