

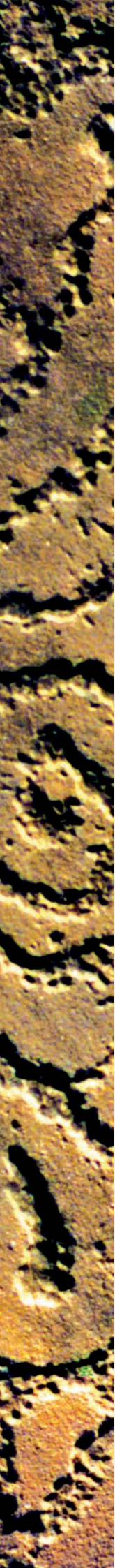
GUIDELINE 4 Sections 28, 29 and 31 of the *Aboriginal Heritage Act 1988*

Care of, control of, sale of and other dealings with objects



**Government
of South Australia**

Department of the
Premier and Cabinet



Section 29 makes it an offence to sell or dispose of Aboriginal objects or remove Aboriginal objects from the State. This ensures that Aboriginal heritage, as much as possible, remains within the lands of origin.

Aboriginal objects are defined by the Act as being of significance according to Aboriginal tradition, archaeology, anthropology or history. By this definition, most objects will have been made by Aboriginal people. However, some objects not made by Aboriginal people may have significance. An example of this is the “King Plates”, made by European colonists and presented to certain Aboriginal men and women. As such, these objects are significant to Aboriginal history.

It should be noted that all Aboriginal objects are subject to Section 29 of the Act, whether they are registered objects or not and whether their provenance is within South Australia or another State.

If a person wishes to sell, dispose of, or take an Aboriginal object interstate, then they must seek the authorisation of the Minister under section 29.

Should such an authorisation (see Guideline 1) be required, the Minister must follow the consultation processes under section 13 and consult the relevant Aboriginal people and organisation(s) to determine the significance of the object. This process can take up to 4 months.

It is particularly important to ensure that Aboriginal objects (eg stone tools, grindstones and wooden implements) found on Aboriginal sites are left undisturbed and the discovery of such sites reported to the Minister. It is an offence to disturb Aboriginal sites and remove objects pursuant to Section 23 of the Act (See Guideline 1).

Care of Aboriginal objects

28. *A person must take reasonable measures to protect an Aboriginal object that is in that person's ownership or possession as part of a public or private collection.*

Penalty: (a) in the case of a body corporate - \$50,000;

(b) in any other case - \$10,000 or imprisonment for 6 months.

Control of sale of and other dealings with objects

29. (1) *A person must not, without the authority of the Minister:*

(a) sell or dispose of an Aboriginal object; or

(b) remove an Aboriginal object from the State.

Penalty: (a) in the case of a body corporate - \$50,000;

(b) in any other case - \$10,000 or imprisonment for 6 months.

(2) *This section does not affect the sale of land of which an Aboriginal object forms part or to which an Aboriginal object is affixed.*

(3) *The Minister must in determining whether to give an authorisation for the purposes of this section comply with the regulations.*

Acquisition of objects and records

31. (1) *The Minister may:*

(a) acquire an Aboriginal object or record by purchase; or

(b) compulsorily acquire an Aboriginal object or record in accordance with this section.

(2) *If the owner of an Aboriginal object or record is unwilling to sell the object to the Minister, or is unwilling to sell it for an amount the Minister considers reasonable, the Minister may apply to the Land and Valuation Court for a valuation of the object or record.*

(3) *If within one month after the date of a valuation by the Court, the Minister pays into the Court the amount of the valuation, the Court may:*

(a) make an order vesting title to the object or record in the Minister; and

(b) make any incidental or ancillary orders that may be necessary or desirable in the circumstances of the case.

Surrender of objects and records

32. (1) *The Minister may require a person who has possession of an Aboriginal object or record, or an object or record that the Minister has reason to believe may be an Aboriginal object or record, to surrender the object or record to the Minister, or to a person nominated by the Minister, for one or more of the following purposes:*
- (a) determination of whether the object or record is an Aboriginal object or record;*
 - (b) examination for the purposes of making an entry in the central or local archives;*
 - (c) consideration of acquisition by the Minister of the object or record under this Act;*
 - (d) in the case of an object, research related to the object.*
- (2) *An object or record surrendered under subsection (1):*
- (a) may, unless acquired by the Minister, be retained for a period not exceeding 3 months; and*
 - (b) if returned, must, subject to any agreement to the contrary with the owner of the object or record, be returned in the condition in which it was surrendered.*
- (3) *A person must not, without reasonable excuse, refuse or fail to comply with a requirement made under this section.*

Penalty: \$2,000 or imprisonment for 3 months.

Forfeiture of objects

33. *Where the owner of an Aboriginal object is found guilty of an offence in relation to that object, the court may, in addition to any penalty that the court may impose, order that the object be forfeited to the Crown.*

Custody of land, objects and records

34. *Where land or an Aboriginal object or record has been acquired or has come into the possession of the Minister (except by surrender of the object or record under section 32), the land or object may, if the Minister so determines:*
- (a) be placed in the custody of an Aboriginal person or organisation; or*
 - (b) be dealt with in any other manner, subject to such conditions as the Minister may determine.*



Who do I contact for further advice?

For assistance or further information regarding these Guidelines please contact:

The Aboriginal Heritage Branch
Aboriginal Affairs and Reconciliation Division
Department of the Premier and Cabinet
PO Box 2343
ADELAIDE SA 5001
Phone 08 8226 8900
Facsimile 08 8226 8999

Cover: Stone tool - possibly used to scrap flesh from skins, found archaeologically in the Adelaide district [Supplied by SA Museum A20349]

Strip: Panaramittee - ancient rock engraving, believed to over 10,000 years old, Olary district [Supplied by SA Museum A15951]

Disclaimer: This document is a guide only and should not be relied upon to ensure compliance with the *Aboriginal Heritage Act 1988*. Persons proposing to undertake activities that may damage, disturb or interfere with Aboriginal sites, objects or remains should seek specific advice.