



# **Aboriginal Councils and Associations Act 1976**

**Act No. 186 of 1976 as amended**

This compilation was prepared on 31 March 2005  
taking into account amendments up to Act No. 32 of 2005

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act to provide for the Constitution of Aboriginal Councils and the Incorporation of Associations of Aboriginals and for matters connected therewith**

## **Part I—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Aboriginal Councils and Associations Act 1976*.

### **2 Commencement** [see Note 1]

This Act shall come into operation on a date to be fixed by Proclamation.

### **3 Interpretation**

In this Act, unless the contrary intention appears:

**Aboriginal** means a person who is:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of an indigenous inhabitant of the Torres Strait Islands.

**Aboriginal association** means an association, society or body:

- (a) eligibility for membership of which is limited to Aboriginals and spouses of Aboriginals;
- (b) that has as members not less than 5 adult Aboriginals; and
- (c) that is formed or carried on for any lawful object, including the securing of a pecuniary profit to its members.

**Aboriginal Council** means an Aboriginal Council established by Part III.

**Aboriginal corporation** means an Aboriginal Council or an Incorporated Aboriginal Association.

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**adult Aboriginal** means an Aboriginal who has attained the age of 18 years.

**area**, in relation to an Aboriginal Council, means the Aboriginal Council area for which the Council is established by this Act.

**committee**, in relation to an Aboriginal association, means the members having the conduct of the affairs of the association.

**councillor** means a councillor of an Aboriginal Council.

**Court** means the Federal Court of Australia.

**Deputy Registrar** means a Deputy Registrar of Aboriginal Corporations appointed under section 4.

**Incorporated Aboriginal Association** means an Aboriginal association incorporated under Part IV.

**official address**, in relation to the public officer of an Aboriginal Corporation, means the address notified to the Registrar under section 37 or 57.

**public officer**, in relation to an Aboriginal Corporation, means the public officer of the corporation appointed in pursuance of section 36 or 56.

**Registrar** means the Registrar of Aboriginal Corporations appointed under section 4.

**spouse**, in relation to an Aboriginal, includes a person who, although not legally married to the Aboriginal, is living with the Aboriginal as the Aboriginal's spouse on a permanent and *bona fide* domestic basis.

**surplus assets**, in relation to an Incorporated Aboriginal Association, means the assets remaining on the winding up of the Association after payment of the debts and liabilities of the Association and the cost, charges and expenses of the winding up.

**unauthorized name**, in relation to an Aboriginal association, means:

- (a) a name that is, in the opinion of the Registrar, undesirable; or



- (b) a name that would not be available to a body corporate under the *Corporations Act 2001*.

### **3A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## Part II—Registrar of Aboriginal Corporations

### 4 Registrar of Aboriginal Corporations

- (1) For the purposes of this Act, there shall be a Registrar of Aboriginal Corporations and such number of Deputy Registrars of Aboriginal Corporations as the Minister determines from time to time.
- (2) The Registrar shall be appointed by the Minister and has such duties, functions and powers as are provided by this Act and by the regulations.
- (3) The Deputy Registrars shall be appointed by the Minister for the purpose of assisting the Registrar in carrying out his or her duties and functions.
- (4) The Registrar and the Deputy Registrars shall be engaged under the *Public Service Act 1999*.
- (5) The Registrar and the Deputy Registrars hold office, as such, during the pleasure of the Minister.

### 5 Functions and powers of Registrar

- (1) In addition to the functions conferred by other provisions of this Act, the functions of the Registrar are:
  - (a) to maintain 2 public registers, one being a Register of Aboriginal Councils and the other a Register of Incorporated Aboriginal Associations;
  - (b) to advise adult Aboriginals on the procedures for the constitution of Aboriginal Council areas and the establishment of Aboriginal Councils and for the incorporation of Aboriginal associations; and
  - (c) to arbitrate in disputes as provided for by the Rules of an Aboriginal Council; and
  - (d) to formulate model rules, not inconsistent with the *Aboriginal and Torres Strait Islander Act 2005*, for the

conduct of proceedings at meetings of Regional Councils elected under that Act.

- (1A) Model rules formulated under paragraph (1)(d) are not legislative instruments for the purposes of the *Legislative Instruments Act 2003*.
- (2) The Registrar has power to do all things necessary or convenient to be done for or in connexion with, or as incidental to, the performance of his or her functions including, but without limiting the generality of the foregoing, power to act as agent for an Aboriginal corporation.

## **6 Acting appointments**

- (1) Where there is a vacancy in the office of the Registrar or of a Deputy Registrar, the Minister may, by signed writing, appoint a person to act as Registrar or Deputy Registrar, as the case may be, until the filling of the vacancy, but a person so appointed shall not continue to act after the expiration of the period of 12 months after the occurrence of the vacancy.
- (2) Where the Registrar or a Deputy Registrar is, or is expected to be, absent from duty or from Australia or unable, whether on account of illness or otherwise, to perform the duties of his or her office, the Minister may, by signed writing, appoint a person to act as Registrar or Deputy Registrar, as the case may be, during the period during which the Registrar or Deputy Registrar is so absent or so unable to perform the duties of his or her office.
- (3) A person appointed to act as Registrar or Deputy Registrar in accordance with this section has all the functions, powers and duties of the Registrar or Deputy Registrar, as the case may be.
- (4) A person appointed under this section may resign his or her appointment by signed writing delivered to the Minister, but the resignation does not have effect until it is accepted by the Minister.

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**7 Resignation**

The Registrar or a Deputy Registrar may resign his or her office by signed writing delivered to the Minister, but the resignation does not have effect until it is accepted by the Minister.

**8 Registrar to have a seal**

- (1) The Registrar shall have and use as the seal of his or her office a seal in such form as the Minister, by notice in the *Gazette*, determines.
- (2) All courts, judges and persons acting judicially shall take judicial notice of:
  - (a) the signature of any person who holds or has held, or acts or has acted in, the office of Registrar and of the fact that that person holds or has held, or is acting or has acted in, that office; and
  - (b) the seal of the Registrar.

**9 Delegation by Registrar**

- (1) The Registrar may, either generally or as otherwise provided by the instrument of delegation, by signed writing, delegate to a person any of his or her powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Registrar.
- (3) A delegation under this section does not prevent the exercise of a power by the Registrar.

## **Part III—Aboriginal Council areas and Aboriginal Councils**

### **10 Interpretation**

In this Part, unless the contrary intention appears, *application* means an application made under section 11 but, where such an application has been varied under section 14, means that application as so varied, and *applicant* has a corresponding meaning.

### **11 Application for constitution of Aboriginal Council area**

- (1) Where 10 adult Aboriginals living in a particular area desire that an Aboriginal Council be formed in respect of that area, they may apply in writing, signed by each of them, to the Registrar for the constitution of that area as an Aboriginal Council area with a view to the establishment of an Aboriginal Council for that area.
- (2) An application under subsection (1) shall state:
  - (a) the boundaries of the area proposed to be constituted as an Aboriginal Council area;
  - (b) the functions of the proposed Aboriginal Council for that area, which shall include the provision of a service or services to the Aboriginals living in the area and may include any other function for the benefit of those Aboriginals; and
  - (c) the names and addresses of the persons making the application.
- (3) A reference in paragraph (2)(b) to a service shall be read as including a reference to a service relating to any of the following matters:
  - (a) housing;
  - (b) health;
  - (c) sewerage;
  - (d) water supply;
  - (e) electricity supply;

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- (f) communications;
  - (g) education or training;
  - (h) relief work for unemployed persons;
  - (i) roads and associated works;
  - (j) garbage collection and disposal;
  - (k) welfare;
  - (l) community amenities.
- (4) This section does not apply in relation to an area that consists of or includes the whole of an existing Aboriginal Council area.

**12 Explanation of application**

- (1) Where the Registrar receives an application under section 11, the Registrar shall:
- (a) inform the adult Aboriginals living in the area to which the application relates of his or her receipt of the application;
  - (b) explain to those Aboriginals:
    - (i) the purpose of the application;
    - (ii) the boundaries of the area the subject of the application; and
    - (iii) the functions of the proposed Aboriginal Council for that area; and
  - (c) fix a time and place for a meeting to discuss the application and notify those Aboriginals of that time and place.
- (2) The Registrar shall carry out his or her duties under subsection (1) by any means that the Registrar considers appropriate.

**13 Convening of meeting to discuss proposed Aboriginal Council**

- (1) The Registrar shall convene a meeting in accordance with a notification given under paragraph 12(1)(c).
- (2) The Registrar shall attend a meeting convened under subsection (1) and shall endeavour to ascertain the opinions of the adult Aboriginals present at the meeting regarding:
- (a) the establishment of an Aboriginal Council for the area the subject of the application or a part of that area; and

- (b) the functions to be conferred on such a Council.

#### **14 Variation of application**

The applicants may, having regard to the opinions expressed at a meeting convened in pursuance of section 13, vary their application as they think fit but not so as to extend the area to which the application relates.

#### **15 Withdrawal of application**

The applicants may, by notice in writing served on the Registrar, withdraw an application at any time before the constitution of an Aboriginal Council area in accordance with the application.

#### **16 Constitution of Aboriginal Council area on satisfaction of Registrar**

- (1) Where:

- (a) the Registrar is satisfied, with respect to an application under section 11:
  - (i) that a substantial majority of adult Aboriginals living in the area to which the application relates is in favour of the establishment of an Aboriginal Council for the area with the functions set out in the application; and
  - (ii) that, having regard to the needs and resources of the Aboriginals living in that area, the proposed Council could effectively perform those functions;
- (aa) the area to which the application relates is not, and does not include, an area to which local government extends, or to which it is proposed to extend local government, by or under a law of a State or Territory;
- (b) the area to which the application relates does not consist of, or include, a part of an existing Aboriginal Council area; and
- (c) the Registrar has agreed with the applicants on a name for the proposed Aboriginal Council area;

the Registrar may, by notice published in the *Gazette*, constitute that area as an Aboriginal Council area under that name.

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- (2) A notice under subsection (1) shall specify the boundaries of the Aboriginal Council area.
- (4) Where, by reason of the circumstances of an application under section 11, the Registrar is of the view that he or she should not constitute the area to which the application relates as an Aboriginal Council area under subsection (1), the Registrar shall refer the application to the Minister for his or her direction.
- (5) Where a part (in this subsection referred to as *the prescribed part*) of an area to which an application under section 11 relates consists of a part of an existing Aboriginal Council area, the Registrar shall, before referring the application to the Minister for his or her direction, endeavour to ascertain the opinions of the adult Aboriginals living in the prescribed part regarding the establishment of an Aboriginal Council for the area to which the application relates or a part of that area that includes the prescribed part and the functions to be conferred on such a Council.
- (6) A reference under subsection (4) shall be accompanied by:
  - (a) all relevant documents in the possession of the Registrar;
  - (b) a statement by the Registrar of the matters ascertained by him or her under subsection 13(2) and subsection (5) of this section; and
  - (c) any comments on the application that the Registrar may wish to make.

**17 Constitution of Aboriginal Council area in accordance with direction of Minister**

- (1) Subject to subsection (3), where an application is referred to the Minister under section 16, the Minister may, having regard to the customs and wishes of the adult Aboriginals living in the area to which the application relates or in a part of that area, direct the Registrar to constitute that area or that part as an Aboriginal Council area and, if the Minister does so, he or she shall specify:
  - (a) the boundaries of the area to be so constituted;
  - (b) the name under which the area is to be so constituted; and
  - (c) the functions of the proposed Aboriginal Council for the area.



- (2) Where an application referred to the Minister under section 16 relates to an area that consists of, or includes, part of an existing Aboriginal Council area, the Minister shall consult with any Aboriginal Council that may be affected by the granting of the application (in this section referred to as *the existing Council*) and with any creditors of the existing Council whose rights against it may be prejudiced by the granting of the application and may enter into:
- (a) such agreements with the existing Council with respect to the transfer to the Council for the Aboriginal Council area proposed to be constituted (in this section referred to as *the new Council*) of assets of the existing Council; and
  - (b) such agreements with the creditors of the existing Council with respect to the transfer to the new Council of liabilities of the existing Council to its creditors;
- as the Minister considers are required to ensure that, if the application is granted:
- (c) the existing Council will be able effectively to carry out its functions with respect to the area that will remain to it;
  - (d) the new Council will be able effectively to carry out its functions with respect to the area constituted in pursuance of the application; and
  - (e) the rights of those first-mentioned creditors will not be so prejudiced.
- (3) The Minister shall not give a direction under subsection (1) with respect to an application to which subsection (2) applies unless the Minister has entered into agreements under subsection (2) or is otherwise satisfied that, if the application is granted, the existing Council and the new Council will be able to carry out their respective functions in their respective areas and that the rights of creditors of the existing Council will not be prejudiced.
- (4) Where an application referred to the Minister under section 16 relates to an area that is, or includes, an area to which local government extends, or to which it is proposed to extend local government, by or under a law of a State or Territory, the Minister shall not direct the Registrar under subsection (1) to constitute the area to which the application relates, or a part of that area, as an Aboriginal Council area unless the Minister has consulted with the person responsible for administering local government in the
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relevant State or Territory, or in each relevant State or Territory, that is to say:

- (a) in the case of a State—the Minister of State for the State who is responsible, or principally responsible, for the administration of matters relating to local government in that State; or
  - (b) in the case of a Territory—the person holding an executive office who is responsible, or principally responsible, for the administration of matters relating to local government in that Territory.
- (5) Where the Registrar receives a direction under subsection (1), he or she shall, by notice published in the *Gazette*, constitute the area to which the direction relates as an Aboriginal Council area under the name specified in the direction.
- (6) A notice under subsection (5) shall specify the boundaries of the Aboriginal Council area.
- (7) By force of this subsection, upon the publication of a notice under subsection (5) constituting an Aboriginal Council area:
- (a) any part of the area thus constituted that was, immediately before being so constituted, part of an existing Aboriginal Council area, ceases to be part of that last-mentioned area;
  - (b) any assets the subject of agreements under paragraph (2)(a) cease to be vested in the Aboriginal Council in which they were vested immediately before publication of the notice and become vested in the Aboriginal Council that is, in accordance with section 19, established by this Act for the area so constituted; and
  - (c) an Aboriginal Council that was, immediately before the publication of the notice, liable to pay and discharge any liabilities the subject of agreements under paragraph (2)(b) ceases to be so liable and the Aboriginal Council that is, in accordance with section 19, established by this Act for the area constituted under subsection (5) becomes liable to pay and discharge those liabilities.

**18 Refusal of application**

If the Minister does not give a direction under section 17 with respect to an application, the Minister shall direct the Registrar to refuse the application and to inform the applicants of the refusal and of the reasons for the refusal, being reasons set out by the Minister in the direction.

**19 Establishment of Aboriginal Council**

- (1) On the constitution of an Aboriginal Council area under section 16, 17 or 27, there is established by this Act an Aboriginal Council for that area.
- (2) An Aboriginal Council shall be known as the Aboriginal Council for the Aboriginal Council area for which it is established.
- (3) An Aboriginal Council:
  - (a) is a body corporate with perpetual succession;
  - (b) shall have a common seal;
  - (c) may acquire, hold and dispose of real and personal property; and
  - (e) may sue and be sued in its corporate name.

Note: Subject to section 19A, the *Commonwealth Authorities and Companies Act 1997* applies to an Aboriginal Council. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (4) All courts, judges and persons acting judicially shall take judicial notice of the seal of an Aboriginal Council affixed to a document and shall, unless the contrary is proved, presume that it was duly affixed.

**19A Application of the *Commonwealth Authorities and Companies Act 1997* if Administrator appointed**

If an Administrator of an Aboriginal Council is appointed under Part V then, while the appointment remains in force:

- (a) subject to paragraph (b), the *Commonwealth Authorities and Companies Act 1997* applies in relation to the Aboriginal

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- Council as if the Administrator were the sole director of the Aboriginal Council for the purposes of that Act; and
- (b) section 21 of that Act does not apply to the Administrator.

**20 Functions of Aboriginal Council**

- (1) The functions of an Aboriginal Council are:
- (a) where the area of the Council was constituted under section 16—the functions specified in the application on the basis of which that area was so constituted;
  - (b) where the area of the Council was constituted under section 17—the functions specified in the direction in compliance with which that area was so constituted; or
  - (c) where the area of the Council was constituted under section 27—the functions specified in the recommendation by virtue of which that area was so constituted.
- (2) There shall be included in the notice published under section 16, 17 or 27 with respect to the constitution of the area of an Aboriginal Council a statement of the functions conferred on the Council by subsection (1).

**21 First election of councillors of Aboriginal Council**

- (1) As soon as practicable after the establishment of an Aboriginal Council the Registrar shall conduct an election of councillors of the Council.
- (2) For the purpose of conducting an election under this section, the Registrar shall, subject to the regulations:
- (a) inform the adult Aboriginals living in the area of the Aboriginal Council of the Registrar's intention to conduct the election;
  - (b) fix the number of councillors to be elected and notify those Aboriginals of that number;
  - (c) determine the manner in which the election is to be conducted and explain to those Aboriginals the manner in which the election is to be conducted; and

- (d) fix the date or dates, and the place or places, that are relevant to the conduct of the election and notify those Aboriginals of that date or dates and that place or places.
- (3) In fixing the number of councillors to be elected at an election under this section and in determining the manner in which the election is to be conducted, the Registrar shall have regard to the views of the adult Aboriginals living in the area of the Aboriginal Council.
- (4) A person is not entitled to be a candidate, or to vote, in an election of councillors of an Aboriginal Council under this section unless:
  - (a) the person is an Aboriginal; and
  - (b) at the date, or the earlier or earliest of the dates, fixed for the purposes of the election:
    - (i) the person had attained the age of 18 years; and
    - (ii) the person was living in the area of the Council.
- (5) If there is a dispute whether a particular person has been elected as a councillor in an election held under this section, the Registrar shall inquire into the matter and determine whether that person or another person has been elected as a councillor.
- (6) At the conclusion of an election under this section, the Registrar shall publish in the *Gazette* a notice setting out the results of the election and shall take such other action (if any) as the Registrar considers appropriate to inform the adult Aboriginals living in the area of the Aboriginal Council of those results.

## **22 First meeting**

- (1) The Registrar shall, as soon as practicable after the conclusion of an election, under section 21, of councillors of an Aboriginal Council, convene and preside over the first meeting of the Council after that election for the purpose of:
  - (a) adopting the Rules of the Council; and
  - (b) electing a Chair of the Council.
- (2) A quorum for a meeting of an Aboriginal Council under this section is a number of councillors that is not less than two-thirds of the total number of councillors constituting the Council.

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- (3) A question arising at a meeting of an Aboriginal Council under this section shall be decided by a majority of the votes of the councillors present and voting and, in the event of the votes being equal, the Registrar has a casting vote.
- (4) If:
- (a) a motion for the adoption of the Rules of the Council has been passed; and
  - (b) the Registrar is of the opinion that the Rules are inconsistent with this Act or the *Commonwealth Authorities and Companies Act 1997*;
- the Registrar shall explain to the meeting his or her reasons for considering that the Rules are inconsistent with this Act or the *Commonwealth Authorities and Companies Act 1997* and shall, thereupon, rescind the motion.
- (5) Where a motion for the adoption of the Rules of the Council has been rescinded under subsection (4), a further motion for the adoption of other Rules of the Council may be moved.
- (6) Where Rules of the Council that are not inconsistent with this Act have been adopted, the Rules thereupon take effect and the Registrar shall obtain, and keep in his or her office, a copy of those Rules.
- (7) The Registrar may adjourn a meeting of an Aboriginal Council under this section from time to time for the purpose of enabling further consideration of any question before the meeting.
- (8) If the Registrar is satisfied that Rules of the Council that are not inconsistent with this Act or the *Commonwealth Authorities and Companies Act 1997* will not be adopted at a meeting under this section, the Registrar shall adjourn the meeting.
- (8A) Where:
- (a) the Registrar adjourns a meeting of an Aboriginal Council under subsection (8); and
  - (b) the Minister is satisfied that Rules of the Council that are not inconsistent with this Act or the *Commonwealth Authorities and Companies Act 1997* will not be adopted at that meeting if it resumes;

the Minister may declare the election of the councillors of that Council to be void, and that declaration shall have effect accordingly and the Registrar shall proceed to conduct a fresh election in accordance with section 21.

- (9) A motion for the election of a Chair of the Aboriginal Council shall not be moved until Rules of the Council that are not inconsistent with this Act or the *Commonwealth Authorities and Companies Act 1997* have been adopted and, on a Chair being elected, the Registrar shall cease to preside over, or to take any further part in, the meeting.
- (10) In this section, *this Act* includes the regulations.

### **23 Rules to provide for certain matters**

- (1) Subject to this Act and the regulations and to the *Commonwealth Authorities and Companies Act 1997*, the Rules of an Aboriginal Council shall make provision for and in relation to:
- (a) the manner of election of councillors;
  - (b) the term of office of councillors (not being a term in excess of 3 years) and the procedure for removal from office;
  - (c) the creation of the executive offices of the Council and the procedure for filling those offices;
  - (d) the procedure for the conduct of meetings of the Council;
  - (e) the manner in which the funds of the Council are to be managed;
  - (f) the procedure for settling disputes between the Council and Aboriginals living in the area of the Council; and
  - (g) the method of altering the Rules of the Council, whether by making new Rules or by varying or rescinding Rules in force;
- and may make provision, not contrary to law, for and in relation to any other matter.
- (2) The Rules of an Aboriginal Council shall comply with any requirements of the regulations.
- (3) The Rules of an Aboriginal Council with respect to any matter may be based on Aboriginal custom.

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**25 Election of new councillors**

- (1) Within 3 months before the date on which the terms of office of the councillors constituting an Aboriginal Council (in this section referred to as *the retiring councillors*) expire, the Registrar shall conduct, in accordance with the Rules of the Council, an election of new councillors.
- (2) For the purpose of conducting an election under this section, the Registrar shall:
  - (a) inform the adult Aboriginals living in the area of the Aboriginal Council of the Registrar's intention to conduct the election;
  - (b) notify those Aboriginals of the number of councillors to be elected;
  - (c) explain to those Aboriginals the manner of conducting the election that is specified in the Rules of the Aboriginal Council; and
  - (d) fix the date or dates, and the place or places, that are relevant to the conduct of the election and notify those Aboriginals of that date or dates and that place or places.
- (3) A person is not entitled to be a candidate, or to vote, in an election of councillors of an Aboriginal Council under this section unless:
  - (a) the person is an Aboriginal; and
  - (b) at the date, or the earlier or earliest of the dates, fixed for the purposes of the election:
    - (i) the person had attained the age of 18 years; and
    - (ii) the person was living in the area of the Council.
- (4) A person elected as a new councillor under this section takes office on the expiration of the term of office of the retiring councillors.
- (5) At the conclusion of an election under this section, the Registrar shall publish in the *Gazette* a notice setting out the results of the election and shall take such other action (if any) as the Registrar considers appropriate to inform the adult Aboriginals living in the area of the Aboriginal Council of those results.



**26 Area to be added to Aboriginal Council area**

- (1) Where the Registrar is satisfied:
- (a) that a substantial majority of adult Aboriginals living in an area (in this section referred to as *the additional area*) is in favour of the addition of that area to the area (in this section referred to as *the original area*) of an Aboriginal Council;
  - (b) that a substantial majority of adult Aboriginals living in the original area is in favour of the addition of the additional area to the original area;
  - (c) that, having regard to the needs and resources of Aboriginals living in both areas, the Aboriginal Council for the original area could effectively carry out its functions with respect to both areas; and
  - (d) where the additional area consists of or includes a part of the area of another Aboriginal Council—that, having regard to the needs and resources of Aboriginals living in the remaining part of the area of that other Aboriginal Council, that other Aboriginal Council could effectively carry out its functions in that remaining part;

the Registrar may make a recommendation to the Minister that the additional area be added to the original area.

- (2) Where the additional area that, in accordance with a recommendation under subsection (1), is to be added to the area of an Aboriginal Council (in this section referred to as *the first Council*) consists of or includes a part of the area of another Aboriginal Council (in this section referred to as *the second Council*), the Minister shall consult with the second Council and with any creditors of the second Council whose rights against it may be prejudiced if the recommendation is given effect to and may enter into:
- (a) such agreements with the second Council with respect to the transfer to the first Council of assets of the second Council; and
  - (b) such agreements with the creditors of the second Council with respect to the transfer to the first Council of liabilities of the second Council to its creditors;

as the Minister thinks are required to ensure that, if the recommendation is given effect to:

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- (c) the second Council will be able effectively to carry out its functions with respect to the area that will remain to it;
  - (d) the first Council will be able effectively to carry out its functions with respect to both the original area and the additional area, regarded as one area; and
  - (e) the rights of those first-mentioned creditors will not be so prejudiced.
- (3) Where:
- (a) the Minister approves a recommendation made under subsection (1); and
  - (b) where the additional area to which the recommendation relates is an area referred to in subsection (2)—the Minister has entered into agreements under that subsection or is otherwise satisfied that, if the recommendation is given effect to, the first Council and the second Council will be able to carry out their respective functions in their respective areas and that the rights of creditors of the second Council will not be prejudiced;
- the Minister shall, by notice published in the *Gazette*, re-define the boundaries of the original area so as to add to it the additional area.
- (4) By force of this subsection, upon the publication of a notice under subsection (3) redefining the area of an Aboriginal Council:
- (a) any part of the area of another Aboriginal Council that is included in the redefined area of the first-mentioned Aboriginal Council ceases to be part of the area of that other Aboriginal Council;
  - (b) any assets the subject of agreements under paragraph (2)(a) cease to be vested in the Aboriginal Council in which they were vested immediately before the publication of the notice and become vested in the first-mentioned Aboriginal Council; and
  - (c) an Aboriginal Council that was, immediately before the publication of the notice, liable to pay and discharge any liabilities the subject of agreements under paragraph (2)(b), ceases to be so liable and the first-mentioned Aboriginal Council becomes liable to pay and discharge those liabilities.

- (5) This section does not apply in circumstances where the area to be added to the area of an Aboriginal Council consists of or includes the whole of an existing Aboriginal Council area.

**27 Amalgamation of 2 or more Aboriginal Council areas etc.**

- (1) Where the Registrar is satisfied:
- (a) that a substantial majority of adult Aboriginals living in each of 2 or more Aboriginal Council areas:
    - (i) is in favour of the amalgamation of those areas to form 1 Aboriginal Council area and the establishment of an Aboriginal Council for that area;
    - (ii) is agreed on the functions to be performed by the proposed Aboriginal Council; and
    - (iii) is agreed on an appropriate name for the proposed Aboriginal Council area;
  - (b) that the proposed Aboriginal Council area is an appropriate area for the operation of an Aboriginal Council having the functions proposed; and
  - (c) that, having regard to the needs and resources of the Aboriginals living in the proposed Aboriginal Council area, the proposed Aboriginal Council could effectively perform the proposed functions;
- the Registrar may make a recommendation to the Minister that effect be given to the views of those majorities.
- (2) Where a recommendation is made to the Minister under subsection (1), the Minister, if he or she is satisfied that it is proper so to do, may, by notice published in the *Gazette*, constitute the proposed Aboriginal Council area as an Aboriginal Council area under the name specified in the recommendation.
- (3) By force of this subsection, on the publication of a notice under subsection (2):
- (a) the Aboriginal Council areas included in the newly constituted Aboriginal Council area cease to be constituted as Aboriginal Council areas and the Aboriginal Councils for those areas (in this section referred to as *the former Councils*) cease to exist;

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- (b) all rights, property and assets that, immediately before the date of that publication, were vested in the former Councils are vested in the Aboriginal Council for the Aboriginal Council area constituted by the notice (in this section referred to as *the new Council*); and
  - (c) the new Council becomes liable to pay and discharge all the duties, liabilities and obligations of the former Councils, being the duties, liabilities and obligations that existed immediately before that date.
- (4) Any agreement or instrument subsisting immediately before the date of publication of a notice under subsection (2) to which any of the former Councils was a party has effect, on and after that date, as if:
- (a) the new Council were substituted for that former Council as a party to the agreement or instrument; and
  - (b) any reference in the agreement or instrument to that former Council were (except in relation to matters that occurred before that date) a reference to the new Council.
- (5) Where:
- (a) the title to an estate or interest in land held by any of the former Councils is, by virtue of subsection (3), vested in the new Council; and
  - (b) that estate or interest is registered in the name of that former Council in the Register Book kept under a law relating to the transfer of land in force in the State or Territory in which the land is situated;
- the Registrar may lodge with the Registrar-General, Registrar of Titles or other proper officer of the State or Territory a certificate signed by the Registrar certifying that that estate or interest is so vested and the officer with whom the certificate is lodged may deal with and give effect to the certificate as if it were a grant, conveyance, memorandum or instrument of transfer of that estate or interest duly executed under the laws in force in the State or Territory.

**28 Exercise of powers etc.**

The exercise of the powers and the performance of the functions of an Aboriginal Council shall not be affected by reason only:

- (a) of there being a vacancy in the office of a councillor;
- (b) of there being a defect in the election of a councillor; or
- (c) of any person having acted in the office of councillor when disqualified from holding that office.

**29 Powers of Aboriginal Council generally**

Subject to this Act and the *Commonwealth Authorities and Companies Act 1997*, an Aboriginal Council may do all things that are necessary or convenient to be done for or in connexion with the performance of its functions and, in particular, may:

- (a) raise or borrow moneys on such terms, and in such manner, as it thinks fit;
- (b) secure the repayment of moneys so raised or borrowed, or the payment of a debt or liability of the Council, by giving a mortgage, charge or other security upon or over all or any of the property of the Council;
- (d) receive and disburse moneys provided to it.

**30 By-laws**

- (1) Subject to this Act, an Aboriginal Council may make by-laws, not inconsistent with any other law in force in the area of the Council, for purposes connected with its functions.
- (2) A by-law made under subsection (1) may fix a charge for a service provided or made available by the Council for Aboriginals living in the area of the Council, and may make provision with respect to the payment of that charge.
- (3) The amount of the charge referred to in subsection (2) may, if unpaid, be recovered by the Council by action in a court of competent jurisdiction from an Aboriginal to whom the service to which the charge relates has been provided or made available.
- (4) A by-law has no effect unless it has been approved by the Minister.

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- (5) Where the Minister approves any by-laws, he or she shall:
- (a) cause the by-laws to be notified in the *Gazette*; and
  - (b) cause a copy of the by-laws to be laid before each House of the Parliament within 15 sitting days of that House after the giving of the Minister's approval.
- (6) By-laws made under this section take effect from the day on which they are notified in the *Gazette* or, where a later date is specified in the by-laws, from the date specified.
- (7) If a copy of any by-laws is not laid before each House of the Parliament in accordance with subsection (5), the by-laws shall be void and of no effect.
- (7A) Where a copy of any by-laws has been laid before a House of the Parliament in accordance with subsection (5) of this section, the provisions of section 48 (other than subsections (1), (2) and (3)) and sections 48A, 48B, 49 and 50 of the *Acts Interpretation Act 1901* apply in relation to those by-laws as if references in those provisions to regulations were references to by-laws.
- (8) The Registrar shall use his or her best endeavours to ensure that the by-laws of an Aboriginal Council are made known to adult Aboriginals in the area of the Aboriginal Council.
- (9) A by-law does not apply in relation to a person who is not an Aboriginal.
- (10) The by-laws may provide that any contravention of a by-law is an offence punishable, upon conviction, by a fine not exceeding \$20.
- (11) In proceedings for an offence referred to in subsection (10) it is a defence if the by-law to which the offence relates had not been brought to the attention of the person charged.

Note: A defendant bears an evidential burden in relation to the matter in subsection (11) (see subsection 13.3(3) of the *Criminal Code*).

### 31 Application of moneys by Council

The moneys of an Aboriginal Council shall be applied only:

- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Council in the

performance of its functions, or the exercise of its powers, under this Act;

- (b) in the payment of any allowances payable to councillors under this Act; and
- (c) in the making of other payments authorized by this Act.

### **32 Allowances for councillors**

A councillor is entitled to be paid such allowances with respect to his or her expenses as a councillor as are provided for by the Rules of the Aboriginal Council.

### **33 Alterations of functions**

- (1) An Aboriginal Council may request the Registrar to alter the functions of the Council in the manner specified in the request.
- (2) Where the Registrar is satisfied, with respect to a request under subsection (1):
  - (a) that a substantial majority of adult Aboriginals living in the area of the Aboriginal Council is in favour of the alteration specified in the request;
  - (b) that, having regard to the needs and resources of the Aboriginals living in that area, the Council could effectively perform the functions as proposed to be altered in accordance with the request; and
  - (c) that the functions as proposed to be altered in accordance with the request include at least 1 function in the nature of the provision of a service to the Aboriginals living in that area;the Registrar shall, by notice published in the *Gazette*, alter the functions of the Council in accordance with the request.
- (3) An alteration of the functions of an Aboriginal Council under subsection (2) takes effect on the date of publication of the notice.
- (4) Where the Registrar is not satisfied as required by subsection (2) with respect to a request under subsection (1), he or she shall refuse the request and shall notify the Aboriginal Council, in writing, accordingly.

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- (5) Where the Registrar refuses to alter the functions of an Aboriginal Council in accordance with a request under subsection (1), the Council may request the Minister to alter the functions of the Council in the manner specified in the request.
- (6) Where the Minister, having regard to the matters specified in paragraphs (2)(a), (b) and (c), is satisfied that the request should be complied with, he or she shall, by notice published in the *Gazette*, alter the functions of the relevant Aboriginal Council in accordance with the request.
- (7) An alteration of the functions of an Aboriginal Council under subsection (6) takes effect on the date of publication of the notice.
- (8) Where the Minister is not satisfied that the request should be complied with, he or she shall refuse the request and shall notify the Aboriginal Council in writing, accordingly.

**34 Alteration of functions not to affect existing rights and obligations**

An alteration of the functions of an Aboriginal Council does not affect any right, liability or obligation of the Council or of any person, or any legal proceeding existing or pending immediately before the alteration took place.

**35 Filing and approval of alterations of Rules**

- (1) Where an Aboriginal Council alters the Rules of the Council the public officer of the Council shall, within 6 weeks after the making of the alteration, file with the Registrar a copy of the alteration.

Penalty: \$50.

- (1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (2) The Registrar shall consider an alteration filed under subsection (1) and shall:
  - (a) if the Registrar is satisfied that the Rules of the Aboriginal Council as proposed to be altered are not inconsistent with



this Act, the regulations or the *Commonwealth Authorities and Companies Act 1997*—approve the alteration; or

- (b) if the Registrar is not so satisfied—refuse to approve the alteration.
- (3) The Registrar shall notify the public officer of the Aboriginal Council, in writing, of his or her approval or refusal of approval of an alteration filed by the public officer under subsection (1).
- (4) An alteration referred to in subsection (1) does not take effect unless and until approved by the Registrar under subsection (2).

### **36 Appointment of public officer etc.**

- (1) An Aboriginal Council shall, within 3 weeks after the first meeting of the Council, appoint a person to be the public officer of the Council and determine an official address for the person from time to time holding the office and, if that office at any time becomes vacant, shall, within 3 weeks after it becomes vacant, appoint a person to fill that vacancy.
- (2) The public officer of an Aboriginal Council holds office during the pleasure of the Council.
- (3) The public officer of an Aboriginal Council may resign his or her office by signed writing delivered to the Chair of the Council but the resignation does not have effect until it is accepted by the Chair of the Council.
- (4) An Aboriginal Council shall terminate the appointment of the public officer of the Council if the officer becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or compounds with the officer's creditors.
- (5) Where the Registrar considers that the place of the official address of the public officer of an Aboriginal Council is not an appropriate place for the performance of the duties of the public officer under this Act, the Registrar may direct the Council to determine another official address and to notify the Registrar of the address so determined and the Council shall obey that direction.

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**37 Notification of appointment and change of public officer**

- (1) An Aboriginal Council shall, within 3 weeks after the appointment of a public officer, serve on the Registrar a notice in writing setting out the full name and official address of the public officer.
- (2) Where an Aboriginal Council changes the official address of its public officer, it shall, within 3 weeks after the change, serve on the Registrar a notice in writing of the change.

**38 Extra reporting and accounting requirements** [see Note 2]

- (1) The members of an Aboriginal Council must give the Registrar a copy of the annual report on the Council for a financial year under section 9 of the *Commonwealth Authorities and Companies Act 1997*. The copy must be given to the Registrar as soon as practicable after the report is given to the Minister, and must not be given to the Registrar later than 31 December in the next financial year.
- (5) The Council must:
  - (a) if so required by the Registrar, make the accounting records of the Council available for inspection by the Registrar at a reasonable time; and
  - (b) make a copy of the Council's report and the examiner's report available for inspection at all reasonable times by adult Aboriginals in the area concerned.
- (7) If the Council fails to comply with a provision of this section, each councillor is guilty of an offence punishable, on conviction, by a fine not exceeding \$200.
- (8) Subsection (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (9) Subsection (7) does not apply if:
  - (a) the Council has a reasonable excuse; or
  - (b) the councillor did not know that the Council had failed to comply with a provision of this section.

Note: A defendant bears an evidential burden in relation to the matters in subsection (9) (see subsection 13.3(3) of the *Criminal Code*).

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**39 Examination of documents**

- (1) The Registrar may, at any time, cause a person authorised by the Registrar for the purposes of this section to examine the documents of an Aboriginal Council and to report to the Registrar on the results of that examination, drawing attention to any irregularity in the operations or financial affairs of the Council disclosed by that examination.
- (2) The authorised person is entitled at all reasonable times to full and free access to the documents of the Council.
- (3) The authorised person may make copies, or take extracts from, any such documents.
- (4) The authorised person may require any person to answer such questions, and produce such documents in the possession of the person, or to which the person has access, as the authorised person considers necessary for the purposes of this section.
- (5) A person who fails to comply with a requirement under subsection (4) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.
- (6) Subsection (5) is an offence of strict liability.  
Note: For strict liability, see section 6.1 of the *Criminal Code*.
- (6A) Subsection (5) does not apply if the person has a reasonable excuse.  
Note: A defendant bears an evidential burden in relation to the matter in subsection (6A) (see subsection 13.3(3) of the *Criminal Code*).
- (7) A person is not excused from answering a question or producing a document when required to do so under subsection (4) on the ground that the answer to the question, or the production of the document, might tend to incriminate the person or make the person liable to a penalty, but the answer, the production of the document, or anything obtained as a direct or indirect consequence of the answer or the production, is not admissible in evidence against the person in any proceedings, other than proceedings for an offence against this section.

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- (8) Before exercising powers under this section, the authorised person must produce written authority by the Registrar. If he or she fails to do so he or she has no powers under this section.
- (9) In this section:

*document* means any document relating directly or indirectly to the operations of the Council, the receipt or payment of money by the Council or the acquisition, receipt, custody or disposal of assets by the Council.

**40 Registrar may require compliance with Act etc.**

- (1) If the Registrar suspects on reasonable grounds that:
- (a) an Aboriginal Council has failed to comply with a provision of this Act, the regulations, the Rules or the *Commonwealth Authorities and Companies Act 1997*; or
  - (b) there has been an irregularity in the financial affairs of an Aboriginal Council;
- the Registrar may, by notice served on the public officer, require the Council to take the action specified in the notice within the period specified in the notice, for the purpose of complying with the Act, the regulations or the Rules or remedying the irregularity, as the case may be.
- (2) The Registrar is not required to take action under this section before taking any other action under this Act.

**41 Liability of councillors**

A councillor is not liable to contribute towards the payment of the debts or liabilities of an Aboriginal Council.

**42 Staff**

An Aboriginal Council may employ such staff as is necessary for the performance of its functions.

## **Part IV—Incorporated Aboriginal associations**

### **43 Application for incorporation**

- (1) The committee of an Aboriginal association may apply to the Registrar, in writing signed by each member of the committee, for the incorporation of the association under this Act.
- (2) An application under subsection (1) shall state:
  - (a) the proposed name of the Association when incorporated, which shall include the words “Aboriginal Corporation” or the words “Torres Strait Islanders Corporation”;
  - (b) the objects of the association;
  - (c) whether the members of the association are to be liable to contribute towards the payment of the debts and liabilities of the association and, if so, the extent of that liability;
  - (d) the place or places where the activities of the association are, or are to be, carried on; and
  - (e) the names and addresses of the persons who constitute the committee of the association;and shall be accompanied by a statement of the Rules by which, in the event of the incorporation of the association, its affairs are to be regulated.
- (3) Subject to this Act and the regulations, the Rules referred to in subsection (2) shall make provision for and in relation to:
  - (a) the qualifications of members of the association;
  - (b) the creation of the executive offices of the association and the procedure for filling those offices;
  - (c) the procedure for the settling of disputes between the association and its members;
  - (d) the constitution of the Governing Committee of the association and the powers of that Committee;
  - (e) the procedure for the conduct of meetings of the Governing Committee of the association;
  - (ea) the matters for which the Rules are to provide under section 58A in relation to meetings of the association;

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- (f) the manner in which the funds of the association are to be managed;
  - (g) the method of altering the rules of the association, whether by making new rules or by varying or rescinding rules in force; and
  - (h) the method of altering the objects of the association;
- and may make provision, not contrary to law, for and in relation to any other matter.
- (4) The Rules of an association with respect to any matter may be based on Aboriginal custom.

**44 Rights of members to share in pecuniary profits etc.**

Where an Aboriginal Association is to be carried on wholly or partly for the purpose of securing pecuniary profit to its members, the rules referred to in subsection 43(2) shall make provision with respect to the rights of persons who are members from time to time to share in the pecuniary profits of the association and the rights of persons who are members at the time of a winding-up of the association to share in the distribution of any surplus assets resulting from the winding-up, and those rules may make provision for conferring rights on or in respect of a person upon his or her ceasing to be a member by resignation or death.

**45 Registrar may issue certificate of incorporation**

- (1) Subject to this section, the Registrar, upon receipt of an application under section 43 for the incorporation under this Act of an Aboriginal association shall:
- (a) if the Registrar is satisfied that it is proper for him or her so to do, issue to the association a certificate of incorporation; or
  - (b) if the Registrar is not satisfied, refuse to issue a certificate of incorporation and inform the association, in writing, of his or her refusal and of the reasons for that refusal.
- (2) Except as otherwise directed by the Minister, the Registrar shall refuse to issue a certificate of incorporation under this Act to an Aboriginal association if the proposed name of the association is an unauthorized name.

- (3) The Registrar must refuse to issue a certificate of incorporation to an Aboriginal association if satisfied that the Rules:
  - (a) are unreasonable or inequitable; or
  - (b) do not make sufficient provision (as required by section 58B) to give the members effective control over the running of the association.
- (3A) The Registrar must refuse to issue a certificate of incorporation to an Aboriginal association unless satisfied that:
  - (a) if the association is formed wholly for business purposes—upon incorporation, it will have at least 5 members; or
  - (b) if it is formed principally for the purpose of owning land or holding a leasehold interest in land—upon incorporation, it will have at least 5 members; or
  - (c) in any other case—upon incorporation, it will have at least 25 members.
- (4) Where the Registrar refuses to issue a certificate of incorporation to an Aboriginal association, the Registrar shall:
  - (a) notify the association, in writing, of his or her refusal;
  - (b) set out in the notification the reason for his or her refusal; and
  - (c) invite the committee of the association to make such changes in the application for incorporation or in the Rules accompanying the application for incorporation as will remove the grounds for refusal of the application and advise the Registrar, within the time specified in the notification, of any changes so made or, if the changes are not made, of reasons for the changes not being made.
- (5) Where the Registrar is notified, in accordance with subsection (4), of changes made in an application for incorporation or in the Rules accompanying an application for incorporation or of reasons for such changes not being made, the Registrar shall reconsider the application under subsection (1).

#### **46 Incorporation of Aboriginal association**

- (1) Upon the issue to an Aboriginal association of a certificate of incorporation under section 45, the association:

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- (a) in the case of an unincorporated association—becomes a body corporate with perpetual succession;
  - (aa) in the case of an association incorporated otherwise than under this Act—continues in existence by force only of this section as a body corporate and has perpetual succession;
  - (b) shall have a common seal;
  - (c) may acquire, hold and dispose of real and personal property; and
  - (e) may sue and be sued in its corporate name.
- (2) The name of an Incorporated Aboriginal Association is the name set out in its certificate of incorporation.
- (3) The common seal of an Incorporated Aboriginal Association is of no effect unless the name of the Association is inscribed on the seal in legible characters.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the seal of an Incorporated Aboriginal Association affixed to a document and shall presume that it was duly affixed.

**47 Rules of Incorporated Aboriginal Associations**

- (1) The Rules accompanying the application for the incorporation of an association under this Act or, where those Rules have been altered in accordance with subsection 45(4), those Rules as so altered shall, upon the incorporation of the association under this Act, be the Rules of the Incorporated Aboriginal Association, but may be altered in accordance with the method of alteration laid down in those Rules.
- (2) The Rules of an Incorporated Aboriginal Association as in force from time to time have the effect of a contract:
- (a) between the Association and each member; and
  - (b) between the Association and the public officer; and
  - (c) between the Association and each member of the Governing Committee; and
  - (d) between each member and each other member.



**48 Liability of members of Incorporated Aboriginal Associations**

- (1) A person who is or has been a member of an Incorporated Aboriginal Association in respect of which the application for incorporation stated that the members of the Association were not to be liable to contribute towards the payment of the debts and liabilities of the Association is not liable so to contribute.
- (2) A person who is or has been a member of an Incorporated Aboriginal Association in respect of which the application for incorporation stated that the members of the Association were to be liable, to the extent specified in the application, to contribute towards the payment of the debts and liabilities of the Association is liable so to contribute in respect of debts and liabilities incurred after the incorporation of the Association and before the person ceases or ceased to be a member.

**49 Eligibility for membership of Incorporated Aboriginal Association**

- (1) A person who is not an Aboriginal, or the spouse of an Aboriginal, is not entitled to become a member of an Incorporated Aboriginal Association.
- (2) A person who, but for subsection (1), would be, or would have been, a member of an Incorporated Aboriginal Association shall, for the purposes of section 48, be treated as being, or as having been, such a member.

**49A Provision in rules for conferral of specified rights of membership on persons not entitled to become members**

- (1) Where more than 75% of the members of an Aboriginal association agree, the Rules referred to in subsection 43(2) may provide for the conferring of specified rights of membership of the association (other than the right to vote at meetings of the association and the right to stand for election to the Governing Committee of the association) on persons not entitled to become members of the association.
- (2) Where more than 75% of the members of an Incorporated Aboriginal Association agree, the Rules of the Association may,

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subject to section 54 and the requirements of the Rules relating to alteration of the Rules, be altered to provide for the conferring of specified rights of membership of the Association (other than the right to vote at meetings of the Association and the right to stand for election to the Governing Committee of the Association) on persons not entitled to become members of the Association.

**49B Disqualification from membership of Governing Committee**

- (1) A person cannot be elected, or hold office, as a member of the Governing Committee of an Incorporated Aboriginal Association if he or she has been convicted of an offence against a Commonwealth, State or Territory law and sentenced:
  - (a) if the offence involved fraud or misappropriation of funds—to imprisonment for 3 months or longer; or
  - (b) in any other case—to imprisonment for one year or longer.
- (2) The conviction does not prevent the person from standing for election, or being elected, if:
  - (a) at least 5 years have elapsed since the date of the conviction; and
  - (b) the person is not serving a term of imprisonment.
- (3) The Registrar may declare in writing that subsection (1) does not apply to a particular person in relation to a particular conviction.
- (4) If:
  - (a) a person requests the Registrar to make a declaration under subsection (3) in relation to the person in relation to a particular conviction; and
  - (b) the Registrar refuses to do so;the person may appeal in writing to the Minister.
- (5) The Minister must consider the appeal and either:
  - (a) declare in writing that subsection (1) does not apply to the person in relation to the conviction; or
  - (b) refuse to make the declaration;and must cause the person to be notified accordingly.

**49C Members to act honestly and diligently**

A member of the Governing Committee of an Incorporated Aboriginal Association must act honestly and diligently in exercising powers and performing functions and duties under this Act, the regulations and the Rules.

**49D Disclosure of pecuniary interests**

- (1) A member of the Governing Committee of an Incorporated Aboriginal Association who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee must disclose the nature of the interest at a meeting of the Committee as soon as possible after the relevant facts have come to his or her knowledge.
- (2) The disclosure must be recorded in the minutes of the meeting of the Committee and the member must not, without the approval of the Committee:
  - (a) be present during any deliberation of the Committee about that matter; or
  - (b) take part in any decision of the Committee on that matter.

**49E Vacation of office on insolvency etc.**

- (1) A member of the Governing Committee of an Incorporated Aboriginal Association ceases to hold office if he or she becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors.
- (2) The Registrar may declare in writing that subsection (1) does not apply to a particular person.

**50 Vesting of property in Incorporated Aboriginal Associations**

- (1) Upon the incorporation of an Aboriginal association under this Act any personal property (other than personal property consisting of an estate or interest in land) held by a person, in trust or otherwise, for or on behalf of the members of the Association vests, subject to any trust, covenant, contract or liability affecting the property

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(other than a trust for the members) in the Incorporated Aboriginal Association.

- (2) Where a person holds an estate or interest in land in trust or otherwise for or on behalf of the members of an Aboriginal association, that person shall, upon the incorporation of the Association under this Act, take all action required to vest, subject to any trust (other than a trust for the members), or any covenant, contract or liability affecting the estate or interest, the estate or interest in the Incorporated Aboriginal Association.

**51 Powers to borrow money and give securities**

An Incorporated Aboriginal Association may, subject to this Act and to the Rules of the Association:

- (a) raise or borrow money upon such terms, and in such manner, as it thinks fit; and
- (b) secure the repayment of money so raised or borrowed, or the payment of a debt or liability of the Association, by giving a mortgage, charge or other security upon or over all or any of the property of the Association.

**52 Notification of alteration of objects**

- (1) The public officer of an Incorporated Aboriginal Association shall, within 6 weeks after the making of an alteration of the objects of the Association, file with the Registrar a copy of the alteration.

Penalty: \$50.

- (1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (2) The Registrar shall consider an alteration filed under subsection (1) and shall:
  - (a) if the Registrar is satisfied that it is proper so to do, approve the alteration; or
  - (b) if the Registrar is not so satisfied, refuse to approve the alteration and inform the Association, in writing, of his or her refusal and of the reasons for that refusal.

- (2A) Where the Registrar refuses to approve an alteration filed under subsection (1), the relevant Association may request the Minister to approve the alteration.
- (2B) Where the Minister, having regard to the matters specified in paragraphs (2)(a) and (b), is satisfied that the request should be complied with, the Minister shall approve the alteration.
- (2C) Where the Minister is not satisfied that the request should be complied with, the Minister shall refuse to approve the alteration and shall notify the Association, in writing accordingly.
- (3) An alteration referred to in subsection (1) does not take effect unless and until approved by the Registrar under subsection (2) or by the Minister under subsection (2B).

### **53 Change of name**

- (1) Where an Incorporated Aboriginal Association proposes to change its name, the Governing Committee of the Association shall make application, in writing, to the Registrar for approval of the proposed new name.
- (2) The Registrar shall approve a proposed new name submitted to under subsection (1) if:
  - (a) the name includes the words “Aboriginal Corporation” or the words “Torres Strait Islanders Corporation”; and
  - (b) the name is not an unauthorized name.
- (3) Where an Incorporated Aboriginal Association has changed its name to a new name that has been approved by the Registrar under subsection (2), the public officer of the Association shall serve on the Registrar a notice in writing of the change.

Penalty: \$50.

- (3A) Subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (4) Where the Registrar receives a notice under subsection (3), he or she shall issue to the Incorporated Aboriginal Association a certificate of incorporation in the new name of the Association and that

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certificate of incorporation has effect, from the date of issue, as the certificate of incorporation of the Association.

- (5) A change of name by an Incorporated Aboriginal Association does not take effect until the issue to the Association under subsection (4) of a certificate of incorporation in the new name.

**54 Filing and approval of alterations of Rules**

- (1) Where an Incorporated Aboriginal Association alters its Rules, the public officer of the Association shall, within 6 weeks after the making of the alteration, file with the Registrar a notification of the alteration.

Penalty: \$50.

- (1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (2) The Registrar shall consider an alteration filed under subsection (1) and shall:
- (a) if the Registrar is satisfied that the Rules of the Incorporated Aboriginal Association as proposed to be altered are not inconsistent with this Act—approve the alteration; or
  - (b) if the Registrar is not so satisfied—refuse to approve the alteration.
- (3) The Registrar shall notify the public officer of the Incorporated Aboriginal Association, in writing, of his or her approval or refusal of approval of an alteration filed by the public officer under subsection (1).
- (4) An alteration referred to in subsection (1) does not take effect unless and until approved by the Registrar under subsection (2).

**55 Alteration of objects etc. does not affect existing rights and obligations**

An alteration of the objects of an Incorporated Aboriginal Association or the issue of a certificate of incorporation to an Association in a new name, does not affect any right, liability or obligation of the Association or of any person, or any legal

proceedings, existing or pending immediately before the alteration took effect or the certificate was issued, as the case may be.

**56 Appointment of public officer etc.**

- (1) The Governing Committee of an Incorporated Aboriginal Association shall, within 3 weeks after its incorporation under this Act, appoint a person to be the public officer of the Association and determine an official address for the person from time to time holding the office and, if that office at any time becomes vacant, shall, within 3 weeks after it becomes vacant, appoint a person to fill that vacancy.
- (2) The public officer of an Incorporated Aboriginal Association holds office during the pleasure of the Governing Committee of the Association.
- (3) The public officer of an Incorporated Aboriginal Association may resign his or her office by signed writing delivered to the Chair of the Governing Committee of the Association but the resignation does not have effect until it is accepted by the Chair.
- (4) The Governing Committee of an Incorporated Aboriginal Association shall terminate the appointment of the public officer of the Association if the officer becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or compounds with the officer's creditors.
- (5) Where the Registrar considers that the place of the official address of the public officer of an Incorporated Aboriginal Association is not an appropriate place for the performance of the duties of the public officer under this Act, the Registrar may serve on the public officer a notice directing the Governing Committee of the Association to determine another official address and to notify the Registrar of the address so determined, and the Governing Committee shall obey that direction.

**57 Notice of appointment and change of public officers**

- (1) The Governing Committee of an Incorporated Aboriginal Association shall, within 3 weeks after the appointment of a public

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officer, serve on the Registrar a notice in writing setting out the full name and official address of the public officer.

- (2) Where the Governing Committee of an Incorporated Aboriginal Association changes the official address of its public officer, it shall, within 3 weeks after the change, serve on the Registrar a notice in writing of the change.

**58 Register of members**

- (1) The public officer of an Incorporated Aboriginal Association shall keep, at his or her official address, a register, in a form satisfactory to the Registrar, showing:
- (a) the name and address of every member of the Association;
  - (b) the date upon which each member joined the Association; and
  - (c) where a member of the Association ceased to be such a member—the date upon which he or she so ceased.
- (2) The public officer of an Incorporated Aboriginal Association shall take such action as is required to ensure that a register kept by the officer under subsection (1) is open for inspection, at all reasonable times, by members of the public.

Penalty: \$200.

- (2A) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (3) As soon as practicable after each 30 June but not later than the next 31 December, the Governing Committee must give the Registrar a list of the names and addresses of all the persons who are members of the Association as at the date when the list is given to the Registrar.
- (4) The Registrar may at any time request the Governing Committee to give him or her an updated list of the names and addresses of all the persons who are members of the Association, and the Committee must comply with the request within 14 days or such other period as the Registrar specifies.



(5) If the Governing Committee fails to comply with subsections (3) and (4), each member of the Committee is guilty of an offence punishable, on conviction, by a fine not exceeding \$200.

(6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(7) Subsection (5) does not apply if:

- (a) the Governing Committee has a reasonable excuse; or
- (b) the member did not know that the Committee had failed to comply with subsections (3) and (4).

Note: A defendant bears an evidential burden in relation to the matters in subsection (7) (see subsection 13.3(3) of the *Criminal Code*).

### **58A Arbitration by Registrar**

- (1) Disputes between members of an Incorporated Aboriginal Association or between such an Association and its members may be settled by arbitration in accordance with this section.
- (2) On application by the parties to a dispute between members of the Association, the Registrar may arbitrate in the dispute.
- (3) Upon application or otherwise, the Registrar may arbitrate in a dispute between the Association and one or more of its members.
- (4) An arbitration may be conducted by the Registrar or by a person appointed by the Registrar for the purpose.
- (5) A person conducting an arbitration is not subject to any action, claim or demand by, or liable to, any person in respect of anything done, or omitted to be done, in good faith in connection with the arbitration.
- (6) An arbitration must be conducted in accordance with the regulations.
- (7) The fact that a dispute is being, or has been, settled by arbitration under this section does not prevent a party to the dispute from bringing an action in a court in connection with the dispute, unless the court orders otherwise.

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**58B General and special meetings**

- (1) Subject to this section, the Governing Committee of an Incorporated Aboriginal Association is to call and conduct annual general meetings and special general meetings of the Association as provided in the Rules.
- (2) An aggrieved member may at any time request the Committee to call a special general meeting. The Committee must do so unless, on application by the Committee, the Registrar considers the request to be frivolous, unreasonable or contrary to the interests of the members of the Association.
- (3) The Registrar may call a special general meeting if the Committee has advertised it for a particular day but it has not been held for 14 days after that day.
- (4) The Registrar may call a special general meeting at any time if, in the opinion of the Registrar, there is a need to do so.
- (5) The Registrar may call a special general meeting if requested to do so in writing by whichever is the greater of:
  - (a) 5 or more members of the Association; or
  - (b) not fewer than 10% of the total number of members of the Association.The Registrar is to conduct the meeting.
- (6) The Registrar is to determine the periods of notice for meetings called under subsection (4) or (5), having regard to the special needs of the Association.
- (7) Unless the Registrar determines otherwise, a member cannot vote at a meeting called by the Registrar if:
  - (a) the person became a member after the incorporation of the Association; and
  - (b) the person's name does not appear on the latest list supplied to the Registrar under section 58(3) or (4).
- (8) In addition to any other matter relating to general meetings, the Rules must make provision for and in relation to:
  - (a) the intervals between meetings;
  - (b) quorums;

- (c) procedure;
  - (d) voting by proxy.
- (9) If the Registrar delegates his or her powers under this section, references to the Registrar are to be read accordingly.

### **59 Accounts, records and financial statements**

- (1) The Governing Committee of an Incorporated Aboriginal Association shall cause to be kept proper accounts and records of the transactions and affairs of the Association and shall do all things necessary to ensure that all payments out of the moneys of the Association are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Association and over the incurring of liabilities by the Association.
- (2) The Governing Committee must, as soon as practicable after each 30 June, cause to be prepared a report (*Committee's Report*) consisting of:
- (a) a statement, in a form approved by the Registrar, whether the Governing Committee and the Association have complied with the obligations imposed by this Act, the regulations and the Rules of the Association during the financial year ending on that date; and
  - (b) a balance sheet setting out the assets and liabilities of the Association as at that 30 June; and
  - (c) an income and expenditure statement giving a true and fair view of the income and expenditure of the Association for the financial year ending on that 30 June; and
  - (d) a copy of the latest list given to the Registrar under subsection 58(3) or (4).
- (3) As soon as practicable after the report has been prepared, the Governing Committee must cause a person authorised by the Registrar for the purposes of this section:
- (a) to examine:
    - (i) whether the Governing Committee and the Association have complied with the obligations imposed by this Act, the regulations and the Rules of the Association; and

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- (ii) whether the balance sheet and income and expenditure statement are based on proper accounts and records and are in agreement with those accounts and records; and
  - (b) to give the Governing Committee a report (*examiner's report*) of the results of that examination, drawing attention to any irregularity that it has disclosed.
- (4) The Governing Committee must file with the Registrar a copy of the Committee's report and the examiner's report as soon as practicable after receiving the latter and in any case not later than 31 December after the end of the relevant financial year.
- (5) The Governing Committee must:
  - (a) make a copy of the Committee's report and the examiner's report available at the next annual general meeting after they have been prepared; and
  - (b) make a copy of the Committee's report and the examiner's report available for inspection at all reasonable times by members of the Association.
- (6) If the Association is incorporated at any time in April, May or June in a financial year:
  - (a) this section applies as if the reference in subsection (2) to 30 June were a reference to the 30 June ending the next financial year; and
  - (b) the period from the date of incorporation to that 30 June is to be treated as a financial year.
- (7) If the Governing Committee fails to comply with a provision of this section, each member of the Committee is guilty of an offence punishable, on conviction, by a fine not exceeding \$200.
- (8) Subsection (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.
- (9) Subsection (7) does not apply if:
  - (a) the Governing Committee has a reasonable excuse; or
  - (b) the member did not know that the Committee had failed to comply with a provision of this section.

Note: A defendant bears an evidential burden in relation to the matters in subsection (9) (see subsection 13.3(3) of the *Criminal Code*).

**59A Exemption from section 59 in certain circumstances**

- (1) Where the Registrar is satisfied that it would be impracticable for an Incorporated Aboriginal Association to comply with the requirements of section 59, or that the application of those requirements to an Incorporated Aboriginal Association would be unduly onerous, the Registrar may, by writing, exempt the Association, wholly or in part, from those requirements.
- (2) Where the Registrar has, in an instrument issued under subsection (1), exempted an Incorporated Aboriginal Association, in whole or in part, from the requirements of section 59, the Registrar may, in the instrument, require that Association to comply with such requirements as to the keeping of accounts and records, and the preparation and filing of reports and statements prepared from those accounts and records, as the Registrar thinks appropriate in view of the exemption that has been granted, and that Association shall comply with the requirement.

Penalty: \$200.

- (3) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

**60 Examination of documents**

- (1) The Registrar may, at any time, cause a person authorised by the Registrar for the purposes of this section to examine the documents of an Incorporated Aboriginal Association and to report to the Registrar on the results of that examination, drawing attention to any irregularity in the operations or financial affairs of the Association disclosed by that examination.
- (2) The authorised person is entitled at all reasonable times to full and free access to the documents of the Association.
- (3) The authorised person may make copies, or take extracts from, any such documents.
- (4) The authorised person may require any person to answer such questions, and produce such documents in the possession of the

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person, or to which the person has access, as the authorised person considers necessary for the purposes of this section.

(5) A person who fails to comply with a requirement under subsection (4) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

(6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(6A) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6A) (see subsection 13.3(3) of the *Criminal Code*).

(7) A person is not excused from answering a question or producing a document when required to do so under subsection (4) on the ground that the answer to the question, or the production of the document, might tend to incriminate the person or make the person liable to a penalty, but the answer, the production of the document, or anything obtained as a direct or indirect consequence of the answer or the production, is not admissible in evidence against the person in any proceedings, other than proceedings for an offence against this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section.

(8) Before exercising powers under this section, the authorised person must produce written authority by the Registrar. If he or she fails to do so he or she has no powers under this section.

(9) In this section:

**document** means any document relating directly or indirectly to the operations of the Association, the receipt or payment of money by the Association or the acquisition, receipt, custody or disposal of assets by the Association.

**60A Registrar may require compliance with Act etc.**

(1) If the Registrar suspects on reasonable grounds that:

(a) an Incorporated Aboriginal Association has failed to comply with a provision of this Act, the regulations or the Rules; or

- (b) there has been an irregularity in the financial affairs of an Incorporated Aboriginal Association;
- the Registrar may, by notice served on the public officer, require the Governing Committee to take the action specified in the notice within the period specified in the notice, for the purpose of complying with the Act, the regulations or the Rules or remedying the irregularity, as the case may be.
- (2) The Registrar is not required to take action under this section before taking any other action under this Act.

### **61 Registrar may apply for injunctions**

- (1) If the Registrar is of the opinion that the Governing Committee of an Incorporated Aboriginal Association is not complying with a provision of this Act, the regulations or the Rules of the Association, the Registrar may serve on the members of the Committee a notice in writing calling upon the Committee to show cause, within a reasonable period specified in the notice, why the Registrar should not apply to the Court for an injunction.
- (2) After that period, and having considered any representations made by the Committee, the Registrar may apply to the Court for an injunction.
- (3) The Court may grant an injunction requiring a member, or the members, of the Committee not to contravene, or to cease contravening, a provision of this Act, the regulations or the Rules.

### **62 Application of provisions of Corporations Act relating to compositions with creditors**

Subject to this Act, the provisions of the *Corporations Act 2001* that relate to compromises or arrangements between companies and their creditors apply, so far as they are capable of application and subject to such modifications, adaptations and exceptions (if any) as are prescribed, to and in relation to Incorporated Aboriginal Associations and, in the application of those provisions:

- (a) a reference to a company shall be read as a reference to an Incorporated Aboriginal Association;

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- (aa) a reference to the Commission shall be read as a reference to the Registrar of Aboriginal Corporations;
- (b) a reference to the directors of a company shall be read as a reference to the members of the Governing Committee of an Incorporated Aboriginal Association; and
- (c) a reference to the Court shall be read as a reference to the Federal Court of Australia.

**62A Registrar may petition for winding up**

The Registrar may petition the Court that an Incorporated Aboriginal Association be wound up, if:

- (a) an Administrator appointed under section 71 recommends the winding up; or
- (b) the Registrar is of the opinion that the winding up would be in the public interest or in the interests of the members of the Association.

**63 Winding up by Court**

- (1) Subject to this section, an Incorporated Aboriginal Association may be wound up under an order of the Court on the petition of:
  - (a) the Association;
  - (b) any creditor, including a contingent or prospective creditor, of the Association;
  - (c) a member of the Association;
  - (d) the judicial manager of the Association; or
  - (e) the Registrar;or of any 2 or more of those parties.
- (2) A petition under subsection (1) shall specify one or more of the following grounds:
  - (a) the Incorporated Aboriginal Association has, in accordance with its rules, resolved that it be wound up by the Court;
  - (b) the business of the Association was not commenced within 1 year after its incorporation or has been suspended for a continuous period of 1 year;
  - (c) there are fewer than 5 members of the Association;
  - (d) the Association is unable to pay its debts;



- (e) the members of the Committee of the Association have acted in the affairs of the Association in their own interests rather than in the interests of the members as a whole or in any other manner whatsoever that appears to be unfair or unjust to other members;
  - (g) by reason of the complexity or magnitude of the activities of the Association, it is inappropriate that it continue to be incorporated under this Act;
  - (h) it is just and equitable that the Association be wound up.
- (3) For the purpose of the consideration by the Court of a petition under subsection (1) on the ground set out in paragraph (2)(d), an Incorporated Aboriginal Association shall be deemed to be unable to pay its debts if:
- (a) a creditor, by assignment or otherwise, to whom the Association is indebted in a sum exceeding \$500:
    - (i) has, by service of a demand upon the public officer, required the Association to pay that sum; and
    - (ii) has, within 3 days of that service, served a copy of that demand upon the Registrar for his or her information; and the Association has, for a period of 28 days after the service referred to in subparagraph (i), neglected to pay that sum or to secure or compound for it to the reasonable satisfaction of the creditor;
  - (b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the Association is returned unsatisfied in whole or in part; or
  - (c) it is proved to the satisfaction of the Court, which shall take into account the contingent and prospective liabilities of the Association, that the Association is unable to pay its debts.
- (4) A member of an Incorporated Aboriginal Association is not entitled to present a petition under subsection (1) on a ground specified in paragraph (2)(a), (b), (d), (g) or (h) unless:
- (a) there are fewer than 5 members of the Association; or
  - (b) the member has been a member of the Association since the date of its incorporation or has been a member for at least 6 months prior to the presentation of the petition.

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- (6) The Court shall not hear a petition under subsection (1) if it is presented by a contingent or prospective creditor until such security for costs has been given as the Court thinks reasonable and a *prima facie* case for winding up has been established to the satisfaction of the Court.

**64 Voluntary winding up**

- (1) An Incorporated Aboriginal Association may be wound up voluntarily if the Association so resolves by special resolution.
- (2) The public officer of an Incorporated Aboriginal Association shall, within 3 weeks after the passing of a resolution for voluntary winding up, lodge with the Registrar a notice in the prescribed form of the passing of the resolution and a copy of the resolution.

Penalty: \$50.

- (2A) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (3) The Registrar shall, within 3 weeks after the lodging of a notice under subsection (2), publish in the *Gazette* a notice of the passing of the resolution to which the notice relates.
- (4) For the purposes of this section, a resolution is a special resolution if it is passed by a majority of not less than three-fourths of such members as being entitled so to do vote in person, or, where proxies are allowed, by proxy, at a general meeting of which not less than 21 days' notice specifying the intention to propose the resolution as a special resolution has been duly given.

**65 Distribution of surplus assets in winding up**

- (1) Subject to this section, where, upon the winding up of an Incorporated Aboriginal Association, there remain any surplus assets and:
- (a) the rules of the Association make provision for the distribution of the surplus assets of the Association in the event of the Association's being wound up; or

- (b) where there are no such rules—a resolution relating to the distribution of the surplus assets of the Association has been passed by at least two-thirds of the members of the Association;
- the Court or the liquidator shall distribute those assets in accordance with those rules or that resolution, as the case may be.
- (2) Where, in a winding up by the Court:
- (a) a Judge of the Court considers that a distribution of the surplus assets of the Association in accordance with the rules of the Association or with a resolution under paragraph (1)(b) would not be just; or
- (b) no such rules exist and such a resolution has not been passed; the Judge shall make such orders for the distribution of those assets as, having regard to the objects of the Association, he or she considers just.
- (3) Where, in a voluntary winding up:
- (a) the liquidator considers that a distribution of the surplus assets of the Association in accordance with the rules of the Association or with a resolution relating to the distribution of those surplus assets passed by a majority of at least two-thirds of the members of the Association would not be just; or
- (b) no such rules exist and such a resolution has not been passed; the liquidator shall apply to a Judge of the Court to exercise all or any of the powers that the Judge might exercise under subsection (2) if the Association were being wound up by the Court.

## **67 Application of provisions of Corporations Act to winding up of Incorporated Aboriginal Associations**

Subject to this Act, the provisions of the *Corporations Act 2001* that relate to the winding up of companies registered under that Act apply, so far as they are capable of application and subject to such modifications, adaptations and exceptions (if any) as are prescribed, to and in relation to the winding up of Incorporated Aboriginal Associations and, in the application of those provisions:

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- (a) a reference to a company shall be read as a reference to an Incorporated Aboriginal Association;
- (b) a reference to the directors of a company shall be read as a reference to the members of the Governing Committee of an Incorporated Aboriginal Association;
- (c) a reference to the secretary of a company shall be read as a reference to the public officer of an Incorporated Aboriginal Association;
- (d) a reference to the registered office of a company shall be read as a reference to the official address of the public officer of an Incorporated Aboriginal Association;
- (e) a reference to the Court shall be read as a reference to the Federal Court of Australia; and
- (f) a reference to the Commission shall be read as a reference to the Registrar of Aboriginal Corporations.

## **Part V—Investigation and administration of Aboriginal corporations**

### **68 Investigation by Registrar**

- (1) The Registrar may investigate the affairs of an Aboriginal corporation if the Registrar suspects on reasonable grounds that:
  - (a) the corporation has failed to comply with a provision of this Act, the regulations or the Rules of the corporation; or
  - (b) there has been an irregularity in the corporation's financial affairs.
- (2) For the purposes of the investigation, the Registrar may, by notice in writing given to a person whom the Registrar believes to have some knowledge of the affairs of the corporation, require that person to attend before the Registrar at a time and place specified in the notice and there to answer such questions, and produce such documents in the possession of the person, or to which the person has access, as the Registrar considers necessary.
- (3) A person is not excused from answering a question or producing a document when required to do so under subsection (2) on the ground that the answer to the question, or the production of the document, might tend to incriminate the person or make the person liable to a penalty, but the answer, the production of the document, or anything obtained as a direct or indirect consequence of the answer or the production, is not admissible in evidence against the person in any proceedings, other than proceedings for an offence against section 137.1 of the *Criminal Code* that relates to this section.

### **69 Offences**

- (1) A person shall not fail:
  - (a) to attend before the Registrar; or
  - (b) to answer a question; or

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(c) to produce a document;  
when so required in pursuance of subsection 68(2).

Penalty: \$200.

(2) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(3) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

**70 Entry on premises**

(1) Where the Registrar believes on reasonable grounds that it is necessary for the purposes of his or her investigation of the affairs of an Aboriginal corporation to enter land or premises occupied by the corporation, the Registrar may, at all reasonable times, enter the land or premises and may:

- (a) examine books on the land or premises that relate to the affairs of the corporation or that the Registrar believes, on reasonable grounds, relate to those affairs;
- (b) take possession of any of those books for such period as the Registrar thinks necessary for the purposes of the investigation; and
- (c) make copies of, or take extracts from, any of those books.

(2) The Registrar is not entitled to refuse to permit a person to inspect books referred to in subsection (1) that are in the possession of the Registrar under that subsection if the person would be entitled to inspect those books if the Registrar had not taken possession of them.

(3) A person shall not obstruct or hinder the Registrar in the exercise of his or her powers under this section.

Penalty: \$1,500.

**71 Appointment of Administrator**

- (1) If the Registrar considers that there may be grounds for appointing an Administrator, the Registrar may serve on the public officer of the corporation a notice in writing calling upon the corporation to show cause, within a reasonable period specified in the notice, why an Administrator should not be appointed.
- (2) After that period, and having considered any representations made by the corporation, the Registrar may appoint an Administrator if satisfied that any of the following grounds have been established:
  - (a) in the case of an Incorporated Aboriginal Association—the Association has been trading at a loss for at least 6 months during the preceding period of 12 months;
  - (b) the Council or the Governing Committee, as the case may be, has failed to comply with a provision of this Act, the regulations or the Rules, and has failed to provide a satisfactory explanation;
  - (c) in the case of an Incorporated Aboriginal Association—the members of the Governing Committee have acted in the affairs of the Association in their own interests rather than in the interests of the members of the Association or otherwise in a way that appears to be unfair or unjust to members of the Association;
  - (d) in the case of an Incorporated Aboriginal Association—the appointment of an Administrator is required in the interests of members and creditors of the Association;
  - (e) in the case of an Aboriginal Council—the appointment of an Administrator is required in the interests of adult Aboriginals in the Council area;
  - (f) the appointment of an Administrator is otherwise required in the public interest.
- (3) The Registrar must not appoint an Administrator without the prior approval of the Minister.

Section 72

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**72 Notice of appointment**

As soon as practicable after the appointment of an Administrator, the Registrar must publish notice of the appointment, and the period of the appointment, in the *Gazette* and in a newspaper (if any) circulating in the area where the official address of the public officer of the corporation is situated.

**73 Vacation of offices**

On the appointment of the Administrator:

- (a) the office of the public officer of the corporation becomes vacant; and
- (b) if the corporation is an Aboriginal Council—all offices of the councillors constituting the Council become vacant; and
- (c) if the corporation is an Incorporated Aboriginal Association—all offices of the members of the Governing Committee of the Association become vacant.

**74 Remuneration of Administrator**

- (1) The Administrator is to receive such remuneration (if any) as the Registrar determines.
- (2) The Registrar may direct how and by whom the remuneration, charges and expenses of the Administrator are to be borne and may, if the Registrar thinks fit, charge the remuneration, charges and expenses on the property of the corporation in such order of priority in relation to any existing charges on that property as the Registrar thinks fit.

**75 General powers of Administrator**

The Administrator is responsible for the conduct of the affairs of the corporation and in addition has the functions and duties of the public officer.



**75A Disclosure of interest by Administrator of Aboriginal Council**

If the corporation is an Aboriginal Council, the Administrator must give written notice to the Minister of any material personal interest that the Administrator has in a matter being considered or about to be considered in relation to a matter.

**76 Administrator may cancel or vary contracts of employment**

- (1) The Administrator may cancel or vary (either unconditionally or subject to such conditions as the Administrator thinks just) any contract or agreement between the corporation and any other person that relates to employment of any person by the corporation.
- (2) Before cancelling or varying a contract, the Administrator must:
  - (a) give such persons as the Administrator thinks appropriate (having regard to the principles of natural justice) a reasonable opportunity to make representations to the Administrator either orally or in writing; and
  - (b) give due regard to any representations so made.

**77 Application for review**

- (1) A person may apply to the Administrative Appeals Tribunal for review of a decision made by the Administrator under section 76.
- (2) In subsection (1):

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**77A Statement to accompany notice of decisions under section 76**

- (1) If the Administrator makes a decision under section 76 and gives a person whose interests are affected by the decision notice in writing of the decision, the notice must include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision by or on behalf of that person.

Section 77B

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- (2) Any failure to comply with subsection (1) does not affect the validity of the decision.

**77B Indemnity**

The Administrator is not subject to any action, claim or demand by, or liable to, any person in respect of anything done, or omitted to be done, in good faith in or in connection with the exercise or performance of powers, functions or duties conferred on the Administrator by this Act.

**77C Report to Registrar**

The Administrator must give the Registrar such information as the Registrar requires from time to time.

**77D Election of councillors etc. before cancellation of appointment of Administrator**

If the Registrar is satisfied that it is no longer necessary for the Administrator to conduct the affairs of the corporation, the Registrar must conduct an election to fill the offices of the councillors or the members of the Governing Committee, as the case may be.

**77E Cancellation of appointment of Administrator**

If the Registrar cancels the appointment of the Administrator, and does not immediately appoint another:

- (a) the conduct of the affairs of the corporation vests in the Council or the Governing Committee, as the case requires; and
- (b) section 36 or 56, as the case requires, applies as if the office of public officer had become vacant on the cancellation of the appointment of the Administrator.

**Part VI—Miscellaneous****79 Extension of time**

Where, under this Act or the regulations, an act or thing is required to be performed or done within a specified time, the Minister or the Registrar may, in special circumstances, if he or she thinks fit, extend the time for the performance or doing of that act or thing.

**79A Offences not to be daily offences**

Subsection 4K(2) of the *Crimes Act 1914*, which creates daily or continuing offences, does not apply to an offence against this Act.

**80 Service on Aboriginal corporation etc.**

- (1) A notice, demand, summons, writ or other document or process may be served on an Aboriginal corporation by serving it personally on the public officer of the corporation or by sending it by post to his or her official address.
- (2) An Aboriginal corporation may give notice or make a demand by writing signed by the public officer of the corporation.

**81 Service on Registrar etc.**

A document required or permitted by this Act to be served on, or filed with, the Registrar may be served on, or filed with, the Registrar personally or by post.

**81A Aboriginal corporation not registrable Australian body**

An Aboriginal corporation is not a registrable Australian body for the purposes of the *Corporations Act 2001*.

Section 82

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**82 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular:

- (a) prescribing the manner of conduct of elections of councillors for Aboriginal Councils;
- (b) providing for or in relation to the striking off the Register of Incorporated Aboriginal Associations of the name of, and for and in relation to the dissolution of, an Association that is not carrying on its activities or is not in operation;
- (c) providing for the issue of certified copies of certificates of incorporation;
- (d) providing for the inspection of documents kept by, or filed with, the Registrar under this Act or the regulations;
- (e) prescribing the form in which any application, notice, declaration or certificate shall be made, given, published, issued or filed under this Act or the regulations;
- (f) prescribing matters that are to be provided for in the Rules of Aboriginal Councils or restrictions on the making of such Rules;
- (g) making provision, to be applicable to all or any Aboriginal Councils, with respect to any matter that could be dealt with in the Rules of Aboriginal Councils;
- (h) prescribing matters that are to be provided for in the Rules of Incorporated Aboriginal Associations;
- (i) prescribing the fees to be paid on the making, giving, publishing, issuing, filing or inspecting of any document under this Act or the regulations; and
- (j) prescribing penalties, not exceeding a fine of \$20, for offences against the regulations.

**Table of Acts****Notes to the *Aboriginal Councils and Associations Act 1976*****Note 1**

The *Aboriginal Councils and Associations Act 1976* as shown in this compilation comprises Act No. 186, 1976 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Aboriginal Councils and Associations Act 1976</i>	186, 1976	15 Dec 1976	14 July 1978 (see <i>Gazette</i> 1978, No. S130)	
<i>Aboriginal Councils and Associations Amendment Act 1978</i>	56, 1978	22 June 1978	14 July 1978 (see s. 2 and <i>Gazette</i> 1978, No. S130)	—
<i>Statute Law Revision Act 1981</i>	61, 1981	12 June 1981	S. 115: Royal Assent (a)	—
<i>Companies (Miscellaneous Amendments) Act 1981</i>	92, 1981	18 June 1981	Part I (ss. 1, 2): Royal Assent Div. 1 of Part XI (s. 36): 1 July 1981 (see s. 2(2) and <i>Gazette</i> 1981, No. S118) Remainder: 1 July 1982 (see s. 2(3) and <i>Gazette</i> 1982, No. S124)	—
<i>Companies and Securities Legislation (Miscellaneous Amendments) Act 1981</i>	153, 1981	26 Oct 1981	Part XI (s. 100): 1 July 1982 (see <i>Gazette</i> 1982 No. S124) (b)	—
<i>Statute Law (Miscellaneous Amendments) Act 1981</i>	176, 1981	2 Dec 1981	Part II (ss. 3–7): 30 Dec 1981 (c)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part III (ss. 5–9): Royal Assent (d)	—
<i>Australian Government Solicitor (Consequential Amendments) Act 1984</i>	10, 1984	10 Apr 1984	1 July 1984 (see s. 2(1) and <i>Gazette</i> 1984, No. S231)	S. 4(1)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1984</i>	165, 1984	25 Oct 1984	S. 3: 22 Nov 1984 (e)	S. 6(1)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i>	193, 1985	16 Dec 1985	S. 3: Royal Assent (f)	S. 16
<i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>	99, 1988	2 Dec 1988	2 Dec 1988	—
<i>Aboriginal and Torres Strait Islander Commission Act 1989</i>	150, 1989	27 Nov 1989	5 Mar 1990 (see <i>Gazette</i> 1990, No. S48)	—
<i>Aboriginal Councils and Associations Amendment Act 1992</i>	189, 1992	18 Dec 1992	S. 13: 18 June 1993 Remainder: Royal Assent	S. 25
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 71–86): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (g)	—
<i>Judiciary Amendment Act 1999</i>	7, 1999	31 Mar 1999	Schedules 1–3: 1 September 1999 (see <i>Gazette</i> 1999, No. S395) Remainder: Royal Assent	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 27): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (h)	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1–3, Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 2–5): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (i)	Ss. 4–14
<i>Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Act 2001</i>	112, 2001	17 Sept 2001	15 Oct 2001	S. 4 [see Table A]
<i>Aboriginal and Torres Strait Islander Commission Amendment Act 2005</i>	32, 2005	22 Mar 2005	Schedule 3 (items 44–46): [see Note 3] Schedule 4 (items 3, 4): 24 Mar 2005	—

## Act Notes

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- (a) The *Aboriginal Councils and Associations Act 1976* was amended by section 115 only of the *Statute Law Revision Act 1981*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (b) The *Aboriginal Councils and Associations Act 1976* was amended by Part XI (section 100) only of the *Companies and Securities Legislation (Miscellaneous Amendments) Act 1981*, subsection 2(4) of which provides as follows:
- (4) Parts VII, VIII, IX, X and XI shall come into operation on the day on which the *Companies Act 1981* comes into operation.
- (c) The *Aboriginal Councils and Associations Act 1976* was amended by Part II (sections 3–7) only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsection 2(12) of which provides as follows:
- (12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (d) The *Aboriginal Councils and Associations Act 1976* was amended by Part III (sections 5–9) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
- (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (e) The *Aboriginal Councils and Associations Act 1976* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (f) The *Aboriginal Councils and Associations Act 1976* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (g) The *Aboriginal Councils and Associations Act 1976* was amended by Schedule 2 (items 71–86) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (h) The *Aboriginal Councils and Associations Act 1976* was amended by Schedule 1 (item 27) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to section, this Act commences at the commencing time.
- (i) The *Aboriginal Councils and Associations Act 1976* was amended by Schedule 3 (items 2–5) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.



**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Part I</b>	
S. 3 .....	am. No. 56, 1978; No. 92, 1981; No. 165, 1984; No. 150, 1989; No. 189, 1992; No. 55, 2001
S. 3A .....	ad. No. 112, 2001
<b>Part II</b>	
S. 4 .....	am. No. 146, 1999; No. 112, 2001
S. 5 .....	am. No. 61, 1981; No. 189, 1992; No. 32, 2005
Ss. 6–8 .....	am. No. 112, 2001
S. 9 .....	am. No. 189, 1992; No. 112, 2001
<b>Part III</b>	
S. 12 .....	am. No. 112, 2001
Ss. 16, 17 .....	am. No. 56, 1978; No. 112, 2001
S. 19 .....	am. No. 176, 1981; No. 80, 1982; No. 165, 1984
Note to s. 19(3) .....	ad. No. 152, 1997
S. 19A .....	ad. No. 152, 1997
S. 21 .....	am. No. 112, 2001
S. 22 .....	am. No. 56, 1978; No. 152, 1997; No. 112, 2001
S. 23 .....	am. No. 152, 1997
S. 24 .....	rep. No. 56, 1978
S. 25 .....	am. No. 112, 2001
S. 27 .....	am. No. 56, 1978; No. 10, 1984; No. 7, 1999; No. 112, 2001
S. 29 .....	am. No. 176, 1981; No. 165, 1984; No. 152, 1997
S. 30 .....	am. No. 80, 1982; No. 99, 1988; No. 112, 2001
Note to s. 30(11) .....	ad. No. 112, 2001
S. 32 .....	am. No. 112, 2001
S. 33 .....	am. No. 56, 1978; No. 112, 2001
S. 35 .....	am. No. 152, 1997; No. 112, 2001
Ss. 35, 36 .....	am. No. 152, 1997; No. 112, 2001
Heading to s. 38 .....	rs. No. 152, 1997
S. 38 .....	am. No. 56, 1978; No. 61, 1981; No. 189, 1992; No. 152, 1997; No. 112, 2001
S. 39 .....	rs. No. 189, 1992 am. No. 137, 2000; No. 112, 2001
S. 40 .....	am. No. 56, 1978 rs. No. 189, 1992 am. No. 152, 1997
<b>Part IV</b>	
S. 43 .....	am. No. 56, 1978; No. 189, 1992
S. 44 .....	am. No. 112, 2001
S. 45 .....	am. No. 56, 1978; No. 189, 1992; No. 112, 2001

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 46 .....	am. No. 56, 1978; No. 176, 1981; No. 165, 1984
S. 47 .....	am. No. 56, 1978; No. 189, 1992
S. 48 .....	am. No. 112, 2001
S. 49 .....	am. No. 165, 1984
S. 49A.....	ad. No. 165, 1984
Ss. 49B–49E .....	ad. No. 189, 1992
S. 50 .....	am. No. 61, 1981
S. 51 .....	am. No. 176, 1981; No. 165, 1984
S. 52 .....	am. No. 56, 1978; No. 112, 2001
Ss. 53, 54 .....	am. No. 112, 2001
S. 56 .....	am. No. 152, 1997; No. 112, 2001
S. 58 .....	am. No. 189, 1992; No. 112, 2001
Ss. 58A, 58B .....	ad. No. 189, 1992
S. 59 .....	am. No. 56, 1978; No. 61, 1981; No. 189, 1992; No. 112, 2001
S. 59A.....	ad. No. 165, 1984 am. No. 189, 1992; No. 112, 2001
S. 60 .....	am. No. 165, 1984 rs. No. 189, 1992 am. No. 137, 2000; No. 112, 2001
S. 60A.....	ad. No. 189, 1992
S. 61 .....	am. No. 56, 1978; No. 61, 1981; No. 165, 1984 rs. No. 189, 1992
Heading to s. 62.....	am. No. 55, 2001
S. 62 .....	am. No. 56, 1978 rs. No. 92, 1981 am. No. 153, 1981; No. 189, 1992; No. 55, 2001
S. 62A.....	ad. No. 189, 1992
S. 63 .....	am. No. 189, 1992; No. 112, 2001
S. 64 .....	am. No. 193, 1985; No. 112, 2001
S. 65 .....	am. No. 112, 2001
S. 66 .....	rep. No. 165, 1984
Heading to s. 67.....	am. No. 55, 2001
S. 67 .....	am. No. 56, 1978 rs. No. 92, 1981 am. No. 153, 1981; No. 189, 1992; No. 55, 2001
<b>Part V</b>	
Heading to Part V.....	am. No. 189, 1992
S. 68 .....	rs. No. 189, 1992 am. No. 137, 2000
S. 69 .....	am. No. 189, 1992; No. 137, 2000; No. 112, 2001
S. 70 .....	am. No. 112, 2001
Ss. 71–75 .....	rs. No. 189, 1992

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
S. 75A.....	ad. No. 152, 1997
Ss. 76, 77 .....	rs. No. 189, 1992
Ss. 77A–77E .....	ad. No. 189, 1992
S. 78 .....	am. No. 56, 1978; No. 80, 1982 rep. No. 165, 1984
S. 78A.....	ad. No. 80, 1982 rep. No. 165, 1984
<b>Part VI</b>	
S. 79 .....	am. No. 56, 1978; No. 112, 2001
S. 79A.....	ad. No. 189, 1992
S. 80 .....	am. No. 112, 2001
S. 81A.....	ad. No. 153, 1981 rs. No. 55, 2001

## **Note 2**

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### **Note 2**

Section 38(5)(b)—Schedule 2 (item 82) of the *Audit (Transitional and Miscellaneous) Amendment Act 1997* (No. 152, 1997) provides as follows:

#### **Schedule 2**

##### **82 Paragraph 38(5)(b)**

Omit “Council’s report and examiner’s report”, substitute “annual report on the Council”.

The proposed amendment was misdescribed and is not incorporated in this compilation.

### **Note 3**

*Aboriginal and Torres Strait Islander Commission Amendment Act 2005*  
(No. 32, 2005)

The following amendments commence on 1 July 2005:

#### **Schedule 3**

##### **44 Paragraph 5(1)(c)**

Omit “Council; and”, substitute “Council.”.

##### **45 Paragraph 5(1)(d)**

Repeal the paragraph.

##### **46 Subsection 5(1A)**

Repeal the subsection.

As at 31 March 2005 the amendments are not incorporated in this compilation.

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**Table A**

**Table A**

**Application, saving or transitional provisions**

*Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* (No. 137, 2000)

**Schedule 2**

**418 Transitional—pre-commencement offences**

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
  - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
  - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

**419 Transitional—pre-commencement notices**

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
  - (b) any or all of those other provisions are repealed by this Schedule; and
  - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

**Table A**

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*Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation  
Amendment (Application of Criminal Code) Act 2001*  
(No. 112, 2001)

**4 Application of amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.