



Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989

No. 149, 1989

Compilation No. 19

Compilation date:	5 March 2016
Includes amendments up to:	Act No. 6, 2016
Registered:	7 March 2016

**This compilation includes commenced amendments made by Act No. 10,
2015**

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989* that shows the text of the law as amended and in force on 5 March 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	1
3 Interpretation	1
3A Application of the <i>Criminal Code</i>	2
Part 2—Australian Institute of Aboriginal and Torres Strait Islander Studies	3
4 Australian Institute of Aboriginal and Torres Strait Islander Studies	3
Part 3—Functions of Institute	4
5 Functions of Institute	4
6 Powers of Institute	4
Part 4—Members of Institute	6
7 Members of Institute	6
8 Period of membership	6
9 Resignation	6
10 Register of members	6
11 Rights of members	7
Part 5—Council of Institute	8
Division 1—Constitution of Council	8
12 Constitution of Council	8
13 Responsibilities of Council	9
14 Chairperson and Deputy Chairperson of Council	9
Division 2—Administrative provisions	10
15 Term of office	10
16 Remuneration and allowances	10
17 Leave of absence	10
18 Acting appointments	10
20 Resignation	12
21 Termination of membership of Council	12
22 Other terms and conditions	12
Division 3—Operations of Council	13
23 Meetings of Council	13

Part 6—Chief Executive Officer	15
24 Chief Executive Officer	15
25 Period of appointment	15
26 Remuneration and allowances	15
26A Recreation leave	15
27 Resignation	15
28 Other terms and conditions	16
Part 7—Staff	17
29 Staff	17
30 Consultants	17
Part 9—Finance	18
36 Money payable to the Institute	18
38 Application of money held by Institute	18
39 Exemption from taxation	18
Part 10—Miscellaneous	19
41 Certain information not to be disclosed	19
42 Informing TSRA about general conduct of Institute	19
43 Minister may ask for advice	19
44 Delegation to Chief Executive Officer or staff	20
45 Remuneration and allowances	20
45A Recreation leave	21
47 Conduct of directors, employees and agents	21
48 Rules	23
49 Regulations	23
Part 11—Transitional provisions	25
Division 1—Preliminary	25
50 Interpretation	25
Division 3—Transitional provisions	27
54 Transfer of assets and liabilities of old Institute	27
55 Old Institute instruments	27
64 Operation of the <i>Superannuation (Productivity Benefit) Act 1988</i>	27

Endnotes	29
Endnote 1—About the endnotes	29
Endnote 2—Abbreviation key	31
Endnote 3—Legislation history	32
Endnote 4—Amendment history	36

An Act to establish an Australian Institute of Aboriginal and Torres Strait Islander Studies, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989*.

2 Commencement

This Act commences on the commencement of the *Aboriginal and Torres Strait Islander Commission Act 1989*.

Note: The *Aboriginal and Torres Strait Islander Commission Act 1989* was renamed the *Aboriginal and Torres Strait Islander Act 2005*. See item 3 of Schedule 1 to the *Aboriginal and Torres Strait Islander Commission Amendment Act 2005*.

3 Interpretation

In this Act, unless the contrary intention appears:

Aboriginal person means a person of the Aboriginal race of Australia.

appointed Councillor means a Councillor referred to in paragraph 12(1)(c).

Chief Executive Officer means the Chief Executive Officer of the Institute referred to in section 24.

Council means the Council of the Institute referred to in section 12.

Section 3A

Council Chairperson means the Chairperson of the Council appointed under subsection 14(1).

Councillor means a member of the Council.

elected Councillor means a Councillor referred to in paragraph 12(1)(a) or (b).

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

Institute means the Australian Institute of Aboriginal and Torres Strait Islander Studies established by section 4.

Institute rules means rules made by the Council under section 48.

Torres Strait Islander means a descendant of an indigenous inhabitant of the Torres Strait Islands.

TSRA means the Torres Strait Regional Authority established by Part 3A of the *Aboriginal and Torres Strait Islander Act 2005*.

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Part 2.5 of the *Criminal Code* (which deals with corporate criminal responsibility) is excluded from applying to offences against this Act by subsection 47(10).

Part 2—Australian Institute of Aboriginal and Torres Strait Islander Studies

4 Australian Institute of Aboriginal and Torres Strait Islander Studies

- (1) An Australian Institute of Aboriginal and Torres Strait Islander Studies is established.
- (2) The Institute:
 - (a) is a body corporate;
 - (b) shall have a seal;
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Institute. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (3) The seal of the Institute shall be kept in such custody as the Council directs and shall not be used except as authorised by the Council.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Institute appearing on a document and shall presume that it was duly affixed.

Part 3—Functions of Institute

5 Functions of Institute

The Institute has the following functions:

- (a) to develop, preserve and provide access to a national collection of Aboriginal and Torres Strait Islander culture and heritage;
- (b) to use that national collection to strengthen and promote knowledge and understanding of Aboriginal and Torres Strait Islander culture and heritage;
- (c) to provide leadership in the fields of:
 - (i) Aboriginal and Torres Strait Islander research; and
 - (ii) ethics and protocols for research, and other activities relating to collections, related to Aboriginal and Torres Strait Islander peoples; and
 - (iii) use (including use for research) of that national collection and other collections containing Aboriginal and Torres Strait Islander culture and heritage;
- (d) to lead and promote collaborations and partnerships among the academic, research, non-government, business and government sectors and Aboriginal and Torres Strait Islander peoples in support of the other functions of the Institute;
- (e) to provide advice to the Commonwealth on the situation and status of Aboriginal and Torres Strait Islander culture and heritage.

6 Powers of Institute

- (1) The Institute has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The powers of the Institute under subsection (1) include, but are not limited to, the following powers:

Section 6

- (a) to accept gifts, grants, bequests and devises made to it;
 - (b) to act as trustee of money and other property vested in it on trust.
- (3) In spite of anything contained in this Act, any money or other property held by the Institute on trust shall be dealt with in accordance with the powers and duties of the Institute as trustee.

Part 4—Members of Institute

7 Members of Institute

- (1) Subject to this Part, the members of the Institute are persons appointed by the Council as members.
- (2) The Council shall not appoint a person to be a member of the Institute unless:
 - (a) the person has applied for membership of the Institute in accordance with the Institute rules; and
 - (b) the person has a demonstrated interest in Aboriginal and Torres Strait Islander culture and heritage.

8 Period of membership

- (1) An appointment of a person as a member of the Institute is for 5 years.
- (3) Nothing in this section prevents the Council from appointing as a member of the Institute a person who has previously been a member of the Institute.

9 Resignation

A member of the Institute may resign by writing signed by him or her and sent to the Chief Executive Officer.

10 Register of members

The Chief Executive Officer shall establish and maintain a register of the members of the Institute.

11 Rights of members

Membership of the Institute does not confer any rights or powers other than those expressly conferred by this Act or by the Institute rules.

Part 5—Council of Institute

Division 1—Constitution of Council

12 Constitution of Council

- (1) There shall be a Council of the Institute consisting of the following members:
- (a) 2 persons who:
 - (i) are members of the Institute; and
 - (ii) are Aboriginal persons or Torres Strait Islanders; and
 - (iii) are elected by the members of the Institute in accordance with the Institute rules;
 - (b) 2 other persons who:
 - (i) are members of the Institute; and
 - (ii) may or may not be Aboriginal persons or Torres Strait Islanders; and
 - (iii) are elected by the members of the Institute in accordance with the Institute rules;
 - (c) 5 other persons who are appointed by the Minister and each of whom has skills or experience in one or more of the following:
 - (i) cultural material conservation;
 - (ii) collection management;
 - (iii) research;
 - (iv) fundraising;
 - (v) finance;
 - (vi) business;
 - (vii) law.
- (1A) In making one or more appointments, the Minister must ensure that, immediately following the appointments (and taking into account the characteristics of all the elected Councillors and appointed Councillors at that time):

Section 13

- (a) at least 5 of the Councillors are Aboriginal persons or Torres Strait Islanders; and
 - (b) at least one of the Councillors is a Torres Strait Islander.
- (1B) A person cannot be elected or appointed as a Councillor for a term that starts immediately after the end of 2 consecutive terms of office of the person as a Councillor (whether the person was an elected Councillor or an appointed Councillor for either or both of those earlier terms).

Note: Section 15 deals with the term of office of a Councillor.

- (2) All the Councillors hold office on a part-time basis.

13 Responsibilities of Council

It is the responsibility of the Council to ensure the proper and efficient performance of the functions of the Institute and to determine the policy of the Institute with respect to any matter.

14 Chairperson and Deputy Chairperson of Council

- (1) The Minister shall appoint a Chairperson and a Deputy Chairperson of the Council from among the Councillors.
- (2) The Councillor who is the Chairperson or the Deputy Chairperson of the Council ceases to be the Chairperson or the Deputy Chairperson of the Council, as the case may be, if he or she ceases to be a Councillor.

Division 2—Administrative provisions

15 Term of office

- (1) An appointed Councillor holds office for such period, not exceeding 4 years, as is specified in the instrument of appointment.
- (2) An elected Councillor holds office for such period, not exceeding 4 years, as is determined in accordance with the Institute rules.

16 Remuneration and allowances

A Councillor is entitled to remuneration and allowances in accordance with section 45.

17 Leave of absence

- (1) The Minister may grant a Councillor leave of absence from duty on such terms and conditions as to remuneration or otherwise as the Minister determines in writing.
- (2) The Minister may delegate, to the Council Chairperson, the power under subsection (1) to grant leave of absence to the other Councillors.

18 Acting appointments

- (1) The Deputy Chairperson of the Council shall act as the Council Chairperson:
 - (a) during a vacancy in the office of Council Chairperson, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Council Chairperson is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to persons acting as the Council Chairperson, see section 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister may appoint a person to act in the office of an appointed Councillor:
- (a) during a vacancy in that office, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the appointed Councillor is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (3) A person appointed to act during a vacancy in the office of an appointed Councillor under subsection (2):
- (a) shall not continue so to act for more than 6 months; and
 - (b) shall not be re-appointed to act during that vacancy for a period that would be continuous with the period of 6 months from the date when the person first started acting during that vacancy.

- (4) The Minister shall not appoint a person to act in an office of appointed Councillor unless, having regard to section 12, the person could be appointed to that office.

- (5) The Minister may appoint a member of the Institute to act in the office of an elected Councillor during any period, or during all periods, when the elected Councillor is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (6) The appointment of a person to act in the office of a Councillor who is also the Chairperson or Deputy Chairperson of the Council does not constitute an appointment of the person to act as the Chairperson or Deputy Chairperson, as the case may be.

Section 20

20 Resignation

A Councillor may resign by writing signed by him or her and sent to the Minister.

21 Termination of membership of Council

- (1) The Minister may terminate a person's membership of the Council because of misbehaviour or physical or mental incapacity.
- (2) The Minister must terminate a person's membership of the Council if the member is absent, except on leave granted under section 17, from 3 consecutive meetings of the Council.

Note: A Council member's membership may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

- (2A) Section 30 of the *Public Governance, Performance and Accountability Act 2013* applies to an election of a member under paragraph 12(1)(a) or (b) of this Act as if the election were an appointment by the Minister.

Note: This enables the Minister to remove from office an elected member if the member fails to comply with the general duties of officials under the *Public Governance, Performance and Accountability Act 2013*.

- (3) An elected Councillor ceases to be a Councillor if he or she ceases to be a member of the Institute.

22 Other terms and conditions

A Councillor holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister by notice in writing published in the *Gazette*.

Division 3—Operations of Council

23 Meetings of Council

- (1) The Council Chairperson shall convene such meetings of the Council as, in the Chairperson's opinion, are necessary for the efficient performance of the Council's responsibilities.
- (2) The Minister may, at any time, convene a meeting of the Council.
- (3) The Council Chairperson shall convene a meeting of the Council upon receipt of a written request for a meeting signed by at least 4 Councillors.
- (4) At a meeting of the Council, a quorum is constituted by 5 Councillors.
- (5) Where:
 - (a) a Councillor who is present at a meeting is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Council with respect to a particular matter; and
 - (b) when the Councillor leaves the meeting there is no longer a quorum present;
the Councillors remaining at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.
- (6) The Council Chairperson shall preside at all meetings of the Council at which he or she is present.
- (7) If the Council Chairperson is not present at a meeting of the Council:
 - (a) if the Deputy Chairperson of the Council is present, the Deputy Chairperson of the Council shall preside at the meeting; and

Section 23

- (b) in any other case, the Councillors present shall elect one of their number to preside at the meeting.
- (8) Questions arising at a meeting of the Council shall be determined by a majority of the votes of the Councillors present and voting.
- (9) The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (10) The Council may regulate the conduct of proceedings at its meetings as it thinks fit and shall cause minutes of those proceedings to be kept.

Part 6—Chief Executive Officer

24 Chief Executive Officer

- (1) There shall be a Chief Executive Officer of the Institute who shall be appointed by the Council.
- (2) The Chief Executive Officer shall, subject to subsection (3), manage the day-to-day administration of the Institute.
- (3) The Chief Executive Officer shall, in managing the administration of the Institute and in exercising any powers conferred on the Chief Executive Officer by this Act, act in accordance with any policies determined, and any directions given, by the Council in writing.

25 Period of appointment

The Chief Executive Officer holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment.

26 Remuneration and allowances

The Chief Executive Officer is entitled to remuneration and allowances in accordance with section 45.

26A Recreation leave

The Chief Executive Officer is entitled to recreation leave in accordance with section 45A.

27 Resignation

The Chief Executive Officer may resign by writing signed by him or her and sent to the Council.

Section 28

28 Other terms and conditions

The Chief Executive Officer holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Council by notice in writing published in the *Gazette*.

Part 7—Staff

29 Staff

- (1) Subject to section 30, the staff required to assist the Institute in the performance of its functions shall be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Chief Executive Officer and the APS employees assisting the Principal together constitute a Statutory Agency; and
 - (b) the Chief Executive Officer is the Head of that Statutory Agency.

30 Consultants

- (1) The Chief Executive Officer may, on behalf of the Institute, engage as consultants to the Institute persons having suitable qualifications and experience.
- (2) The terms and conditions on which consultants are engaged shall be as determined by the Council by notice published in the *Gazette*.

Part 9—Finance

36 Money payable to the Institute

- (1) There is payable to the Institute such money as is appropriated by the Parliament for the purposes of the Institute.
- (2) The Finance Minister may give directions as to the amounts in which, and the times at which, money so appropriated is to be paid to the Institute.

38 Application of money held by Institute

- (1) Money held by the Institute shall be applied only:
 - (a) in payment or discharge of the costs, expenses and other obligations incurred by the Institute in the performance of its functions and the exercise of its powers;
 - (b) in payment of any remuneration and allowances payable to any person under this Act or any other Act; and
 - (c) in making any other payments which the Institute is authorised or required to make under this Act.
- (2) Subsection (1) does not prevent investment, under section 59 of the *Public Governance, Performance and Accountability Act 2013*, of money that is not immediately required for the purposes of the Institute.

39 Exemption from taxation

The Institute is not subject to taxation under any law of the Commonwealth or of a State or Territory.

Part 10—Miscellaneous

41 Certain information not to be disclosed

- (1) Where information or other matter has been deposited with the Institute under conditions of restricted access, the Institute or the Council shall not disclose that information or other matter except in accordance with those conditions.
- (2) The Institute or the Council shall not disclose information or other matter held by it (including information or other matter covered by subsection (1)) if that disclosure would be inconsistent with the views or sensitivities of relevant Aboriginal persons or Torres Strait Islanders.

42 Informing TSRA about general conduct of Institute

- (2) The Council may from time to time inform the TSRA about the general conduct of the activities of the Institute.
- (3) Where the Council receives a request from the TSRA for information about the activities of the Institute, the Council may give to the TSRA, as the case may be, such information relating to the activities of the Institute as the Council thinks appropriate.

43 Minister may ask for advice

- (1) The Minister or the TSRA may, from time to time, ask the Council to provide advice on aspects of the culture, history and society of Aboriginal and Torres Strait Islander peoples.
- (2) The Council:
 - (a) shall comply with a request under subsection (1) made by the Minister; and
 - (b) may comply with a request under subsection (1) made by the TSRA.

Section 44

- (3) The Council may, in response to a request under subsection (1):
- (a) prepare its advice having regard only to any relevant information that is already in the possession of the Institute; or
 - (b) if the Council considers it appropriate to do so—arrange for the conduct of research into the matter to which the request relates by or on behalf of the Institute, and prepare its advice having regard to that research and to any other relevant information that is otherwise in the possession of the Institute.

44 Delegation to Chief Executive Officer or staff

The Institute may, by writing under its seal, delegate any or all of its functions and powers to the Chief Executive Officer or to a member of the staff of the Institute.

45 Remuneration and allowances

- (1) The following provisions apply in relation to the holder of an office who is, by a provision of this Act, entitled to remuneration and allowances in accordance with this section:
- (a) the holder of the office shall be paid such remuneration as is determined by the Remuneration Tribunal;
 - (b) if no determination of that remuneration by the Remuneration Tribunal is in operation, the holder of the office shall be paid such remuneration as is determined under subsection (2) by the Minister;
 - (c) the holder of the office shall be paid such allowances as are determined under subsection (2) by the Minister.
- (2) For the purposes of paragraph (1)(b) or (c), the Minister may, by notifiable instrument, determine remuneration or allowances to be paid to the holder of an office.

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunseting under that Act.

- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

45A Recreation leave

The holder of an office who is, by a provision of this Act, entitled to recreation leave in accordance with this section is entitled to such recreation leave as is determined by the Remuneration Tribunal.

47 Conduct of directors, employees and agents

- (1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
- (a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, employee or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:
- (a) that the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and
 - (b) that the employee or agent had the state of mind.

Section 47

- (4) Any conduct engaged in on behalf of a person other than a body corporate by an employee or agent of the person within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) Where:
- (a) a person other than a body corporate is convicted of an offence; and
 - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for that offence.
- (6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.
- (8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.
- (9) A reference in this section to an offence against this Act includes a reference to:
- (a) an offence created by the regulations; and
 - (b) an offence created by:
 - (i) section 6 of the *Crimes Act 1914*; or

- (ii) section 11.1, 11.2, 11.2A, 11.4 or 11.5 of the *Criminal Code*; or
 - (iii) section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*;
being an offence that relates to this Act or the regulations.
- (10) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

48 Rules

- (1) The Council may make rules, not inconsistent with this Act or the regulations, prescribing matters:
- (a) required or permitted by this Act to be prescribed by the Institute rules; or
 - (b) necessary or convenient to be prescribed by the Institute rules in connection with the conduct of the affairs of the Institute.
- (2) Rules made under this section are not legislative instruments.

49 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the regulations may:
- (a) prescribe fees payable in respect of any matter under this Act; and
 - (b) provide penalties for breaches of the regulations not exceeding:
 - (i) in the case of a natural person—\$1,000; or

Section 49

(ii) in the case of a body corporate—\$5,000.

Part 11—Transitional provisions

Division 1—Preliminary

50 Interpretation

In this Part, unless the contrary intention appears:

assets means property of every kind, and, without limiting the generality of the foregoing, includes:

- (a) choses in action; and
- (b) rights, interests and claims of every kind in or to property, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

commencement means the commencement of this Act.

liabilities means liabilities of every kind, and, without limiting the generality of the foregoing, includes obligations of every kind, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

new Institute means the Australian Institute of Aboriginal and Torres Strait Islander Studies.

old Institute means the Australian Institute of Aboriginal Studies.

old Institute instrument means an instrument:

- (a) to which the old Institute was a party;
- (b) that was given to or in favour of the old Institute;
- (c) in which a reference is made to the old Institute; or

Part 11 Transitional provisions

Division 1 Preliminary

Section 50

(d) under which money is, or may become, payable, or any other property is to be, or may become liable to be, transferred, to or by the old Institute;
being an instrument subsisting immediately before the commencement.

Division 3—Transitional provisions

54 Transfer of assets and liabilities of old Institute

- (1) At the commencement, the assets and liabilities of the old Institute become assets and liabilities of the new Institute.
- (2) The following provisions apply to assets and liabilities that have become assets and liabilities of the new Institute because of subsection (1):
 - (a) an asset that was, immediately before the commencement, held by the old Institute on trust shall, after the commencement, be held by the new Institute on trust and subject to the terms of the trust on which the asset was so held by the old Institute;
 - (b) liabilities of the old Institute to make payments shall, after the commencement, be taken to be liabilities incurred by the new Institute in the performance of its functions and the exercise of its powers.

55 Old Institute instruments

An old Institute instrument continues to have effect after the commencement but, in its operation in relation to acts, transactions, matters or things done, entered into or occurring after the commencement, has effect as if a reference in the instrument to the old Institute were a reference to the new Institute.

64 Operation of the *Superannuation (Productivity Benefit) Act 1988*

- (1) The Superannuation Act and any related law apply in relation to any person who:
 - (a) before the commencement, was employed by the old Institute; and
 - (b) after the commencement, is employed under the *Public Service Act 1922* in the new Institute;as if:

Part 11 Transitional provisions

Division 3 Transitional provisions

Section 64

- (c) the person's employer was in each case the same body; and
- (d) the continuity of the person's employment was not affected by the abolition of the old Institute and the establishment of the new Institute.

(2) In this section:

related law means any law of the Commonwealth, to the extent that it relates to the superannuation benefits covered by the Superannuation Act.

Superannuation Act means the *Superannuation (Productivity Benefit) Act 1988*.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989	149, 1989	27 Nov 1989	5 Mar 1990 (s. 2 and gaz 1990, No. S48) (s 2)	
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	s 4(1), 10(b) and 15–20: 1 Dec 1988 s 28(b)–(e), 30 and 31: 10 Dec 1991 (gaz 1991, No. S332) Remainder: 27 June 1991 (s 2(1))	s 31(2)
Aboriginal and Torres Strait Islander Commission Amendment Act (No. 3) 1993	1, 1994	14 Jan 1994	s. 80: 1 July 1994 (s 2(1)(b))	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 316–323): 1 Jan 1998 (gaz 1997, No GN49) (s 2(2))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 192–194): 5 Dec 1999 (gaz 1999, No. S584) (s 2(1))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 10 (item 34): 13 Mar 2000 (gaz 2000, No. S114) (s 2(2)(c))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 43-46, 418, 419); 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)
Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Act 2001	112, 2001	17 Sept 2001	15 Oct 2001 (s 2)	s 4
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	29 Oct 2001 (s 2(1))	Sch 1 (item 97)
Aboriginal and Torres Strait Islander Commission Amendment Act 2005	32, 2005	22 Mar 2005	Sch 4 (items 12-22): 24 Mar 2005 (s 2(1) item 4)	Sch 4 (item 18)
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 5 (item 21) and Sch 6 (items 5-11): 14 Sept 2006 (s 2(1) item 4)	Sch 6 (items 5-11)
Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010	4, 2010	19 Feb 2010	Sch 10 (item 4): 20 Feb 2010 (s 2(1) item 13)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 5 (items 26, 27) and Sch 7 (item 20): 19 Apr 2011 (s 2(1) items 13, 17)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 171–173) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) item 3)	Sch 3 (items 10, 11)
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 6 (items 11, 12): 22 Sept 2012 (s 2(1) item 37)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 7 (items 268–272) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (items 36–41): 25 Mar 2015 (s 2(1) item 10)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 3 (items 8–10, 348, 349): 5 Mar 2016 (s 2(1) item 2)	Sch 3 (items 348, 349)
Australian Institute of Aboriginal and Torres Strait Islander Studies Amendment Act 2016	6, 2016	11 Feb 2016	12 Feb 2016 (s 2(1) item 1)	Sch 1 (items 12, 15, 18, 23, 32)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	am No 32, 2005
s 3	am No 1, 1994; No 32, 2005; No 5, 2011; No 62, 2014; No 6, 2016
s 3A	ad No 112, 2001
Part 2	
s 4	am No 152, 1997; No 62, 2014
Part 3	
s 5	am No 6, 2016
Part 4	
s 7	am No 6, 2016
s 8	am No 6, 2016
s 9	am No 6, 2016
s 10	am No 6, 2016
Part 5	
Division 1	
s 12	am No 32, 2005; No 6, 2016
Division 2	
s 18	am No 46, 2011
s 19	rep No 152, 1997
s 21	am No 152, 1997; No 156, 1999; No 62, 2014; No 6, 2016
Div 3	
s 23	am No 62, 2014
Part 6	
Part 6 heading	rs No 6, 2016
s 24	am No 6, 2016
s 25	am No 159, 2001; No 6, 2016
s 26	am No 6, 2016
s 26A	ad No 122, 1991

Endnote 4—Amendment history

Provision affected	How affected
	am No 6, 2016
s 27	am No 6, 2016
s 28	am No 6, 2016
Part 7	
s 29	am No 146, 1999; No 6, 2016
s 30	am No 6, 2016
Part 8	rep No 6, 2016
s 31	rep No 6, 2016
s 32	rep No 6, 2016
s 33	rep No 6, 2016
s 34	rep No 6, 2016
s 35	rep No 6, 2016
Part 9	
s 36	am No 5, 2011
s 37	rep No 152, 1997
s 38	am No 152, 1997; No 62, 2014
s 39	am No 101, 2006
s 40	rep No 152, 1997
Part 10	
s 42	am No 1, 1994; No 152, 1997; No 32, 2005
s 43	am No 1, 1994; No 32, 2005; No 6, 2016
s 44	am No 6, 2016
s 45	am No 10, 2015
s 45A	ad No 122, 1991
	am No 146, 1999
s 46	rep No 137, 2000
s 47	am No 137, 2000; No 112, 2001; No 4, 2010; No 5, 2015
s 48	am No 10, 2015
Part 11	
Part 11 heading	rs No 136, 2012
Division 1	

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 50	am No 6, 2016
Division 2	rep No 136, 2012
s 51	rep No 136, 2012
Division 3	
s 52	rep No 6, 2016
s 53	rep No 6, 2016
s 56	rep No 6, 2016
s 57	rep No 6, 2016
s 58	rep No 152, 1997
s 59	rep No 6, 2016
s 60	am No 5, 2011
	rep No 6, 2016
s 61	rep No 6, 2016
s 62	rep No 6, 2016
s 63	rep No 6, 2016
s 64	am No 6, 2016
s 65	rep No 6, 2016
Division 4	rep No 136, 2012
s 66	rep No 136, 2012
s 67	rep No 136, 2012
