



# **Aboriginal and Torres Strait Islander Commission Amendment Act 1998**

**No. 20, 1998**





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***An Act to amend the *Aboriginal and Torres Strait  
Islander Commission Act 1989*, and for related  
purposes***



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## **An Act to amend the *Aboriginal and Torres Strait Islander Commission Act 1989*, and for related purposes**

[Assented to 17 April 1998]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Aboriginal and Torres Strait Islander  
Commission Amendment Act 1998*.

### **2 Commencement**

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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- (2) Items 4 and 8 of Schedule 1 are taken to have commenced immediately after the *Aboriginal and Torres Strait Islander Commission Amendment Act 1996* received the Royal Assent.
  - (3) Item 10 of Schedule 1 is taken to have commenced immediately after the *Aboriginal and Torres Strait Islander Commission Act 1989* received the Royal Assent.
  - (4) Item 11 of Schedule 1 is taken to have commenced immediately after the commencement of section 79 of the *Aboriginal and Torres Strait Islander Commission Amendment Act (No. 3) 1993*.

### **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.



## **Schedule 1—Amendment**

### *Aboriginal and Torres Strait Islander Commission Act 1989*

#### **1 At the end of section 20**

Add:

- (5) This section does not affect the availability to the Commission of any legal or equitable remedy for a failure to fulfil a term or condition of a grant or loan made by the Commission under this Part.

#### **2 Subsections 21(2) and (3)**

Repeal the subsections, substitute:

*No disposal without Commission's consent*

- (2) The individual or body must not dispose of the interest without the Commission's written consent to that particular disposal or to a disposal of that kind.

*Consent must specify person who is to acquire interest*

- (3) The consent must specify the disposal, or the kind of disposal, it covers by identifying the person or class of persons to whom the interest is to be disposed of.

*Other ways in which consent may specify disposal*

- (4) Subsection (3) does not prevent a consent from further specifying a particular disposal, or a kind of disposal, in other ways.

*Disposal without Commission's consent is invalid*

- (5) A purported disposal of the interest by the individual or body has no effect unless it is covered by the Commission's written consent.

*Conditional consent*

- (6) The Commission may attach a condition to its consent by specifying the condition in the document setting out the consent.

*Contravention of condition does not affect disposal*

- (7) Contravention of a condition attached to the Commission's consent does not affect the disposal of the interest by the individual or body.

*Contravention of condition on using proceeds of disposal*

- (8) However, the Commission may give the individual or body written notice requiring the individual or body to pay the Commission the amount specified in the notice if:
- (a) the interest disposed of was acquired by the individual or body either:
    - (i) using money granted by the Commission to the individual or body under paragraph 14(1)(a) after the commencement of this subsection; or
    - (ii) as a result of the grant of an interest in land by the Commission under paragraph 14(1)(b) after the commencement of this subsection; and
  - (b) the condition attached to the Commission's consent was that some or all of the proceeds of the disposal be applied for a purpose specified by the Commission; and
  - (c) the Commission is satisfied that the condition was not complied with.

*Amount that must be paid*

- (9) The Commission must not specify in the notice an amount greater than the amount of the grant made to the individual or body under paragraph 14(1)(a) or (b).

*Liability to pay*

- (10) An individual or body given a notice is liable to pay the Commission the amount specified in the notice.

*Requirement to pay under notice does not affect other remedies*

- (11) Subsections (8), (9) and (10) do not affect the availability to the Commission of any legal or equitable remedy for contravention of a condition attached to the Commission's consent.

Note: The following heading to subsection 21(1) is inserted "*Interests to which this section applies*".

**3 At the end of section 21A**

Add:

- (4) This section does not apply to a liability arising under subsection 21(10) (because of a failure to comply with a condition the Commission attached to its consent for an individual or body to dispose of the interest of the individual or body in land).

**4 Subsection 36(5)**

Omit "section", substitute "subsection".

**5 Paragraph 45(1)(a)**

Repeal the paragraph, substitute:

- (a) its power to consent for the purposes of section 21 to the disposal of interests in property used mainly for purposes other than residential purposes; and

**6 At the end of paragraph 45(1)(c) and subparagraph 45(1)(ca)(ii)**

Add "and".

**7 At the end of subsection 45A(1)**

Add "or any or all of its other powers (except those under section 20) so far as they relate to a grant, loan or guarantee under section 14, 15 or 16".

**8 Paragraph 78A(1)(a)**

Omit "(ba) (c), (d), (da), (db),", substitute "(ba), (c), (d), (da), (db),".

**9 Paragraph 94(1)(f)**

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After “by”, insert “or under”.

**10 Subsection 178(2)**

Omit “condition”, substitute “conditions”.

**11 Subsection 196A(2)**

After “referred to”, insert “in”.

**12 Application of amendment of section 21**

- (1) The amendment of section 21 of the *Aboriginal and Torres Strait Islander Commission Act 1989* made by this Schedule applies to disposals of interests (and purported disposals of interests) on or after the day on which this Act receives the Royal Assent.
- (2) A consent given by the Commission before that day remains effective for the purposes of that section on and after that day (despite that amendment).

**13 Application of amendments of paragraph 45(1)(a) and subsection 45A(1)**

The amendments of paragraph 45(1)(a) and subsection 45A(1) of the *Aboriginal and Torres Strait Islander Commission Act 1989* made by this Schedule do not affect delegations under instruments made before the day on which this Act receives the Royal Assent.

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[*Minister's second reading speech made in—  
House of Representatives on 3 December 1997  
Senate on 1 April 1998*]

(238/97)

