

# A new law for Indigenous Corporations

BY LAURA BEACROFT  
REGISTRAR OF ABORIGINAL CORPORATIONS

On 1 July 2007 a new law for the incorporation of Indigenous groups began. It is the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act), replacing the Aboriginal Councils and Associations Act 1976 (ACA Act).

It introduces a strong but flexible legislative framework that aligns with the Corporations Act 2001, where possible, but accommodates the particular needs and circumstances of individual localities and groups.

The law is administered by the Registrar of Aboriginal Corporations who is supported by staff in a department referred to as the Office of the Registrar of Aboriginal Corporations.

To acknowledge the fact that most corporations are located in remote areas and may provide essential services or hold key assets such as land, the Act also offers additional safeguards through the Registrar's unique regulatory powers.

The CATSI Act was drafted in response to the an independent review of the ACA Act, which identified a number of shortcomings, including inadequate protection for members, rigidity of corporate design and insufficient third party protection including for funding agencies.

The new Act is aligned with the Corporations Act in some important ways, bringing the regime into line with modern standards of corporate governance. For example, the CATSI Act clarifies the statutory duties required of directors and other senior staff by aligning them with those required of the officers of mainstream corporations under the Corporations Act. This is particularly appropriate given that the powers are delegated to management and staff to conduct the day-to-day

affairs of the corporation.

However, the CATSI Act introduces some important differences to mainstream corporations law. For example, many of the provisions covering meetings, members and officers have been modified to recognise the special circumstances of Indigenous corporations.

It also allows a great deal of flexibility in reporting, but all corporations must file a general report each year which contains all the basic details of the corporation. This will allow the Registrar to maintain more accurate registers that are widely used by corporations and the general public.

The CATSI Act also establishes a Register of Disqualified Officers from managing corporations. This will align with ASIC's register of disqualified officers so that if a person is disqualified under one, they will automatically be disqualified under the other.

In contrast to other regulators, ORAC can provide a high level of assistance to corporations, and as such the ACA Act or the CATSI Act particularly suited to:

- developing sectors such as the Indigenous arts industry
- organisations that require 'prudential' or active regulation such as essential service providers or

those that hold essential assets

- organisations where membership or clients are disempowered, such as child care centres, aged care facilities and schools
- organisations in remote areas of Australia, particularly where English is not commonly spoken
- land holding and native title corporations which operate in a complex environment where ORAC has considerable expertise
- corporations or sectors that will benefit from the opportunities that the ACA Act and CATSI Act offer, especially in preventative approaches such as stronger guidance on corporate design and a rolling program of 'good governance audits' or examinations and follow up, combined with capacity building.

## Contact ORAC

Further information about Indigenous corporations and ORAC, including the ACA Act and the CATSI Act, is available online at [www.orac.gov.au](http://www.orac.gov.au) or by contacting ORAC on 1800 622 431. ORAC can also provide information sessions on the CATSI Act and Aboriginal and Torres Strait Islander corporations more generally.

*The Law Society is proposing to have a CPD on this topic in the next few weeks.*

## The Practitioner is getting a revamp - tell us what you want!

Having had *The Practitioner* e-newsletter in place for four years now, we believe it is time to review several aspects of the publication.

These include, but are not limited to its name, format and content.

We are looking at implementing a new web based newsletter, which will be facilitated by an upgraded Law Society Website currently in development.



Feedback and suggestions would be most welcome. You can contact Rebecca Mitchell on [publicrelations@lawsocnt.asn.au](mailto:publicrelations@lawsocnt.asn.au) or on 8981 5104 if you'd like to tell us what you'd like to see in your e-newsletter.