ABORIGINAL COUNCILS AND ASSOCIATIONS LEGISLATION AMENDMENT BILL 1994

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AMENDMENTS SUBSTITUTING INCORPORATED ABORIGINAL BODY
FOR ABORIGINAL CORPORATION
A BILL

FOR

An Act to amend the *Aboriginal Councils and Associations Act 1976*, and for related purposes

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Aboriginal Councils and Associations Legislation Amendment Act 1994*.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.
Aboriginal Councils and Associations Legislation Amendment No. , 1994

PART 2—AMENDMENTS OF THE ABORIGINAL COUNCILS AND ASSOCIATIONS ACT 1976

Division 1—Principal Act

Principal Act

3 In this Part, “Principal Act” means the Aboriginal Councils and Associations Act 1976.

Division 2—Amendments of the Principal Act

Short title

4. Section 1 of the Principal Act is amended by omitting “Associations” and substituting “Corporations”.

Interpretation

5. Section 3 of the Principal Act is amended:
(a) by omitting the definitions of “Aboriginal association” and “Aboriginal corporation” and substituting the following definitions:
   “‘Aboriginal association’ has the meaning given by subsections (2), (3) and (4);
   ‘Aboriginal corporation’ means an Aboriginal association incorporated, or continued in existence as a body corporate, under section 46;”;
(b) by omitting the definitions of “committee”, “Deputy Registrar”, “Incorporated Aboriginal Association”, “Registrar” and “unauthorized name”;
(c) by inserting the following definitions:
   “‘Commission’ means the Australian Indigenous Corporations Commission established by section 4;
   ‘Commissioner’ means the Commissioner of the Australian Indigenous Corporations Commission;
   ‘company’ means a company incorporated under the Corporations Law;
   ‘Governing Committee’, in relation to an Aboriginal corporation, means the members having the conduct of the affairs of the corporation;
   ‘Incorporated Aboriginal body’ means an Aboriginal Council or an Aboriginal corporation;
   ‘special resolution’ has the meaning given by subsection (5);
'unauthorised name', in relation to an Aboriginal corporation, means:

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

(b) a name that would not be available to a body corporate under the Corporations Law.'';

(d) by adding at the end the following subsections:

“(2) An association, society, company or other body is an Aboriginal association if:

(a) Aboriginals and spouses of Aboriginals only are eligible for membership; and

(b) it is formed or carried on for any lawful object, including the securing of a pecuniary profit to its members; and

(c) it has the number of members specified in subsection (3) or (4).

“(3) Subject to subsection (4), the association, society, company or body must have at least 25 adult Aboriginals as members.

“(4) If the association, society, company or body is formed:

(a) wholly for business purposes; or

(b) principally for the purpose of owning land or holding a leasehold interest in land;

it must have at least 5 adult Aboriginals as members.

“(5) A resolution is a special resolution of an Aboriginal corporation if:

(a) it is passed at a meeting of the corporation, being a meeting of which at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been duly given; and

(b) it is passed at a meeting referred to in paragraph (a) by a majority of at least three-quarters of such members of the corporation as, being entitled to do so, vote at that meeting (whether in person or by proxy).”.

Repeal and substitution of Part

6. Part II of the Principal Act is repealed and the following Part is substituted:
Aboriginal Councils and Associations Legislation
Amendment No. , 1994

“PART II—AUSTRALIAN INDIGENOUS CORPORATIONS COMMISSION

Division 1—Establishment of Commission

Establishment of Commission

“4.(1) The Australian Indigenous Corporations Commission is established.

“(2) The Commission:
(a) is a body corporate with perpetual succession; and
(b) has a common seal; and
(c) may acquire, hold and dispose of real and personal property; and
(d) may sue and be sued.

“(3) All courts, judges and persons acting judicially must:
(a) take judicial notice of the imprint of the common seal of the Commission appearing on a document; and
(b) presume the imprint was duly made.

Functions of Commission

“5. The functions of the Commission are:
(a) to maintain the following public registers:
(i) a register to be known as the Register of Aboriginal Councils;
(ii) a register to be known as the Register of Aboriginal Corporations;
(iii) the Register of Aboriginal Corporation Charges established under section 67B; and
(b) to advise adult Aboriginals on the procedures for:
(i) the constitution of Aboriginal Council areas; and
(ii) the establishment of Aboriginal Councils; and
(iii) the incorporation of Aboriginal associations; and
(c) to arbitrate in disputes as provided for in the Rules of an Aboriginal Council; and
(d) to promote understanding and acceptance of, and compliance with, this Act; and
(e) to administer this Act; and
(f) to prosecute:
(i) contraventions of this Act; and
(ii) contraventions of other laws relating to fraud or dishonesty by Aboriginal corporations or their members; and
(iii) contraventions of other laws relating to fraud or dishonesty by Aboriginal Councils or councillors; and
(g) any other function conferred on the Commission by this Act.

Powers of Commission
5
“6. The Commission has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of the Commission’s functions, including power to act as agent for an Incorporated Aboriginal body.

Appointment of Commissioner
10
“(1) The Commission consists of the Commissioner.
“(2) The Commissioner is to be appointed by the Governor-General.
“(3) The Commissioner holds office on a full-time basis.
“(4) The Commissioner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as the Minister determines.

Responsibilities of Commissioner
8
“8. The Commissioner is to manage the day-to-day administration of the Commission.

Term of appointment
20
“(1) Subject to subsection (2), the Commissioner is to be appointed for a period of up to 5 years.
“(2) A person who has turned 65 cannot hold office as Commissioner.
“(3) A person is eligible for re-appointment as Commissioner.

Remuneration and allowances etc.
25
“(1) The Commissioner is to be paid such remuneration as the Remuneration Tribunal determines. If no determination is in force, the Commissioner is to be paid such remuneration as is prescribed.
“(2) The Commissioner is to be paid such allowances and benefits as are prescribed.
“(3) This section has effect subject to the Remuneration Tribunal Act 1973.
“(4) The Consolidated Revenue Fund is appropriated for payments under this section.

Recreation leave etc.
35
“(1) Subject to section 87E of the Public Service Act 1922, the Commissioner has such recreation leave entitlements as the Remuneration Tribunal determines.
“(2) The Minister may grant the Commissioner other leave of absence on such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation

“9C. The Commissioner may resign from office by giving to the Governor-General a signed resignation notice.

Termination of appointment

“9D. (1) The Governor-General may terminate the appointment of the Commissioner for misbehaviour or physical or mental incapacity.

“(2) The Governor-General may terminate the appointment of the Commissioner if the Commissioner:

(a) becomes bankrupt; or
(b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
(c) compounds with his or her creditors; or
(d) assigns his or her remuneration for the benefit of his or her creditors; or
(e) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
(f) fails, without reasonable excuse, to comply with his or her obligations under section 9E; or
(g) engages without the Minister’s consent in paid employment outside the duties of the Commissioner’s office.

Disclosure of interests

“9E. (1) The Commissioner must give written notice to the Minister if the Commissioner has or acquires any pecuniary or other interest:

(a) in any Incorporated Aboriginal body; or
(b) in relation to any matter that is being dealt with by the Commission.

“(2) The Commissioner must not take part in any matter that is being dealt with by the Commission in which the Commissioner has or acquires a pecuniary or other interest, unless otherwise directed by the Minister.

 Acting appointments

“9F. (1) The Minister may appoint a person to act as Commissioner:

(a) during a vacancy in the office of Commissioner, whether or not an appointment has previously been made to the office; or
(b) during any period when the Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.
“(2) A person may not act as Commissioner for more than 12 months.

“(3) Anything done by or in relation to a person purporting to act under this section is not invalid merely because:
(a) the occasion for the appointment had not arisen; or
(b) there is a defect or irregularity in connection with the appointment; or
(c) the appointment had ceased to have effect; or
(d) the occasion to act had not arisen or had ceased.

Note: See section 33A of the Acts Interpretation Act 1901 for acting appointments.

Division 2—Staff and consultants

Public Service staff of Commission

“9G.(1) Subject to this Division, the Commission’s staff consists of persons appointed or employed under the Public Service Act 1922.

“(2) The Commission has all the powers of, or exercisable by, a Secretary under the Public Service Act 1922, so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in subsection (1), as if that branch were a separate Department of the Australian Public Service.

Non-Public Service staff of Commission

“9H.(1) In addition to the staff referred to in section 9G, the Commission may employ, under written agreements, such persons as the Commission thinks necessary for the performance of its functions or the exercise of its powers.

“(2) The terms and conditions of employment of persons employed under subsection (1) are such as the Commission determines from time to time with the Minister’s written approval.

Staff seconded to Commission

“9I. The Commission may also be assisted by officers and employees of Departments of the Australian Public Service, and of authorities of the Commonwealth, whose services are made available to the Commission.

Consultants

“9J.(1) The Commission may engage persons with suitable qualifications and experience as consultants to the Commission.

“(2) The terms and conditions of engagement of a consultant are such as the Commission determines from time to time.
Delegation

"9K.(1) The Commissioner may, in writing, delegate to a staff member referred to in section 9G all or any of the Commissioner’s functions or powers under this Act.

"(2) The Commission may, in writing, delegate all or any of its functions or powers under this Act to:
   (a) a staff member referred to in section 9G; or
   (b) a person employed by the Commission under section 9H; or
   (c) an officer or employee whose services are made available to the Commission under section 9I.

"(3) The Commission may, in writing, also delegate:
   (a) its function under section 58B to conduct a special general meeting; or
   (b) its functions or powers under section 68 (other than the power in subsection 68(1) to decide whether or not to investigate); to a person (other than a person referred to in subsection (2)) who in the opinion of the Commission is suitable to perform the function or exercise the power.

Disclosure of interests by staff members, delegates etc.

"9L. A person who is:
   (a) performing duties or services as:
      (i) a staff member referred to in section 9G; or
      (ii) a person employed by the Commission under section 9H; or
      (iii) an officer or employee whose services are made available to the Commission under section 9I; or
      (iv) a person engaged as a consultant under section 9J; or
   (b) performing a function, or exercising a power, as a delegate of the Commission; or
   (c) performing duties or services by way of assisting a delegate of the Commission;
   must give written notice to the Commission if the person has or acquires a pecuniary or other interest that could involve a conflict with the proper performance or exercise by the person of those duties, functions, services or powers.
Penalty: Imprisonment for 12 months.

Division 3—Finance

Payments to Commission by Commonwealth

"9M.(1) There is payable to the Commission such money as is appropriated by the Parliament for the purposes of the Commission.
“(2) The Minister for Finance may give directions about the amounts in which, and the times at which, money payable under subsection (1) is to be paid to the Commission.

Commission’s money

“9N. The Commission’s money consists of:
(a) money paid to the Commission under subsection 9M(1); or
(b) income received under subsection 9O(2).

How Commission’s money is to be applied

“9O.(1) The money of the Commission may be applied only:
(a) in payment or discharge of the costs, expenses and other obligations incurred by the Commission in the performance of its functions or the exercise of its powers; and
(b) in payment of any remuneration, allowances or benefits payable under this Act; and
(c) in connection with the provision of any superannuation benefit to the Commissioner; and
(d) in making any superannuation contributions for the Commissioner.

“(2) Any of the Commission’s money that is not immediately required for the purposes of the Commission may be invested:
(a) on deposit with an approved bank; or
(b) in Commonwealth securities; or
(c) in any other manner that the Treasurer approves.

Estimates

“9P.(1) The Commission is to:
(a) prepare estimates of its receipts and expenditure, in such form as the Minister directs, for:
(i) each financial year; and
(ii) any other period specified by the Minister; and
(b) give the estimates to the Minister within such time as the Minister directs.

“(2) The Commission’s money is to be expended only in accordance with estimates approved by the Minister.

Application of Division 3 of Part XI of the Audit Act

“9Q. The Commission is a public authority to which Division 3 of Part XI of the Audit Act 1901 applies.
Aboriginal Councils and Associations Legislation Amendment No. 1994

Special provisions relating to reports etc. prepared under the Audit Act

"9R. A report by the Commission, under section 63M of the Audit Act 1901, of its operations during a year ending on a particular 30 June must:

(a) describe the specific goals the Commission has pursued, and the priorities it has followed in performing its functions during that year;

(b) describe any matters that have adversely affected the Commission's effectiveness during that year."

Appointment of public officer etc.

7. Section 36 of the Principal Act is amended by omitting subsections (3) and (4) and substituting the following subsections:

"(3) The public officer of an Aboriginal Council may resign office by writing signed by him or her and delivered to:

(a) the Commission; and

(b) the Chairperson of the Council or, if:

(i) the office of Chairperson is vacant; or

(ii) the Chairperson cannot be reached;

any 2 councillors.

"(4) A person cannot be appointed, or hold office, as the public officer of an Aboriginal Council if the person:

(a) is an undischarged bankrupt; or

(b) has applied to take, or has taken, the benefit of a law for the relief of bankrupt or insolvent debtors; or

(c) compounds with his or her creditors.

"(4A) A person who is disqualified from being the public officer of an Aboriginal Council must not exercise any power, or perform any function or duty, of the public officer under this Act."

Insertion of section

8. After section 37 of the Principal Act the following section is inserted:

Council to perform functions etc. of public officer when office vacant

"37A.(1) When the office of public officer of an Aboriginal Council is vacant:

(a) the Council is to exercise the powers, and perform the functions and duties, of the public officer under this Act; and

(b) any document or process that must, or may, be served on the public officer under this Act is duly served if it is served on 2 councillors.
"(2) If:
(a) the public officer of an Aboriginal corporation is required to do something under a provision of this Act; and
(b) it is an offence for the public officer to contravene the provision; and
(c) while the office of the public officer is vacant, the Council does not comply with the provision;

each councillor is guilty of an offence against this Act punishable, upon conviction, by a penalty not exceeding the penalty set out in the provision.

“(3) In a prosecution of a person under subsection (2), it is a defence if the person proves that the person:
(a) did not aid, abet, counsel or procure the contravention; and
(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or a party to, the contravention.”.

Accounts, records and financial statements

9.(1) Section 38 of the Principal Act is amended:
(a) by omitting paragraphs (2)(b), (c) and (d) and substituting the following paragraph:
“(b) financial statements, in a form approved by the Commission, consisting of:

(i) a balance sheet giving a true and fair view of the assets and liabilities of the Council as at that 30 June; and
(ii) an income and expenditure statement giving a true and fair view of the income and expenditure of the Council for the year ending on that 30 June; and
(iii) notes, forming an integral part of the financial statements.”;
(b) by inserting after subsection (2) the following subsection:
“(2A) If an accounting standard (within the meaning of the Corporations Law) would be an applicable accounting standard (within the meaning of that law) in relation to the financial statements of the Aboriginal Council for a financial year if the Council were a company incorporated under the Corporations Law, the financial statements of the Council in relation to that year must be made out in accordance with that accounting standard.”;
(c) by omitting paragraph (3)(b) and substituting the following paragraph:
“(b) to give to the Council a report (‘auditor’s report’) of the results of that audit.”;
(d) by inserting after subsection (3) the following subsections:

"(3A) The auditor's report (without being limited to the following matters) must state:

(a) whether in the auditor's opinion the Council has complied with the obligations imposed by this Act, the regulations and the rules of the Council; and

(b) whether in the auditor's opinion the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and

(c) whether in the auditor's opinion the financial statements give a true and fair view of the financial transactions and the state of affairs of the Council; and

(d) if the financial statements are required under subsection (2A) to be made out in accordance with any accounting standards—whether in the auditor's opinion the financial statements are made out in accordance with those accounting standards; and

(e) such other matters arising out of the audit as the auditor considers should be reported.

"(3B) If the auditor is of the opinion that any irregularity has been disclosed by the audit, the auditor must give to the Commission a copy of the auditor's report at the same time as the report is given to the Council."

(e) by omitting from subsection (4) "examiner's" and substituting "auditor's";

(f) by omitting from paragraph (5)(b) "examiner's" and substituting "auditor's".

(2) The amendments made by subsection (1) do not apply in relation to an Aboriginal Council if:

(a) that subsection commences after 30 June in a calendar year; and

(b) when that subsection commences, work has already started on the preparation of the report that is required, under subsection 38(2) or (3) of the Principal Act, to be prepared in relation to the Aboriginal Council after that 30 June.

Examination of documents

10. Section 39 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

"(1) The Commission may require a person authorised for the purposes of this section to:
(a) examine all documents relating to the affairs of an Aboriginal Council; and
(b) report to the Commission on the results of the examination, drawing attention to any irregularity in the conduct of the Council’s affairs.”;

(b) by omitting from subsection (2) “of the Council”;
(c) by inserting after subsection (4) the following subsections:

“(4A) The authorised person may examine on oath or affirmation a person who is required under subsection (4) to answer questions or produce documents. For the purpose of examining the person, the authorised person may:

(a) require the person either to take an oath or make an affirmation; and
(b) administer an oath or affirmation to the person.

“(4B) The oath or affirmation to be taken or made is an oath or affirmation that the statements that the person will make will be true.”;

(d) by omitting from subsection (5) “fine not exceeding $200” and substituting “penalty not exceeding 2 penalty units”;

(e) by omitting from subsection (6) “fine not exceeding $1,500” and substituting “penalty not exceeding 15 penalty units”;

(f) by omitting subsection (7) and substituting the following subsection:

“(7) If the authorised person requires a person to answer questions or produce documents under subsection (4), the authorised person must give written notice to the person of the effect of section 79AA.

Note: Section 79AA sets out the limited circumstances in which a person can rely on the privilege against self-incrimination to avoid complying with a request made under subsection (4).”;

(g) by omitting subsection (9).

**Insertion of section**

11. After section 39 of the Principal Act the following section is inserted:

**Obstructing examination under section 39**

“39A. A person must not, without reasonable excuse, obstruct or hinder:

(a) an authorised person in the exercise of a power under section 39; or
(b) a person complying with a requirement under subsection 39(4); or
(c) any other person assisting in the conduct of an examination under section 39.

Penalty: 15 penalty units.”.
Insertion of sections

12. After section 42 of the Principal Act the following sections are inserted in Part III:

Councillors and public officer to act honestly and diligently

"42A. A councillor of an Aboriginal Council and the public officer of the Council must act honestly and diligently in exercising powers and performing functions and duties under this Act, the regulations and the Council’s Rules.

Councillors and public officer fraudulently appropriating etc. money and property

"42B. A councillor of an Aboriginal Council and the public officer of the Council must not:

- (a) steal; or
- (b) fraudulently misappropriate; or
- (c) fraudulently convert to his or her own use;

any money or property of the Council.

Penalty: Imprisonment for 7 years.”.

Application for incorporation

13. Section 43 of the Principal Act is amended:

(a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) An Aboriginal association may apply to the Commission for the incorporation of the association under this Act.

“(2) The application must:

- (a) be in writing; and
- (b) state the full name and address of each member of the association; and
- (c) be signed by:

  - (i) if the association is formed wholly for business purposes—at least 5 members; or
  - (ii) if the association is formed principally for the purpose of owning land or holding a leasehold interest in land—at least 5 members; or
  - (iii) in any other case—at least 25 members; and

- (d) state the name of the proposed Aboriginal corporation, which is to include the words “Aboriginal Corporation” or the words “Torres Strait Islanders Corporation”; and
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(e) state whether the members of the proposed Aboriginal corporation are to be liable to contribute towards the payment of the debts and liabilities of the Aboriginal corporation and, if so, the extent of that liability; and

(f) state the place where the activities of the proposed Aboriginal corporation are to be carried on; and

(g) state the objects of the proposed Aboriginal corporation; and

(h) state the names and addresses of the persons who are to be the members of the Governing Committee of the proposed Aboriginal corporation; and

(i) be accompanied by a copy of the proposed Rules for the Aboriginal corporation.

(b) by omitting from subsection (3) “referred to in subsection (2) shall” and substituting “of the proposed Aboriginal corporation are to”;

(c) by omitting from subsection (3) “association” (wherever occurring) and substituting “corporation”;

(d) by omitting from paragraph (3)(e) “Association” and substituting “corporation”;

(e) by omitting from paragraph (3)(ea) “58A” and substituting “58B”;

(f) by omitting from subsection (4) “an association” and substituting “the proposed Aboriginal corporation”.

Rights of members to share in pecuniary profits etc.

14. Section 44 of the Principal Act is amended:

(a) by omitting “Where an Aboriginal Association” and substituting “If an Aboriginal corporation”;

(b) by omitting “association” (twice occurring) and substituting “corporation”.

Commission may issue certificate of incorporation

15. Section 45 of the Principal Act is amended:

(a) by omitting from subsection (2) “Except as otherwise directed by the Minister, the Registrar shall” and substituting “The Commission must”;

(b) by omitting from subsection (2) “unauthorized” and substituting “unauthorised”;

(c) by omitting from paragraph (3)(b) “(as required by section 58B)”;

(d) by omitting subsection (3A);

(e) by omitting from paragraph (4)(c) “the committee of”.
Repeal of section and substitution of sections

16. Section 46 of the Principal Act is repealed and the following sections are substituted:

Incorporation of Aboriginal association

"46.(1) If:
(a) the Commission issues a certificate of incorporation to an Aboriginal association; and
(b) immediately before the issue of the certificate, the association was neither:
   (i) incorporated as a company under the Corporations Law; nor
   (ii) incorporated under any other Act;
upon the issue of the certificate, the association becomes a body corporate with perpetual succession.

"(2) If:
(a) the Commission issues a certificate of incorporation to an Aboriginal association; and
(b) immediately before the issue of the certificate, the association was:
   (i) incorporated as a company under the Corporations Law; or
   (ii) incorporated under any other Act;
upon the issue of the certificate, the association continues in existence as a body corporate by force only of this section.

"(3) As soon as practicable after the Commission has issued a certificate of incorporation to an Aboriginal association referred to in subparagraph (2)(b)(i), the Commission must give written notice to the Australian Securities Commission that it has issued the certificate.

"(4) An Aboriginal corporation:
(a) has perpetual succession; and
(b) is to have a common seal; and
(c) may acquire, hold and dispose of real and personal property; and
(d) may sue and be sued in its corporate name.

Associations continued in existence under subsection 46(2)

"46A.(1) If an Aboriginal association previously incorporated under another Act is continued in existence as a body corporate by force only of subsection 46(2) of this Act, the following provisions apply:
(a) the transition does not affect the identity of the association;
(b) the transition does not affect any property, rights, liabilities or obligations of the association;
(c) the transition does not affect any legal or other proceedings instituted or to be instituted by or against the association;

(d) any legal or other proceedings that might have been continued or begun by or against the association as previously incorporated may be continued or begun by or against the association as incorporated under this Act;

(e) the transition does not affect any investigation or inquiry being or proposed to be undertaken into any thing done by the association before the certificate (‘certificate’) of incorporation under this Act was issued;

(f) any investigation or inquiry that might have been continued or begun into any thing done by the association before the certificate was issued may be continued or begun as if the thing had been done by the association as incorporated under this Act.

“(2) If, immediately before the issue of the certificate, the association was:

   (a) incorporated as a company under the Corporations Law; or

   (b) incorporated under any other Act;

except as provided in this Act, none of the provisions of the Corporations Law or that Act applies to the association after the issue of the certificate.

“(3) If an Aboriginal association is continued in existence as a body corporate by force only of subsection 46(2) under a new name, a reference in any document to the association under its former name is taken to be a reference to the association under its new name, except in relation to things that were done or occurred before the issue of the certificate.

“(4) In subsection (1), the ‘transition’ means the continuation of the existence of the association as a body corporate by force only of subsection 46(2) of this Act.

Name of Aboriginal corporation

“46B.(1) The name of an Aboriginal corporation is the name set out in its certificate of incorporation and the corporation is not to use any other name.

“(2) The corporation is to set out its name, in legible characters, on any document of, or purporting to be signed or issued by or on behalf of, the corporation.

“(3) The common seal of the corporation is of no effect unless the name of the corporation is inscribed on the seal in legible characters.

“(4) All courts, judges and persons acting judicially are to take judicial notice of the seal of the corporation affixed to a document and are to presume that it was duly affixed.”.
Provisions in rules for conferral of specified rights of membership on persons not entitled to become members

17. Section 49A of the Principal Act is amended:
   (a) by omitting from subsection (1) “association agree, the Rules referred to in subsection 43(2)” and substituting “association seeking incorporation agree, the proposed Rules referred to in paragraph 43(2)(i)”;
   (b) by omitting from subsection (1) “association” (wherever occurring) and substituting “corporation”;
   (c) by omitting from subsection (2) “Incorporated Aboriginal Association” and substituting “Aboriginal corporation”;
   (d) by omitting from subsection (2) “Association” (wherever occurring) and substituting “corporation”.

Disqualification from membership of Governing Committee—previous conviction

18. Section 49B of the Principal Act is amended:
   (a) by inserting in subsection (2) “holding office,” after “from”;
   (b) by omitting from paragraph (2)(a) “date of the conviction” and substituting “day on which the person was sentenced to the term of imprisonment”;
   (c) by omitting from paragraph (2)(b) “a” and substituting “the”.

Insertion of sections

19. After section 49B of the Principal Act the following sections are inserted:

Disqualification from membership of Governing Committee—connection with Aboriginal corporation wound up by order of court etc.

49BA.(1) This section applies to a person if:
   (a) the person was a member of the Governing Committee of an Aboriginal corporation (‘relevant corporation’); and
   (b) while the person was a member of the relevant corporation’s Governing Committee, or within 2 years after the person ceased to be such a member:
      (i) the relevant corporation was wound up under an order of the court on any of the grounds referred to in paragraphs 63(3)(e) to (k); or
      (ii) an Administrator was appointed under section 71 to conduct the affairs of the relevant corporation.
“(2) A person to whom this section applies cannot be elected, or hold office, as a member of the Governing Committee of an Aboriginal corporation for a period of 5 years after:
  (a) the relevant corporation was wound up; or
  (b) an Administrator was appointed to conduct its affairs.

“(3) The Commission may declare in writing that subsection (2) does not apply to a particular person in relation to that person’s membership of the Governing Committee of a particular Aboriginal corporation.

“(4) If:
  (a) a person requests the Commission to make a declaration under subsection (3) about the person; and
  (b) the Commission refuses to do so;
the person may appeal in writing to the Minister.

“(5) The Minister must consider the appeal and either:
  (a) make the declaration as requested by the person; or
  (b) refuse to make the declaration;
and must let the person know what action the Minister has taken.

Disqualification from membership of Governing Committee—bankruptcy etc.

“49BB.(1) A person cannot be elected, or hold office, as a member of the Governing Committee of an Aboriginal corporation if the person:
  (a) is an undischarged bankrupt; or
  (b) has applied to take, or has taken, the benefit of a law for the relief of bankrupt or insolvent debtors; or
  (c) compounds with his or her creditors.

“(2) The Commission may declare in writing that subsection (1) does not apply to a particular person.

“(3) If:
  (a) a person requests the Commission to make a declaration under subsection (2) about the person; and
  (b) the Commission refuses to do so;
the person may appeal in writing to the Minister.

“(4) The Minister must consider the appeal and either:
  (a) make the declaration as requested by the person; or
  (b) refuse to make the declaration;
and must let the person know what action the Minister has taken.”.
Repeal and substitution of section

20. Section 49E of the Principal Act is repealed and the following section is substituted:

Disqualified persons not to exercise powers etc. of member of Governing Committee

"49E. A person who is disqualified from being a member of the Governing Committee of an Aboriginal corporation must not:

(a) exercise any power, or perform any function or duty, of a member of the Committee; or

(b) be in any way (whether directly or indirectly) concerned with, or take part in, the conduct of the affairs of the corporation."

Powers to borrow money and give securities

21. Section 51 of the Principal Act is amended by adding at the end the following subsection:

"(2) The corporation may give a mortgage, charge or security referred to in paragraph (1)(b) only if the corporation so decides by special resolution."

Repeal of section and substitution of sections

22. Section 53 of the Principal Act is repealed and the following sections are substituted:

Change of name

"53.(1) If the members of an Aboriginal corporation resolve to change its name, the Governing Committee of the corporation must apply in writing to the Commission for approval of the proposed new name.

"(2) The Commission must approve the proposed new name if:

(a) the Commission is satisfied that the members of the corporation have resolved to change its name in accordance with the Rules of the corporation; and

(b) the name includes the words "Aboriginal Corporation" or the words "Torres Strait Islanders Corporation"; and

(c) the name is not an unauthorised name.

"(3) If the Commission approves the proposed new name, the Commission must issue to the corporation a certificate of incorporation in the new name of the corporation.

"(4) The certificate has effect, from the day on which it is issued, as the certificate of incorporation of the corporation and the change of name takes effect also on that day."
Commission may direct a corporation to change its name

“53A.(1) Subject to subsection (2), if the name of an Aboriginal corporation is an unauthorised name, the Commission may give a written direction to the corporation to change its name within a specified time.

Note: The name of an Aboriginal corporation is set out in its certificate of incorporation (see subsection 46B(1)).

“(2) The Commission is not to give a direction to the corporation to change its name if a direction in relation to the corporation’s name under subsection 45(2) of this Act was in force immediately before the commencement of the Aboriginal Councils and Associations Amendment Act 1994.

“(3) Subsection (1) applies in (but is not limited to) the following circumstances:

(a) the name of the corporation is an unauthorised name because of inadvertence;

(b) the name of the corporation has become an unauthorised name since its certificate of incorporation was issued.

“(4) If the corporation has not changed its name within the specified time, the Commission may give a written direction to the corporation to cease using its name from a specified date.”.

Filing an approval of alteration of rules

23. Section 54 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) The Commission must approve the alteration if the Commission is satisfied that the Rules of the corporation as proposed to be altered:

(a) are reasonable; and

(b) are equitable; and

(c) give the members effective control over the running of the corporation; and

(d) are otherwise consistent with the Act.

If the Commission is not so satisfied, the Commission must refuse to approve the alteration.”.

Appointment of public officer etc.

24. Section 56 of the Principal Act is amended by omitting subsections (3) and (4) and substituting the following subsections:

“(3) The public officer of an Aboriginal corporation may resign office by writing signed by him or her and delivered to:

(a) the Commission; and
(b) the Chairperson of the Governing Committee of the corporation or, if:
   (i) the office of Chairperson is vacant; or
   (ii) the Chairperson cannot be reached;

any 2 members of the Governing Committee.

“(4) A person cannot be appointed, or hold office, as the public officer of an Aboriginal corporation if the person:
   (a) is an undischarged bankrupt; or
   (b) has applied to take, or has taken, the benefit of a law for the relief of bankrupt or insolvent debtors; or
   (c) compounds with his or her creditors.

“(4A) A person who is disqualified from being the public officer of an Aboriginal corporation must not exercise any power, or perform any function or duty, of the public officer under this Act.”.

Insertion of section

25. After section 57 of the Principal Act, the following section is inserted:

Governing Committee to perform functions etc. of public officer when office vacant

“57A.(1) When the office of public officer of an Aboriginal corporation is vacant:
   (a) the Governing Committee of the corporation is to exercise the powers, and perform the functions and duties, of the public officer under this Act; and
   (b) any document or process that must, or may, be served on the public officer under this Act is duly served if it is served on 2 members of the Governing Committee of the corporation.

“(2) If:
   (a) the public officer of an Aboriginal corporation is required to do something under a provision of this Act; and
   (b) it is an offence for the public officer to contravene that provision; and
   (c) while the office of the public officer is vacant, the Governing Committee of the corporation does not comply with the provision; each member of the Governing Committee is guilty of an offence against this Act punishable, upon conviction, by a penalty not exceeding the penalty set out in the provision.

“(3) In a prosecution of a person under subsection (2), it is a defence if the person proves that the person:
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(a) did not aid, abet, counsel or procure the contravention; and
(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or a party to, the contravention.”.

Register of members

26. Section 58 of the Principal Act is amended:
(a) by omitting the penalty from subsection (2);
(b) by inserting after subsection (2) the following subsection:
“(2A) If a person becomes, or ceases to be, a member of an Aboriginal corporation, the public officer of the corporation must, within 30 days, give notice in writing of the fact to the Commission.”;
(c) by omitting from subsection (5) “fine not exceeding $200” and substituting “penalty not exceeding 2 penalty units”.

Insertion of sections

27. After section 58 of the Principal Act the following sections are inserted:

Register of members of Governing Committee

“58AA.(1) The public officer of an Aboriginal corporation must keep, at his or her official address, a register in a form satisfactory to the Commission, showing:
(a) the name and address of each person who is a member of the Governing Committee of the corporation; and
(b) the day on which that person became a member of the Governing Committee; and
(c) when the person ceases to be a member of the Governing Committee—the day on which the person ceases to be a member.
“(2) The public officer must ensure that the register is open for inspection, at all reasonable times, by members of the public.
“(3) If a person becomes, or ceases to be, a member of the Governing Committee, the public officer must, within 30 days, give notice in writing of the fact to the Commission.
“(4) As soon as practicable between 30 June and 31 December each year, the Governing Committee must give to the Commission a list of the names and addresses of the persons who are members of the Committee when the list is given to the Commission.
“(5) The Commission may at any time ask the Governing Committee to give it an updated list of the names and addresses of all members of the Governing Committee, and the Committee must comply with the request within 14 days or such other period as the Commission specifies.
"(6) If the Governing Committee fails, without reasonable excuse, to comply with subsection (4) or (5), each member of the Committee is guilty of an offence punishable, on conviction, by a penalty not exceeding 2 penalty units.

"(7) In a prosecution of a person under subsection (6) for a contravention of subsection (4) or (5), it is a defence if the person proves that the person:

(a) did not aid, abet, counsel or procure the contravention; and
(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or a party to, the contravention.

Public officer to act honestly and diligently

"58AB. The public officer of an Aboriginal corporation must act honestly and diligently in exercising powers and performing functions and duties under this Act, the regulations and the corporation’s rules.”.

Arbitration by Commission

28. Section 58A of the Principal Act is amended:

(a) by omitting from subsection (6) “An” and substituting “Subject to subsections (7) and (8), an”;

(b) by omitting subsection (7) and substituting the following subsections:

“(7) If a person (‘arbitrator’) arbitrates a dispute, the arbitrator must make a written determination about the dispute.

“(8) As soon as practicable after the determination is made, the arbitrator must give a copy of the determination to the parties to the arbitration.

“(9) The regulations may make provision for and in relation to the enforcement of a determination.”.

General and special meetings

29. Section 58B of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsections:

“(1A) An annual general meeting is to be held not earlier than 1 July and not later than 30 November each year.

“(1B) The Governing Committee must, within 30 days after an annual general meeting, file with the Commission a written record of the minutes of the proceedings at the meeting.”;

(b) by omitting from subsection (6) “(4) or (5)” and substituting “(3), (4) or (5)”;

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(c) by omitting paragraph (8)(a);
(d) by inserting after subsection (8), the following subsection:

"(8A) A person may not be a proxy for more than 3 members at an annual general meeting or a special general meeting of the corporation."

Accounts, records and financial statements
30.(1) Section 59 of the Principal Act is amended:
(a) by omitting paragraphs (2)(b), (c) and (d) and substituting the following paragraphs and note:

"(b) financial statements, in a form approved by the Commission, consisting of:

(i) a balance sheet giving a true and fair view of the assets and liabilities of the corporation as at that 30 June; and
(ii) an income and expenditure statement giving a true and fair view of the income and expenditure of the corporation for the year ending on that 30 June; and
(iii) notes, forming an integral part of the financial statements; and

(c) a copy of the latest list given to the Commission under subsection 58(3) or (4); and

(d) a copy of the latest list given to the Commission under subsection 58AA(4) or (5).

Note: The Governing Committee may be exempt from complying with this subsection (see section 59A).";

(b) by inserting after subsection (2) the following subsection:

"(2A) If an accounting standard (within the meaning of the Corporations Law) would be an applicable accounting standard (within the meaning of that law) in relation to the financial statements of the Aboriginal corporation for a financial year if the corporation were a company incorporated under the Corporations Law, the financial statements of the corporation in relation to that year must be made out in accordance with that accounting standard.";

(c) by omitting from paragraph (3)(a) "examine" and substituting "audit";

(d) by omitting from subparagraph (3)(a)(ii) "balance sheet and income and expenditure statement" and substituting "financial statements";

(e) by omitting paragraph (3)(b) and substituting the following paragraph:

"(b) to give to the Governing Committee a report ("auditor’s report") of the results of that audit.";
(f) by adding at the end of subsection (3) the following note:
"Note: The Governing Committee may be exempt from complying with this subsection (see section 59A).";

(g) by inserting after subsection (3) the following subsections:
"(3A) The auditor’s report (without being limited to the following matters) must state:
(a) whether in the auditor’s opinion the Governing Committee and the corporation have complied with the obligations imposed by this Act, the regulations and the rules of the corporation; and
(b) whether in the auditor’s opinion the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and
(c) whether in the auditor’s opinion the financial statements give a true and fair view of the financial transactions and the state of affairs of the corporation; and
(d) if the financial statements are required under subsection (2A) to be made out in accordance with any accounting standards—whether in the auditor’s opinion the financial statements are made out in accordance with those accounting standards; and
(e) such other matters arising out of the audit as the auditor considers should be reported.

"(3B) If the auditor is of the opinion that any irregularity has been disclosed by the audit, the auditor must give to the Commission a copy of the auditor’s report at the same time as the report is given to the Governing Committee.");

(h) by omitting from subsection (4) “examiner’s” and substituting “auditor’s”;

(i) by adding at the end of subsection (4) the following note:
"Note: The Governing Committee may be exempt from complying with this subsection (see section 59A).";

(j) by omitting from paragraph (5)(a) “examiner’s” and substituting “auditor’s”;

(k) by adding at the end of subsection (5) the following note:
"Note: The Governing Committee may be exempt from complying with this subsection (see section 59A).".

(l) by omitting from subsection (7) “by a fine not exceeding $200” and substituting “by a penalty not exceeding 2 penalty units”.

(2) The amendments made by subsection (1) do not apply in relation to an Aboriginal corporation if:
(a) that subsection commences after 30 June in a calendar year; and
(b) when that subsection commences, work has already started on the preparation of the report that is required, under subsection 59(2) or (3) of the Principal Act, to be prepared in relation to the Aboriginal corporation after that 30 June.

5 Exemption from subsections 59(2) to (5) in certain circumstances

31. Section 59A of the Principal Act is amended:

(a) by omitting from subsection (1) "section 59" and substituting "subsection 59(2), (3), (4) or (5);"

(b) by omitting from subsection (1) "an Incorporated Aboriginal Association" (wherever occurring) and substituting "the Governing Committee of an Aboriginal Association";

(c) by omitting from subsection (1) "the Association" and substituting "the Governing Committee";

(d) by omitting subsection (2) and substituting the following subsections:

"(2) If an exemption has been granted to the Governing Committee of the corporation, the Commission may, in writing, require the Governing Committee to prepare and file such reports and statements as the Commission thinks appropriate in view of the exemption. The reports and statements are to be prepared from the accounts and records kept by the Governing Committee.

"(3) If the Governing Committee fails, without reasonable excuse, to comply with a requirement, each member of the Committee is guilty of an offence punishable, on conviction, by a penalty not exceeding 2 penalty units.

"(4) In a prosecution of a person for an offence against subsection (3) arising out of a contravention of subsection (2), it is a defence if the person proves that the person:

(a) did not aid, abet, counsel or procure the contravention; and

(b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or a party to, the contravention."

Examination of documents

32. Section 60 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

"(1) The Commission may require a person authorised for the purposes of this section:

(a) to examine all documents relating to the affairs of an Aboriginal corporation; and
(b) to report to the Commission on the results of the examination, drawing attention to any irregularity in the conduct of the corporation's affairs.

(b) by omitting from subsection (2) "of the Association";

c) by inserting after subsection (4) the following subsections:

"(4A) The authorised person may examine on oath or affirmation a person who is required under subsection (4) to answer questions. For the purpose of examining the person, the authorised person may:

(a) require the person either to take an oath or make an affirmation; and

(b) administer an oath or affirmation to the person.

"(4B) The oath or affirmation to be taken or made is an oath or affirmation that the statements that the person will make will be true."

(d) by omitting from subsection (5) "fine not exceeding $200" and substituting "penalty not exceeding 2 penalty units";

e) by omitting from subsection (6) "fine not exceeding $1,500" and substituting "penalty not exceeding 15 penalty units";

(f) by omitting subsection (7) and substituting the following subsection:

"(7) If the authorised person requires a person to answer questions or produce documents under subsection (4), the authorised person must give written notice to the person of the effect of section 79AA.

Note: Section 79AA sets out the limited circumstances in which a person can rely on the privilege against self-incrimination to avoid complying with a request made under subsection (4)."

(g) by omitting subsection (9).

Insertion of section

33. After section 60 of the Principal Act the following section is inserted:

Obstructing examination under section 60

"60AA. A person must not, without reasonable excuse, obstruct or hinder:

(a) an authorised person in the exercise of a power under section 60; or

(b) a person complying with a requirement under subsection 60(4); or

(c) any other person assisting in the conduct of an examination under section 60.

Penalty: 15 penalty units.".
Repeal and substitution of sections

Section 62A and 63 of the Principal Act are repealed and the following sections are substituted:

Winding up by Court

63. Subject to subsection (2), any one or more of the following may apply to the Court for an order to wind up an Aboriginal corporation on a

(a) the corporation;

(b) a creditor (including a contingent or prospective creditor) of the

(c) a member of the corporation;

d) the Commission.

(2) Only the Commission can apply for an order to wind up an Aboriginal corporation on the ground set out in paragraph (3)(i), (j) or (k).

(3) The Court may order the winding up of an Aboriginal corporation on any of the following grounds:

(a) the corporation has, in accordance with the Rules, resolved that it be wound up by the Court;

(b) one year after its incorporation under this Act, the corporation has not started to carry out any of its objects;

(c) for a continuous period of at least 1 year ending on the day on which the application for the winding up was made, the corporation has not carried out any of its objects;

(d) the corporation has fewer members than the least number required for its incorporation;

(e) the members of the Governing Committee have acted in affairs of the corporation 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;

(f) affairs of the corporation are being conducted in a manner:

(i) that is oppressive or unfairly prejudicial to, or unfairly discriminatory against, a member; or

(ii) that is contrary to the interests of the members as a whole;

(g) an act or omission, or a proposed act or omission, by or on behalf of the corporation:

(i) was or would be oppressive or unfairly prejudicial to, or unfairly discriminatory against, a member or members of the corporation; or

(ii) was or would be contrary to the interests of the members as a whole;
(h) the corporation is unable to pay its debts;

(i) the Commission, after receiving a report under section 60 or information under section 77C, or after investigating the affairs of the corporation under section 68, is of the opinion that:

(i) the corporation cannot pay its debts and should be wound up; or

(ii) it is in the interest of the public, or of the members or creditors of the corporation, that the corporation should be wound up;

(j) the Governing Committee has failed to comply with the requirements of a notice under subsection 60A(1);

(k) the Court is of the opinion that:

(i) it is in the interest of the public, or of the members or creditors of the corporation; or

(ii) it is otherwise just and equitable;

that the corporation should be wound up.

“(4) For the purposes of an application for an order, or of an order, to wind up an Aboriginal corporation on the ground that the corporation is unable to pay its debts, the corporation is taken to be unable to pay its debts if:

(a) a creditor, by assignment or otherwise, to whom the corporation is indebted in a sum exceeding $2,000:

(i) has, by serving a demand upon the public officer, required the corporation to pay that sum; and

(ii) has, within 3 days after serving the demand, served a copy of it upon the Commission for its information;

and the corporation has, for 28 days after the demand has been served, failed to pay that sum or to secure or compound for it to the reasonable satisfaction of the creditor; or

(b) execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the corporation is returned unsatisfied in whole or in part; or

(c) the Court, after taking into account the contingent and prospective liabilities of the corporation, is satisfied that the corporation is unable to pay its debts.

“(5) The Court is not to hear an application made by a contingent or prospective creditor until:

(a) such security for costs has been given as a Court thinks reasonable; and

(b) a prima facie case for winding up has been established to the satisfaction of the Court.
“(6) If the Court has not made rules applying specifically to the winding up of Aboriginal corporations, the rules of the Court applying in relation to the winding up of companies registered under the Corporations Law apply, so far as they are capable of application, in relation to the winding up of an Aboriginal corporation.

Certain notices to be given

“63A.(1) An applicant (other than the Commission) for an order to wind up an Aboriginal corporation must, within 3 business days after the application was filed, give notice in writing to the Commission of the filing of the application.

“(2) When one of the following events happens:
   (a) the application is withdrawn;
   (b) the application is dismissed;
   (c) an order is made to wind up the corporation;

the applicant must, within 3 business days, give written notice of the event to the Commission.”.

Voluntary winding up

35. Section 64 of the Principal Act is amended by omitting subsection (4).

Application of provisions of Corporations Law relating to winding up etc.

36. Section 67 of the Principal Act is amended:
   (a) by omitting “the provisions of the Corporations Law that relate to the winding up of companies registered under that Act” and substituting “Parts 5.4, 5.4A, 5.4B, 5.5, 5.6, 5.7B, 5.8 and 5.9 of the Corporations Law”; 
   (b) by inserting in paragraph (a) “or corporation” after “company”; 
   (c) by omitting paragraph (f) and substituting the following paragraph: “(f) a reference to the Commission is a reference to the Commission established under this Act.”.

Insertion of sections

37. After section 67 of the Principal Act the following sections are inserted in Part IV:

Members and public officer fraudulently appropriating etc. money and property

“67A.(1) This section applies to the following persons:
(a) a member of an Aboriginal corporation;
(b) the public officer of the corporation.

“(2) A person to whom this section applies must not:
(a) steal; or
(b) fraudulently misappropriate; or
(c) fraudulently convert to his or her own use;
any money or property of the corporation.
Penalty: Imprisonment for 7 years.

Register of Aboriginal Corporation Charges

“(67B.(1) A register to be known as the Register of Aboriginal Corporation Charges is established.

“(2) If, immediately before the issue of a certificate of incorporation (‘certificate’) to an Aboriginal corporation, it was incorporated as a company under the Corporations Law, Part 3.5 (Charges) of the Corporations Law as in force from time to time applies in relation to the Aboriginal corporation subject to this section.

“(3) In its application to the Aboriginal corporation under subsection (2), Part 3.5 has effect as if:
(a) a reference to a charge were a reference to a charge that was created before the issue of the certificate; and
(b) a reference to a company were a reference to the Aboriginal corporation; and
(c) a reference to the Commission were a reference to the Australian Indigenous Corporations Commission; and
(d) a reference to the court were a reference to the Federal Court of Australia; and
(e) a reference to the directors of a company were a reference to the members of the Governing Committee of the Aboriginal corporation; and
(f) a reference to the secretary of a company were a reference to the public officer of the Aboriginal corporation; and
(g) a reference to the registered office of a company were a reference to the official address of the public officer of the Aboriginal corporation; and
(h) a reference to the Register were a reference to the Australian Register of Aboriginal Corporation Charges; and
(i) the following amendments were made to section 263:
   (i) ‘creates’ were omitted from subsection (1) and ‘has created’ were substituted;
(ii) 'within 45 days after the creation of the charge' were omitted from subsection (1) and 'as soon as practicable' were substituted;

(iii) 'issues' were omitted from paragraph (1)(b) and 'has issued' were substituted; and

(j) the following amendments were made to subsection 264(1):

(i) 'acquires' were omitted and 'has acquired' were substituted;

(ii) 'within 45 days after the acquisition of the property' were omitted and 'as soon as practicable' were substituted; and

(k) subsection 265(1) were omitted; and

(l) 'creates' were omitted from paragraph 267(1)(a) and 'has created' were substituted; and

(m) all the words from and including 'A company shall' to and including 'in the register' were omitted from subsection 271(2) and the following were substituted:

'If the corporation had created a charge (whether registrable or not) on its property, or had acquired property subject to a charge (whether registrable or not), when it was a company incorporated under the Corporations Law, the corporation must keep a register in which it must enter'; and

(n) a reference in section 273 to this jurisdiction were a reference to the jurisdiction under whose law the corporation was incorporated as a company before the issue of the certificate; and

(o) sections 275, 275A, 276, 276AA and 276A were omitted; and

(p) the following amendments were made to the definition of 'priority time' in subsection 278(1):

(i) 'or subsection 67B(4) or (5) of the Aboriginal Councils and Corporations Act 1976' were added to the end of paragraph (a) of the definition;

(ii) 'or subsection 67B(4) or (5) of that Act' were inserted after '264' in paragraph (b) of the definition;

(iii) 'or subsection 67B(4) or (5) of that Act' were added to the end of paragraph (c) of the definition.

"(4) If:

(a) Part 3.5 applies to an Aboriginal corporation; and

(b) particulars in relation to a charge on property of the corporation (including particulars in relation to the assignment or variation of the charge) were entered, under section 265 of the Corporations Law, in the Australian Register of Company Charges;
the Commission must enter in the Register of Aboriginal Corporation Charges:

(c) those particulars; and
(d) the time and date when a notice in respect of the charge was lodged under section 263, 264 or 268 (whichever applies) with the Australian Securities Commission.

“(5) If:
(a) Part 3.5 applies to an Aboriginal corporation; and
(b) a notice in respect of a charge on property of the corporation was lodged under section 263, 264 or 268 of the Corporations Law with the Australian Securities Commission; and
(c) particulars in relation to the charge that were required to be entered, under section 265 of the Corporations Law, in the Australian Register of Company Charges had not yet been entered;
the Commission must enter in the Register of Aboriginal Corporation Charges:
(d) those particulars; and
(e) the time and date when the notice was lodged under section 263, 264 or 268 (whichever applies) with the Australian Securities Commission.”.

Investigation by Commission

38. Section 68 of the Principal Act is amended:
(a) by inserting after subsection (2) the following subsections:

“(2A) The Commission may examine on oath or affirmation a person who is required under subsection (2) to answer questions or to produce documents. For the purpose of examining the person, the Commission may:
(a) require the person either to take an oath or make an affirmation; and
(b) administer an oath or affirmation to the person.

“(2B) The oath or affirmation to be taken or made is an oath or affirmation that the statements that the person will make will be true.”;
(b) by omitting subsection (3) and substituting the following subsection:

“(3) If the Commission requires a person to answer questions or produce documents under subsection (2), the Commission must give written notice to the person of the effect of section 79AA.

Note: Section 79AA sets out the limited circumstances in which a person can rely on the privilege against self-incrimination to avoid complying with a request made under subsection (2).”.
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Offences

39. Section 69 of the Principal Act is amended by adding at the end the following subsection:

“(3) A person must not, without reasonable excuse, obstruct or hinder:
(a) a person complying with a requirement under subsection 68(2); or
(b) any other person assisting in the conduct of an investigation under section 68.

Penalty: 15 penalty units.”.

Repeal of section and substitution of sections

40. Section 70 of the Principal Act is repealed and the following sections are substituted:

Commission may require authorised person to enter premises or land

“70.(1) If the Commission believes on reasonable grounds that:
(a) documents that relate to the affairs of an Incorporated Aboriginal body are on particular premises; and
(b) it is necessary for the purposes of an investigation of the affairs of the body under this Act to have access to the documents;
the Commission may authorise a person to enter the premises (see section 70B) or to apply for a warrant to enter the premises (see section 70C).

Note: For ‘document’ see the Acts Interpretation Act 1901 (section 25).

“(2) In this section, ‘premises’ includes land.

Identity cards

“70A.(1) The Commission is to issue an identity card to an authorised person (see section 70).

“(2) The identity card must:
(a) contain a recent photograph of the person to whom it is issued; and
(b) be in a form approved by the Commission.

“(3) If a person ceases to be an authorised person, the person must as soon as possible, return his or her identity card to the Commission.

Penalty: 1 penalty unit.

Entry on premises with occupier’s consent

“70B.(1) A person authorised to enter premises (see section 70) may not enter the premises unless the occupier of the premises has consented to the entry.

“(2) The authorised person who enters the premises may:
(a) search the premises for documents referred to in paragraph 70(1)(a); and
(b) seize the documents; and
(c) make copies of, or take extracts from, the documents; and
(d) exercise the powers under section 70E.

"(3) The authorised person is not entitled to exercise any powers in subsection (2) if:

(a) the occupier of the premises has required the authorised person to produce his or her identity card; and
(b) the authorised person fails to comply with the requirement.

"(4) Before requesting the occupier’s consent to enter the premises, the authorised person must inform the occupier that he or she may refuse to give consent.

"(5) The authorised person must leave the premises if the occupier asks the authorised person to do so.

"(6) In this section, ‘premises’ includes land.

Entry on premises—warrants

"70C.(1) A person authorised to apply for a warrant to enter premises (see section 70) may apply to a magistrate for a warrant under this section in relation to the premises.

"(2) The magistrate may issue the warrant if satisfied, by information on oath or affirmation, that there are reasonable grounds for believing:

(a) that there is, or there will be within the next 72 hours, on the premises documents that relate to the affairs of an Incorporated Aboriginal body; and
(b) it is necessary for the purposes of an investigation of the affairs of the body under this Act to have access to the documents.

"(3) The magistrate must not issue the warrant unless the authorised person or someone else has given the magistrate, either orally (on oath or affirmation) or by affidavit, any further information the magistrate may require about the grounds on which the issue of a warrant is being sought.

"(4) The warrant must state:

(a) a description of the premises to which the warrant relates; and
(b) the kinds of documents that are to be searched for under the warrant; and
(c) the name of the authorised person who is to be responsible for executing the warrant; and
(d) the period for which the warrant remains in force, which must not be more than 7 days; and
(e) whether the warrant may be executed at any time or only during particular hours.
“(5) The warrant authorises the authorised person with such assistance and by such force against things as is necessary and reasonable:
(a) to enter the premises; and
(b) to search the premises for the documents; and
(c) to seize the documents; and
(d) to make copies of, or take extracts from, the documents; and
(e) to exercise the powers under section 70E.

“(6) Paragraph (4)(d) does not prevent the issue of successive warrants in relation to the premises.

“(7) If the application for the warrant is made under section 70D (telephone warrants), this section applies as if:
(a) paragraph (2)(a) referred to 48 hours rather than 72 hours; and
(b) paragraph (4)(d) referred to 48 hours rather than 7 days.

“(8) Before the authorised person enters the premises, the authorised person must:
(a) announce that he or she is authorised by the warrant to enter the premises; and
(b) give any person at the premises an opportunity to allow entry to the premises.

“(9) The authorised person is not required to comply with subsection (8) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure that the effective execution of the warrant is not frustrated.

“(10) If the warrant is being executed and the occupier of the premises, or another person who apparently represents the occupier, is present at the premises, the authorised person must make available to that person a copy of the warrant.

“(11) The copy of the warrant need not include the signature of the magistrate or the seal of the relevant court.

“(12) In this section, ‘premises’ includes land.

Warrants by telephone or other electronic means

“(70D.(1) The authorised person may apply to a magistrate for a warrant under section 70C by telephone, telex, facsimile or other electronic means:
(a) in an urgent case; or
(b) if the delay that would occur if an application were made in person would frustrate the effective execution of the warrant.
“(2) The magistrate may require communication by voice to the extent that it is practicable in the circumstances.

“(3) The application must include all information required to be provided in an application for a warrant under section 70C but the application may, if necessary, be made before the information is sworn.

“(4) If the magistrate, after having considered the information and after having received any further information that the magistrate required, is satisfied:

(a) a warrant in the terms of the application should be issued urgently; or
(b) the delay that would occur if an application were made in person would frustrate the effective execution of the warrant;

the magistrate may complete and sign the same form of warrant that would be issued under section 70C.

“(5) If the magistrate decides to issue the warrant, the magistrate is to inform the authorised person, by telephone, telex, facsimile or other electronic means, of the terms of the warrant and the day on which and the time at which it was signed.

“(6) The authorised person must then complete a form of warrant in terms substantially corresponding to those given by the magistrate, stating on the form the magistrate’s name and the day and time at which the warrant was signed.

“(7) The authorised person must, not later than the day after:

(a) the day on which the warrant ceases to have effect; or
(b) the day on which the warrant is executed;

whichever happens first, send to the magistrate the form of warrant completed by the authorised person and, if the information referred to in subsection (3) was not sworn, that information duly sworn.

“(8) The magistrate is to attach to the documents provided under subsection (7) the form of warrant completed by the magistrate.

“(9) If:

(a) it is material, in any proceedings, for a court to be satisfied that the exercise of a power under a warrant issued under this section was duly authorised; and

(b) the form of warrant signed by the magistrate is not produced in evidence;

the court is to assume, unless the contrary is proved, that the exercise of the power was not duly authorised.
Use of electronic equipment at premises

"70E. (1) If:

(a) there are reasonable grounds for believing information is stored at premises by electronic means; and

(b) the information constitutes the whole or part of a document or documents that may be seized under section 70B or a warrant issued under section 70C;

an authorised person may operate electronic equipment at the premises to see whether the information is accessible by doing so.

(2) The authorised person may only operate the equipment if he or she has reasonable grounds for believing that the operation of the equipment can be carried out without damage to the equipment.

(3) If the authorised person, after operating the equipment, finds that the information is accessible by doing so, the authorised person may:

(a) seize the equipment and any disk, tape or other associated device; or

(b) if the information can, by using the facilities at the premises, be put in documentary form—operate the facilities to put the information in that form and seize the documents so produced; or

(c) if the information can be transferred to a disk, tape or other storage device that:

(i) is brought to the premises; or

(ii) is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises;

operate the equipment or other facilities to copy the information to the storage device and remove the storage device from the premises.

(4) The authorised person may seize equipment under paragraph (3)(a) only if it is not practicable to put the information in documentary form as mentioned in paragraph (3)(b) or to copy the information as mentioned in paragraph (3)(c).

(5) If the authorised person believes on reasonable grounds that:

(a) the information may be accessible by operating electronic equipment at the premises; and

(b) expert assistance is required to operate the equipment; and

(c) if he or she does not take action under this subsection, the information may be destroyed, altered or otherwise interfered with;

he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.

(6) If:

(a) it is not possible to adequately secure the equipment; or
(b) the equipment can be adequately secured, but only with unreasonable inconvenience to the occupier of the premises; the authorised person may secure the equipment (including any disk, tape or associated device) by seizing it.

“(7) The authorised person must give notice to the occupier of the premises of his or her intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.

“(8) The equipment may be secured:
(a) for a period not exceeding 24 hours; or
(b) until the equipment has been operated by the expert; whichever happens first.

“(9) If the authorised person believes on reasonable grounds that the expert assistance will not be available within 24 hours, he or she may request a magistrate for an extension of that period.

Powers if documents seized

“(70F.(1) If an authorised person seizes documents under section 70B or a warrant issued under section 70C, the authorised person:
(a) may keep the documents for 60 days; or
(b) if proceedings under this Act are instituted within 60 days after the seizure and the documents may be used in the proceedings—may keep the documents until the proceedings (including any appeal to a court in relation to the proceedings) are terminated.

“(2) The authorised person must also allow the documents to be inspected at any reasonable time by anyone who would be entitled to inspect the documents if they were not in the authorised person’s possession.

“(3) The authorised person may apply to a magistrate to extend the periods of time referred to in paragraphs (1)(a) and (b).

“(4) The magistrate may extend the periods of time for so long as the magistrate considers necessary.

Persons to assist authorised persons

“(70G.(1) An authorised person may request the occupier of premises entered under a warrant issued under section 70C to provide reasonable assistance to the authorised person, at any time while the authorised person is entitled to remain on the premises, for the purposes of the exercise of the authorised person’s powers under the warrant.

“(2) The person must not, without reasonable excuse, intentionally or recklessly refuse or fail to comply with the authorised person’s request. Penalty: 15 penalty units.
“(3) If the authorised person requests the occupier of the premises to provide assistance, the authorised person must give written notice to the person of the effect of subsections (4), (5) and (6).

“(4) It is not a reasonable excuse for the person to refuse or fail to:
(a) produce a document; or
(b) answer a question; or
(c) make a statement; or
(d) provide other assistance;
in accordance with the authorised person’s request on the ground that producing the document, answering the question, making the statement or providing the other assistance might tend to incriminate the person or make the person liable to a penalty.

“(5) Subsection (6) applies only if:
(a) before the person:
(i) produces a document; or
(ii) answers a question; or
(iii) makes a statement; or
(iv) provides other assistance;
the person claims that producing the document, answering the question, making the statement or providing the other assistance might tend to incriminate the person or make the person liable to a penalty; and
(b) producing the document, answering the question, making the statement or providing the other assistance might in fact tend to incriminate the person or make the person liable to a penalty.

“(6) None of the following is admissible in evidence against the person in any criminal proceeding or proceeding for the imposition of a penalty (other than proceedings for an offence under subsection (2)):
(a) producing the document;
(b) the answer;
(c) the statement;
(d) providing the other assistance.

Copies of seized documents to be provided

“(70H.1) This section applies to an authorised person who enters premises under section 70B or a warrant issued under section 70C.

“(2) If the authorised person seizes:
(a) a document that can be readily copied; or
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(b) a storage device with information which can be readily copied; the authorised person must, if requested to do so by the occupier of the premises, give a copy of the document or information to the occupier as soon as practicable after the seizure.

“(3) Subsection (2) does not apply if:
(a) the document or information was seized under paragraph 70E(3)(b) or (c); or
(b) possession by the occupier of the document or information would constitute an offence.

Compensation for damage to equipment

“701.(1) If:
(a) damage is caused to equipment as a result of it being operated as mentioned in section 70E; or
(b) the damage was caused as a result of:
   (i) insufficient care being exercised in selecting the person who was to operate the equipment; or
   (ii) insufficient care being exercised by the person operating the equipment;

compensation for the damage to the equipment is payable to the owner of the equipment.

“(2) Compensation is payable out of money appropriated by the Parliament for the purpose.

“(3) When determining the amount of compensation payable, regard is to be had as to whether the occupier of the premises and his or her employees and agents, if they were available at the time, had provided any warning or guidance to the operation of the equipment that was appropriate in the circumstances.”.

Repeal and substitution of section

41. Section 71 of the Principal Act is repealed and the following section is substituted:

Appointment of Administrator

“71.(1) The Commission may appoint an Administrator to administer the affairs of an Aboriginal corporation if the Commission is satisfied that any of the following grounds have been established:
(a) the corporation has not complied with a provision of this Act, the regulations or the corporation’s Rules;
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(b) the members of the Governing Committee have acted in affairs of the corporation:
   (i) in their own interests rather than in the interests of the members as a whole; or
   (ii) in any other manner that is unfair or unjust to other members of the corporation;

5 (c) affairs of the corporation are being conducted in a manner:
   (i) that is oppressive or unfairly prejudicial to, or unfairly discriminatory against, a member; or
   (ii) that is contrary to the interests of the members as a whole;

(d) that decisions about membership of the corporation, (including applications for membership), have been made in a manner that is unjust or unfair to a member or a person who has applied to become a member;

10 (e) that disputes between:
   (i) members of the corporation; or
   (ii) members of the corporation and the Governing Committee of the corporation; or
   (iii) members of the Governing Committee;

15 are interfering with the proper conduct of the affairs of the corporation or the carrying out by the corporation of its objects;

(f) the appointment of an Administrator is required in the interests of the public, or of the members or creditors of the corporation;

20 (g) the corporation’s Governing Committee has not complied with a notice under subsection 60A(1).

“(2) The Commission may appoint an Administrator to administer the affairs of an Aboriginal Council if the Commission is satisfied that any of the following grounds have been established:

(a) the Council has not complied with a provision of this Act, the regulations or the Council’s Rules;

(b) the appointment of an Administrator is required in the interests of adult Aboriginals in the Council area;

(c) the appointment of an Administrator is otherwise required in the public interest.”.

35 Repeal of section

42. Section 77B of the Principal Act is repealed.

Insertion of sections

43. After section 77E of the Principal Act the following sections are inserted in Part VI:
Annual report

"78.(1) The Commission must, as soon as practicable after the end of each financial year, prepare and give to the Minister a report of its operations during the financial year, together with financial statements in respect of the financial year.

"(2) Before submitting the financial statements to the Minister, the Commission must submit them to the Auditor-General who is to report to the Minister on the following:

(a) whether, in the Auditor-General’s opinion, the statements are based on proper accounts and records;

(b) whether they are in agreement with the accounts and records;

(c) whether, in the Auditor-General’s opinion, they show fairly the financial transactions and the state of affairs of the Commission;

(d) whether, in the Auditor-General’s opinion, the receipt and expenditure of money and the acquisition and disposal of assets by the Commission during the year have been in accordance with this Act;

(e) such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

"(3) The Commission is to include in each annual report the report prepared by the Office of Evaluation and Audit of the Aboriginal and Torres Strait Islander Commission (established under section 75 of the Aboriginal and Torres Strait Islander Commission Act 1989) on the operations of the Commission during the financial year.

"(4) The Minister must cause copies of the annual report, financial statements and the Auditor-General’s report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Commission may refuse to register documents

"78A.(1) If the Commission is of the opinion that a document lodged with it:

(a) contains matter contrary to law; or

(b) contains matter that, in a material particular, is false or misleading in the form or context in which it is included; or

(c) because of an omission or misdescription has not been duly completed; or

(d) contravenes this Act; or

(e) contains an error or alteration;
the Commission:
(f) may refuse to receive, or may return, the document and request:
   (i) that the document be amended or completed and re-lodged; or
   (ii) that a fresh document be lodged in its place; or
   (iii) if the document has not been duly completed, that a supplementary document be lodged; or
(g) may, with the consent of the person who lodged it, correct the document as necessary to remove any objection that the Commission had to the document.

"(2) The Commission may require a person who lodges a document to give to the Commission such other document or information as the Commission thinks necessary to enable it to form an opinion whether it may refuse to receive, or return, the first-mentioned document.

Commission may issue duplicate certificate of incorporation

"78B. If the Commission is satisfied that an Aboriginal corporation’s original certificate of incorporation has been lost or destroyed, the Commission may, upon application by the corporation, issue a duplicate certificate of incorporation to the corporation.

Certificate of incorporation as evidence

"78C. A certificate of incorporation issued under section 45 or 78B stating that a specified Aboriginal corporation was incorporated under this Act is conclusive evidence that:
   (a) all the requirements of this Act in respect of incorporation have been complied with; and
   (b) the corporation is duly incorporated under this Act; and
   (c) the day of incorporation is the day specified as such in the certificate.

Certificate regarding establishment of Aboriginal Council as evidence

"78D. A certificate of the Commission stating that a specified Aboriginal Council was established under this Act is conclusive evidence that:
   (a) all the requirements of this Act in respect of establishment have been complied with; and
   (b) the Council is duly established under this Act; and
   (c) the day of establishment is the day specified as such in the certificate.
Commission’s certificate regarding membership of corporation etc. to be *prima facie* evidence

"78E.(1) In any proceeding, a certificate of the Commission stating that from any application, notice or report lodged with it, it appears that at any time or throughout any period specified in the certificate, a person was:

(a) a member of an Aboriginal corporation; or
(b) a member of the Governing Committee of an Aboriginal corporation; or
(c) the public officer of an Aboriginal corporation or of an Aboriginal Council; or
(d) a councillor of an Aboriginal Council;

is to be received as *prima facie* evidence of the facts stated in the certificate.

"(2) In any proceeding, a certificate of the Commission that, at a date or during a period specified in the certificate, no Aboriginal Council or Aboriginal corporation was established or incorporated under this Act by a name specified in the certificate is to be received as *prima facie* evidence of the facts stated in the certificate.

"(3) In any proceeding, a certificate of the Commission that a requirement of this Act specified in the certificate:

(a) has not been complied with at a date or within a period specified in the certificate; or
(b) had been complied with at a date specified in the certificate but not before that date;

is to be received as *prima facie* evidence of matters specified in the certificate.

Validity of copy or extract of document lodged with Commission

"78F. A copy of or extract from any document lodged with, and certified by, the Commission is, in any proceeding, admissible in evidence as of equal validity with the original document.

Confidentiality

"78G.(1) The Commission must take all reasonable measures to protect from unauthorised use or disclosure information given to it in confidence.

"(2) For the purposes of subsection (1), the disclosure of information as required or permitted by a law of the Commonwealth is taken to be authorised use and disclosure of the information.

"(3) For the purposes of subsection (1), the disclosure of information by a person for the purposes of:
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(a) performing the person’s functions as:
   (i) Commissioner, staff member or delegate of the Commission or of the Commissioner; or
   (ii) a person who is acting as Commissioner or as a staff member;
   or
(b) the performance of functions or services by the person by way of assisting the Commission;
is taken to be authorised use and disclosure of the information.”.

Insertion of sections

44. After section 79A of the Principal Act the following sections are inserted:

Self-incrimination

“79AA.(1) A person is not excused from producing a document or answering a question under section 39, 60 or 68 on the ground that the answer or the production of the document might tend to incriminate the person or make the person liable to a penalty.

“(2) Subsection (3) applies only if:
   (a) before a person:
      (i) answers a question; or
      (ii) produces a document;
   the person (other than a body corporate) claims that answering the question or producing the document might tend to incriminate the person or make the person liable to a penalty; and
   (b) the answering of the question or the production of the document might in fact tend to incriminate the person or make the person liable to a penalty.

“(3) The answer to the question or the production of the document is not admissible in evidence against the person in any criminal proceeding or proceeding for the imposition of a penalty (other than proceedings for an offence under subsection 39(6), 60(6) or 69(2).

Indemnity

“79B. None of the following:
   (a) the Administrator;
   (b) the Commission;
   (c) the Commissioner;
   (d) a delegate of the Commission or of the Commissioner;
   (e) a staff member referred to in subsection 9G(1);
   (f) a person employed under subsection 9H(1);
   (g) any person who, under section 9I, is to assist the Commission;
(h) a person engaged as consultant under subsection 9J(1);

(i) an authorised person for the purposes of section 39, 60 or 70;

is subject to any action, claim or demand by any person, or is liable to any person, for anything done or not done in good faith in, or for the purpose of, exercising a power or performing a function or duty under this Act.

Contempt of Commission

“79C. A person must not, without reasonable excuse, obstruct or hinder the Commission in the performance or exercise of any of the Commission’s functions or powers.

Penalty: 15 penalty units.

General penalty provision

“79D. A person who:

(a) does an act or thing that the person is forbidden to do by or under a provision of this Act; or

(b) does not do an act or thing that the person is required or directed to do by or under a provision of this Act; or

(c) otherwise contravenes a provision of this Act or Part 3.5 of the Corporations Law made applicable under section 67B of this Act;

is guilty of an offence punishable, on conviction, by a penalty not exceeding 2 penalty units, unless that or another provision of this Act provides that the person:

(d) is guilty of an offence; or

(e) is not guilty of an offence.

Proceedings how taken

“79E. (1) In any proceedings for an offence against this Act, any information, charge, complaint or application may be laid or made by:

(a) the Commission; or

(b) a delegate of the Commission.

“(2) A delegation for the purposes of paragraph (1)(b) may relate to all offences, or to specified offences, against this Act.

“(3) This section does not affect the operation of the Director of Public Prosecutions Act 1983.

Time for instituting proceedings

“79F. Despite anything in any other law, proceedings for an offence against this Act may be instituted within the period of 5 years after the act or omission alleged to constitute the offence or, with the Minister’s consent, at any later time.
Court may make order for compensation

"79G.(1) If:
(a) the Federal Court of Australia or any other court finds a person guilty of an offence under this Act; and
(b) the court is satisfied that an Aboriginal Council or an Aboriginal corporation has suffered loss or damage because of the act or omission constituting the offence;
the court may (whether or not it imposes a penalty) order the person to pay such compensation to the Council or the corporation as the court specifies.

"(2) The order may be enforced as if it were a judgment of the court.

"(3) For the purposes of this section, a court finds a person guilty of an offence if, and only if:
(a) the court convicts the person of the offence; or
(b) the person is charged before the court with the offence and is found in the court to have committed the offence, but the court does not proceed to convict the person of the offence.

Appeals to the Federal Court from arbitration determinations

"79H.(1) A party to an arbitration may appeal to the Court, on a question of law, from a determination made under subsection 58A(7).

Note: 'Court' means the Federal Court of Australia (see subsection 3(1)).

"(2) An appeal by a person is to be instituted:
(a) not later than 28 days after the day on which a copy of the determination is given to the person or within such further period as the Court (whether before or after the end of that day) allows; and
(b) in accordance with the rules of the Court.

"(3) The Court is to hear and determine the appeal and may make such orders as it thinks appropriate.

"(4) The orders that may be made by the Court include but are not limited to:
(a) an order affirming or setting aside the determination; and
(b) an order remitting the matter to be determined again in accordance with the directions of the Court.

Operation and implementation of a determination that is subject to appeal

"79I.(1) Subject to this section, the bringing of an appeal from a determination made under subsection 58A(7) does not affect the operation of the determination or prevent the taking of action to implement the determination.
“(2) If an appeal is brought, the Court or a judge of the Court may make such orders staying or otherwise affecting the operation or implementation of the determination as the Court or judge thinks appropriate to secure the effectiveness of the hearing and determination of the appeal.

Note: ‘Court’ means the Federal Court of Australia (see subsection 3(1)).

“(3) If an order is in force under subsection (2) (including an order previously varied under this subsection), the Court or a judge of the Court may make an order varying or revoking the first-mentioned order.

“(4) An order in force under subsection (2):

(a) is subject to such conditions as are specified in the order; and

(b) has effect until:

(i) the end of any period for the operation of the order that is specified in the order; or

(ii) the giving of a decision on the appeal;

whichever is earlier.

Sending of documents to, and return of documents by, the Court

“79J. If an appeal is instituted:

(a) the person who conducted the arbitration must send to the Court all documents that were before him or her in connection with the matter to which the appeal relates; and

(b) at the conclusion of the proceedings, the Court must return the documents to that person.

Note: ‘Court’ means the Federal Court of Australia (see subsection 3(1)).

Compliance with Act

“79K. A person is not liable to a proceeding, or subject to a liability, merely because the person has complied, or proposes to comply, with a requirement made, or purporting to have been made, under this Act.

Penalties and fees payable to the Commonwealth

“79L. A penalty or fee payable under this Act or the regulations is payable to the Commonwealth.”.

Registrable Australian bodies for purposes of Corporations Law not to include Incorporated Aboriginal body

45. Section 81A of the Principal Act is amended:

(a) by omitting “Companies Act 1981” and substituting “Corporations Law”;

(b) by omitting “foreign company” and substituting “registrable Australian body”.
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Division 3—Transitional and consequential provisions

Interpretation

46. In this Division, unless the contrary intention appears:

"amended Act" means the Principal Act as amended by this Act;

"assets" means property of every kind, and includes, but is not limited to:
(a) choses in action; and
(b) rights, interests and claims of every kind in or to property:
(i) whether arising under or because of an instrument or otherwise; and
(ii) whether liquidated or unliquidated, certain or contingent, accrued or accruing;

"commencement" means the commencement of this Act;

"Commission" means the Australian Indigenous Corporations Commission;

"liabilities" means liabilities of every kind, and includes, but is not limited to, obligations of every kind:
(a) whether arising under or because of an instrument or otherwise; and
(b) whether liquidated or unliquidated, certain or contingent, accrued or accruing;

"pre-commencement corporation" means an Aboriginal association that immediately before the commencement was a body corporate under Part IV of this Act;

"Registrar" means the Registrar of Aboriginal Corporations appointed under section 4 of the Principal Act;

"Registrar’s document" means any document:
(a) to which the Registrar was a party; or
(b) that was given to or in favour of the Registrar; or
(c) in which a reference is made to the Registrar; or
(d) under which:
(i) money is, or may become, payable to or by the Registrar; or
(ii) any other property is to be, or may become liable to be, transferred to or by the Registrar;

if the document subsisted immediately before the commencement.

Transfer of assets and liabilities of Registrar

47.(1) If as a result of:
(a) the name of an Incorporated Aboriginal Association being struck off the Register of Incorporated Aboriginal Associations; or
(b) the dissolution of an Incorporated Aboriginal Association; assets and liabilities of the Association have, under the regulations, become vested in the Registrar, those assets and liabilities become, at the commencement, the assets and liabilities of the Commission.

(2) The following provisions apply to assets and liabilities that have become assets and liabilities of the Commission because of subsection (1):

(a) an asset that was, immediately before the commencement, held by the Registrar on trust is, after the commencement, held by the Commission on trust and subject to the terms of the trust on which the asset was so held by the Registrar;

(b) liabilities of the Registrar to make payments are, after the commencement, taken to be liabilities incurred by the Commission in the performance of its functions and the exercise of its powers.

Registrar's documents

48. A Registrar's document 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 document to the Registrar were a reference to the Commission.

Pending proceedings

49.(1) This section applies to proceedings to which the Registrar was a party and that were pending in any court or tribunal immediately before the commencement.

(2) After the commencement, the Commission is substituted for the Registrar as a party to the proceedings and has the same rights in the proceedings as the Registrar had.

Accounts, records and financial statements—Aboriginal Councils

50.(1) A form that, immediately before the commencement, was a form approved by the Registrar for the purposes of paragraph 38(2)(a) of the Principal Act is, after the commencement, taken to be a form approved by the Commission for the purposes of that paragraph of the amended Act.

(2) A person who, immediately before the commencement, was a person authorised by the Registrar for the purposes of section 38 of the Principal Act is, after the commencement, taken to be a person authorised by the Commission for the purposes of that section of the amended Act.
(3) If:
(a) this Act commences after 30 June in a calendar year; and
(b) after that 30 June, but before the commencement an Aboriginal Council had, under subsection 38(4) of the Principal Act, filed with the Registrar:
   (i) a copy of the Council’s report for the financial year ending on that 30 June; or
   (ii) a copy of the report of the results of the examination carried out under paragraph 38(3)(a) of the Principal Act in relation to the Council;
the Council is taken, for the purposes of subsection 38(4) of the amended Act, to have filed with the Commission the copy of the report immediately after the commencement.

Examination of documents—Aboriginal Councils

51.(1) A person who, immediately before the commencement, was a person authorised by the Registrar for the purposes of section 39 of the Principal Act is, after the commencement, taken to be a person authorised by the Commission for the purposes of section 39 of the amended Act.

(2) If, before the commencement:
(a) the Registrar had, under subsection 39(1) of the Principal Act, caused a person to examine the documents of an Aboriginal Council and to report to the Registrar on the results of the examination; and
(b) that person had not:
   (i) completed the examination; or
   (ii) reported to the Registrar;
then, after the commencement, section 39 of the amended Act applies to that person as if the Commission had required the person to examine the documents of the Council and to report to the Commission on the results of the examination.

Applications for incorporation or change of name

52.(1) If:
(a) before the commencement, an Aboriginal association had applied for incorporation under section 45 of the Principal Act; and
(b) immediately before the commencement, the application was still being considered (including a reconsideration of the application as required by subsection 45(5)) under section 45;
then, after the commencement, the Principal Act as in force immediately before the commencement continues to apply in relation to the application as if a reference to the Registrar were a reference to the Commission.
(2) If, before the commencement:
(a) an application for approval of a change of name had been made under subsection 53(1) of the Principal Act; and
(b) the Registrar had not decided whether to approve the proposed new name;
then, after the commencement, the Principal Act as in force immediately before the commencement continues to apply in relation to the application as if a reference to the Registrar were a reference to the Commission.

Register of members
53.(1) If:
(a) this Act commences after 30 June in a calendar year; and
(b) after that 30 June, but before the commencement, the Governing Committee of a pre-commencement corporation had, under subsection 58(3) of the Principal Act, given the Registrar a list of the names and addresses of all the members of the corporation;
the Governing Committee is taken to have complied with subsection 58(3) of the amended Act in so far as it requires the Governing Committee to give such a list to the Commission before the end of that calendar year.

(2) If:
(a) before the commencement, the Registrar had, under subsection 58(4) of the Principal Act, requested the Governing Committee of a pre-commencement corporation to give to the Registrar an updated list of the names and addresses of all the members of the corporation; and
(b) the period for complying with the request ends after the commencement; and
(c) the Committee had not complied with the request before the commencement;
the Committee is to comply with the request after the commencement by giving the list to the Commission.

Arbitration by Registrar
54. If, before the commencement, the Registrar had begun, but had not completed, an arbitration under section 58A of the Principal Act, then, after the commencement, the Commission is to continue and complete the arbitration in accordance with the amended Act.

General and special meetings
55.(1) If, before the commencement, the Registrar had, under section 58B of the Principal Act, called a special general meeting of a pre-commencement corporation for a day after the commencement, the
Governing Committee of the corporation or the Commission, as the case requires, is to conduct the meeting in accordance with section 58B of the amended Act.

(2) If, before the commencement:

(a) a request was made to the Registrar, under subsection 58B(5) of the Principal Act, to call a special general meeting of a pre-commencement corporation; and

(b) the Registrar had not decided whether or not to call the meeting;

the request has effect after the commencement as if it were a request made to the Commission under subsection 58B(5) of the amended Act immediately after the commencement.

Accounts, records and financial statements—Aboriginal corporations

56.(1) A form that, immediately before the commencement, was a form approved by the Registrar for the purposes of paragraph 59(2)(a) of the Principal Act is, after the commencement, taken to be a form approved by the Commission for the purposes of that paragraph of the amended Act.

(2) A person who, immediately before the commencement, was a person authorised by the Registrar for the purposes of section 59 of the Principal Act is, after the commencement, taken to be a person authorised by the Commission for the purposes of that section of the amended Act.

(3) If:

(a) this Act commences after 30 June in a calendar year; and

(b) after that 30 June, but before the commencement, the Governing Committee of a pre-commencement corporation had, under subsection 59(4) of the Principal Act, filed with the Registrar:

(i) a copy of the Council’s report for the financial year ending on that 30 June; or

(ii) a copy of the report of the results of the examination carried out under paragraph 59(3)(a) of the Principal Act in relation to the Council;

the corporation is taken, for the purposes of subsection 59(4) of the amended Act, to have filed with the Commission the copy of the report immediately after the commencement.

Examination of documents—Aboriginal corporations

57.(1) A person who immediately before the commencement, was a person authorised by the Registrar for the purposes of section 60 of the Principal Act is, after the commencement, taken to be a person authorised by the Commission for the purposes of section 60 of the amended Act.
(2) If:

(a) before the commencement, the Registrar had, under subsection 60(1) of the Principal Act, caused a person to examine the documents of a pre-commencement corporation and to report to the Registrar on the results of the examination; and

(b) before the commencement, that person had not:

(i) completed the examination; or

(ii) reported to the Registrar;

then, after the commencement, section 60 of the amended Act applies to that person as if the Commission had required the person to examine the documents of the corporation and to report to the Commission on the results of the examination.

Investigations by Registrar

58. If, before the commencement, the Registrar had begun, but had not completed, an investigation under section 68 of the Principal Act, then, after the commencement, the Commission is to continue and complete the investigation in accordance with the amended act.

Appointment of Administrator

59. A person who, immediately before the commencement, was an Administrator of a pre-commencement corporation appointed under section 71 of the Principal Act, is, after the commencement, to continue as an Administrator of the corporation as if the person had been appointed under section 71 of the amended Act immediately after the commencement.

Show cause notices

60. If, immediately before the commencement:

(a) the period specified in a notice under subsection 71(1) of the Principal Act had not expired; or

(b) the Registrar had not decided whether or not to appoint an administrator under section 71 of the Principal Act; or

(c) the Registrar had decided to appoint an administrator under that section, but the Minister’s approval to the appointment had not been obtained;

after the commencement, section 71 of the Principal Act as in force immediately before the commencement continues to apply in relation to the appointment of an administrator as if a reference in that section to the Registrar were a reference to the Commission.

Consequential and technical amendments

61. The Principal Act is further amended as set out in the Schedule.
PART 3—AMENDMENT OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION ACT 1989

Principal Act

62. In this Part, “Principal Act” means the Aboriginal and Torres Strait Islander Commission Act 1989.

Functions of Office

63. Section 76 of the Principal Act is amended by adding at the end of subsection (1) the following paragraph:

“(q) as soon as practicable after 30 June in each year, to prepare and give to the Australian Indigenous Corporations Commission established by the Aboriginal Councils and Corporations Act 1976 a report of the operations of that Commission during the year for inclusion in the annual report of that Commission.”.
SCHEDULE

CONSEQUENTIAL AND TECHNICAL AMENDMENTS OF THE ABORIGINAL COUNCILS AND ASSOCIATIONS ACT 1976

PART 1

AMENDMENTS RELATING TO PENALTIES

Subsection 38(7):
   (a) Omit "fine", substitute "penalty".
   (b) Omit "$200", substitute "2 penalty units".

Subsection 52(1):
   Omit the penalty, substitute:
   "Penalty: 1 penalty unit".

Subsection 53(3):
   Omit the penalty, substitute:
   "Penalty: 1 penalty unit".

Subsection 54(1):
   Omit the penalty, substitute:
   "Penalty: 1 penalty unit".

Subsection 64(2):
   Omit the penalty, substitute:
   "Penalty: 1 penalty unit".

Subsection 69(1):
   Omit the penalty, substitute:
   "Penalty: 2 penalty units".

Subsection 69(2):
   Omit the penalty, substitute:
   "Penalty: 15 penalty units".

Paragraph 82(j):
   (a) Omit "fine", substitute "penalty".
   (b) Omit "$20", substitute "2 penalty units".

PART 2

AMENDMENTS SUBSTITUTING COMMISSION FOR REGISTRAR

Subsection 11(1):
   Omit "Registrar", substitute "Commission".
Aboriginal Councils and Associations Legislation
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SCHEDULE—continued

Subsections 12(1) and (2):
Omit "Registrar", substitute "Commission".

Subsections 13(1) and (2):
Omit "Registrar", substitute "Commission".

Section 15:
Omit "Registrar", substitute "Commission".

Paragraphs 16(1)(a) and (c):
Omit "Registrar", substitute "Commission".

Subsection 16(1):
Omit "Registrar", substitute "Commission".

Subsections 16(4) and (5):
Omit "Registrar", substitute "Commission".

Paragraphs 16(6)(a), (b) and (c):
Omit "Registrar", substitute "Commission".

Subsections 17(1), (4) and (5):
Omit "Registrar", substitute "Commission".

Section 18:
Omit "Registrar", substitute "Commission".

Subsections 21(1), (2), (3), (5) and (6):
Omit "Registrar", substitute "Commission".

Subsections 22(1) and (3):
Omit "Registrar", substitute "Commission".

Subsection 22(4):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsections 22(6), (7) and (8):
Omit "Registrar", substitute "Commission".

Subsection 22(8A):
Omit "Registrar" (twice occurring), substitute "Commission".
Aboriginal Councils and Associations Legislation
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SCHEDULE—continued

Subsection 22(9):
Omit "Registrar", substitute "Commission".

Subsections 25(1), (2) and (5):
Omit "Registrar", substitute "Commission".

Subsection 26(1):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsection 27(1):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsection 30(8):
Omit "Registrar", substitute "Commission".

Subsection 33(1):
Omit "Registrar", substitute "Commission".

Subsection 33(2):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsections 33(4) and (5):
Omit "Registrar", substitute "Commission".

Subsections 35(1), (2), (3) and (4):
Omit "Registrar", substitute "Commission".

Subsection 36(5):
Omit "Registrar", substitute "Commission".

Subsections 37(1) and (2):
Omit "Registrar", substitute "Commission".

Paragraph 38(2)(a):
Omit "Registrar", substitute "Commission".

Subsections 38(3) and (4):
Omit "Registrar", substitute "Commission".

Paragraph 38(5)(a):
Omit "Registrar" (twice occurring), substitute "Commission".
Aboriginal Councils and Associations Legislation
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SCHEDULE—continued

Subsections 39(8):
Omit "Registrar", substitute "Commission".

Subsection 40(1):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsection 40(2):
Omit "Registrar", substitute "Commission".

Subsections 45(1), (3) and (4):
Omit "Registrar", substitute "Commission".

Paragraph 45(4)(c):
Omit "Registrar", substitute "Commission".

Subsection 45(5):
Omit "Registrar", substitute "Commission".

Subsection 49B(3):
Omit "Registrar", substitute "Commission".

Paragraphs 49B(4)(a) and (b):
Omit "Registrar", substitute "Commission".

Subsections 52(1), (2), (2A) and (3):
Omit "Registrar", substitute "Commission".

Subsections 54(1), (3) and (4):
Omit "Registrar", substitute "Commission".

Subsection 56(5):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsections 57(1) and (2):
Omit "Registrar", substitute "Commission".

Subsection 58(1):
Omit "Registrar", substitute "Commission".

Subsections 58(3) and (4):
Omit "Registrar" (twice occurring), substitute "Commission".
Aboriginal Councils and Associations Legislation
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SCHEDULE—continued

Subsections 58A(2) and (3):
Omit "Registrar", substitute "Commission".

Subsection 58A(4):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsections 58B(2) and (3):
Omit "Registrar", substitute "Commission".

Subsections 58B(4) and (5):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsection 58B(6):
Omit "Registrar", substitute "Commission".

Subsection 58B(7):
Omit "Registrar" (wherever occurring), substitute "Commission".

Subsection 58B(9):
Omit "Registrar" (twice occurring), substitute "Commission".

Paragraph 59(2)(a):
Omit "Registrar", substitute "Commission".

Subsections 59(3) and (4):
Omit "Registrar", substitute "Commission".

Subsection 59A(1):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsection 60(8):
Omit "Registrar", substitute "Commission".

Subsection 60A(1):
Omit "Registrar" (twice occurring), substitute "Commission".

Subsection 60A(2):
Omit "Registrar", substitute "Commission".

Subsection 61(1):
Omit "Registrar" (wherever occurring), substitute "Commission".
Aboriginal Councils and Associations Legislation Amendment No., 1994

SCHEDULE—continued

Subsection 61(2):
Omit “Registrar”, substitute “Commission”.

Paragraph 62(aa):
Omit “Registrar of Aboriginal Corporations”, substitute “Commission established under this Act”.

Subsections 64(2) and (3):
Omit “Registrar”, substitute “Commission”.

Subsection 68(1):
Omit “Registrar”, substitute “Commission”.

Subsection 68(2):
Omit “Registrar” (wherever occurring), substitute “Commission”.

Paragraph 69(1)(a):
Omit “Registrar”, substitute “Commission”.

Subsection 69(2):
Omit “Registrar”, substitute “Commission”.

Section 72:
Omit “Registrar”, substitute “Commission”.

Subsection 74(1):
Omit “Registrar”, substitute “Commission”.

Subsection 74(2):
Omit “Registrar” (wherever occurring), substitute “Commission”.

Sections 77C and 77D:
Omit “Registrar” (twice occurring), substitute “Commission”.

Sections 77E and 79:
Omit “Registrar”, substitute “Commission”.

Section 81:
(a) Omit “Registrar” (first occurring), substitute “Commission”.
(b) Omit “Registrar personally or”, substitute “Commission”.

Paragraph 82(d):
Omit "Registrar", substitute "Commission".

PART 3

AMENDMENTS SUBSTITUTING ABORIGINAL CORPORATION FOR INCORPORATED ABORIGINAL ASSOCIATION

Section 3 (definition of "surplus assets"):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".

Part IV (Heading):
Omit the heading, substitute:
"PART IV—ABORIGINAL CORPORATIONS"

Subsection 47(1):
Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".

Subsection 47(2):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".

Section 48:
(a) Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".

Section 49:
Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".

Subsection 49B(1):
Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
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Section 49C:
Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.

Subsection 49D(1):
Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.

Subsection 49E(1):
Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.

Section 50:
Omit “Incorporated Aboriginal Association” (wherever occurring), substitute “Aboriginal corporation”.

Section 51:
(a) Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.
(b) Omit “Association” (wherever occurring), substitute “corporation”.

Section 52:
(a) Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.
(b) Omit “Association” (wherever occurring), substitute “corporation”.

Subsection 54(1):
(a) Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.
(b) Omit “Association”, substitute “corporation”.

Subsection 54(3):
Omit “Incorporated Aboriginal Association”, substitute “corporation”.

Section 55:
(a) Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.
(b) Omit “Association” (wherever occurring), substitute “corporation”.
Subsection 56(1):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association", substitute "corporation".

Subsection 56(2):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association", substitute "corporation".

Subsection 56(5):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association", substitute "corporation".

Section 57:
Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".

Section 58:
(a) Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".

Subsection 58A(1):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association", substitute "corporation".

Subsection 58A(2):
Omit "Association", substitute "corporation".

Subsection 58A(3):
Omit "Association", substitute "corporation".

Section 58B:
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".
Section 59:
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".

Section 60A:
Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".

Subsection 61(1):
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association", substitute "corporation".

Section 62:
(a) Omit "Incorporated Aboriginal Associations", substitute "Aboriginal corporations".
(b) Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".

Subsection 64(1):
Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".

Subsection 64(2):
Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".

Section 65:
(a) Omit "Incorporated Aboriginal Association", substitute "Aboriginal corporation".
(b) Omit "Association" (wherever occurring), substitute "corporation".

Section 67:
(a) Omit "Incorporated Aboriginal Associations", substitute "Aboriginal corporations".
(b) Omit "Incorporated Aboriginal Association" (wherever occurring), substitute "Aboriginal corporation".
Paragraph 73(c):
  (a) Omit “Incorporated Aboriginal Association”, substitute “Aboriginal corporation”.
  (b) Omit “Association”, substitute “corporation”.

Paragraph 82(b):
  (a) Omit “Incorporated Aboriginal Associations”, substitute “Aboriginal corporations”.
  (b) Omit “Association”, substitute “corporation”.

Paragraph 82(h):
  Omit “Incorporated Aboriginal Associations”, substitute “Aboriginal corporations”.

PART 4
AMENDMENTS SUBSTITUTING INCORPORATED ABORIGINAL BODY FOR ABORIGINAL CORPORATION

Section 3 (definition of “official address”):
  Omit “Aboriginal corporation”, substitute “Incorporated Aboriginal body”.

Section 3 (definition of “public officer”):
  (a) Omit “Aboriginal corporation”, substitute “Incorporated Aboriginal body”.
  (b) Omit “corporation”, substitute “body”.

Part V (Heading):
  Omit “ABORIGINAL CORPORATIONS”, substitute “INCORPORATED ABORIGINAL BODIES”.

Subsection 68(1):
  Omit “Aboriginal corporation”, substitute “Incorporated Aboriginal body”.

Paragraph 68(1)(a):
  Omit “corporation” (twice occurring), substitute “body”.

Paragraph 68(1)(b):
  Omit “corporation’s”, substitute “body’s”.
Subsection 68(2):
Omit “corporation”, substitute “body”.

Section 72:
Omit “corporation”, substitute “Incorporated Aboriginal body”.

Paragraph 73(a):
Omit “corporation”, substitute “Incorporated Aboriginal body”.

Paragraphs 73(b) and (c):
Omit “corporation”, substitute “body”.

Subsection 74(2):
Omit “corporation”, substitute “Incorporated Aboriginal body”.

Section 75:
Omit “corporation”, substitute “Incorporated Aboriginal body”.

Subsection 76(1):
(a) Omit “corporation” (first occurring), substitute “Incorporated Aboriginal body”.
(b) Omit “corporation (second occurring), substitute “body”.

Section 77D:
Omit “corporation”, substitute “Incorporated Aboriginal body”.

Paragraph 77E(a):
Omit “corporation”, substitute “Incorporated Aboriginal body”.

Subsection 80(1):
(a) Omit “Aboriginal corporation”, substitute “Incorporated Aboriginal body”.
(b) Omit “corporation”, substitute “body”.

Subsection 80(2):
(a) Omit “Aboriginal corporation”, substitute “Incorporated Aboriginal body”.
(b) Omit “corporation”, substitute “body”.
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SCHEDULE—continued

Section 81A:
Omit "Aboriginal corporation", substitute "Incorporated Aboriginal body".

NOTES

Aboriginal Councils and Associations Act 1975

1. No. 186, 1976, as amended. For previous amendments, see No. 56, 1978; Nos. 61, 92, 153 and 176, 1981; No. 80, 1982; Nos. 10 and 165, 1984; No. 193, 1985; No. 99, 1988; No. 150, 1989; and No. 189, 1992.

Aboriginal and Torres Strait Islander Commission Act 1989

2. No. 150, 1989, as amended. For previous amendments, see No. 122, 1991; Nos. 26 and 37, 1993; and No. 1, 1994.

NOTES ABOUT SECTION HEADINGS

1. The headings to sections 47, 48 and 50 of the Principal Act are altered by omitting "Incorporated Aboriginal Associations" and substituting "Aboriginal corporations".

2. The heading to section 62 of the Principal Act is altered by omitting "Companies Act" and substituting "Corporations Law".

3. The headings to sections 16, 40, 60A, 61 and 77C of the Principal Act is altered by omitting "Registrar" and substituting "Commission".

4. The heading to section 80 of the Principal Act is altered by omitting "Aboriginal corporation" and substituting "Incorporated Aboriginal body".

5. The heading to section 49 of the Principal Act is altered by omitting "Incorporated Aboriginal Association" and substituting "Aboriginal corporation".

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