

Queensland



Subordinate Legislation 2000 No. 5

Community Services (Aborigines) Act 1984

Community Services (Torres Strait) Act 1984

**COMMUNITY SERVICES LEGISLATION
AMENDMENT REGULATION (No. 1) 2000**

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Community Services Legislation Amendment Regulation (No. 1) 2000*.

PART 2—AMENDMENT OF COMMUNITY SERVICES (ABORIGINES) REGULATION 1998

Regulation amended in pt 2

2. This part amends the *Community Services (Aborigines) Regulation 1998*.

Amendment for ‘triennial’

3.(1) This section amends the following provisions—

- section 6(6)(a)
- section 7(2)
- section 8(1)
- section 9
- section 12(2)(a)
- section 13(i)
- section 14(1)
- section 16(1)(a)
- section 17(a)
- section 22(6)(a)
- section 23(2)

- section 25
- section 27
- section 58(1)
- schedule 1, part 1, section 267(1)
- schedule 1, part 7, section 412.

(2) In the provisions mentioned in subsection (1), ‘triennial’—
omit, insert—
‘quadrennial’.

Renumber pt 10 (Miscellaneous)

4. Part 10—
renumber as part 11.

Insertion of new pt 10

5. After section 64—
insert—

‘PART 10—ABORIGINAL COUNCIL AREAS

‘Declaration of council areas—Act, s 14

‘64A. The part of the State mentioned in schedule 1A, column 1, is declared to be the council area mentioned in column 2 of the schedule opposite the part.’.

Insertion of new pt 12

6. After section 65—
insert—

‘PART 12—TRANSITIONAL PROVISION**‘Transitional provision for Community Services Legislation
Amendment (No. 1) Regulation 2000**

‘**66.(1)** A reference in this regulation to the next quadrennial election is to be read as a reference to the election under this regulation to be held on the same day as the 2000 quadrennial election to be held under the *Local Government Act 1993*.

‘**(2)** This section does not have effect after the quadrennial election under this regulation is held in 2000.’.

Amendment of sch 1, pt 1, s 266 (Triennial elections)

7.(1) Schedule 1, part 1, section 266, heading—

omit, insert—

‘Quadrennial elections’.

(2) Schedule 1, part 1, section 266, ‘3’—

omit, insert—

‘4’.

Amendment of sch 1, pt 1, s 269 (Dates of triennial elections)

8.(1) Schedule 1, part 1, section 269, heading—

omit, insert—

‘Date of quadrennial elections’.

(2) Schedule 1, part 1, section 269(1)—

omit, insert—

‘**269.(1)** *Quadrennial elections* must be held on the same day as *quadrennial elections under the Local Government Act 1993*.’.

Amendment of sch 1, pt 3, s 277 (Cut-off day for voters roll)

9.(1) Schedule 1, part 3, section 277(a) and (b)—

omit, insert—

‘(a) for a quadrennial election—31 January in the year of the election;’.

(2) Schedule 1, part 3, section 277(c)—

renumber as schedule 1, part 3, section 277(b).

Amendment of sch 1, pt 6, div 4 hdg

10. Schedule 1, part 6, division 4, heading, ‘Nomination on’—

omit, insert—

‘*Nominations of*’.

Amendment of sch 1, pt 6, div 4, s 310 (Procedure if number of candidates not more than number required)

11. Schedule 1, part 6, division 4, section 310(2)(a), ‘15(2)’—

omit, insert—

‘15(1)’.

Amendment of sch 1, pt 6, div 4, s 314 (Disposal of nomination fees generally)

12.(1) Schedule 1, part 6, division 4, section 314(1), ‘declaration of the result of a poll’—

omit, insert—

‘conclusion of an election’.

(2) Schedule 1, part 6, division 4, section 314—

insert—

‘**(4)** (*omitted*)’.

Amendment of sch 1, pt 6, div 7, s 326 (Separate ballot papers for separate polls)

13. Schedule 1, part 6, division 7, section 326(2) and (3)—

omit, insert—

‘(2) Separate ballot papers must be used for polls unless the returning officer decides to use a combined ballot paper.’

Insertion of new sch 1, pt 6, div 10, s 346A

14. Schedule 1, part 6, division 10, after section 346—

insert—

‘Distribution of ballot papers to certain electors who may cast declaration vote

‘346A.(1) This section applies to an elector mentioned in section 343(g).

‘(2) As soon as practicable after the nomination day for an election, the returning officer for the election must give the following things to the elector—

- (a) a ballot paper;
- (b) the approved declaration envelope;
- (c) written instructions in the approved form on how the vote may be cast;
- (d) an unsealed *stamped or postage* paid post envelope addressed to the returning officer and bearing the words ‘Ballot paper—(*words omitted*) (*insert name of Aboriginal council’s area*)’.

‘(3) However, if the things mentioned in subsection (2) are posted to an address outside Australia, the envelope mentioned in subsection (2)(d) need not be *stamped or postage* paid.’

Amendment of sch 1, pt 6, div 10, s 353 (Distribution of declaration envelopes when separate ballot papers or polls on same day)

15. Schedule 1, part 6, division 10, section 353(1)—

omit, insert—

‘353.(1) This section applies if—

- (a) under section 326,¹ separate ballot papers are used in polls for elections of the *chairperson* and another councillor conducted on the same day; or
- (b) *(omitted)*.

Insertion of new sch 1A

16. After schedule 1—

insert—

‘SCHEDULE 1A

‘DECLARATION OF COUNCIL AREAS

section 64A

Column 1

Part of the State

The land mentioned in the first and second schedules of deed of grant reference number 16929228

The land mentioned in the first and second schedules of deed of grant reference number 50184313

The land mentioned in the first and second schedules of deed of grant reference number 21321062

Column 2

Council area

Cherbourg Aboriginal Council area

Doomadgee Aboriginal Council area

Hope Vale Aboriginal Council area

¹ Section 326 (Separate ballot papers for separate polls)

The land mentioned in the first and second schedules of deed of grant reference number 21328058	Injinoo Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21345064	Kowanyama Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21352021	Lockhart River Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21378037	Napranum Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21328060	New Mapoon Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21328055	Palm Island Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21345063	Pormpuraaw Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21328059	Umagico Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 30563185	Woorabinda Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21352023	Wujal Wujal Aboriginal Council area
The land mentioned in the first and second schedules of deed of grant reference number 21328056	Yarrabah Aboriginal Council area'.

PART 3—AMENDMENT OF COMMUNITY SERVICES (TORRES STRAIT) REGULATION 1998

Regulation amended in pt 3

17. This part amends the *Community Services (Torres Strait) Regulation 1998*.

Amendment of s 4 (Membership of Island councils)

18.(1) Section 4(1), ‘5’—

omit, insert—

‘3’.

(2) Section 4—

insert—

‘(3) This section is subject to section 4A.’.

Insertion of new s 4A—

19. After section 4—

insert—

‘Saibai Island council to have 7 councillors

‘4A.(1) The purpose of this section is to provide for the composition of the Saibai Island council in a way that reflects—

- (a) the 2 buways on Saibai Island; and
- (b) the 7 clans, each of which belongs to a buway.²

‘(2) The Saibai Island council consists of 7 councillors, including the

² Provisions in schedule 1 that change the way in which the *Local Government Act 1993*, chapter 5, applies to elections for Island councils also provide for the 2 buways and 7 clans on Saibai Island.

chairperson.

‘(3) There must be 1 councillor from each of the 7 clans.’.

Amendment of s 5 (Proposal to decide number of councillors)

20.(1) Section 5, ‘5’—

omit, insert—

‘3’.

(2) Section 5—

insert—

‘(2) This section does not apply to Saibai Island council.’.

Amendment for ‘triennial’

21.(1) This section amends the following provisions—

- section 6(6)(a)
- section 7(2)
- section 8(1)
- section 9
- section 12(2)(a)
- section 13(i)
- section 14(1)
- section 17(a)
- section 22(6)(a)
- section 23(2)
- section 25
- section 27
- section 58(1)
- schedule 1, part 7, section 412.

(2) In the provisions mentioned in subsection (1), ‘triennial’—
omit, insert—
‘quadrennial’.

Amendment of s 10 (Qualifications for councillors)

22.(1) Section 10(1), before ‘if the person’—
insert—

‘, other than Saibai Island council,’.

(2) Section 10(2)—
renumber as section 10(3).

(3) Section 10—
insert—

‘(2) A person is qualified to become a councillor of Saibai Island council if the person—

- (a) is a buway member; and
- (b) has lived continuously in the Saibai Island council’s area for not less than 3 months before—
 - (i) for a person who is elected as a councillor—the nomination day for the election; or
 - (ii) for a person who is appointed as a councillor—the day the person is appointed; and
- (c) is entitled under this regulation to vote in the election.’.

Amendment of s 11 (Disqualification of councillors)

23. Section 11(3), ‘27A’—
omit, insert—
‘25A’.

Amendment of s 16 (Membership of Island councils)

24.(1) Section 16(1)(a), ‘triennial’—

omit, insert—

‘quadrennial’.

(2) Section 16—

insert—

‘**(2A)** For the appointment of a chairperson of Saibai Island council under subsection (1) or (2)—

- (a) if the appointment is after a quadrennial or fresh election—the person appointed must not be a buway member of the same buway as the person who was the previous chairperson; and
- (b) otherwise—the person appointed must be a buway member of the same buway as the person who was the previous chairperson.’.

Amendment of s 19 (Office of chairperson may be declared vacant)

25. Section 19—

insert—

‘**(3A)** However, for Saibai Island council, the chairperson appointed under subsection (3) must be a member of the same buway of which the immediately preceding chairperson was a member.’.

Amendment of s 49 (Approved forms for annual financial statements)

26. Section 49, ‘32A’—

omit, insert—

‘30A’.

Renumber pt 10 (Miscellaneous)

27. Part 10—

renumber as part 11.

Insertion of new pt 10

28. After section 64—

insert—

‘PART 10—ISLAND COUNCIL AREAS**‘Declaration of council areas—Act, s 14**

‘64A. The part of the State mentioned in schedule 1A, column 1, is declared to be the council area mentioned in column 2 of the schedule opposite the part.’.

Insertion of new pt 12

29. After section 65—

insert—

‘PART 12—TRANSITIONAL**‘Transitional provision for Community Services Legislation Amendment (No. 1) Regulation 2000**

‘66.(1) A reference in this regulation to the next quadrennial election is to be read as a reference to the election under this regulation to be held on the same day as the 2000 quadrennial election to be held under the *Local Government Act 1993*.

‘(2) This section does not have effect after the quadrennial election under this regulation is held in 2000.

‘Transitional provision for Saibai Island council

‘67.(1) This section applies to Saibai Island council.

‘(2) Section 4A applies to the council for and after the 2000 quadrennial election to be held under the *Local Government Act 1993*.

‘(3) Section 16(2A) does not apply to the appointment of the chairperson

of Saibai Island council appointed immediately after the 2000 quadrennial election.’.

Amendment of sch 1, pt 1, s 266 (Triennial elections)

30.(1) Schedule 1, part 1, section 266, heading—

omit, insert—

‘Quadrennial elections’.

(2) Schedule 1, part 1, section 266, ‘3’—

omit, insert—

‘4’.

Amendment of sch 1, pt 1, s 267 (Types of elections)

31.(1) Schedule 1, part 1, section 267(1), ‘triennial’—

omit, insert—

‘quadrennial’.

(2) Schedule 1, part 1, section 267—

insert—

‘(4) Elections for Saibai Island council are based on clans, despite subsections (1) and (3).

‘(5) For subsection (4)—

(a) if an election is a quadrennial or fresh election—the election is for each of the clans; and

(b) if an election is a by-election—the election is for the clan that is not represented on the council.’.

Amendment of sch 1, pt 1, s 269 (Dates of triennial elections)

32.(1) Schedule 1, part 1, section 269, heading—

omit, insert—

‘Date of quadrennial elections’.

(2) Schedule 1, part 1, section 269(1)—

omit, insert—

‘269.(1) *Quadrennial elections must be held on the same day as quadrennial elections under the Local Government Act 1993.’.*

Amendment of sch 1, pt 3, s 275 (Returning officer must compile voters roll)

33.(1) Schedule 1, part 3, section 275, **‘275.’**—

omit, insert—

‘275.(1)’.

(2) Schedule 1, part 3, section 275—

insert—

‘(2) *However, in compiling the voters roll for an election for Saibai Island council, the returning officer for the election must—*

- (a) *compile the voters roll based on the clans, to the extent necessary for the election; and*
- (b) *if, under Island custom on Saibai Island, a person is not a member of a clan—consult with the elders of the clans about the way in which the person’s name should appear in the voters roll.*

‘(3) *For an election for Saibai Island council, if a person mentioned in subsection (2)(b) asks the returning officer, in writing, not to include the person’s name on the voters roll for the election, the returning officer must not include the person’s name on the voters roll for the election.’.*

Amendment of sch 1, pt 3, s 277 (Cut-off day for voters roll)

34.(1) Schedule 1, part 3, section 277(a) and (b)—

omit, insert—

‘(a) for a quadrennial election—31 January in the year of the election;’.

(2) Schedule 1, part 3, section 277(c)—
renumber as schedule 1, part 3, section 277(b).

Amendment of sch 1, pt 3, s 279 (Requirements of voters roll)

35. Schedule 1, part 3, section 279—

insert—

‘(1A) Subsection (1)(b) applies to the voters roll for an election for Saibai Island council only to the extent that it is consistent with a voters roll based on the clans.’.

Amendment of sch 1, pt 6, div 4 hdg

36. Schedule 1, part 6, division 4, heading, ‘Nomination on’—

omit, insert—

‘Nominations of’.

Amendment of sch 1, pt 6, div 4, s 303 (How and when nomination is given)

37. Schedule 1, part 6, division 4, section 303(1)(b)—

omit, insert—

‘(aa) for Saibai Island council—at least 2 electors for the clan for which the election is held; or

(b) for Island councils other than Saibai Island council—at least 2 electors for the Island council’s area (words omitted).’.

Amendment of sch 1, pt 6, div 4, s 310 (Procedure if number of candidates not more than number required)

38.(1) Schedule 1, part 6, division 4, section 310(2)(a), ‘15(2)’—

omit, insert—

‘15(1)’.

(2) Schedule 1, part 6, division 4, section 310—

insert—

‘(5) For Saibai Island council—

- (a) subsections (1) and (2) apply as if references in those subsections to an election were a reference to an election in relation to a clan; and*
- (b) if the Governor in Council exercises power under subsection (2)—the power must be exercised subject to section 4A(3) of this regulation.’.*

Amendment of sch 1, pt 6, div 4, s 314 (Disposal of nomination fees generally)

39.(1) Schedule 1, part 6, division 4, section 314(1), ‘declaration of the result of a poll’—

omit, insert—

‘conclusion of an election’.

(2) Schedule 1, part 6, division 4, section 314(1)(c)—

omit, insert—

- ‘(ba)for Saibai Island council—the number of votes received by the candidate is more than 4% of the total number of formal votes cast in the election for the clan for which the candidate nominated; or*
- (c) (words omitted) for all other Island councils—the number of votes received by the candidate is more than 4% of the total number of formal votes cast in the election.’.*

(3) Schedule 1, part 6, division 4, section 314—

insert—

‘(4) (omitted)’.

Amendment of sch 1, pt 6, div 7, s 325 (Requirements of ballot papers)

40. Schedule 1, part 6, division 7, section 325—

insert—

‘(2A) Subsection (2)(c)(iii) applies to the butts for the ballot papers for a poll for the Saibai Island council’s area as if, in relation to each clan, the poll were a separate poll.’.

Amendment of sch 1, pt 6, div 7, s 326 (Separate ballot papers for separate polls)

41. Schedule 1, part 6, division 7, section 326(2) and (3)—

omit, insert—

‘(2) Separate ballot papers must be used for polls unless the returning officer decides to use a combined ballot paper.’.

Insertion of new sch 1, pt 6, div 10, s 346A

42. Schedule 1, part 6, division 10, after section 346—

insert—

‘Distribution of ballot papers to certain electors who may cast declaration vote

‘346A.(1) This section applies to an elector mentioned in section 343(g).

‘(2) As soon as practicable after the nomination day for an election, the returning officer for the election must give the following things to the elector—

- (a) a ballot paper;
- (b) the approved declaration envelope;
- (c) written instructions in the approved form on how the vote may be cast;
- (d) an unsealed *stamped or postage* paid post envelope addressed to the returning officer and bearing the words ‘Ballot paper—(*insert*

name of Island council area’.

‘(3) However, if the things mentioned in subsection (2) are posted to an address outside Australia, the envelope mentioned in subsection (2)(d) need not be *stamped or postage paid*.’.

Amendment of sch 1, pt 6, div 10, s 353 (Distribution of declaration envelopes when separate ballot papers or polls on same day)

43. Schedule 1, part 6, division 10, section 353(1)—

omit, insert—

‘**353.(1)** This section applies if—

- (a) under section 326,³ separate ballot papers are used in polls for elections of the *chairperson* and another councillor conducted on the same day; or
- (b) *(omitted)*’.

Insertion of new sch 1A

44. After schedule 1—

insert—

³ Section 326 (Separate ballot papers for separate polls)

‘SCHEDULE 1A

‘DECLARATION OF COUNCIL AREAS

section 64A

Column 1

Part of the State

The land mentioned in the first and second schedules of deed of grant reference number 21328057

The land mentioned in the first and second schedules of deed of grant reference number 21296126

The land mentioned in the first and second schedules of deed of grant reference number 21296127

The land mentioned in the first and second schedules of deed of grant reference number 21296128

The land mentioned in the first and second schedules of deed of grant reference number 21296129

The land mentioned in the first and second schedules of deed of grant reference number 21296130

The land mentioned in the first and second schedules of deed of grant reference number 21296131

The land mentioned in the first and second schedules of deed of grant reference number 21296132

Column 2

Council area

Bamaga Island council area

Badu Island council area

Boigu Island council area

Coconut Island council area

Darnley Island council area

Dauan Island council area

Hammond Island council area

Kubin Island council area

The land mentioned in the first and second schedules of deed of grant reference number 21296133	Mabuiag Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21296134	Saibai Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21352022	Seisia Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21296136	St Pauls Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21296135	Stephen Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21296137	Sue Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21296138	Yam Island council area
The land mentioned in the first and second schedules of deed of grant reference number 21296139	Yorke Island council area’.

Amendment of sch 2 (Dictionary)

45.(1) Schedule 2—

insert—

‘ **“buway”** means one of the following tribal groups under Island custom on Saibai Island—

- Koeybuway
- Moegibuway.

“**buway member**” means a person who, under Island custom on Saibai Island, is a member of a buway.

“**clans**” means the following—

- Ait Koedal
- Dhoeybaw
- Saibai Koedal
- Samu
- Sui-Baydam
- Thabu
- Umay.

“**elders**”, of the clans, means the persons who, under Island custom on Saibai Island, are the elders of the clans.’.

(2) Schedule 2, definition “**pecuniary interest disclosure**”, ‘27A’—

omit, inser †

‘25A’.

ENDNOTES

1. Made by the Governor in Council on 20 January 2000.
2. Notified in the gazette on 21 January 2000.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Aboriginal and Torres Strait Islander Policy and Development.