

Queensland



COMMUNITY SERVICES (ABORIGINES) ACT 1984

**Reprinted as in force on 23 May 1994
(includes amendments up to Act No. 15 of 1994)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 23 May 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use gender neutral office names (s 25)
- correct spelling and use different spelling consistent with current legislative drafting practice (s 26)
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- use expressions consistent with current legislative drafting practice (s 29)
- reorder definitions and other provisions consistent with current legislative drafting practice (ss 30 and 30A)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 36, 37, 39 and 40)
- omit unnecessary referential words (section 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)
- make all necessary consequential amendments (s 7(1)(k)).

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including—**
 - **Table of changed names and titles**
 - **Table of changed citations and remade laws**
 - **Table of obsolete and redundant provisions**
 - **Table of renumbered provisions.**

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COMMUNITY SERVICES (ABORIGINES) ACT 1984

[as amended by all amendments that commenced on or before 23 May 1994²]

An Act to provide for support, administrative services and assistance for Aboriginal communities resident in Queensland and for management of lands for use by those communities and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Community Services (Aborigines) Act 1984*^{3–10}.

Commencement

2.(1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided by subsection (1), this Act shall commence on 31 May 1984 or on such earlier date as is appointed by proclamation.

(3) The date on which this Act, other than sections 1 and 2 commences as prescribed is in this Act referred to as the “**commencement of this Act**”.

Savings

5.(1) An area that at the commencement of this Act is a reserve within the meaning of the *Aborigines Act 1971* shall continue as a trust area for the purposes of this Act.

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(3) Every by-law, resolution or order lawfully made by an Aboriginal Council before the commencement of this Act that subsists at such commencement shall continue to have force and effect as if it had been made pursuant to this Act.

(4) Every order and decision made by an Aboriginal Court before the commencement of this Act that is operative at such commencement shall continue to be operative as if it had been made by that court constituted pursuant to this Act.

(5) A person who at the commencement of this Act holds an appointment for the purposes of the *Aborigines Act 1971* shall, subject to the conditions of the person's appointment, continue to hold the appointment for the purposes of this Act, if the appointment is material to the purposes of this Act.

(6) A management of property of a person that was undertaken when the person was an assisted Aborigine within the meaning of the *Aborigines' and Torres Strait Islanders' Affairs Act 1965* and that is maintained at the commencement of this Act shall be deemed to be a management of property under this Act and, unless it is terminated in accordance with this Act, shall be maintained in accordance with this Act.

(7) A management of property of an Aborigine that is maintained at the commencement of this Act shall continue to be maintained in accordance with this Act unless it is terminated in accordance with this Act.

(8) The Aborigines Welfare Fund maintained by the Corporation of the Under Secretary for Community Services shall continue to be maintained by the Corporation in accordance with this Act.

Meaning of terms

6.(1) In this Act—

“Aboriginal land” has the meaning given by section 2.04 of the *Aboriginal Land Act 1991*;

“area” means a trust area;

“by-laws”, in relation to an Aboriginal Council, includes—

- (a) by-laws made by the council as the authority charged with the functions of local government of an area; and

- (b) by-laws made by the council as trustee of the area by reason of the land comprising the area having been granted in trust or reserved and set apart by the Governor in Council under the provisions of law relating to Crown lands and vested in or placed under the control of the council;

“Corporation” means the corporation sole preserved, continued in existence and constituted under this Act by the name and style Aboriginal and Islander Affairs Corporation;

“Islander” means a descendant of an indigenous inhabitant of the Torres Strait Islands;

“non-Aboriginal land” means land that is not Aboriginal land;

“trust area” means land within the area for which an Aboriginal Council is established, and includes land that is—

- (a) granted in trust under the *Land Act 1962* for the benefit of Aboriginal inhabitants or for the purpose of an Aboriginal reserve; or
- (b) reserved and set apart under the *Land Act 1962* for an Aboriginal reserve or for the benefit of Aboriginal inhabitants; or
- (c) land mentioned in paragraph (a) or (b) that has become Aboriginal land;

(2) For the purposes of this Act, an area for which an Aboriginal Council is established includes all land from time to time granted in trust to that council and included in the instrument of title relating to that area or committed to that council for the purposes of local government.

PART 2—ADMINISTRATION

Responsible officer

7. The chief executive is the officer charged with the responsibility for the administration of this Act, subject to the Minister.

Corporation

8.(1) The corporation sole preserved, continued in existence and constituted under the *Community Services (Aborigines) Act 1984* under the name and style ‘The Corporation of the Under Secretary for Community Services’ is hereby further preserved, continued in existence and constituted under the name and style ‘Aboriginal and Islander Affairs Corporation’.

(2) The Corporation is constituted by the person who at the material time holds the appointment, chief executive, and under the name and style assigned to it by subsection (1)—

- (a) has perpetual succession and an official seal;
- (b) is capable in law of suing and being sued, of compounding or proving in a court of competent jurisdiction all debts and sums of money due to it;
- (c) is capable in law of acquiring and holding (absolutely or subject to trusts), letting, leasing, hiring, disposing of and otherwise dealing with property real and personal situated within or outside the State and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(3) All courts, Judges, justices and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to any writing and, until the contrary is proved, shall presume that it was duly affixed thereto.

(4) With respect to the exercise of any of its powers and with respect to any matter arising in connection therewith the Corporation has all the privileges, rights and remedies of the Crown.

Consequences of constitution of Corporation

8A.(1) A reference in any—

- (a) Act; or
- (b) proclamation, order in council, regulation, by-law or other instrument made under any Act; or
- (c) agreement, contract, deed or other document, instrument or writing of any kind;

to the Corporation of the Director of Aboriginal and Islanders Advancement

constituted under the *Aborigines Act 1971* or the Corporation of the Under Secretary for Community Services constituted under the *Community Services (Aborigines) Act 1984* shall be read and construed as a reference to the Corporation.

(2) Any proceeding which prior to the commencement of this section was commenced by or against the Corporation of the Director of Aboriginal and Islanders Advancement or the Corporation of the Under Secretary for Community Services and which is not concluded at such commencement may be continued by or against the Corporation.

(3) The Registrar of Titles and any other person charged with the keeping of a register of dealings concerning land vested in or held by the Corporation of the Director of Aboriginal and Islanders Advancement or the Corporation of the Under Secretary for Community Services shall without further authority than this section alter the name as shown in such register of the registered proprietor, registered lessee, owner or occupier of land referred to in such register to 'Aboriginal and Islander Affairs Corporation'.

Agents of department

9.(1) The chief executive may make arrangement with any person holding an appointment under any Act, any officer of the public service, any person concerned in the local government of any area or any other person with a view to the person who from time to time holds an appointment specified in the arrangements at a place in Queensland specified in the arrangements to be an agent of the department within an area described in the arrangements.

(2) An arrangement made under subsection (1) may include a provision for the payment to the agent or to the person with whom the arrangement is made of an amount by way of remuneration for the agent's services.

(3) An agent of the department shall discharge such functions and duties and may exercise such powers as are imposed or conferred on the agent by this Act or as the chief executive from time to time requests of the agent.

Power of delegation

10.(1) The Minister or chief executive may, either generally or otherwise as provided by the instrument of delegation, by writing delegate to any

person all or any of his or her powers, functions and duties except this power of delegation or a function imposed on the Minister or chief executive pursuant to section 12(1).

(2) A power, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms and limitations as the Minister or chief executive thinks fit including a requirement that the delegate shall report to the Minister or, as the case may be, chief executive upon the delegate's exercise or performance of the delegated power, function or duty.

(4) The Minister or chief executive may make such and so many delegations of the same power, function or duty and to such number of persons as the Minister or chief executive considers necessary or desirable.

(5) A delegation is revocable at the will of the Minister or, as the case may be, chief executive and does not prevent the exercise of a power or the performance of a function or duty by the Minister or chief executive.

Appointment of Magistrates to trust areas

11.(1) The Governor in Council may appoint a Stipendiary Magistrate to be responsible for 1 or more trust areas and that appointment does not limit the Magistrate in exercising his or her functions under any other Act.

(2) Subject to subsection (3), the Magistrate appointed to a trust area is to visit that trust area at least once every 3 months and inspect the records of the Aboriginal Court in the trust area.

(3) If a Magistrate appointed to a trust area believes that it is not necessary for him or her to personally visit the trust area, the Magistrate is to—

- (a) arrange for a clerk of the court of a Magistrates Court to visit the trust area at the times the Magistrate would otherwise be required to attend; and
- (b) arrange for a copy of the records of the Aboriginal Court to be forwarded to the Magistrate for examination.

(4) The Magistrate and a clerk of the court of a Magistrates Court at his

or her discretion may communicate with any members of the Aboriginal Court and advise them of his or her opinions as to the harshness or leniency of sentencing by the Aboriginal Court or on any other matter the Magistrate or clerk considers appropriate.

(4A) Members of the Aboriginal Court are not bound to follow any such advice or opinion offered by a Magistrate or clerk of the court.

(5) A clerk of the court of an Aboriginal Court who is requested under this section by a Magistrate or clerk of the court of the Magistrates Court to provide a copy of the Aboriginal Court records is to take all reasonable steps to comply with that request.

Official inquiries

12.(1) The Governor in Council may authorise any person to make and hold such inspections, investigations and inquiries for the purposes of this Act as the Governor in Council considers desirable and for the purposes of such an inspection, investigation or inquiry the person so authorised may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under the *Commissions of Inquiry Act 1950* and of a chairperson of such a commission, except such as are by those Acts confined to a chairperson who is a Judge of the Supreme Court unless the person is such a Judge.

(2) A person who makes or holds an inspection, investigation or inquiry pursuant to subsection (1) shall, as soon as is practicable after its completion, furnish a full report thereon to the Minister, who shall submit the report to the Governor in Council.

Annual report on administration

13.(1) As soon as is practicable after 30 June in each year the chief executive shall furnish to the Minister a report on the administration of this Act during the preceding 12 months.

(2) The Minister shall table each such report received by the Minister in the Legislative Assembly within 14 sitting days after the Minister has received it.

PART 3—LOCAL GOVERNMENT OF AREAS

Division 1—Aboriginal Councils

Requirement of Aboriginal Councils

14.(1) Subject to this Part, every trust area that is approved by the Governor in Council to be so governed shall be governed by an Aboriginal Council.

(2) Every area that at the passing of the *Community Services (Aborigines) Act Amendment Act 1986* is governed by an Aboriginal Council shall be deemed to have been approved by the Governor in Council to be so governed.

Incorporation of Aboriginal Councils

15.(1) Every Aboriginal Council existing at the commencement of this Act is preserved, continued in being and constituted as a body corporate and shall continue as such until it is dissolved as prescribed.

(2) Every Aboriginal Council established after the commencement of this Act shall upon its establishment be a body corporate and shall continue as such until it is dissolved as prescribed.

(3) A body corporate referred to in subsection (1) or (2) shall have perpetual succession and an official seal which shall be judicially noticed and shall, under its name, being (name of the trust area) Aboriginal Council, be capable in law of suing and being sued, of acquiring, holding (absolutely or subject to trusts), letting, leasing, hiring, disposing of and otherwise dealing with property real and personal and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

(4) The persons who at the commencement of this Act comprise an Aboriginal Council shall continue in office until their successors are appointed as prescribed.

Tenure of office of councillors

16. Subject to this Act, every member of an Aboriginal Council shall hold office for 3 years commencing on the day of the member's election as a member and terminating at the conclusion of the next triennial election of members of the council.

Times for election of councillors

17.(3) In each area a triennial election of members of the Aboriginal Council established for the area and existing for the time being shall be held.

(4) Every triennial election held pursuant to subsection (3) shall be held on the date on which are held the triennial elections for the purpose of reconstituting local governments pursuant to the *Local Government Act 1993*.

(5) The first constitution of an Aboriginal Council shall be by means of an election therefor held on a date appointed for the purpose by the Governor in Council or, if there be no such date appointed, on the date on which are held the triennial elections for the purpose of reconstituting local governments pursuant to the *Local Government Act 1993*.

Voters' roll

18. For the purpose of every triennial election for an Aboriginal Council and, if necessary, for any other election for the council held pursuant to this Act there shall be compiled a voters' roll, which shall be in accordance with the provisions relating to voters' rolls of the *Local Government Act 1993* or, if the regulations prescribe with respect to voters' rolls, with the provisions of the regulations.

Relationship of Aboriginal area to local government area

19.(1) Notwithstanding any provision of the *Local Government Act 1993*—

- (a) land within an area is not rateable land for the purposes of that Act;
- (b) a person whose name is properly on a voters' roll for the purpose

of an election of an Aboriginal Council—

- (i) shall not be entitled to vote at an election of the local government of the area within the meaning of the *Local Government Act 1993* of which the area of the Aboriginal Council forms a part or at an election to fill any vacancy on that local government;
- (ii) is not qualified to be enrolled on the voters' roll for the purpose of an election such as is referred to in subparagraph (i);
- (c) the returning officer, for the purpose of an election such as is referred to in paragraph (b)(i), is authorised to make such eliminations from and corrections of any electoral roll in use for the purpose of the election as are necessary to give effect to paragraph (b).

(2) Upon the assumption by an Aboriginal Council of the discharge of the functions of local government of an area that forms part of an area within the meaning of the *Local Government Act 1993*—

- (a) the local government of that area shall cease to have delegated to it the functions of local government of the area affected by the assumption; and
- (b) the local laws of that local government shall cease to be of force and effect in the area affected by the assumption;

for as long as the Aboriginal Council continues to assume the discharge of the functions of local government of that area, without prejudice to the continued operation and effect of anything duly done pursuant to the local laws before they ceased to be of force and effect.

Power to dissolve Aboriginal Council

20. The Governor in Council may—

- (a) in the Governor in Council's absolute discretion; or
- (b) upon the petition of at least $\frac{1}{5}$ of the electors enrolled on a voters' roll for the area to which the petition relates;

by order in council, if in the Governor in Council's opinion circumstances

have arisen that render it necessary so to do, dissolve an Aboriginal Council, whereupon the members of the council shall go out of office.

Appointment of administrator

21.(1) By the order by which the Governor in Council dissolves an Aboriginal Council or by a subsequent order in council the Governor in Council shall appoint some person to discharge and exercise, for such period, as is specified in the order, such of the functions, duties and powers of the council as are specified in the order.

(1A) For the term of the person's appointment the person appointed shall be deemed to be the Aboriginal Council and shall be charged with the functions and duties and may exercise the powers so specified.

(2) The person so appointed shall be known by the official title of administrator of the Aboriginal Council concerned.

Order for fresh election

22. Where the Governor in Council has dissolved an Aboriginal Council the Governor in Council may, by the same or a subsequent order in council, direct that a fresh election for the council shall be held at a time appointed by the Governor in Council and such direction shall be given effect.

Functions of Aboriginal Councils

25.(1) An Aboriginal Council has and may discharge the functions of local government of the area for which it is established and is hereby charged with the good rule and government thereof in accordance with the customs and practices of the Aborigines concerned and for that purpose may make by-laws and enforce the observance of all by-laws lawfully made by it.

(1A) By-laws made by an Aboriginal Council may adopt wholly or partly local laws made by any local government within the meaning of the *Local Government Act 1993* or by any other Aboriginal Council or other authority or the provisions of any Act or regulations made under any Act.

(2) Without limiting the functions and powers of an Aboriginal Council, a council may make by-laws for promoting, maintaining, regulating and

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controlling—

- (a) the peace, order, discipline, comfort, health, moral safety, convenience, food supply, housing and welfare of the area for which it is established;
- (b) the planning, development and embellishment of the area for which it is established;
- (c) the business and working of the local government of the area for which it is established.

(2A) Without limiting the functions and powers of an Aboriginal Council, a council may make by-laws for the purpose of regulating and controlling the possession or consumption of alcohol in the area for which it is established.

(3) Matters with respect to which an Aboriginal Council may exercise its powers and discharge its functions include—

- (a) the provision, construction, maintenance, management, and control of roads, bridges, viaducts, culverts, baths and bathing places;
- (aa) the undertaking and execution of work in connection therewith;
- (ab) the regulation of the usage thereof;
- (b) health, sanitation, cleansing, scavenging and drainage, the removal, suppression and abatement of nuisances, public conveniences, water conservation, agricultural drainage, village planning, subdivision of land, the usage and occupation of land, building, the usage and occupation of buildings, protection from fire, boundaries and fences, disposal of the dead, the destruction of weeds and animals;
- (c) works, matters and things that, in its opinion, are necessary or conducive to the good rule and government of the area or community for which the council is established or to the wellbeing of its inhabitants;
- (d) the doing of anything (other than the mere making available of information) that a local government within the meaning of the *Local Government Act 1993* is required or authorised to do by any other Act, other than the *Local Government Act 1993*.

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(3AA) Where any other Act, other than the *Local Government Act 1993*, requires or authorises a local government within the meaning of the *Local Government Act 1993* to do anything (other than the mere making available of information), then, for the purpose of applying that other Act in an area, that other Act shall be so construed that—

- (a) the expression local government therein shall be deemed to include the Aboriginal Council established for the area; and
- (b) the Aboriginal Council established for the area shall be the local government for the area to the exclusion of any local government within the meaning of the *Local Government Act 1993* for as long as the Aboriginal Council continues to assume the discharge of functions of local government of the area.

(3A) For the purpose of exercising its powers and discharging its functions an Aboriginal Council has, and it is hereby declared always has had, the powers to commence and carry on any business enterprise that, in the opinion of the Council, can be profitably or effectually carried on.

(4) The power conferred on an Aboriginal Council to regulate or control includes power to license or permit or to refuse to license or permit and to prohibit by by-law made in that behalf.

(5) Fees, charges, fares, rents, and dues may be imposed by by-law or resolution of an Aboriginal Council.

(6) A by-law of an Aboriginal Council may impose a penalty in respect of any breach thereof or of another by-law but any such penalty—

- (a) shall not exceed \$500; or
- (b) if it is expressed as a daily penalty—shall not exceed \$50 per day.

(7) For the purposes of exercising its powers and discharging its functions an Aboriginal Council may engage such servants and agents as it thinks fit.

Provisions concerning making of by-laws

26.(1) A by-law of an Aboriginal Council shall be made and shall take effect in accordance with the provisions of this section.

(2) A by-law shall be made by resolution of the council and shall be of no force or effect until it has been approved by the Governor in Council.

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(3) Before proceeding to make a by-law a notice of intention to make the proposed by-law shall be exhibited in at least 1 prominent place in the area for which the council is established.

(3A) Every such notice—

- (a) shall contain a copy of the proposed by-law; and
- (b) shall specify a date by which or a time within which objections to the making of the by-law may be made to the clerk of the council.

(4) Where, after considering all objections duly made to the making thereof, an Aboriginal Council has proceeded to the making of the by-law it shall submit the by-law to the Minister for the approval of the Governor in Council.

(4A) Every such submission shall be accompanied by—

- (a) a certificate of the chairperson and the clerk of the council that the provisions of subsection (3) have been complied with; and
- (b) all objections to the making of the by-law that were duly made and lodged with the clerk of the council; and
- (c) the representations (if any) of the council in respect of the objections; and
- (d) if section 68(2) applies—
 - (i) a certificate of the chairperson and the clerk of the council that section 68(2) has been complied with; and
 - (ii) the written consent of the grantees concerned to the making of the by-law.

(5) The Governor in Council shall consider every by-law submitted to the Minister and all objections and representations accompanying the submission and may reject the by-law or may approve the by-law wholly or in part.

(6) Where the Governor in Council approves a by-law or part of a by-law the Governor in Council's approval and the by-law or part shall be published in the Gazette and thereupon the by-law as approved shall have the force of law and shall not be questioned in any proceedings whatever.

(7) A by-law as approved shall come into operation on the date of its publication in the Gazette unless it specifies a later date for its

commencement, in which case it shall come into operation on such later date.

Subsequent action as to by-laws

27. Where a by-law made by an Aboriginal Council has been approved by the Governor in Council the council—

- (a) shall cause a copy of the by-law as approved to be exhibited for a reasonable time in at least 1 prominent place within the area for which it is established; and
- (b) shall cause a reasonable number of copies of the by-law as approved to be kept at the council's office and available to residents of the area for which it is established; and
- (c) may at any time repeal or amend the by-law by another by-law made in accordance with section 26.

Disclosure of interests at meetings

27A.(1) A member of an Aboriginal Council who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the council must, as soon as possible after the relevant facts have come to the member of the council's knowledge, disclose the nature of the interest at a meeting of the council.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the council and the member of the council should not—

- (a) be present during any deliberation of the council with respect to that matter; or
- (b) take part in any decision of the council with respect to that matter.

Area rate and other charges

28.(1) An Aboriginal Council may make and levy a rate upon such basis as is prescribed by by-law of the council.

(2) An Aboriginal Council may impose, demand and recover fees, charges, fares, rents and dues in respect of any property, service, matter or thing for the purpose of enabling it to discharge and exercise its functions

and powers.

Annual budget to be prepared

29. On or before the first ordinary meeting in the month of August in each year every Aboriginal Council is to cause to be framed the budget for the current year commencing on 1 July in the form and manner prescribed.

Separate budgets for funds

29A. Subject to section 29E, every Aboriginal Council is to cause to be framed a separate budget for each fund established and kept by it pursuant to the prescribed provisions.

Adoption of budget

29B.(1) Every budget is to be adopted by the Aboriginal Council concerned on or before 31 August in the year for which the budget is framed, and the rates or charges or both to be made and levied by the Aboriginal Council concerned for such year is to be founded thereon.

(2) Every budget adopted by an Aboriginal Council is to be open to inspection by persons resident in the trust area concerned.

Framing of budget

29C.(1) In framing the budget for the general fund, the Aboriginal Council is to estimate for the current year—

- (a) the amounts to be disbursed upon the several works, matters and things to which the general fund is applied as prescribed; and
- (b) the amounts expected to be received from the general rate and all other moneys to be paid into the general fund as prescribed.

(2) The estimates of receipts are to be set out as nearly as may be separately in accordance with the several sources of receipts and disbursements and as nearly as may be in accordance with each particular function, and where receipts and disbursements are for corresponding functions, such receipts and disbursements are to be set out opposite each other in the budget.

(3) The Aboriginal Council is, subject to this Act, to observe the budget by taking all reasonable steps to expend moneys in accordance with the budget and to ensure a balanced budget.

(4) If at the end of any year there is a surplus or deficit in any fund, that surplus or deficit is to be carried forward and in the case of an applicable fund is to be taken into account when framing the budget and when making and levying rates and charges in respect of that fund for the next ensuing year.

Unexpended votes to lapse

29D.(1) At the close of each year terminating on 30 June all authorisations of expenditure and votes of money therefor shall lapse.

(1A) Any vote so lapsing may be revoted.

(2) Any ordinary disbursement of an Aboriginal Council in the months of July and August in any year is authorised and is to be included in the budget for that year.

Budget provisions apply to other funds

29E.(1) The provisions of sections 29 to 29D are to apply and be observed in framing the estimates of receipts and disbursements in all other funds established and kept by an Aboriginal Council in pursuance of the prescribed provisions.

(2) Provided that in respect of an enterprise fund, nothing in this section shall prevent or be taken to prevent the transfer of any surplus or deficit as provided in the prescribed provisions.

Provisions in respect of loan repayments

29F. In framing the budget in respect of any established fund, an Aboriginal Council is to make provision for interest and redemption of any loan liability incurred by that Aboriginal Council.

Illegal expenditure

29G. If an Aboriginal Council makes any disbursement in any year from any fund which disbursement has not been provided for in the budget relating to such fund for such year, except in emergent or extraordinary circumstances, all the members of the Aboriginal Council who have knowingly voted for such expenditure shall be jointly and severally liable to repay to the Aboriginal Council the amount involved in such illegal disbursement, and any such amount may be recovered from such members or any of them by action in any court of competent jurisdiction at the suit of any elector of the trust area concerned or any creditor of the Aboriginal Council who, on recovery of the same, must pay the amount into the general fund or other such fund of the Aboriginal Council, but shall be personally entitled to full costs of suit, including costs as between solicitor and client.

Accounts

32.(1) An Aboriginal Council shall keep proper accounts to record the receipts and disbursements into and from each fund of the council, including such accounts as may be directed by the Minister.

(2) The chief executive or a person authorised by the chief executive is entitled to enter into and be in the area and premises of an Aboriginal Council, to inspect the records of accounts kept by that council and to make copies of or extracts from such records.

(3) Upon the request of the chief executive or such authorised person, a person having custody of the records of accounts on behalf of an Aboriginal Council shall produce the records in accordance with the request.

Preparation of financial statements

32A. Every Aboriginal Council must, as soon as practicable after 30 June but before 31 August in each year, prepare in respect of the year ended on 30 June annual financial statements in a form as prescribed and submit such statements to the auditor appointed for that council pursuant to this Act.

Certification of annual financial statements

32B. The chairperson and the clerk of the Aboriginal Council concerned must certify—

- (a) that the annual financial statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the council;
- (b) whether in their opinion—
 - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
 - (ii) the statements have been drawn so as to present a true and fair view, on a basis consistent with that applied in the year last preceding, of the transactions of the council for the year and the financial position as at the close of that year.

Auditor-General to audit accounts of council

32C.(1) The accounts of every Aboriginal Council are to be audited by the Auditor-General who shall have, with respect to such audit and accounts, all the powers and authorities conferred on him or her by the *Financial Administration and Audit Act 1977*.

(2) The Auditor-General may appoint a person who in the opinion of the Auditor-General is appropriately qualified to perform the audit of any Aboriginal Council that is required under this Act.

(3) The auditor or auditors for an Aboriginal Council are to be paid out of the general fund of the council such remuneration as the Auditor-General may fix.

(4) When an officer of the Audit Office is appointed to be the auditor for an Aboriginal Council the amount fixed as his or her remuneration shall be paid by the Aboriginal Council to the Auditor-General.

Auditor-General to certify annual financial statements

32D.(1) The Auditor-General is to certify on and in respect of the annual financial statements and may certify in respect of other statements of

account prepared on behalf of every Aboriginal Council whether or not—

- (a) he or she has received all the information and explanation required by him or her; and
- (b) such statements are in the form required by the prescribed requirements and are in agreement with the accounts; and
- (c) in his or her opinion—
 - (i) the requirements of this Act have been complied with in all material respects in respect of the establishment and keeping of accounts; and
 - (ii) the statements have been drawn up so as to present a true and fair view, on a basis consistent with that applied in the year last preceding, of the transactions of the council for the year then ended and of the financial position as at the close of that year.

(2) The Auditor-General is to transmit the certified annual financial statements and other certified financial statements to the Aboriginal Council concerned.

Presentation of annual financial statements

32E.(1) The annual financial statements of an Aboriginal Council in respect of a particular year, as soon as practicable after certification by the Auditor-General, must be—

- (a) reproduced in the same form and content as the documents certified and must include the management and audit certificates, names of signatories and dates that certificates were signed; and
- (b) tabled at the next ordinary meeting of the Aboriginal Council and be made available for and remain open to inspection by persons resident in the trust area during such reasonable times and at such place as are determined by the council.

(3) No annual financial statement or copy of it is to be made available to any person other than the Auditor-General or person acting on his or her behalf or a councillor or officer of the council until such statement has been audited and certified.

Access to accounts

32F.(1) Without prejudice to the powers conferred by any other provision of this Act or by any other Act or law, the Auditor-General or an auditor appointed by him or her shall, at all reasonable times, have full and free access to all accounts required by this Act to be audited by the Auditor-General and to all moneys and property relating to such accounts that are in the possession of any person and may make copies of or extracts from those accounts.

(2) A person who has in his or her possession any accounts, moneys or property referred to in subsection (1) must, at all reasonable times, upon request by the Auditor-General or an auditor appointed by him or her, produce to the Auditor-General or the auditor such accounts, moneys or property as are specified in the request.

Power to require furnishing of information and the like

32G.(1) The Auditor-General or an auditor appointed by him or her may require any person having responsibility with respect to accounts that are subject to audit by the Auditor-General to furnish to him or her such information, advice or explanation as he or she thinks necessary with respect to the audit and a person so required must furnish the information, advice or explanation required to be furnished.

(2) The Auditor-General may at any time cause a search to be made of and extracts taken from any account, book, document or record in the custody of an Aboriginal Council without payment of any fee.

General reporting provisions

32H.(1) The Auditor-General may prepare a report on any audit performed under this Act by him or her or by an auditor appointed by him or her in accordance with this Act.

(2) A person appointed by the Auditor-General under section 32C(2) is to prepare a report on every audit performed by him or her under this Act and forward it to the Auditor-General.

(3) Where the Auditor-General is of the opinion that any observations or suggestions made in a report under this section require attention or further consideration he or she is to forward the observations and suggestions and

his or her comments to the chairperson of the Aboriginal Council who must table them at the next ordinary meeting of the council.

(4) Where the Auditor-General is of the opinion that the observations and suggestions made under subsection (3) are of major significance the Auditor-General is to forward the report and his or her comments to the Minister.

Financial statements

33.(1) The clerk of an Aboriginal Council must cause to be prepared and furnish to the chairperson of the Aboriginal Council at the beginning of each month a statement of receipts and disbursements with respect to each fund of the council during the month.

(2) The clerk of an Aboriginal Council shall certify whether the statements furnished by the clerk under subsection (1) are in agreement with the accounts of the council.

Borrowing powers

34.(1) An Aboriginal Council may enter into financial arrangements under Part 4 of the *Statutory Bodies Financial Arrangements Act 1982*.

(2) Section 442 (Councillors' liability for unauthorised borrowings) of the *Local Government Act 1993* applies to an Aboriginal Council as if it were a local government and its members were councillors of the local government.

Short-term investment powers

35.(1) An Aboriginal Council may invest moneys that are temporarily surplus in any fund kept by it—

- (a) in securities issued or guaranteed by the Government of the Commonwealth or of a State or Territory of the Commonwealth;
- (b) with or on deposit with a bank or in securities issued guaranteed or accepted by a bank;
- (c) with any authorised dealer in the short-term money market with established lines of credit with the Reserve Bank of Australia as

lender of last resort;

- (d) in such other securities, investments or other financial arrangements as may be recommended by the Treasurer and approved by the Governor in Council;

provided that no such investment shall have a term in excess of 12 months except with the Treasurer's approval first had and obtained.

(2) Every security, safe custody acknowledgment or other document evidencing title issued in respect of any investment shall be held by the Aboriginal Council concerned or by the Treasurer on its behalf.

Division 2—Law and order in areas

Jurisdiction and powers of police

36.(1) Police officers have and may exercise in any area and in respect of persons therein the functions, duties and powers imposed or conferred on them by law that they have and may exercise in any other part of Queensland.

(2) In respect of the discharge or exercise in an area of any function, duty or power a police officer has the protection accorded by law to a police officer in the discharge or exercise of that function, duty or power elsewhere in Queensland.

(3) Police officers are authorised to perform such acts and do such things in an area as may be authorised or required to be done by Aboriginal police under the by-laws of the Aboriginal Council established for that area as if such by-laws were part of the law of Queensland.

(4) In respect in the performance in an area of any act or thing referred to in subsection (3) a police officer has the protection accorded by law to a police officer in the discharge or exercise by the officer of the officer's functions, duties and powers elsewhere in Queensland.

Entry upon trust areas etc.

37. A police officer is entitled to enter on and to be in an area—

- (a) for the purpose of discharging or exercising a function, duty or

power imposed or conferred on the officer by law; or

- (b) for the purpose of performing any act or thing that the officer is by this Act authorised to perform pursuant to an authority or requirement of a by-law of an Aboriginal Council;

and, in the case referred to in paragraph (b), the officer shall be deemed to be acting in the discharge of the officer's duty as a police officer.

Application to trust areas of laws relating to public places

38.(1) For the purpose only of applying the provisions of laws in force in respect of any public place in Queensland to trust areas—

- (a) the right of access to or use of any place in an area by the general body of persons resident in the area is to be taken to have effect in law as if it were a right of access or use by the public; and
- (b) where any place would, but for its being in such an area, be taken in law to be a public place, road, park or place of any other description it is to be taken so to be notwithstanding that it is in the area in question.

(2) This section is not to be construed as conferring on any person a right of entry to trust areas.

Aboriginal police

39.(1) The function of maintaining peace and good order in all parts of an area is that of persons who hold appointments for the time being as Aboriginal police for the area.

(2) An Aboriginal Council, with the Minister's approval, may appoint such number of persons as it considers necessary for the peace and good order of its area and the council shall equip the persons appointed with a uniform and such other marks of authority as it thinks fit to enable them to discharge their function.

Discharge of Aboriginal police function

40.(1) Aboriginal police appointed for an area shall have and may exercise within that area the functions, duties and powers conferred on them

by by-law of the Aboriginal Council established for the area.

(2) If at any time a police officer is, in execution of the officer's duty, stationed in or present in the area for which Aboriginal police are appointed they shall discharge and exercise their functions, duties and powers subject to the direction and control of that police officer.

(3) It is lawful for an Aboriginal police officer to use reasonable force in the discharge of the officer's function of maintaining peace and good order in the area for which the officer is appointed.

Other functions of Aboriginal police

41. An Aboriginal Council may by its by-laws or otherwise as it thinks fit charge Aboriginal police appointed for the area for which the council is established with responsibility for ambulance services, firefighting services, emergency services and such other services associated with the local government of the area as it thinks fit.

Indemnification of Aboriginal police officer for liability for tort

41A.(1) If—

- (a) an Aboriginal police officer incurs legal liability for committing a tort while acting, or purporting to act, in the execution of duty as an officer; and
- (b) the officer acted honestly and without gross negligence;

the State may indemnify the officer for the liability.

(2) If—

- (a) an Aboriginal police officer incurs legal liability for helping, directly or indirectly, a person suffering, or apparently suffering, from illness or injury in circumstances that the officer reasonably considers to be an emergency; and
- (b) the officer acted honestly and without gross negligence;

the State must indemnify the officer for the liability.

Division 3—Determination of matters of complaint in areas

Aboriginal Courts

42.(1) For any area there may be constituted a court under the title, Aboriginal Court.

(2) An Aboriginal Court shall be constituted—

- (a) by 2 justices of the peace each of whom is an Aborigine resident in its area and is a person not disqualified by subsection (3) to sit as a member of the court in the case in question; or
- (b) where paragraph (a) cannot be readily complied with—by the members of the Aboriginal Council established for its area who are persons not disqualified by subsection (3) to sit as a member of the court in the case in question or by a majority of such members.

(3) A person is not entitled to sit as a member of an Aboriginal Court constituted to hear and determine a matter in which the person is a party.

(4) In this section—

“justice of the peace” means—

- (a) a justice of the peace preserved in office by section 41(a) of the *Justices of the Peace and Commissioners for Declarations Act 1991*; or
- (b) a justice of the peace (magistrates court) holding office under the *Justices of the Peace and Commissioners for Declarations Act 1991*.

(5) For the purposes of this Division, the powers of a person who holds office as a justice of the peace (magistrates court) under the *Justices of the Peace and Commissioners for Declarations Act 1991* are not affected by section 29(4) of that Act.

Jurisdiction of Aboriginal Courts

43.(1) Subject to this Act, an Aboriginal Court has and may exercise the jurisdiction, powers and authorities conferred on it—

- (a) by this Act; or
- (b) by the by-laws of the Aboriginal Council established for the area for which the court is constituted.

- (2) An Aboriginal Court has jurisdiction to hear and determine—
- (a) matters of complaint that are breaches of the by-laws applicable within its area;
 - (b) disputes concerning any matter that—
 - (i) is a matter accepted by the community resident in its area as a matter rightly governed by the usages and customs of that community; and
 - (ii) is not a breach of the by-laws applicable within its area or of a law of the Commonwealth or the State or a matter arising under a law of the Commonwealth or the State;
 - (c) matters committed to its jurisdiction by the regulations;

and shall exercise that jurisdiction referred to in paragraph (a) in accordance with the appropriate by-law having regard to the usages and customs of the community within its area and that jurisdiction referred to in paragraph (b) in accordance with the usages and customs of the community within its area.

(3) The decision of an Aboriginal Court that any matter before it is a matter of a description referred to in subsection (2)(b)(i) shall be final and conclusive and no proceeding shall be brought or heard to restrain the Aboriginal Court from disposing of a dispute concerning that matter by reason that such a decision is incorrect.

Limitation of jurisdiction

44. On and after the date of commencement of section 16 of the *Community Services (Aborigines) Act Amendment Act 1990* the jurisdiction of an Aboriginal Court extends to any persons, whether Aborigines or not, who are in or enter upon the area for which the court is constituted.

Right of appeal against conviction

45. Any person aggrieved by his or her conviction of an offence by an Aboriginal Court shall have the same right of appeal against or review of the conviction and order made thereon as if the person had been convicted and the order had been made by a Magistrates Court and the provisions of the *Justices Act 1886* shall, with all necessary adaptations, apply in respect of

that right and the exercise thereof.

Division 4—Authorised officers

Authorised officers

45A.(1) An Aboriginal Council may appoint any person to be an authorised officer for the trust area for such period as the council specifies, to protect the natural and cultural resources of the area.

(2) Subject to subsection (3), an authorised officer appointed under subsection (1) is to perform such functions and duties and may exercise such powers as are prescribed in the by-laws for the area in which the authorised officer is appointed, which by-laws may have regard to Aboriginal custom, tradition and belief.

(3) An authorised officer may only perform a function or exercise a power, in respect of Aboriginal land in the area for which the authorised officer is appointed, under an agreement between the Aboriginal Council and the grantees of the land.

General powers of authorised officers

45B.(1) An authorised officer, in addition to such other powers and duties as from time to time devolve upon that officer under this Act or the by-laws for the area may—

- (a) call to his or her aid any police officer or member of the Aboriginal police for the area where he or she has reasonable cause to apprehend any obstruction in the exercise of his or her powers or in the execution of his or her duties;
- (b) be accompanied and aided by any person the officer may think competent to assist him or her in making any inspection or examination for the purposes of the by-laws for the area;
- (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or the relevant by-laws have been or are being complied with by any person or in respect of the area concerned;

- (d) at any time, stop any vehicle or vessel that he or she suspects on reasonable grounds to be used in the commission of a breach of the by-laws for the area and search and examine that vehicle or vessel and all containers or other receptacles for any evidence of such a breach, and for that purpose may require the owner or person in charge thereof to open any such vehicle, vessel, container or other receptacle and expose its contents to view;
- (e) perform such other functions and duties and exercise such other powers and authorities as may be prescribed in the by-laws for the area concerned.

(2) An authorised officer who—

- (a) finds any person committing or believes on reasonable grounds that any person has committed an offence against this Act or the relevant by-laws; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act or those by-laws has been committed by any person; or
- (c) is of the opinion that the name, age and address or place of residence of any person is required for the purpose of giving effect to any provision of this Act or the relevant by-laws, or for the purpose of enabling the authorised officer to carry out his or her powers and duties under this Act or the relevant by-laws;

may require such person to state his or her name, age and address or place of residence, and, if the authorised officer believes on reasonable grounds that any information given in this regard is false, may require evidence of the correctness thereof.

(3) A person who fails to comply with a request of an authorised officer under subsection (2) commits an offence against this Act.

Maximum penalty—\$200.

PART 4—ABORIGINAL COORDINATING COUNCIL

Continuation and incorporation of Aboriginal Coordinating Council

46.(1) The body known as the Aboriginal Advisory Council existing at the commencement of this Act shall continue in being under the name Aboriginal Coordinating Council and be constituted from time to time in accordance with this Part.

(2) The Aboriginal Coordinating Council shall be a body corporate having perpetual succession and an official seal which shall be judicially noticed and shall, under its name, be capable in law of suing and being sued, of acquiring, holding (absolutely or subject to trusts), letting, leasing, hiring, disposing of and otherwise dealing with property real and personal and of doing and suffering all such acts and things as bodies corporate may in law do and suffer.

Membership of council

47.(1) On and from the passing of the *Community Services (Aborigines) Act Amendment Act 1986* the Aboriginal Coordinating Council shall be constituted by—

- (a) the persons who are chairpersons of the Aboriginal Councils; and
- (b) a number of persons (equal to the number of Aboriginal Councils) consisting of 1 person selected by each Aboriginal Council and being a member of the council by which the person is selected.

(2) A person selected by an Aboriginal Council under subsection (1) to be a member of the Aboriginal Coordinating Council may be selected for such period, not extending beyond the date of the next triennial election of the Aboriginal Council, as that council nominates at the time the selection is made but if no such period is nominated, the person shall be deemed to have been selected for a period expiring upon the date of the next triennial election of the Aboriginal Council.

(3) Each member of the Aboriginal Coordinating Council may from time to time appoint another member of the Aboriginal Council of which the member is chairperson or a member, as the case may be, to be his or her delegate to the Aboriginal Coordinating Council.

(4) In the event of a member of the Aboriginal Coordinating Council being unable to attend a meeting of that council or a meeting of the executive

committee of that council (if the member is a member of the executive committee) the member's delegate appointed for the time being shall be entitled to attend the meeting in place of the member and for that purpose shall have and may exercise the powers and entitlements of the member by whom he or she is appointed for the time being as a delegate except the powers and entitlements had by that member by reason of that member being chairperson or deputy chairperson of that council.

Functions of council

48.(1) The functions of the Aboriginal Coordinating Council are—

- (a) to consider and advise any person on matters affecting the progress, development and wellbeing of Aborigines; and
- (b) to recommend to the Minister and the chief executive concerning matters affecting the progress, development and wellbeing of Aborigines and the administration of this Act; and
- (c) from time to time to select as prescribed 4 persons who are members of Aboriginal communities resident in trust areas in Queensland to be members of the Aboriginal Industries Board and 4 persons, being members of the Aboriginal Coordinating Council, to be members of an executive committee of the council; and
- (d) from time to time to select 1 person who is a member of an Aboriginal community resident in a trust area in Queensland to be a member of the Aboriginal Industries Board; and
- (e) to accept grants or loans of money from the Government of the Commonwealth or the State or contributions of money from any other source and, subject to subsection (2), to expend that money in accordance with the terms and conditions on which the money is received or, if there be no such terms and conditions, in securing the progress, development and wellbeing of Aborigines in all or any of the areas; and
- (f) to establish and operate such lawful businesses as the council thinks fit, for the promotion, progress, development and wellbeing of Aborigines; and
- (g) to act on behalf of 1 or more of the Aboriginal Councils for such

lawful purposes as are requested of it by the Aboriginal Council or Councils concerned; and

- (h) to employ such agents and servants as are necessary for the proper and efficient discharge of its functions and powers under this Act; and
- (i) to make, perform, and enter into and upon all such lawful contracts, transactions and activities as are necessary or expedient for the efficient conduct of any business operated by it or for the proper discharge of any of its functions; and
- (j) to attend to such other matters as are prescribed.

(2) The Aboriginal Coordinating Council shall not expend money for works or any purpose within any area until it has first consulted with the Aboriginal Council established for that area and the Aboriginal Council has approved of the works or purpose.

Meetings of council

49. The members of the Aboriginal Coordinating Council shall meet at such times and places as are approved by the Minister and may meet at such other times and places as they determine.

Divisions of Aboriginal communities

50.(1) For the purpose of the selection of members of the Aboriginal Industries Board and the executive committee under section 48(c) the Minister shall (and may from time to time) delineate, by such means as the Minister thinks fit, the communities of Aborigines resident in trust areas in Queensland into 4 divisions.

(2) The membership of the Aboriginal Coordinating Council shall be deemed to be divided into 4 divisions corresponding to the divisions delineated for the time being by the Minister, each division being represented on that council by the members thereof who are members of communities of Aborigines resident in that division.

Selection of Board members

51.(1) For the purpose of the selection of members of the Aboriginal Industries Board and the executive committee under section 48(c) the members of each division referred to in section 50(2) shall select 1 person, being a member of a community of Aborigines resident in that division, to be a member of the Board or, as the case may be, the executive committee.

(1A) The appointment of a member of the Aboriginal Industries Board under section 48(d) shall be made by the whole of the Aboriginal Coordinating Council and the appointee shall be a member of any of the Aboriginal communities resident in trust areas in Queensland.

(2) A person selected to be a member of the Aboriginal Industries Board or, as the case may be, the executive committee under section 48 or to fill a casual vacancy in the office of such a member shall hold office as such member until the person dies or resigns or a successor is selected as prescribed in the person's place or in the case of a member of the executive committee the person ceases to be a member of the Aboriginal Coordinating Council.

(3) A successor to a member of the Aboriginal Industries Board or the executive committee selected under this Part may be selected at any time in the same manner as that member was selected.

(4) A person selected under this Part to be a member of the Aboriginal Industries Board or the executive committee shall be taken to have assumed office when the person's name is notified by the Aboriginal Coordinating Council to the Minister.

Casual vacancy in office of selected member

52. In the event of a vacancy occurring in the office of a member of the Aboriginal Industries Board or of the executive committee selected under this Part—

- (a) if the member was selected by a division of the members of the Aboriginal Coordinating Council—the members of the division by whom the member was selected shall select a person, being a member of a community of Aborigines resident in the corresponding division of Aboriginal communities, to hold the office; and

- (b) if the member was selected otherwise—the Aboriginal Coordinating Council shall select a person, being a member of a community of Aborigines resident in a trust area in Queensland, to hold the office.

Particular functions of council

53.(1) The Aboriginal Coordinating Council shall apply property acquired by it (other than property acquired by it for its own use) towards the progress, development and wellbeing of the communities of Aborigines resident in trust areas by such means as, in its opinion, are best calculated to achieve the purpose.

(2) As soon as is practicable after the expiration of 4 years after the commencement of this Act the Aboriginal Coordinating Council shall furnish to the Minister a report concerning the operation of this Act and with that report shall submit its recommendation as to—

- (a) changes in the provisions and administration of this Act that in its opinion should be made to assist the progress, development and wellbeing of communities of Aborigines resident in Queensland;
- (b) such other matters as it considers appropriate.

(3) The Minister shall submit the report and recommendations furnished under subsection (2) to the Governor in Council within 28 days after they are furnished to the Minister.

Budget of Aboriginal Coordinating Council

53A.(1) The Aboriginal Coordinating Council shall be subject to, shall comply with and may exercise the powers of investment under the provisions of sections 29 to 33 and section 35 as if that council were an Aboriginal Council established under this Act, subject however to the following modifications—

- (a) section 29(2) shall be read as if the words ‘rates and charges to be levied’ were the word ‘disbursements’;
- (c) section 32(1) shall be read as if the second and third paragraphs thereof were deleted.

Borrowing powers

53B.(1) For the purpose of enabling it to discharge its functions and powers under this Act the Aboriginal Coordinating Council may borrow money in such amount, on such security (if any) and on such terms and conditions as the Minister approves.

(2) The council shall not enter into negotiations for borrowing money except with the Minister's approval first had and obtained.

PART 5—ABORIGINAL INDUSTRIES BOARD

The Board

54.(1) There shall be established a Board called 'The Aboriginal Industries Board', which in this Act is called the "**Board**" or the "**Aboriginal Industries Board**".

(2) Upon its constitution the Board shall be a body corporate under the name the Aboriginal Industries Board and by that name shall have perpetual succession and an official seal, which shall be judicially noticed.

Membership of Board

55.(1) The Board shall consist of—

- (a) the chief executive; and
- (b) 3 persons appointed by the Governor in Council by notification published in the Gazette; and
- (c) the 5 members for the time being selected by the Aboriginal Coordinating Council.

(1A) The persons appointed to the Board by the Governor in Council shall hold office at the Governor in Council's pleasure.

(2) For a period of 5 years after the commencement of this Act the chairperson of the Board shall be the chief executive and thereafter the chairperson shall be a member of the Board nominated by the members for the time being.

(3) The Board shall be taken to be duly constituted upon—

- (a) the appointment as prescribed of the 3 members referred to in subsection (1)(b); and
- (b) the assumption of office as prescribed by section 51 by the 5 members referred to in subsection (1)(c).

Casual vacancy in appointed members of Board

56. In the event of a vacancy occurring in the office of a member of the Board appointed by the Governor in Council the Governor in Council shall appoint another person to hold the office at the pleasure of the Governor in Council.

Board meetings

57.(1) A quorum of members of the Board shall consist of a majority of those members including the chairperson or a person nominated by the chairperson as the chairperson's delegate for a particular meeting.

(2) The chairperson of the Board shall preside at every meeting of the Board at which the chairperson is present and a person nominated by the chairperson as the chairperson's delegate shall preside at any other meeting of the Board.

Officers and employees of Board

58.(1) Subject to the Minister's direction (if any) in that behalf the Board—

- (a) shall appoint a secretary to the Board;
- (b) may appoint such administrative and technical officers and clerks and employ such employees and agents as it considers necessary to the proper exercise of its powers and discharge of its functions.

(2) The secretary to the Board may execute documents on behalf of the Board, and may affix the official seal of the Board to any document that requires the same and shall perform such duties as are assigned to the secretary by the Board.

(3) Unless the secretary is appointed to the secretary's position under the

Public Service Management and Employment Act 1988 the secretary to the Board and every officer, clerk, employee and agent of the Board shall hold office or be so employed at the pleasure of the Board.

(4) The chairperson of the Board shall be its executive officer and is charged with control of and shall control the affairs of the Board and of any business conducted by the Board.

Powers of Board

59.(1) The Board is capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts and sums of money due to it, of acquiring, holding, alienating, leasing, conveying, surrendering, charging and otherwise dealing with property within or outside the State, and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) The Board may—

- (a) carry on the business of banker, blacksmith, building, carpenter, commission agent, common carrier (by land or water), dealer (wholesale or retail), engineer, exporter, factor, farmer, fisher (including the gathering of pearl-shell, trochus-shell, and beche-de-mer), forwarding agent, freight contractor, general merchant, grazier, importer, ironworker, joiner, labour agent, lighter navigator, manufacturer, mining, moneylender, plumber, shipping agent, ships' Chandler, ship-broker, shipbuilder, shipowner, shopkeeper, stevedore, storekeeper, timber merchant, tinsmith, trustee, warehouse keeper, wharfinger, and any other business incidental or ancillary to any of the businesses specified or which, in the Board's opinion can be profitably or effectually carried on in connection with any of the business specified;
- (b) acquire, lease, erect, maintain and renovate such buildings, wharves, vessels, tramways, plant and machinery, and undertake such works as, in the Board's opinion, are necessary or desirable for the proper exercise of the powers conferred on it by this Act;
- (c) obtain and disseminate information with respect to the best manner of carrying on any business specified or referred to in paragraph (a), undertake the instruction of Aborigines and other persons in any such business and, for that purpose, establish,

maintain and conduct such schools and classes as the Board considers necessary or desirable and enter into contracts of apprenticeship;

- (d) for the purpose of carrying on any business specified or referred to in paragraph (a), exercise all such powers, authorities and discretions and do all such acts and things as a natural person conducting such a business in the State might exercise and do;
- (e) cause investigations to be made and, from time to time, report and recommend to the chief executive concerning—
 - (i) any question touching trade, commerce or business carried on by Aborigines or in which they are interested or engaged;
 - (ii) markets for the produce of Aborigines, trade in and methods of marketing such produce;
 - (iii) the encouragement, development and protection of the trade, commerce and industries of Aborigines;
- (f) finance any business specified or referred to in paragraph (a) and, for that purpose, raise money on loan from the Treasurer, the Corporation, the Corporation of the Agricultural Bank, or any bank, financial institution, or person and mortgage or assign by way of security property of the Board (including the rights of the Board under contracts made with Aboriginals or other persons in connection with any such business).

Profits of Board

60. No part of the profits of the Board shall be paid into Consolidated Fund but shall be applied for the general welfare of Aborigines in such manner as the Board from time to time directs with the approval of the Governor in Council.

Audit of Board's accounts

61.(1) The accounts of the Board shall be audited by the Auditor-General or by a person authorised by the Auditor-General, each of whom shall have with respect to such audit and accounts all the powers and authorities conferred on the Auditor-General by the *Financial Administration and*

Audit Act 1977 as if the Board were a department of government.

(1A) The Board shall pay a fee for such audit in an amount determined by the Auditor-General.

(2) The Auditor-General shall, at least once in each year, report to the Minister the result of each audit carried out pursuant to this section and shall, if the Auditor-General thinks fit, include with the report recommendations to the Minister with respect to the accounts of the Board.

(2A) A copy of such report and recommendation shall be furnished to the chairperson of the Board who shall submit the report and recommendations to the Board at its first ordinary meeting held after the report and recommendations are received by the chairperson.

(3) The Minister and the Board's chairperson shall give due consideration to the report and recommendations of the Auditor-General made pursuant to subsection (2).

Annual report by Board

62. As soon as is practicable after 1 February in each year the Board shall furnish to the Minister a full report of its operations during the 12 months period that expired on 31 January then last past.

Administrator may replace Board members

63.(1) The Governor in Council may at any time, on the recommendation of the Minister, dismiss the members for the time being of the Board, whereupon they shall cease to hold office, and may from time to time appoint in the place of those members an administrator to administer the Board's affairs.

(2) A person appointed as administrator under subsection (1) shall administer the Board's affairs for a period specified by the Governor in Council, not exceeding in any case a period of 2 years, unless within that specified period the person's appointment is revoked by the Governor in Council.

(3) The continuity of existence of the Board as a body corporate shall not be affected by a dismissal of members under subsection (1) and, for so long as the administrator administers the Board's affairs, the administrator shall

be taken to constitute the Board.

(4) Upon an administrator ceasing to administer the Board's affairs by reason of the expiration of the period of the administrator's appointment or the revocation of the administrator's appointment the Board shall again be constituted by the persons referred to in section 55(1).

Relinquishment of Board's assets to local control

64.(1) If the Board receives a request in writing from an Aboriginal Council established for an area in which are situated premises in which the Board's business is carried on that the conduct of that business be transferred to it or to 1 or more members of the community resident in the area, the Board may as soon as is practicable, enter into such contracts, transactions and arrangements as are necessary or desirable to transfer the conduct of the business to the council or to such member or members or other member or members of that community.

(2) In discharge of the obligation prescribed by subsection (1) the Board shall have regard to the resources of the person or persons to whom it is proposed that the conduct of the business in question should be transferred and may transfer the conduct of the business on such terms and in such manner as it considers appropriate and prudent.

(3) Any person aggrieved by the terms on which or manner in which the Board proposes to transfer the conduct of a business to the person may apply to the Minister to review those terms or that manner.

(4) The Minister may, after receiving the representations of the Board and the applicant and making such inquiry as the Minister thinks fit, either confirm the Board's decision or vary it to such extent and in such manner as the Minister thinks fit.

(5) The Minister's decision shall be final and binding and shall be given effect by the Board and all persons concerned.

PART 6—ENTRY UPON AREAS

Entry upon public parts of areas

65.(1) Any person is authorised to enter upon and be in any public place, road, park or other place of public resort within an area or any place of business within an area in the course of visiting the area or doing business within the area, if the person is there for a lawful purpose.

(2) Any person is authorised to enter upon and be in any place within an area, other than a place referred to in subsection (1), if the person is there for a lawful purpose as a guest or at the request of a member of the community resident in the area who is entitled to be in that place.

General authority to be in area

66.(1) Subject to this Part—

- (a) an Aborigine or other person who, in either case, is a member of the community resident in an area; or
- (b) a person who is discharging a function under this Act or any other Act that requires the person's presence in an area;

is authorised to enter upon, be in and reside in that area.

Entry upon and temporary stay in areas

67.(1) The following persons are authorised to enter upon and to be in any area and to remain therein until the purpose of their entry to the area is fulfilled—

- (a) the Governor-General of Australia and the Governor of Queensland;
- (b) a person whose purpose in the area is to bring to residents of the area religious instruction, material comforts or medical aid;
- (c) a person whose purpose in the area is to instruct himself or herself on affairs within the area as a member of the Legislative Assembly of Queensland or of either House of the Parliament of the Commonwealth;

- (d) a person whose purpose in the area is to campaign as a bona fide candidate for election to the Legislative Assembly of Queensland or either House of the Parliament of the Commonwealth at an election for which a writ that requires its holding has been duly issued;
- (e) a person who is assisting or is acting under the direction or control of a person referred to in paragraphs (a) to (d), if such last mentioned person is in the area.

(2) A person shall not be taken to have the purpose of bringing religious instruction to residents of an area referred to in subsection (1) unless the person is a person or is of a class of person ordinarily used by a church or other religious organisation, which itself is recognised as such throughout Australia, as a religious instructor.

Power of Aboriginal Council to regulate presence in area

68. An Aboriginal Council may—

- (a) make by-laws that authorise persons of a class specified therein to enter, be in or reside in the area for which it is established; or
- (b) make by-laws not inconsistent with this Act that exclude persons of a class specified therein from the area for which it is established or that prohibit or restrict persons of a class specified therein from entering, being in or residing in that area.

(2) An Aboriginal Council must not make a by-law under this section in respect of Aboriginal land in its area unless—

- (a) the grantees of the land—
 - (i) have consented to the proposed by-law; and
 - (ii) have explained to the Aboriginal people particularly concerned with the land the nature, purpose and effect of the proposed by-law; and
- (b) the Aboriginal people have been given adequate opportunity to express their views on, and are generally in agreement with, the proposed by-law; and
- (c) it has subsequently given the Aboriginal people notice of not less than 1 month of its intention to make the by-law.

(3) If land immediately before becoming Aboriginal land was subject to a by-law made by an Aboriginal Council under this section, the by-law continues in force, but expires 1 year after the land becomes Aboriginal land.

Excluded person entitled to reason

69. Any person who is aggrieved by being excluded or prevented from entry upon, being in or residing in an area or by his or her entry upon, presence or residence in an area being restricted shall be entitled, upon demand therefor, to be given by the Aboriginal Council concerned a notice in writing of the reason therefor.

Power of Aboriginal Council to eject

70.(1) In addition to all other powers had by it to remove persons from land of which it is trustee or occupier an Aboriginal Council may cause its agents to remove from the area for which it is established—

- (a) any person who is there without authority conferred by this Act or the by-laws of the council;
- (b) any person—
 - (i) who belongs to a class of person that is excluded from the area by its by-laws;
 - (ii) who belongs to a class of person whose entry to the area is prohibited by its by-laws;
 - (iii) who, being a member of a class of person whose entry to, being in or residing in the area is restricted by its by-laws, has contravened or failed to comply with the relevant by-laws.

(2) Any police officer, upon being requested so to do by an agent of an Aboriginal Council, shall assist in the summary removal of any person under this section and, while so acting, is authorised to be in the area concerned.

(2A) No liability shall attach to any police officer by reason only of the fact that a person in whose removal from an area the officer has assisted should not have been so removed.

(3) It is lawful to use reasonable force in the exercise of the power conferred by subsection (1) and in assisting therein.

PART 7—ASSISTANCE SOUGHT BY ABORIGINES

Grant of aid

71.(1) Subject to and in accordance with the regulations (if any) applicable to the grant in question, the chief executive may grant aid to any Aborigine who applies to the chief executive therefor and, where necessary, may apply therein money appropriated by Parliament for the purpose or money held for the benefit of Aborigines generally.

(2) Subject as prescribed by subsection (1), aid granted under that subsection may be of such a type (in money, in kind, or by way of services) and may be granted in such circumstances, on such terms and conditions and, where granted by way of secured loan, on such security as the chief executive thinks fit.

Deposit of savings with banker

72.(1) The chief executive is authorised to continue the facilities established as at the commencement of this Act in areas for the acceptance by the chief executive of money deposited by Aborigines by way of their savings and both the chief executive and the Aboriginal Industries Board are authorised to establish in areas new facilities of a like nature.

(1A) In this Part the person providing such facilities is called “**the banker**”.

(2) The banker shall in the first instance pay all moneys deposited with the banker by Aborigines by way of their savings—

- (a) where the banker is the chief executive—to the credit of the trust fund established as at the commencement of this Act with the Commonwealth Savings Bank of Australia or such other trust fund or trust funds as the banker may from time to time establish for the purpose; or

- (b) where the banker is the Board—to the credit of such trust fund or trust funds as it may from time to time establish for the purpose.

(3) The banker shall cause to be properly kept a separate record and account of all moneys deposited with the banker by each Aborigine by way of his or her savings and each such account shall be credited at least once in each year with an amount as interest earned by the amount standing to the credit of that account at a rate not less than the rate of interest payable by the Commonwealth Savings Bank of Australia in respect of its ordinary savings accounts.

(4) Money deposited with the banker by Aborigines by way of their savings together with all interest accrued thereon shall be repayable at call and upon receipt of an authority signed or otherwise attested by the Aborigine on whose behalf money is so held or by another person authorised in writing by the Aborigine the chief executive shall arrange the withdrawal of the amount sought from the appropriate trust fund and the payment thereof to the Aborigine or as otherwise requested by the Aborigine.

Continuation of management of money

73.(1) Where at the commencement of this Act property, being money, of an Aborigine is being managed under the *Aborigines Act 1971* the chief executive is authorised to continue that management.

(2) Moneys of an Aborigine under the management of the chief executive pursuant to subsection (1) shall be deemed to be moneys deposited with the chief executive by the Aborigine by way of his or her savings and the provisions of section 72 shall apply accordingly.

Investment of moneys by banker

74.(1) Moneys from time to time forming part of the trust fund or a trust fund referred to in section 72(2) that are surplus to the immediate requirements of the fund may be withdrawn by the banker and may be invested by the banker or through the Treasurer—

- (a) with any authorised dealer in the short-term money market with established lines of credit with the Reserve Bank of Australia as lender of last resort; or

- (b) in such securities, investments or financial arrangements as may be recommended by the Treasurer and approved by the Governor in Council.

(2) No investments or moneys pursuant to subsection (1) shall have a term in excess of 12 months except with the Treasurer's approval first had and obtained.

Administration of Aborigines' estates

75.(1) In the absence of a testamentary instrument duly made by an Aborigine who has died or is to be presumed to have died and if it should prove impracticable to ascertain the person or persons entitled in law to succeed to the estate of the Aborigine or any part of it, the chief executive may determine which person or persons shall be entitled to so succeed or whether any person is so entitled.

(1A) The person or persons determined by the chief executive to be entitled to succeed to an estate or to any part of it shall be the only person or persons entitled in law to succeed to the estate or, as the case may be, part and, if more than 1 person is so determined, to succeed in the order and proportions determined by the chief executive.

(2) A certificate purporting to be signed by the chief executive that the person or persons named therein is or are entitled to succeed to the estate or any part of the estate of the person named therein (being a person to whose estate subsection (1) applies), or that there is no person so entitled shall be conclusive evidence of the matters contained therein.

(3) If, so far as can be determined, there is no person entitled to succeed to the estate or a part of the estate of an Aborigine who has died or is to be presumed to have died the estate or, as the case may be, part shall vest in the chief executive who shall apply the moneys or the proceeds of the sale of any property (less the expenses (if any) of such sale) for the benefit of Aborigines generally as provided by section 71.

PART 8—GENERAL PROVISIONS

Aborigines' right to certain natural resources

77.(1) Notwithstanding the provisions of any other Act, a member of a community of Aborigines resident in an area shall not be liable to prosecution as for an offence for taking marine products or fauna by traditional means for consumption by members of the community.

(2) Subsection (1) shall not be construed to authorise the sale or other disposal for gain of any marine product or fauna taken by traditional means.

Aborigines' right to certain forest products and quarry material—Aboriginal land

77A.(1) If there is no reservation to the Crown of forest products or quarry material, within the meaning of the *Forestry Act 1959*, above, on or below the surface of Aboriginal land, the Aboriginal Council for the area in which the land is situated may, subject to subsection (2), authorise the gathering or digging, and removal, of forest products or quarry material for use in the area.

(2) An Aboriginal Council must not give an authority unless—

- (a) the authority is given under an agreement between the Aboriginal Council and the grantees of the land; or
- (b) failing agreement, the Aboriginal Council pays the grantees of the land such compensation as is determined by the Land Court.

Aborigines' right to certain forest products and quarry material—non-Aboriginal land

77B.(1) Despite any other Act, a member of a community of Aborigines that lives on non-Aboriginal land in a trust area is not liable to prosecution for an offence for taking forest products or quarry material, within the meaning of the *Forestry Act 1959*, from above, on or below the surface of the land for use within the area in which the land is situated.

(2) Subsection (1) does not authorise the sale or other disposal for gain of forest products or quarry material taken under that subsection.

(3) Despite the *Forestry Act 1959*, an Aboriginal Council established for an area may authorise the gathering or digging, and removal of forest products or quarry material from above, on or below the surface of

non-Aboriginal land situated in the area for use in the area.

(4) The forest products or quarry material may be gathered or dug, and removed, under subsection (3) without the payment of royalty.

Obstruction, intimidation and assault

78. A person shall not assault or wilfully obstruct or intimidate, or attempt so to do, another in the discharge or exercise by that other of the other's functions, duties or powers under this Act.

General penalty for offence

79. A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, except where another penalty is expressly provided by this Act for that offence is liable to a penalty of \$500 or to imprisonment for 6 months.

Magistrates Court not to have jurisdiction for certain offences

80.(1) If—

- (a) there is an Aboriginal Court for an area; and
- (b) a regulation provides that a proceeding for a specified offence against a regulation must be started in an Aboriginal Court;

a Magistrates Court does not have jurisdiction.

(2) In a proceeding before a Magistrates Court for an offence, it is a defence to prove that the defendant has already been dealt with by an Aboriginal Court for the offence.

Evidentiary aids

81. In proceedings to enforce a penalty for an offence against this Act—

- (a) an averment in the complaint that a person named therein is part of the community that resides in an area shall be conclusive evidence thereof until the contrary is proved;
- (b) it shall not be necessary to prove the appointment or signature of

the chief executive or the authority of the complainant to lay the complaint;

- (c) it shall not be necessary to prove the limits of any area.

Regulations

82. The Governor in Council may make regulations not inconsistent with this Act with respect to—

- (a) the functions, duties and powers of the chief executive and officers of the department, and the manner of discharging or exercising those functions, duties and powers; and
- (b) the extent of and the manner of exercising the jurisdiction of Aboriginal Courts and the procedures thereof; and
- (c) the manner of enforcing decisions of Aboriginal Courts; and
- (d) the self-management and good government of Aborigines; and
- (e) the skills development, training and employment of Aborigines; and
- (f) the composition of Aboriginal Councils; and
- (g) the qualification of candidates for membership of those councils; and
- (h) the franchise for elections of those councils and the conduct of those elections; and
- (i) the appointment, powers and duties of returning officers for those elections; and
- (j) the filling of casual vacancies in membership of those councils; and
- (k) the selection of chairperson and deputy chairperson of Aboriginal Councils and the Aboriginal Coordinating Council; and
- (l) the appointment of clerk of an Aboriginal Council; and
- (m) the inspection of records of an Aboriginal Council by or on behalf of the chief executive; and
- (n) the composition of Aboriginal police forces and conditions of

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- service of Aboriginal police; and
- (o) the granting of aid to Aborigines; and
 - (p) the conditions on which aid may be granted; and
 - (q) the obligations of persons to whom aid is granted; and
 - (r) the management and control of the funds of Aboriginal Councils known as Community Funds or of the Aboriginal Coordinating Council; and
 - (s) the payments into and disbursements from those funds; and
 - (t) meetings of Aboriginal Councils; and
 - (u) the venue and regularity thereof; and
 - (v) the access thereto of members of the community of Aborigines resident in the area for which an Aboriginal Council is established; and
 - (w) the establishment, maintenance, management and control of such trust funds and accounts as are necessary or desirable for the care of moneys of Aborigines deposited with the chief executive or the Aboriginal Industries Board or for the administration of Aborigines' estates or for the disposal of unclaimed money; and
 - (x) the establishment, maintenance, management and control of funds to indemnify Aborigines against loss of or damages to vessels, equipment or machinery, and to compensate Aborigines and their dependants for death or personal injury suffered by any person in the course of the person's employment in cases where compensation is not payable under the *Workers' Compensation Act 1990*; and
 - (y) the basis on which such indemnity or compensation is payable; and
 - (z) the maintenance and application of the Aborigines Welfare Fund maintained by the Corporation; and
 - (za) meetings of the Aboriginal Industries Board and attendances thereat; and
 - (zb) the accounts and records to be kept by the Board, either generally or in relation to a particular business of the Board; and

- (zc) the manner of keeping such accounts and records and of the performance of the Board's activities; and
- (zd) the functions, powers and duties of the Board's officers, clerks and employees; and
- (ze) the security and protection of the Board's property; and
- (zf) the forms to be used for the purposes of this Act and the purposes for which they are to be used; and
- (zg) the procedure to be adopted in relation to any application to be made under this Act; and
- (zh) the fees to be paid for the purposes of this Act and the purposes for which they are to be paid; and
- (zi) penalties for breaches of the regulations not exceeding in any case \$200; and
- (zj) all matters required or permitted by this Act to be prescribed and in respect of which the manner or prescription is not otherwise provided for; and
- (zk) all matters and things for which it is necessary or convenient to provide for the proper administration of this Act or for achieving the objects and purposes of this Act.

PART 9—ASSISTANCE TO AND REVIEW OF ABORIGINAL COUNCILS

Assistance to Aboriginal Councils

83.(1) Each of them, the Minister and the chief executive is authorised to provide to any Aboriginal Council, from the resources of the department, such assistance by way of—

- (a) making available the services of officers of the department; or
- (b) financial aid;

as in his or her opinion is necessary to enable the council to adequately

discharge and exercise its functions, duties and powers.

(2) A person who is assigned to perform work by way of assistance to an Aboriginal Council shall be taken to be discharging a function under this Act while the person is engaged in that assignment.

Use of churches etc. for provision of assistance

84. Subject to subsection (2), the authority conferred by section 83 on the Minister and the chief executive includes authority—

- (a) to make arrangements with any church or religious organisation that works for the welfare of Aborigines with respect to the provision of assistance under that section; and
- (b) to provide assistance under that section to the church or organisation with whom the arrangements are made for application in accordance with the arrangements.

(2) Where the provision of assistance referred to in subsection (1) is for a particular area, the authority specified by that subsection shall not be exercised except with the approval of the Aboriginal Council established for that area first had and obtained.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 May 1994. Future amendments of the Community Services (Aborigines) Act 1984 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation

Community Services (Aborigines) Act 1984 No. 51

date of assent 15 May 1984

ss 1–2 commenced on date of assent

remaining provisions commenced 31 May 1984 (see s 2(2))

as amended by—

Liquor Act and Other Acts Amendment Act 1985 No. 81 s 39

date of assent 20 November 1985

commenced 1 July 1986 (proc pubd Gaz 28 June 1986 p 1777)

Community Services (Aborigines) Act Amendment Act 1986 No. 43

date of assent 25 September 1986

commenced on date of assent

Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 Sch 3 Pts A, C

date of assent 14 November 1990

s 3 Sch 3 Pt A commenced 7 December 1989 (see s 2(4)(a))

s 3 Sch 3 Pt C commenced 1 December 1990 (see 1991 No. 97 s 5 Sch 5)

Referendums Legislation Amendment Act 1990 No. 101 Pt 4

date of assent 12 December 1990

commenced on date of assent

Community Services (Aborigines) Act Amendment Act 1990 No. 104

date of assent 18 December 1990

commenced on date of assent

Justices of the Peace and Commissioners for Declarations Act 1991 No. 50 Pt 5

date of assent 10 September 1991

commenced 1 November 1991 (1991 SL No. 113)

Aboriginal and Torres Strait Islander Land (Consequential Amendments) Act 1991 No. 76 Pts 1, 4

date of assent 21 November 1991

Pt 1 commenced on date of assent

Pt 4 commenced 21 December 1991 (1991 SL No. 223)

Nature Conservation Act 1992 No. 20 s 159 Sch 2

date of assent 22 May 1992

not yet proclaimed into force

Local Government Act 1993 No. 70 s 804 Sch

date of assent 7 December 1993

commenced 26 March 1994 (see s 2(5))

Statute Law (Miscellaneous Provisions) Act (No. 2) 1993 No. 76 s 3 Sch 1

date of assent 14 December 1993

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 Sch 1

date of assent 10 May 1994

commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Arrangement

s 3 om R1 (see RA s 36)

Repeal

s 4 om R1 (see RA s 40)

Savings

s 5 amd 1986 No. 43 s 2; 1990 No. 80 s 3 Sch 3 Pt C; R1 (see RA ss 37, 39)

Meaning of terms

s 6 amd 1986 No. 43 s 3(a), (d)
 def **“Aboriginal land”** ins 1991 No. 76 s 15(1)
 def **“Aborigine”** sub 1986 No. 43 s 3(b)–(c); 1990 No. 104 s 3(a)
 om R1 (see RA s 39)
 def **“Corporation”** sub 1990 No. 80 s 3 Sch 3 Pt C
 def **“Department”** sub 1990 No. 80 s 3 Sch 3 Pt A
 om R1 (see RA s 39)
 def **“Director-General”** ins 1990 No. 80 s 3 Sch 3 Pt A
 om R1 (see RA s 39)
 def **“Islander”** ins 1990 No. 104 s 3(b)
 def **“Minister”** om R1 (see RA s 39)
 def **“non-Aboriginal land”** ins 1991 No. 76 s 15(1)
 def **“trust area”** amd 1990 No. 80 s 3 Sch 3 Pt A
 sub 1991 No. 76 s 15(2)
 def **“Under Secretary”** om 1990 No. 80 s 3 Sch 3 Pt A

Responsible officer

s 7 amd 1990 No. 80 s 3 Sch 3 Pt A

Corporation

s 8 amd 1990 No. 80 s 3 Sch 3 Pt A
 sub 1990 No. 80 s 3 Sch 3 Pt C

Consequences of constitution of Corporation

s 8A ins 1990 No. 80 s 3 Sch 3 Pt C

Agents of department

s 9 amd 1990 No. 80 s 3 Sch 3 Pt A

Power of delegation

s 10 amd 1990 No. 80 s 3 Sch 3 Pt A

Appointment of Magistrates to trust areas

s 11 amd 1990 No. 80 s 3 Sch 3 Pt A
 sub 1990 No. 104 s 4

Annual report on administration

s 13 amd 1990 No. 80 s 3 Sch 3 Pt A

Requirement of Aboriginal Councils

s 14 amd 1986 No. 43 s 4; 1990 No. 104 s 5

Times for election of councillors

s 17 amd 1986 No. 43 s 5; R1 (see RA s 37)

Voters' roll

s 18 amd 1990 No. 101 s 16; R1 (see RA s 37)

Relationship of Aboriginal area to local government area

prov hdg amd R1 (see RA s 23)

s 19 amd 1986 No. 43 s 6

Executive officer of Aboriginal Councils

s 23 amd 1990 No. 80 s 3 Sch 3 Pt A
 om 1990 No. 104 s 6

Role of Executive Officer

s 24 om 1990 No 104 s 7

Functions of Aboriginal Councils

s 25 amd 1986 No. 43 s 7; 1990 No. 104 s 8

Provisions concerning making of by-laws

s 26 amd 1991 No. 76 s 16

Disclosure of interests at meetings

s 27A ins 1990 No. 104 s 9

Annual budget to be prepared

s 29 amd 1990 No. 80 s 3 Sch 3 Pt A
 sub 1990 No. 104 s 10

Separate budgets for funds

s 29A ins 1990 No. 104 s 10

Adoption of budget

s 29B ins 1990 No. 104 s 10

Framing of budget

s 29C ins 1990 No. 104 s 10

Unexpended votes to lapse

s 29D ins 1990 No. 104 s 10

Budget provisions apply to other funds

s 29E ins 1990 No. 104 s 10

Provisions in respect of loan repayments

s 29F ins 1990 No. 104 s 10

Illegal expenditure

s 29G ins 1990 No. 104 s 10

Illegal expenditure

s 30 om 1990 No. 104 s 11

Expenditure pending budget

s 31 om 1990 No. 104 s 11A

Accounts

prov hdg amd 1990 No. 104 s 12(a)

s 32 amd 1986 No. 43 s 8; 1990 No. 80 s 3 Sch 3 Pt A; 1990 No. 104 s 12(b)-(c)

Preparation of financial statements

s 32A ins 1990 No. 104 s 13

Certification of annual financial statements

s 32B ins 1990 No. 104 s 13

Auditor-General to audit accounts of council

s 32C ins 1990 No. 104 s 13

Auditor-General to certify annual financial statements

s 32D ins 1990 No. 104 s 13

Presentation of annual financial statements

s 32E ins 1990 No. 104 s 13

Access to accounts

s 32F ins 1990 No. 104 s 13

Power to require furnishing of information and the like

s 32G ins 1990 No. 104 s 13

General reporting provisions

s 32H ins 1990 No. 104 s 13

Financial statementss 33 sub 1986 No. 43 s 9
amd 1990 No. 104 s 14

Borrowing powers

s 34 sub 1993 No. 70 s 804 Sch

Application to trust areas of laws relating to public places

s 38 sub 1990 No. 104 s 15

Indemnification of Aboriginal police officer for liability for tort

s 41A ins 1994 No. 15 s 3 Sch 1

Aboriginal Courts

s 42 amd 1986 No. 43 s 10; 1991 No. 50 s 5.01(2)

Jurisdiction of Aboriginal Courts

s 43 amd 1986 No. 43 s 11

Limitation of jurisdiction

s 44 amd 1986 No. 43 s 12
sub 1990 No. 104 s 16

Division 4—Authorised officers

Div hdg ins 1990 No. 104 s 17

Authorised officers

s 45A ins 1990 No. 104 s 17
amd 1991 No. 76 s 17

General powers of authorised officers

s 45B ins 1990 No. 104 s 17

Membership of council

s 47 sub 1986 No. 43 s 13

Functions of council

s 48 amd 1986 No. 43 s 14; 1990 No. 80 s 3 Sch 3 Pt A

Budget of Aboriginal Coordinating Council

s 53A ins 1986 No. 43 s 15
amd 1993 No. 76 s 3 Sch 1

Borrowing powers

s 53B ins 1986 No. 43 s 15

Membership of Board

s 55 amd 1986 No. 43 s 16; 1990 No. 80 s 3 Sch 3 Pt A

Powers of Board

s 59 amd 1990 No. 80 s 3 Sch 3 Pt A

Power of Aboriginal Council to regulate presence in area

s 68 amd 1991 No. 76 s 18

Grant of aid

s 71 amd 1990 No. 80 s 3 Sch 3 Pt A

Deposit of savings with banker

s 72 amd 1990 No. 80 s 3 Sch 3 Pt A

Continuation of management of money

s 73 amd 1990 No. 80 s 3 Sch 3 Pt A

Administration of Aborigines' estates

s 75 amd 1990 No. 80 s 3 Sch 3 Pt A; 1990 No. 104 s 18

Supply of beer in areas

s 76 om 1985 No. 81 s 39(1)(a)

Aborigines' right to certain natural resourcess 77 sub 1986 No. 43 s 17
 amd 1991 No. 76 s 19; 1992 No. 20 s 159 Sch 2**Aborigines' right to certain forest products and quarry material—Aboriginal land**

s 77A ins 1991 No. 76 s 20

Aborigines' right to certain forest products and quarry material—non-Aboriginal lands 77B ins 1991 No. 76 s 20
 amd 1992 No. 20 s 159 Sch 2**General penalty for offence**

s 79 amd R1 (see RA s 39)

Magistrates Court not to have jurisdiction for certain offencess 80 amd 1990 No. 80 s 3 Sch 3 Pt A
 sub 1993 No. 76 s 3 Sch 1**Evidentiary aids**

s 81 amd 1990 No. 80 s 3 Sch 3 Pt A

Regulationss 82 amd 1985 No. 81 s 39(1)(b); 1986 No. 43 s 18; 1990 No. 80 s 3 Sch 3
 Pt A; 1990 No. 104 s 20; R1 (see RA s 39)**Assistance to Aboriginal Councils**

s 83 amd 1990 No. 80 s 3 Sch 3 Pt A

Use of churches etc. for provision of assistance

s 84 amd 1990 No. 80 s 3 Sch 3 Pt A

5 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23, 23A and 29

Old	New	Reference provision
area (of a local authority)	area of a local government (or local government area)	Local Government Act 1993 s 755(1)(b)
by-laws (of a local authority)	local law (of a local government)	Local Government Act 1993 s 755(1)(1)
Consolidated Revenue	Consolidated Fund	Financial Administration and Audit Act 1977 s 112
Department of the Auditor-General	Audit Office	Financial Administration and Audit Act 1977 s 113
Director-General	chief executive	see Acts Interpretation Act 1954 s 33(5B)
local authority	local government	Local Government Act 1993 s 755(1)(a)
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)
Registrar of Dealings	Registrar of Titles	Lands Legislation Amendment Act 1991 s 119(b)

6 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Local Government Act 1936	Local Government Act 1993	Local Government Act 1994 s 755(1)(o)
Public Service Act 1922	Public Service Management and Employment Act 1988	Public Service Management and Employment Act 1988 s 38(1)
Workers' Compensation Act 1916	Workers' Compensation Act 1990	Workers' Compensation Act 1990 s 11.13

7 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
def “Aborigine”	Acts Interpretation Act 1954 s 36
def “Department”	Acts Interpretation Act 1954 s 36
def “Director-General”	Acts Interpretation Act 1954 ss 36, 33(5B) and 24B(8)(b)
def “Minister”	Acts Interpretation Act 1954 ss 36 and 33(1) and (2)
definitions to be read in context	Acts Interpretation Act 1954 s 32A
penalty provision permitting fine or imprisonment permits both	Penalties and Sentences Act 1992 s 180
references included in citation of law	Acts Interpretation Act 1954 s 14H
references to provisions of a law inclusive	Acts Interpretation Act 1954 s 35D
references to Queensland implied	Acts Interpretation Act 1954 s 35
statutory instrument may be of general or limited application	Statutory Instruments Act 1992 s 24

8 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

Previous	Renumbered as
11(4), 2nd sentence	11(4A)
13, 1st sentence	13(1)
13, 2nd sentence	13(2)
14, 1st sentence	14(1)
14, 2nd sentence	14(2)
21(1), 2nd sentence	21(1A)
25(1), 2nd sentence	25(1A)

25(2), 1st unnum para	25(2)(a)
25(2), 2nd unnum para	25(2)(b)
25(2), 3rd unnum para	25(2)(c)
25(3), 2nd unnum part	25(3)(aa)
25(3), 3rd unnum part	25(3)(ab)
25(3), 2nd sentence	25(3AA)
26(3), 2nd sentence	26(3A)
26(4), 2nd sentence	26(4A)
26(6), 2nd sentence	26(7)
29B, 1st sentence	29B(1)
29B, 2nd sentence	29B(2)
29D(1), 2nd sentence	29D(1A)
29E, 1st sentence	29E(1)
29E, proviso	29E(2)
32, 1st sentence	32(1)
32, 2nd sentence	32(2)
32, 3rd sentence	32(3)
32C(3), 2nd sentence	32C(4)
43(1), 1st unnum para	43(1)(a)
43(1), 2nd unnum para	43(1)(b)
47(3), 2nd sentence	47(4)
51(1), 2nd sentence	51(1A)
55(1), 2nd sentence	55(1A)
61(1), 2nd sentence	61(1A)
61(2), 2nd sentence	61(2A)
64(4), 2nd sentence	64(5)
70(2), 2nd sentence	70(2A)
75(1), 2nd sentence	75(1A)
82, para 1	82(a)
82, para 2	82(b)
82, para 2, 2nd part	82(c)
82, para 3	82(d)
82, para 4	82(e)
82, para 5	82(f)
82, para 5, 2nd part	82(g)
82, para 5, 3rd part	82(h)
82, para 5, 4th part	82(i)
82, para 5, 5th part	82(j)
82, para 6	82(k)
82, para 7	82(l)
82, para 8	82(m)
82, para 9	82(n)
82, para 10	82(o)
82, para 10, 2nd part	82(p)
82, para 10, 3rd part	82(q)
82, para 11	82(r)

82, para 11, 2nd part	82(s)
82, para 12	82(t)
82, para 12, 2nd part	82(u)
82, para 12, 3rd part	82(v)
82, para 13	82(w)
82, para 14	82(x)
82, para 14, 2nd part	82(y)
82, para 15	82(z)
82, para 16	82(za)
82, para 16, 2nd part	82(zb)
82, para 16, 3rd part	82(zc)
82, para 16, 4th part	82(zd)
82, para 16, 5th part	82(ze)
82, para 17	82(zf)
82, para 18	82(zg)
82, para 19	82(zh)
82, para 20	82(zi)
82, para 21	82(zj)
82, para 22	82(zk)

9 Transitional and savings provisions

Community Services (Aborigines) Act Amendment Act 1990 s 19 provides—

Transitional provision

19. On and after the commencement of the *Community Services (Aborigines) Act Amendment Act 1990*, all estates of Aborigines that are being administered by the Director-General are to be administered by the Public Trustee, as if the Director-General had, immediately prior to that commencement, renounced the rights conferred on him or her under section 75 of the Principal Act in relation to those estates.

10 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992 s 5(c)).

Nature Conservation Act 1992 s 159 Sch 2 reads as follows—

1. Section 77(1)—

omit ‘Notwithstanding’,

insert ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite’.

2. Section 77B(1)—

omit ‘Despite’,

insert ‘Subject to section 85 of the *Nature Conservation Act 1992*, but despite’.