



Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

Current as at [Not applicable]

Indicative reprint note

This is an **unofficial** version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Path to Treaty Bill 2023. This indicative reprint has been prepared for information only—**it is not an authorised reprint of the Act**.

An enacted but uncommenced amendment included in the *Public Sector Act 2022* No. 34 has also been incorporated in this indicative reprint.

Amendments to this Act are also included in the Working with Children (Indigenous Communities) Amendment Bill 2021*. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Path to Treaty Bill 2023—22 February 2023.

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Queensland

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

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Not authorised—indicative only

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

An Act to provide for law and order in, the establishment of community justice groups for, and the regulation of alcohol possession and consumption in, community areas, and entry on trust areas, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

2 Commencement

- (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*.

4 Definitions

In this Act—

Aboriginal land means Aboriginal land under the *Aboriginal Land Act 1991*.

ACC, for part 9, division 3, see section 74.

alcohol has the same meaning as *liquor* in the *Liquor Act 1992*.

Note—

See the *Liquor Act 1992*, section 4B.

appropriately qualified, in relation to a power, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

approved form means a form approved under section 70.

board means the board of management of Community Enterprise Queensland.

chief executive officer means the individual appointed by the board as chief executive officer under section 60R.

clerk of the court, for a community area, means the clerk of the court of the Magistrates Court having jurisdiction for the area.

commencement—

- (a) for part 9—see section 72; and
- (b) for part 11—see section 86.

community area means—

- (a) a community government area; or
- (b) the Shire of Aurukun or Mornington; or
- (c) an IRC area, a part of an IRC area, or an IRC division area; or
- (d) another area prescribed under a regulation.

Community Enterprise Queensland means the entity continued in existence under section 60A(1) as Community Enterprise Queensland.

community government is an indigenous local government, that is not an indigenous regional council, under the *Local Government Act 2009*.

community government area is the local government area of a community government.

community justice group means a community justice group established under part 4 for a community area.

community police officer means a person appointed under section 12 as a community police officer for a community government area, IRC area or IRC division area.

coordinator, for a community justice group, means the person appointed under section 22 by the group to perform the functions of coordinator for the group.

dry place, for part 5, see section 27.

fermenter, for part 5, see section 27.

home-brew concentrate, for part 5, see section 27.

home-brew kit, for part 5, see section 27.

homemade alcohol, for part 5, see section 27.

IIB means the Island Industries Board under this Act as in force immediately before the commencement of the *Electricity and Other Legislation Amendment Act 2016*, part 2.

indigenous local government, for part 3, division 1, see section 8A.

indigenous regional council means TSIRC or NPARC.

IRC area means the local government area of an indigenous regional council.

IRC division area means a part of an IRC area that, under the *Local Government Act 2009*, is one of the divisions into which the IRC area is divided for electoral purposes.

liquor provisions means—

- (a) section 34; and
- (b) the *Liquor Act 1992*, sections 168B, 169 and 171.

local law has the meaning given in the *Local Government Act 2009*.

member means a member of a community justice group.

native title holder, for part 6, see section 48.

native title rights and interests, for part 6, see section 48.

NPARC means the Northern Peninsula Area Regional Council.

police officer in charge, for a community government area, IRC area or IRC division area, means the police officer in charge of the police station in the area or, if there is no police station in the area, the police officer in charge of the nearest police station.

possess, for part 5, see section 27.

post-amended Act, for part 11, see section 86.

pre-amended Act, for part 11, see section 86.

prescribed community area, for part 5, see section 27.

relevant Bamaga area means the area that, immediately before the day that, under the *Local Government Act 1993*, is the changeover day for NPARC, was the Bamaga council area under the repealed Torres Strait Act.

relevant Seisia area means the area that, immediately before the day that, under the *Local Government Act 1993*, is the changeover day for NPARC, was the Seisia council area under the repealed Torres Strait Act.

repealed part 8, for part 9, division 3, see section 74.

repealed Torres Strait Act means the *Community Services (Torres Strait) Act 1984* as in force before its repeal under the *Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007*.

residential premises, for part 5, see section 27.

tenant, for part 5, see section 27.

Torres Strait Islander land means Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*.

trust area, for part 6, see section 48.

TSC means the Torres Shire Council.

TSIRC means the Torres Strait Island Regional Council.

Part 2 Administration

8 Delegation by Minister or chief executive

The Minister or chief executive may delegate his or her powers under this Act to an appropriately qualified officer of the department.

Part 3 Law and order in community government and IRC areas

Division 1 Law and order in community government and IRC areas

8A Definitions for div 1

In this division—

indigenous local government means any of the following local governments—

- (a) the Aurukun Shire Council;
- (b) the Mornington Shire Council;
- (c) a community government;
- (d) an indigenous regional council.

indigenous local government area means—

- (a) the local government area for—
 - (i) Aurukun Shire Council; or
 - (ii) Mornington Shire Council; or
- (b) a community government area; or
- (c) an IRC area, including an IRC division area.

9 Jurisdiction and powers of police

- (1) Police officers have and may exercise in an indigenous local government 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 indigenous local government 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 indigenous local government area as may be authorised or required to be done by community police officers under the local laws of the indigenous local government for that area.
- (4) In respect in the performance in an indigenous local government 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.

10 Entry upon indigenous local government areas etc.

A police officer is entitled to enter on and to be in an indigenous local government 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 local law of an indigenous local government;

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.

11 Application to indigenous local government areas of laws relating to public places

- (1) For the purpose only of applying the provisions of laws in force in respect of any public place in Queensland to indigenous local government areas—
 - (a) the right of access to or use of any place in an indigenous local government 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 an indigenous local government 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 indigenous local government areas.

12 Community police officers

- (1) The function of maintaining peace and good order in all parts of an indigenous local government area is that of persons who hold appointments for the time being as community police officers for the area.

- (2) An indigenous local government may appoint such number of persons as it considers necessary for the peace and good order of its area and the indigenous local government 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.
- (3) A person appointed under subsection (2) must have the qualifications prescribed under a regulation.
- (4) Subsection (3) does not limit the issues the indigenous local government may consider when deciding whether to appoint someone under subsection (2).
- (5) In this section—
qualifications includes knowledge, skills and experience.

13 Discharge of community police officers' functions etc.

- (1) Community police officers appointed for an indigenous local government area shall have and may exercise within that area the functions, duties and powers conferred on them by a local law of the indigenous local government for the area.
- (2) Also, for the administration and enforcement of the liquor provisions in an indigenous local government area, the police officer in charge for the area may authorise a community police officer to exercise in the area the powers of—
 - (a) an investigator under the *Liquor Act 1992*, part 7; or

Note—
For exercise of powers by community police officers under the *Liquor Act 1992*, part 7, see section 174A of that Act.

 - (b) a police officer under the *Police Powers and Responsibilities Act 2000*, sections 60 to 62.
- (3) For subsection (2)(b), the *Police Powers and Responsibilities Act 2000*, sections 60 to 62, apply as if a reference in the sections to a police officer were a reference to a community police officer.

- (4) If at any time a police officer is, in execution of the officer's duty, stationed in or present in an indigenous local government area for which community police officers are appointed, the community police officers must discharge and exercise their functions, duties and powers subject to the direction and control of that police officer.
- (5) It is lawful for a community 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.

14 Other functions of community police officers

An indigenous local government may by its local laws or otherwise as it thinks fit charge community police officers appointed for its indigenous local government area 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.

15 Indemnification of community police officer for liability for tort

- (1) If—
 - (a) a community 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) a community 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 2

Authorised officers

16 Authorised officers

- (1) A community government or indigenous regional council may appoint any person to be an authorised officer for its local government area for such period as the community government or indigenous regional 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 local laws for the local government area in which the authorised officer is appointed, which local laws may have regard to Aboriginal tradition or Island custom.
- (3) An authorised officer may only perform a function or exercise a power, in respect of Aboriginal or Torres Strait Islander land in the local government area for which the authorised officer is appointed, under an agreement between the community government or indigenous regional council and the grantees of the land.

17 General powers of authorised officers

- (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 local laws for the local government area for which the officer is appointed may do the following—
 - (a) call to his or her aid a community police officer 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 local 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 local 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 local 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 local 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 local laws; or
 - (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act or those local 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 local 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 local 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—4 penalty units.

Part 4 Community justice groups

Division 1 Establishment, functions and powers

18 Establishment

- (1) A community justice group for a community area may be established under a regulation.
- (2) The regulation must state the group's name.

19 Functions and powers

- (1) The community justice group for a community area has the following functions—
- (a) taking part in court hearings and sentencing and bail processes as provided for in the *Bail Act 1980*, the *Youth Justice Act 1992* and the *Penalties and Sentences Act 1992*;
- (b) developing networks with relevant agencies to ensure crime prevention, justice, community corrections and related issues impacting on indigenous communities are addressed;
- (c) supporting indigenous victims and offenders at all stages of the legal process;

- (d) making recommendations to the Minister administering the *Liquor Act 1992*, part 6A, about declarations under that part;
 - (e) carrying out other functions given to it under this or another Act.
- (2) The group has power to do all things reasonably necessary to be done for performing its functions.
- (3) Without limiting subsection (2), the group has the powers conferred on it by this or another Act.

Division 2 Provisions about membership of groups and group coordinators

20 Membership

- (1) The community justice group for a community area comprises the number of members prescribed under a regulation.
- (2) The Minister—
 - (a) may appoint the members of a community justice group by publishing notice of the appointments on the Queensland Courts website; and
 - (b) must give each member written notice of the member's appointment.
- (3) A regulation may make provision about the following—
 - (a) eligibility of persons to be members;
 - (b) nomination of persons as members;
 - (c) terms on which, and period, a member holds office.
- (4) However, members must, to the greatest practicable extent, include at least 1 representative of each of the main indigenous social groupings in the area.
- (5) Members must be of good standing in the community.

- (6) If the Minister decides a member of a community justice group is no longer eligible or suitable for appointment to the membership of the community justice group, the Minister must—
 - (a) revoke the member's appointment by written notice given to the member; and
 - (b) publish notice of the revocation on the Queensland Courts website.
- (7) In this section—

indigenous social grouping means a group of indigenous persons sharing a common basis of social affiliation, including family relationship, language, traditional land ownership and historical association.

Queensland Courts website means—

 - (a) www.courts.qld.gov.au; or
 - (b) another website authorised by the chief executive for this section.

21 Investigations about suitability of community justice group members

- (1) The chief executive may make inquiries to decide whether a person is suitable for appointment as, or to continue as, a member of a community justice group.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for the following information—
 - (a) a written report about the person's criminal history;
 - (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (3) The commissioner of the police service must comply with a request under subsection (2).

- (4) However, the chief executive may make a request about a person under subsection (2) only if the person has given the chief executive written consent for the request.
- (5) If the person does not give the written consent to the chief executive, it is taken that the person is not suitable for appointment as, or to continue as, a member of a community justice group.
- (6) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (7) The chief executive must ensure information given to the chief executive under subsection (3) is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (8) The chief executive must give the person a copy of information given to the chief executive under subsection (3).
- (9) The chief executive may delegate the chief executive's powers under this section to an appropriately qualified public service officer.
- (10) In this section—

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than for a spent conviction.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

21A Guidelines for dealing with suitability information

- (1) The chief executive must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive under section 21.
- (2) The purpose of the guidelines is to ensure—
 - (a) natural justice is afforded to a person about whom the information is obtained; and
 - (b) only relevant information is used in making decisions about a person's membership of a community justice group (*membership decisions*); and
 - (c) membership decisions, based on the information, are made consistently.
- (3) The chief executive must give a copy of the guidelines to a person on request.

22 Coordinator

- (1) The community justice group for a community area must appoint a coordinator for the community justice group for the area.
 - (1A) However, if an incorporated entity has responsibility for the funding arrangements of the community justice group for the community area, the incorporated entity must appoint a coordinator for the community justice group for the area.
 - (1B) Before appointing a coordinator for the community justice group for the area under subsection (1A), the incorporated entity must consult with the community justice group about the proposed appointment.
- (2) A regulation may make provision about the eligibility of a person to be appointed as coordinator.
- (3) The coordinator's functions are to—
 - (a) provide administrative support to the group; and
 - (b) attend meetings of the group to advise it on any issue before it; and

- (c) ensure minutes of the group's meetings are kept; and
- (d) ensure the reporting requirements under section 25 are complied with.

Division 3 Miscellaneous provisions

23 Authentication of documents

A document made by the community justice group for a community area is sufficiently made if it is signed by the coordinator for the group and a member of the group.

25 Reporting requirements

- (1) Within 90 days after the end of each reporting period, a community justice group must prepare a report on its activities for the period and give the report to the chief executive.
- (2) The report must be in the approved form.
- (3) In this section—
reporting period means—
 - (a) the period prescribed under a regulation; or
 - (b) if a period is not prescribed under paragraph (a)—each quarter of a financial year.

Part 5 Control of possession and consumption of alcohol in community areas

Division 1 Preliminary

26 Purpose of pt 5

- (1) The purpose of this part is to prevent harm in community areas caused by alcohol abuse and misuse and associated violence.
- (2) The purpose is to be achieved by—
 - (a) prohibiting, in particular community areas—
 - (i) the possession or supply of homemade alcohol; and
 - (ii) the possession of substances used to make homemade alcohol; and
 - (iii) the possession of things used to make homemade alcohol; and
 - (b) providing for the declaration of places in community areas in which the possession and consumption of all alcohol is prohibited.

27 Definitions for pt 5

In this part—

dry place means residential premises declared under division 2 as a dry place.

fermenter means a container that could be used for the purpose of fermentation.

home-brew concentrate means—

- (a) a substance, that includes malt and hops, ordinarily used for brewing beer; or

- (b) wort; or
- (c) grape concentrate ordinarily used for making wine.

home-brew kit means a kit that includes all the following—

- (a) a fermenter;
- (b) an airlock;
- (c) a thermometer.

homemade alcohol means alcohol made other than under a licence under—

- (a) the *Excise Act 1901* (Cwlth); or
- (b) the *Distillation Act 1901* (Cwlth).

possess alcohol includes—

- (a) have custody or control of the alcohol; and
- (b) have an ability or right to obtain custody or control of the alcohol.

prescribed community area means a community area prescribed under a regulation for section 38(3).

residential premises see the *Residential Tenancies and Rooming Accommodation Act 2008*, section 10.

tenant, of residential premises, means—

- (a) if the premises are let under the *Residential Tenancies and Rooming Accommodation Act 2008*—the tenant, of the premises, within the meaning of that term in section 13(1) of that Act; or
- (b) if the premises are let under the *Aboriginal Land Act 1991*, or the *Torres Strait Islander Land Act 1991*, for residential use, and are occupied by the lessee of the premises—the lessee of the premises; or
- (c) if the premises are not let, and are occupied by the owner of the premises—the owner of the premises.

Division 2 Dry places

28 Declaration

- (1) The tenant of residential premises in a community area may apply to the clerk of the court for the area for a declaration that the premises are a dry place.
- (2) The application must—
 - (a) be in writing; and
 - (b) be accompanied by documentary evidence that the applicant is the tenant of the premises.
- (3) If the premises have 2 or more tenants, the application must be jointly made by both or all the tenants.
- (4) The clerk must as soon as practicable consider the application, and make the declaration if the clerk is satisfied—
 - (a) the applicant is the tenant of the premises; and
 - (b) if the premises have 2 or more tenants—the application is jointly made by both or all the tenants.
- (5) If the clerk makes the declaration, the clerk must give written notice of the declaration to each of the following—
 - (a) the applicant;
 - (b) the Queensland Police Service.
- (6) The declaration takes effect once notice of the declaration is first displayed under section 29.
- (7) Subject to sections 31 and 32, the declaration remains in force—
 - (a) if the application is made by a person mentioned in paragraph (a) of the definition *tenant* in section 27—indeinitely and regardless of a change in the tenant, of the premises, within the meaning of that term in the *Residential Tenancies and Rooming Accommodation Act 2008*, section 13(1); or

- (b) if the application is made by a person mentioned in paragraph (b) of the definition *tenant* in section 27, while the premises continue to be—
 - (i) let under the *Aboriginal Land Act 1991*, or the *Torres Strait Islander Land Act 1991*, for residential use; and
 - (ii) occupied by the applicant; or
 - (c) if the application is made by a person mentioned in paragraph (c) of the definition *tenant* in section 27, while the premises continue—
 - (i) not to be let; and
 - (ii) to be occupied by the applicant.
- (8) If the clerk refuses to make the declaration, the clerk must give the applicant written notice of the refusal and the reason for the refusal.

29 Notice about declaration at premises

- (1) If residential premises in a community area are declared as a dry place, the tenant of the premises must display a notice of the declaration at or near each entrance to the premises while the declaration is in force.
- (2) The notice must—
 - (a) sufficiently identify the premises; and
 - (b) state that the declaration takes effect once notice of the declaration is first displayed under this section; and
 - (c) state in general terms the effect of section 34 and the penalty for a contravention of the section.
- (3) A failure to continue to display a notice of the declaration under this section does not affect a person's liability to be convicted of an offence against section 34.

30 Notice about declaration at police station or on community noticeboard

- (1) If residential premises in a community area are declared as a dry place and there is a police station in the area, the police officer in charge of the station must display a notice of the declaration in a publicly accessible part of the station while the declaration is in force.
- (2) If residential premises in a community area are declared as a dry place and there is no police station in the area, the police officer in charge of the police station servicing the area must display a notice of the declaration on a community noticeboard in the area while the declaration is in force.
- (3) The notice mentioned in subsection (1) or (2) must—
 - (a) sufficiently identify the premises; and
 - (b) state in general terms the effect of section 34 and the penalty for a contravention of the section.
- (4) A failure to display a notice of the declaration under this section does not affect a person's liability to be convicted of an offence against section 34.

31 Suspension of declaration

- (1) The tenant of residential premises in a community area may apply to the clerk of the court for the area to suspend the declaration of the premises as a dry place for a period (the *suspension period*) of not more than 7 days.
- (2) The application must—
 - (a) state the suspension period; and
 - (b) be made at least 3 days before the start of the suspension period.
- (3) Section 28(2) to (5) and (8) apply, with all necessary changes, to the application as if it were an application to declare residential premises in a community area as a dry place.
- (4) If the declaration of residential premises in a community area as a dry place is suspended under this section, the tenant of the

premises must display a notice detailing the suspension at or near each entrance to the premises while the suspension is in force.

- (5) The suspension takes effect once notices detailing the suspension are first displayed under subsection (4).
- (6) If there is a police station in the area, the police officer in charge of the station must display a notice detailing the suspension in a publicly accessible part of the station while the suspension is in force.
- (7) If there is no police station in the area, the police officer in charge of the police station servicing the area must display a notice detailing the suspension on a community noticeboard in the area while the suspension is in force.

32 Revocation of declaration

- (1) The tenant of residential premises in a community area may apply to the clerk of the court for the area to revoke the declaration of the premises as a dry place.
- (2) Section 28(2) to (5) and (8) apply, with all necessary changes, to the application as if it were an application to declare residential premises in a community area as a dry place.
- (3) If the declaration of residential premises in a community area as a dry place is revoked under this section, the tenant of the premises must remove all notices of the declaration displayed under section 29.
- (4) The revocation takes effect once the notices are removed under subsection (3).
- (5) Once the revocation takes effect, the police officer in charge of the relevant police station for the area must remove the notice of the declaration displayed under section 30.

33 Effect of declaration of premises as a dry place

- (1) This section applies if—

- (a) under this division, residential premises are declared as a dry place (the *dry place declaration*); and
 - (b) the premises are in a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act (the *restricted area declaration*).
- (2) The dry place declaration applies to the premises despite the restricted area declaration.

34 Possession or consumption of alcohol in or on dry place

A person must not in, or on, a dry place possess or consume alcohol.

Maximum penalty—19 penalty units.

35 False or misleading statements

- (1) A person must not state anything, under this division, to a clerk of the court that the person knows is false or misleading in a material particular.

Maximum penalty—8 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.

36 False or misleading documents

- (1) A person must not give, under this division, to a clerk of the court a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—8 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
 - (a) tells the clerk, to the best of the person's ability, how it is false or misleading; and

- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

37 Fee not payable for application

A fee is not payable for an application under this division—

- (a) to have residential premises in a community area declared as a dry place; or
- (b) to have the declaration of residential premises in a community area as a dry place suspended or revoked.

Division 3 Provisions relating to homemade alcohol

38 Offences relating to homemade alcohol

- (1) Subsection (2) applies if—
 - (a) a community area or part of a community area (the *part community area*) is, or is in, a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act; and
 - (b) the prescribed quantity of liquor of any type a person may under that Act possess for the restricted area, other than under the authority of a restricted area permit under that Act, is zero.
- (2) A person must not in the community area or part community area—
 - (a) possess a home-brew kit or component of a home-brew kit; or

- (b) possess equipment, or a component of equipment, that is being used, or has been used, to brew alcohol; or
- (c) possess home-brew concentrate; or
- (d) possess a substance other than home-brew concentrate, or a combination of substances, with the intention of using the substance or substances to make homemade alcohol; or
- (e) supply homemade alcohol to another person.

Maximum penalty—190 penalty units.

- (3) A person must not in a prescribed community area—

- (a) possess a home-brew kit or component of a home-brew kit; or
- (b) possess equipment, or a component of equipment, that is being used, or has been used, to brew alcohol; or
- (c) possess home-brew concentrate; or
- (d) possess a substance other than home-brew concentrate, or a combination of substances, with the intention of using the substance or substances to make homemade alcohol; or
- (e) possess homemade alcohol; or
- (f) supply homemade alcohol to another person.

Maximum penalty—190 penalty units.

- (4) In this section—

component, of a home-brew kit, means a device that is apparently intended to be part of a home-brew kit.

39 Relationship with restricted areas

- (1) This section applies if a prescribed community area or part of a prescribed community area is, or is in, a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act (the ***restricted area declaration***).

- (2) Section 38(3)(e) applies to the whole of the prescribed community area despite the restricted area declaration.

Part 6 Entry on trust areas

48 Definitions for pt 6

In this part—

native title holder see the *Native Title Act 1993* (Cwlth), section 224.

native title rights and interests see the *Native Title Act 1993* (Cwlth), section 223.

trust area means land within a community government or IRC area that is—

- (a) granted in trust under the *Land Act 1994* for the benefit of Aboriginal or Torres Strait Islander inhabitants or for Aboriginal or Torres Strait Islander purposes; or
- (b) a reserve for Aboriginal or Torres Strait Islander purposes under the *Land Act 1994*; or
- (c) land mentioned in paragraph (a) or (b) that has become Aboriginal or Torres Strait Islander land.

49 Entry on trust area only in certain circumstances

A person must not enter, or be in, a trust area other than as permitted under this part.

Maximum penalty—35 penalty units.

50 Entry on trust area etc. by non-residents

- (1) A person may, for a lawful purpose, enter and be in a place within a trust area if—
- (a) the place is an accessible place; or

- (b) the place is another place that the community government or indigenous regional council for the trust area has decided, by resolution, is a place to which persons who are not residents of the trust area may have access.
- (2) Without limiting subsection (1), a person may enter and be in a place within a trust area that a resident of the trust area may enter and be in if the person enters or is in the place as a guest, or at the request of, a resident of the trust area.
- (3) Despite subsection (1)(a), if immediately before the commencement of this section, a native title holder could have entered and been in a place within a trust area in the exercise of the holder's native title rights and interests in relation to the place, the holder may continue to enter and be in the place in the exercise of the rights and interests.
- (4) A resolution may be made under subsection (1)(b) for a place that is Aboriginal or Torres Strait Islander land only with the written consent of the grantee of the land.
- (5) Subsection (6) applies to a person if—
- (a) the person—
- (i) is not a resident of a trust area; and
- (ii) is permitted under the *Aboriginal Land Act 1991* to enter and be on Aboriginal land (the **Aboriginal land area**), or is permitted under the *Torres Strait Islander Land Act 1991* to enter and be on Torres Strait Islander land (the **Torres Strait Islander land area**); and
- (b) the Aboriginal or Torres Strait Islander land area is situated within the trust area.
- (6) The person may enter and be in another part of the trust area for the purpose of entering the Aboriginal or Torres Strait Islander land area.
- (7) In this section—
- accessible place** means—

- (a) a road; or
- (b) a park; or
- (c) a boat ramp or landing; or
- (d) an airport; or
- (e) a building open to the public, whether or not on payment of money.

airport includes—

- (a) an aerodrome, airfield and landing strip; and
- (b) another place used for the landing or parking of aircraft; and
- (c) a tarmac.

landing includes jetty, pontoon and wharf.

road includes a State-controlled road under the *Transport Infrastructure Act 1994*.

51 Notice about resolution

- (1) A community government or indigenous regional council must, as soon as practicable after passing a resolution under section 50(1)(b), display written notice of the resolution in at least 1 prominent place in its trust area for as long as the resolution is in force.
- (2) The notice must—
 - (a) sufficiently identify the place the subject of the resolution; and
 - (b) state the provisions of section 50.

52 Community government or indigenous regional council may impose restrictions on entry etc.

- (1) Subject to subsection (2), a community government or indigenous regional council for a trust area may, by resolution—

- (a) restrict the number of persons who may enter and be in a place within the trust area under section 50(1)(b) or (2); or
 - (b) restrict the time for which a person may live at a place within the trust area under section 50(1)(b) or (2).
- (2) A community government or indigenous regional council may make a resolution under subsection (1) only if the presence of the persons has resulted, or is likely to result, in an unsustainable use of resources or services in the area including, for example, the water supply or garbage service.

53 General authority to enter etc. trust area

- (1) The following persons are authorised to enter, be in and live in a trust area—
 - (a) an Aboriginal person or Torres Strait Islander person, or another person, who is a member of the community residing in the trust area;
 - (b) a person who is performing a function, or exercising a power, under this Act or another Act that requires the person to be in the trust area;
 - (c) a person authorised, for the purpose of this paragraph, under a local law by the community government or indigenous regional council for the trust area.
- (2) A local law may be made under subsection (1)(c) for a part of the trust area that is Aboriginal or Torres Strait Islander land only with the written consent of the grantee of the land.
- (3) A local law made under subsection (1)(c) must state the parts of the trust area to which the local law applies.

54 Entry on and temporary stay in trust area

Without limiting section 53, the following persons are authorised to enter, be in and live in a trust area until the purpose of their entry to the area is fulfilled—

- (a) the Governor-General and the Governor for Queensland;

- (b) a person whose purpose in the trust area is to bring to residents of the trust area medical aid;
- (c) a person whose purpose in the trust area is to instruct himself or herself on affairs within the trust 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 trust area is to campaign as a 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 issued;
- (e) a person who is assisting, or is acting under the direction or control of, a person mentioned in paragraphs (a) to (d), while the person mentioned in the paragraph is in the trust area.

55 Removal from trust area

- (1) A police officer or community police officer may remove from a trust area a person who is not permitted under this part to be in the trust area.
- (2) It is lawful for a community police officer exercising or attempting to exercise a power under subsection (1) against a person, and anyone helping the community police officer, to use reasonably necessary force to exercise the power.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 615.

- (3) The force a community police officer may use under this section does not include force likely to cause grievous bodily harm to a person or the person's death.

Part 7 Aid and administration of estates

56 Grant of aid

- (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 Aboriginal person or Torres Strait Islander person 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 Aboriginal peoples or Torres Strait Islander peoples 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.

60 Administration of estates of Aboriginal persons and Torres Strait Islander persons

- (1) In the absence of a testamentary instrument duly made by an Aboriginal person or Torres Strait Islander person 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 Aboriginal person or Torres Strait Islander person 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.
- (2) 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.
- (3) 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 subsections (1) and (2) apply), or that there is no person so entitled shall be conclusive evidence of the matters contained therein.

- (4) 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 Aboriginal person or Torres Strait Islander person 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 Aboriginal peoples or Torres Strait Islander peoples generally as provided by section 56.

Part 7A Community Enterprise Queensland

Division 1 Establishment, functions and powers of Community Enterprise Queensland

60A Community Enterprise Queensland

- (1) IIB is continued in existence as Community Enterprise Queensland.
- (2) Community Enterprise Queensland—
- (a) is a body corporate; and
 - (b) may sue and be sued in its corporate name.

60B Functions

Community Enterprise Queensland has the following functions—

- (a) to act as a commercial enterprise for the general convenience or benefit of the residents of the communities in which Community Enterprise Queensland performs its functions;
- (b) to provide the communities mentioned in paragraph (a) with access to a range of food, drinks and household items essential for a healthy life at a fair price;
- (c) to apply its operating surplus or assets to promote, support and improve its services and the general welfare, including the knowledge and skills, of the Aboriginal and Torres Strait Islander residents of the communities mentioned in paragraph (a).

Examples of supporting residents—

- encouraging the development of trade, commerce and businesses in the communities
- supporting trade, commerce and businesses carried out by residents of the communities
- providing support for educational or health initiatives, local organisations and community programs or activities

60C Powers

Community Enterprise Queensland has all the powers of an individual and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, deal with and dispose of property; and
- (c) employ staff; and
- (d) appoint agents and attorneys; and
- (e) engage consultants; and
- (f) charge for, and place conditions on, the supply of goods, services or information it supplies; and
- (g) establish funds to ensure the efficient conduct of its enterprises and other activities; and

- (h) carry on any business consistent with the performance of its functions; and
- (i) do anything else necessary or convenient to be done in the performance of its functions.

Division 2 The board

60D Establishment

Community Enterprise Queensland has a board of management.

60DA Role of board

- (1) The board is responsible for the way Community Enterprise Queensland performs its functions and exercises its powers.
- (2) The board's role includes—
 - (a) deciding Community Enterprise Queensland's strategies for performing its functions and deciding the operational, administrative and financial policies under which Community Enterprise Queensland is to operate; and
 - (b) ensuring Community Enterprise Queensland performs its functions and exercises its powers effectively and efficiently; and
 - (c) ensuring Community Enterprise Queensland acts under, and achieves the objectives in, the policies mentioned in paragraph (a); and
 - (d) accounting to the Minister about the performance of Community Enterprise Queensland's functions and the exercise of its powers; and
 - (e) reviewing annually the performance of the chief executive officer.

60DB Appointment of members

- (1) The board consists of at least 5, but not more than 10, members appointed by the Governor in Council.
- (2) At least 1 member of the board must be a consumer representative.
- (2A) At least 1 member of the board must be a community representative.
- (3) A person is qualified to be nominated by the Minister for appointment as a member of the board only if the person—
 - (a) has—
 - (i) commercial or management skills and experience; or
 - (ii) other skills and experience relevant to the performance of Community Enterprise Queensland's functions; and
 - (b) is not disqualified under this division from being a member.
- (4) In this section—

community representative means a person who the Minister considers represents the interests of the communities in which Community Enterprise Queensland performs its functions.

consumer representative means a person who the Minister considers represents the consumers of services provided by Community Enterprise Queensland.

60E Chairperson of the board

- (1) The Governor in Council may appoint a member of the board to be its chairperson.
- (2) A person may be appointed as the chairperson at the same time the person is appointed as a member.
- (3) The chairperson holds office for the term decided by the Governor in Council unless the person's term of office as a

member ends sooner than the person's term of office as chairperson ends.

- (4) A person may be appointed as the chairperson for not more than 2 consecutive terms.
- (5) A vacancy arises in the office of chairperson if the person holding the office—
 - (a) resigns the office by signed notice of resignation given to the Minister; or
 - (b) ceases to be a member.
- (6) A person resigning the office of chairperson may continue to be a member.

60F Deputy chairperson of the board

- (1) The board must appoint a member of the board to be its deputy chairperson.
- (2) A vacancy arises in the office of deputy chairperson if—
 - (a) the person holding the office resigns the office by signed notice of resignation given to the chairperson; or
 - (b) the person's term of office as a board member ends; or
 - (c) the person otherwise stops being a board member.
- (3) However, a person may resign from the office of deputy chairperson and continue to be a member.
- (4) The deputy chairperson must act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

60G Term of appointment

A member of the board may be appointed for a term of not more than 4 years.

60H Disqualification from membership

A person can not become, or continue to be, a member of the board if the person—

- (a) is or becomes an insolvent under administration under the Corporations Act, section 9; or
- (b) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (c) has been, or is, convicted of an indictable offence; or
- (d) has been, or is, convicted of an offence against this Act.

60I Vacation of office

- (1) A member of the board is taken to have vacated office as a member if the member—
 - (a) resigns by signed notice of resignation given to the Minister; or
 - (b) under this part, can not continue to be a member; or
 - (c) is absent without the board's permission from 3 consecutive meetings of the board of which proper notice has been given; or
 - (d) is absent, in any period of 6 months, and without the board's permission, from all meetings of the board of which proper notice has been given.
- (2) If the member attends for a meeting of which proper notice is given, but for which a quorum is not present, the meeting is nevertheless taken to be a meeting at which the member was present.

60J When notice of resignation takes effect

A notice of resignation given under this part takes effect when it is given to the person to whom it is required to be given or, if a later time is stated in the notice, at the later time.

60K Conduct of business

Subject to any other requirement of this part, the board may conduct its business, including its meetings, in the way it considers appropriate.

60L Times and places of meetings

- (1) The board's meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked in writing to do so by the Minister or by at least the number of members required for a quorum for a meeting of the board.

60M Quorum

A quorum for a meeting of the board is the number equal to half of the number of its members or, if that is not a whole number, the next highest whole number.

60N Presiding at meetings

- (1) The chairperson must preside at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting or there is a vacancy in the office of chairperson, the deputy chairperson must preside.
- (3) If the chairperson and the deputy chairperson are both absent from a board meeting, or if both offices are vacant, a member chosen by the members present must preside.

60O Conduct of meetings

- (1) A question at a board meeting is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

- (3) A member present at the meeting who abstains from voting is taken to have voted for the negative.
- (4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.

Example of technology allowing reasonably contemporaneous and continuous communication—

teleconferencing

- (5) A person who takes part in a board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by the board even if it is not passed at a board meeting if—
 - (a) a majority of the board members gives written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

60P Minutes

- (1) The board must keep—
 - (a) minutes of its meetings; and
 - (b) valid resolutions passed other than at a board meeting.
- (2) Subsection (3) applies if a resolution is passed at a board meeting.
- (3) If asked by a member who voted against the passing of the resolution, the board must record in the minutes of the meeting that the member voted against the resolution.

60Q Disclosure of interests

- (1) This section applies to a board member (the *interested person*) if—

- (a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the person's duties about the consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the interested person's knowledge, the person must disclose the nature of the interest to a board meeting.
- (3) Unless the board otherwise directs, the interested person must not—
 - (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board about the issue.
- (4) The interested person must not be present when the board is considering whether to give a direction under subsection (3).
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
 - (a) be present when the board is considering whether to give a direction under subsection (3) about the interested person; or
 - (b) take part in making the decision about giving the direction.
- (6) If—
 - (a) because of this section, a board member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
 - (b) there would be a quorum if the member were present;the remaining persons present are a quorum for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the board's minutes.

Division 3 Chief executive officer

60R Chief executive officer

- (1) Community Enterprise Queensland must have a chief executive officer.
- (2) Subject to any direction given by the Minister, the board is to appoint the chief executive officer.
- (3) The chief executive officer—
 - (a) is an employee of Community Enterprise Queensland; and
 - (b) is appointed under this Act and not under the *Public Sector Act 2022*.

Editor's note—

Section 60R(3)(b) incorporates an uncommenced amendment—see 2022 Act No. 34 s 365 sch 3.

60RA Role of chief executive officer

- (1) The chief executive officer is responsible for managing the day-to-day operations of Community Enterprise Queensland.
- (2) In carrying out the chief executive officer's responsibilities, the chief executive officer must act in accordance with the strategies and policies decided by the board under section 60DA(2)(a).

60RB Disqualification as chief executive officer

A person is disqualified from becoming, or continuing as, the chief executive officer if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration under the Corporations Act, section 9; or

- (c) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (d) has been, or is, convicted of an offence against this Act.

60RC Chief executive officer not to engage in other paid employment

The chief executive officer must not, without the board's prior written approval—

- (a) engage in paid employment outside the responsibilities of the office of the chief executive officer; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on business.

60S Conflicts of interest

- (1) If the chief executive officer has an interest that conflicts, or may conflict, with the discharge of the officer's responsibilities, the officer—
 - (a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the officer's knowledge; and
 - (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the board.
- (2) The board may direct the chief executive officer to resolve a conflict or possible conflict between an interest of the officer and the officer's duties.

Division 4 Miscellaneous

60T Community Enterprise Queensland is statutory body

- (1) Under the *Statutory Bodies Financial Arrangements Act 1982*, Community Enterprise Queensland is a statutory body.

- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which Community Enterprise Queensland's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

60U Audit of Community Enterprise Queensland's accounts

- (1) Community Enterprise Queensland's accounts must be audited by the auditor-general or a person authorised by the auditor-general.
- (2) The person who conducts the audit has, in relation to the audit and the accounts, all the powers of the auditor-general under the *Auditor-General Act 2009* as if Community Enterprise Queensland were a department of government.
- (3) For the audit, Community Enterprise Queensland must pay the fee decided by the auditor-general.
- (4) The auditor-general—
 - (a) must at least once a year, report to the Minister the result of each audit carried out under this section; and
 - (b) may include with the report recommendations to the Minister about Community Enterprise Queensland's accounts.
- (5) The auditor-general must give the board's chairperson a copy of the report and any recommendations.
- (6) The chairperson must table the report and any recommendations at the board's next meeting after the chairperson receives them.
- (7) The Minister and the board's chairperson must consider the auditor-general's report and any recommendations.

60V Annual report by Community Enterprise Queensland

As soon as practicable after 30 June in each year, Community Enterprise Queensland must give the Minister a full report of its operations during the period of 1 year ending on that day.

60VA Board to report on functions, finances and operations

- (1) The Minister may, by written notice, ask the board to give a report to the Minister about the performance of Community Enterprise Queensland's functions or a matter relating to its finances or operations.
- (2) The board must—
 - (a) comply with a request made by the Minister under subsection (1); and
 - (b) give the report in the way, and at the time, required by the Minister.

60VB Minister's power to give directions to board

- (1) The Minister may give the board a written direction about—
 - (a) the performance of Community Enterprise Queensland's functions or the exercise of its powers; or
 - (b) another matter relating to the performance of the board's role.
- (2) The Minister may give the board a written direction under subsection (1) only if the Minister is satisfied it is necessary to give the direction in the public interest.
- (3) The board must comply with the direction.
- (4) Before giving a direction under subsection (1), the Minister must consult with the board.
- (5) If the board is given a direction under subsection (1), the board must publish the direction—
 - (a) in a publicly accessible way as soon as practicable after receiving the direction; and
 - (b) in Community Enterprise Queensland's next annual report under section 60V.

60W Administrator may replace board members

- (1) The Governor in Council may at any time, on the recommendation of the Minister, dismiss the members of the board.
- (2) If the Governor in Council acts under subsection (1)—
 - (a) the members go out of office; and
 - (b) the Governor in Council may appoint in their place an administrator to administer Community Enterprise Queensland.
- (3) A person appointed as administrator under subsection (2) must administer Community Enterprise Queensland's affairs for the term, of not more than 2 years, decided by the Governor in Council.
- (4) Subsection (3) does not stop the Governor in Council from revoking the appointment of an administrator for any reason before the term of appointment expires, either to appoint a different person as administrator or to appoint new members of the board.
- (5) While an administrator's appointment continues, the administrator is taken to constitute the board instead of the members.

60Y Applying operating surplus and assets of Community Enterprise Queensland

- (1) This section applies in relation to Community Enterprise Queensland's function of applying its operating surplus and assets.
- (2) In applying the operating surplus and assets, Community Enterprise Queensland must have regard to the following priorities—
 - (a) ensuring adequate provision is made for future capital expenditure, and ongoing maintenance and capital replacement expenses; and

- (b) adhering to any pricing policy for food, drinks and household items; and
 - (c) providing support for initiatives relating to community wellbeing, health and safety; and
 - (d) providing support for other programs as directed by the Minister.
- (3) Subsections (4) to (7) state additional requirements that apply for the application of an asset that is an operating business.
- (4) Community Enterprise Queensland may, on the written request of the relevant local government representative, enter into arrangements with 1 or more residents, or an incorporated entity controlled by residents, to transfer to the residents or entity an operating business of Community Enterprise Queensland located at the place where the residents reside or the entity is located.
- (5) In deciding whether to enter into the arrangements, Community Enterprise Queensland must have regard to—
- (a) the resources, business capability and experience of the residents or incorporated entity; and
 - (b) the impact the arrangements for transfer is likely to have on the services Community Enterprise Queensland provides generally to residents of the communities in which Community Enterprise Queensland performs its functions.
- (6) Community Enterprise Queensland must not enter into arrangements under subsection (4) unless the Minister and the Treasurer have, by written notice, approved—
- (a) generally, the transfer of the business to the residents or entity; and
 - (b) the particular terms of the arrangements.
- (7) For subsection (6), if the Minister is the Treasurer, the approvals need only be given by the Treasurer.
- (8) In this section—

arrangements includes contracts and transactions.

pricing policy, for food, drinks and household items, means a policy, decided by the board under section 60DA(2), about the pricing of food, drinks and household items provided by Community Enterprise Queensland.

relevant local government representative means a councillor for the division of the local government area in which the operating business is located.

Treasurer means the Minister administering the *Financial Accountability Act 2009*.

60Z Conflicts of interest of employees

- (1) If an employee has an interest that conflicts or may conflict with the discharge of the employee's duties, the employee—
 - (a) must disclose the nature of the interest and conflict to the chief executive officer as soon as practicable after the relevant facts come to the employee's knowledge; and
 - (b) must not take action or further action relating to a matter that is, or may be, affected by the conflict unless authorised by the chief executive officer.
- (2) The chief executive officer may direct the employee to resolve a conflict or possible conflict between an interest of the employee and the employee's duties.
- (3) In this section—

employee means an employee of Community Enterprise Queensland other than the chief executive officer.

Part 8 General provisions

61 Right of Aboriginal peoples and Torres Strait Islander peoples to particular natural resources

- (1) Subject to the *Animal Care and Protection Act 2001* and to sections 62 and 93 of the *Nature Conservation Act 1992*, but

despite the provisions of any other Act, a member of a community of Aboriginal peoples or Torres Strait Islander peoples resident in a community government or IRC 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.

62 Right of Aboriginal peoples and Torres Strait Islander peoples to particular forest products and quarry material—Aboriginal and Torres Strait Islander land

- (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 or Torres Strait Islander land, the community government or indigenous regional council for the community government or IRC 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 community government or IRC area.
- (2) A community government or indigenous regional council must not give an authority unless—
- (a) the authority is given under an agreement between the community government or indigenous regional council and the grantees of the land; or
 - (b) failing agreement, the community government or indigenous regional council pays the grantees of the land such compensation as is determined by the Land Court.

63 Right of Aboriginal peoples and Torres Strait Islander peoples to particular forest products and quarry material—non-Aboriginal and non-Torres Strait Islander land

- (1) Subject to sections 62 and 93 of the *Nature Conservation Act 1992*, but despite any other Act, a member of a community of Aboriginal peoples or Torres Strait Islander peoples that lives in a community government or IRC area of a community government or indigenous regional council 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 trust land held by the community government or indigenous regional council, for use within the community government or IRC area of the community government or indigenous regional council.
- (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*, a community government or indigenous regional council may authorise the gathering or digging, and removal of forest products or quarry material from above, on or below the surface of trust land held by the community government or indigenous regional council, for use within the community government or IRC area of the community government or indigenous regional council.
- (4) The forest products or quarry material may be gathered or dug, and removed, under subsection (3) without the payment of royalty.
- (5) In this section—
trust land means land that is trust land for the benefit of Aboriginal or Torres Strait Islander inhabitants or for Aboriginal or Torres Strait Islander purposes under the *Land Act 1994*.

63A Confidentiality

- (1) This section applies to a person who has gained, gains, or has access to, protected information through involvement in the administration of this Act.
- (2) The person must not—
 - (a) record or use the information, or intentionally disclose it to anyone, other than under this section; or
 - (b) recklessly disclose the information to anyone.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (3) The person may record, use or disclose the information—
 - (a) if expressly permitted or required under an Act to do so; or
 - (b) for statistical purposes, without revealing, or being likely to reveal, the identity of a person to which it relates; or
 - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal.
- (4) In this section—

protected information means information obtained by the chief executive under section 21.

64 Obstruction, intimidation and assault

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.

65 General penalty for offence

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 7 penalty units or to imprisonment for 6 months.

66 Making of local laws about particular matters

Without limiting the functions and powers of a community government or indigenous regional council, a community government or indigenous regional council may make local laws—

- (a) not inconsistent with part 5, for the purpose of regulating and controlling the possession or consumption of alcohol in its community government or IRC area; or
- (b) conferring functions on the community justice group for any community area within its community government or IRC area.

67 Evidentiary aids

- (1) 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 a community government or IRC area, or IRC division area, shall be conclusive evidence thereof until the contrary is proved; and
 - (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; and
 - (c) it shall not be necessary to prove the limits of a community government area.
- (2) Subsection (3) applies to a proceeding for an offence against section 34.
- (3) A statement in the complaint for the offence that fluid was in a container of a type that usually holds alcohol is evidence that the fluid was alcohol.

- (4) Subsection (5) applies to a proceeding for an offence against section 34 or 38(2)(b), (c) or (e) or (3)(b), (c), (e) or (f).
- (5) A certificate purporting to be signed by an analyst stating the results of an analysis of a fluid or other substance is, on its production, admissible as evidence of the results of the analysis.
- (6) A provision of this section does not limit another provision of the section or of this Act about evidence.
- (7) In this section—

analyst means a State analyst under the *Medicines and Poisons Act 2019*.

homemade alcohol has the same meaning as in part 5.

68 Evidence of home-brew concentrate by label

- (1) This section applies if, in a proceeding for an offence against section 38(2)(c) or (3)(c), it is relevant to prove that a substance in the possession of a person was home-brew concentrate.
- (2) In the absence of proof to the contrary, the substance is proved to be home-brew concentrate if—
 - (a) there is evidence that the container containing the substance had a label indicating the substance was home-brew concentrate; and
 - (b) a police officer gives evidence that the police officer believes the container contained home-brew concentrate; and
 - (c) the court considers the belief mentioned in paragraph (b) to be reasonably held.
- (3) In this section—

home-brew concentrate has the same meaning as in part 5.

label, in relation to a container, includes any tag, statement in writing, representation or other descriptive matter on or

attached to or used or displayed in connection with the container.

69 Evidence of homemade alcohol having regard to belief of police officer

- (1) This section applies if, in a proceeding for an offence against section 38(2)(e) or (3)(e) or (f), it is relevant to prove that a substance possessed or supplied by a person was homemade alcohol.
- (2) In the absence of proof to the contrary, the substance is proved to be homemade alcohol if—
 - (a) there is evidence by a police officer that the police officer believed the substance was homemade alcohol; and
 - (b) the court considers the belief mentioned in paragraph (a) to be reasonably held by the police officer.
- (3) For subsection (2)(a) it is sufficient for the police officer to believe—
 - (a) that the substance was alcohol by having regard to the conditions in which it was found or its odour; and
 - (b) that the alcohol was homemade by having regard to either or both of the following—
 - (i) its odour, or appearance, as compared to that of alcohol usually commercially available in Queensland;
 - (ii) if the alcohol was in a container, that the police officer considers that the container was not of a type in which alcohol was usually commercially available to the public in Queensland.
- (4) For subsection (2)(b), a court may consider a belief formed as mentioned in subsection (3) to be reasonably held.
- (5) Subsection (3) does not limit the matters that may form the basis for a police officer's belief mentioned in

subsection (2)(a) or the basis for a court to consider the police officer's belief to be reasonably held.

(6) In this section—

homemade alcohol has the same meaning as in part 5.

69A Protection of officials from civil liability

(1) An official is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to the official, the liability attaches instead to the State.

(3) In this section—

official means—

(a) a member; or

(b) the clerk of the court for a community area.

70 Approved forms

The chief executive may approve forms for use under this Act.

71 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may be made about the following—

(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;

(b) the composition of community police forces and conditions of service of community police officers;

- (c) the granting of aid to Aboriginal peoples and Torres Strait Islander peoples;
- (d) the conditions on which aid may be granted;
- (e) the obligations of persons to whom aid is granted;
- (f) the business and conduct of meetings of community justice groups, including, for example, about the following—
 - (i) the times and places of meetings;
 - (ii) the quorum for meetings;
 - (iii) the presiding member at meetings;
 - (iv) the disclosure of a member's interest before meetings;
- (g) the venue and regularity thereof;
- (h) the access thereto of members of the community of Aboriginal peoples and Torres Strait Islander peoples resident in the community government area of a community government or in the IRC area of an indigenous regional council;
- (i) the establishment, maintenance, management and control of such trust funds and accounts as are necessary or desirable for the care of moneys of Aboriginal peoples and Torres Strait Islander peoples deposited with the chief executive or for the administration of the estates of Aboriginal peoples and Torres Strait Islander peoples or for the disposal of unclaimed money;
- (j) the establishment, maintenance, management and control of funds to indemnify Aboriginal peoples and Torres Strait Islander peoples against loss of or damages to vessels, equipment or machinery, and to compensate Aboriginal peoples and Torres Strait Islander peoples and their dependants for death or personal injury sustained by a person in the course of the person's employment if compensation is not payable under the *Workers' Compensation and Rehabilitation Act 2003*;

- (k) the basis on which such indemnity or compensation is payable;
- (l) the procedure to be adopted in relation to any application to be made under this Act;
- (m) the fees to be paid for the purposes of this Act and the purposes for which they are to be paid;
- (n) penalties for breaches of the regulations not exceeding in any case \$200;
- (o) meetings of the board and attendances at the meetings;
- (p) the accounts and records to be kept by Community Enterprise Queensland, either generally or in relation to a particular business of Community Enterprise Queensland;
- (q) the way Community Enterprise Queensland's accounts and records are to be kept, including records of the performance of Community Enterprise Queensland's activities;
- (r) the functions, powers and duties of Community Enterprise Queensland's officers, clerks and employees;
- (s) the security and protection of Community Enterprise Queensland's property.

Part 9 Transitional provisions for Local Government (Community Government Areas) Act 2004

Division 1 Preliminary

72 Definition for pt 9

In this part—

commencement means commencement of this section.

Division 2

Transitional provision for process for making by-laws or subordinate by-laws

73 Making by-law or subordinate by-law

- (1) This section applies if—
 - (a) before the commencement, an Aboriginal council had under repealed part 7 started the process of making a by-law or subordinate by-law under that part; and
 - (b) immediately before the commencement, the process for making the by-law or subordinate by-law had not finished.
- (2) Despite the repeal of repealed part 7, that part and any other provisions necessary for the operation of that part continue to apply to the making of the by-law or subordinate by-law as if that part had not been repealed.
- (3) In this section—

Aboriginal council means an Aboriginal council under this Act in existence immediately before the commencement.

repealed part 7 means part 7 of this Act as in force before its repeal by the *Local Government (Community Government Areas) Act 2004*.

Division 3

Transitional provisions for Aboriginal Coordinating Council

74 Definitions for div 3

In this division—

ACC means the Aboriginal Coordinating Council established under repealed part 8.

repealed part 8 means part 8 of this Act as in force before its repeal by the *Local Government (Community Government Areas) Act 2004*.

75 ACC dissolved

ACC is dissolved and its members go out of office.

76 References to ACC

A reference in an Act or document to ACC may, if the context permits, be taken as a reference to the State.

77 Agreements and proceedings

- (1) An agreement, in force immediately before the commencement, between ACC and another entity is taken to be an agreement between the State and the entity.
- (2) A proceeding that could have been started or continued by or against ACC before the commencement may be started or continued by or against the State.

78 Assets and liabilities

On the commencement, an asset or liability of ACC immediately before the commencement becomes an asset or liability of the State.

Part 10

Transitional provisions for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007

79 Definitions for pt 10

In this division—

commencement means the commencement of this section.

ICC means the Island Coordinating Council established under repealed part 8.

repealed part 8 means part 8 of the repealed Torres Strait Act as in force before the repeal of that Act.

80 ICC dissolved

ICC is dissolved and its members go out of office.

81 Regulation to provide for matters relating to dissolution of ICC

- (1) A regulation may provide for all matters necessary or convenient to provide for the dissolution of ICC.
- (2) Without limiting subsection (1), a regulation under subsection (1) may provide for—
 - (a) how references to ICC in any Act or document are to apply after the commencement; and
 - (b) how agreements to which ICC was a party before the commencement are to continue after the commencement; and
 - (c) how proceedings that could have been started or continued by or against ICC before the commencement

may be started or continued after the commencement;
and

- (d) how assets and liabilities of ICC before the commencement are to be dealt with after the commencement.

82 Aboriginal and Island police officers

- (1) This section applies to a person if, immediately before the commencement, the person held appointment, in relation to an area, as—
 - (a) an Island police officer under the repealed Torres Strait Act; or
 - (b) an Aboriginal police officer under this Act.
- (2) From the commencement, the person, without further appointment, holds appointment as a community police officer under this Act in relation to the same area, and for that purpose—
 - (a) is taken to have been appointed under this Act; and
 - (b) subject to any action that may be taken under section 14 in relation to the community police officer's responsibilities, continues to have the same responsibilities with which the person was charged immediately before the commencement.
- (3) A reference in any Act or document to an Aboriginal or Island police officer may, if the context permits, be taken to be a reference to a community police officer.

83 Transitional provision for IIB

- (1) A person who, immediately before the commencement, was a member of the Island Industries Board under the repealed Torres Strait Act continues as a member of IIB until the end of the term for which the member was appointed.
- (2) The person who, immediately before the commencement, was the member of the Island Industries Board under the repealed

Torres Strait Act who held appointment as chairperson of the Island Industries Board continues as chairperson of IIB until the end of the term for which the member was appointed as chairperson.

- (3) The person who, immediately before the commencement, was the member of the Island Industries Board under the repealed Torres Strait Act who held appointment as deputy chairperson of the Island Industries Board continues as deputy chairperson of IIB until IIB otherwise decides.
- (4) The provisions of part 7A about disqualification from or vacation of office as a member or chairperson of IIB apply to a member or chairperson mentioned in subsection (1) or (2), including in relation to any period for which the person held appointment before the commencement.
- (5) Subject to part 7A, all other matters relating to the Island Industries Board under the repealed Torres Strait Act, including for example contracts and employment arrangements entered into before the commencement, are not affected by the repeal of that Act and the commencement of part 7A.

84 Community justice groups for Injinoo, New Mapoon and Umagico community government areas

- (1) A community justice group for a relevant community government area, existing immediately before the commencement, continues as the community justice group for the relevant community area.
- (2) A person who, immediately before the commencement, was a member of a community justice group for a relevant community government area continues as a member of the community justice group for the relevant community area until—
 - (a) the end of the term for which the member was appointed; or
 - (b) the Minister decides the member is no longer eligible or suitable for appointment to the membership of the

community justice group and revokes the appointment;
or

- (c) the office of the member is otherwise vacated under a regulation.
- (3) The person who, immediately before the commencement, held appointment as a coordinator for a community justice group for a relevant community government area is, without further appointment, taken to hold appointment as a coordinator for the community justice group for the relevant community area.
- (4) Subject to part 4, all other matters relating to a community justice group for a relevant community government area, including, for example, contracts entered into before the commencement, are not affected by the amendment of part 4.
- (5) In this section—

relevant community government area means each of the following community government areas under the *Local Government (Community Government Areas) Act 2004*—

- (a) Injinoo;
- (b) New Mapoon;
- (c) Umagico.

85 Community justice groups for relevant Bamaga and Seisia areas

- (1) A community justice group for the relevant Bamaga or Seisia area, existing immediately before the commencement, continues as the community justice group for the relevant community area.
- (2) A person who, immediately before the commencement, was a member of a community justice group for the relevant Bamaga or Seisia area continues as a member of the community justice group for the relevant community area until—

- (a) the end of the term for which the member was appointed; or
 - (b) the member resigns; or
 - (c) the Minister decides the member is no longer eligible or suitable for appointment to the membership of the community justice group and revokes the appointment.
- (3) The person who, immediately before the commencement, held appointment under the repealed Torres Strait Act as a coordinator for a community justice group for the relevant Bamaga or Seisia area is, without further appointment, taken to hold appointment as a coordinator for the community justice group for the relevant community area.
- (4) Subject to part 4, all other matters relating to a community justice group for the relevant Bamaga or Seisia area under the repealed Torres Strait Act, including for example contracts entered into before the commencement, are not affected by the repeal of that Act.

Part 11

Transitional provisions for Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008

86 Definitions for pt 11

In this part—

commencement means the commencement of this section.

post-amended Act means this Act as in force immediately after the commencement.

pre-amended Act means this Act as in force before the commencement.

87 Existing declaration of a place as a dry place

A declaration, under section 28 of the pre-amended Act, of a place as a dry place in force immediately before the commencement stops having effect on the commencement.

88 Existing application for the declaration of a place as a dry place

- (1) This section applies to an application, under section 28 of the pre-amended Act, for the declaration of a place as a dry place that is not decided at the commencement.
- (2) The application lapses on the commencement.

89 Existing application for the amendment or revocation of a declaration of a place as a dry place

- (1) This section applies to an application, under section 28 of the pre-amended Act, for the amendment or revocation of a declaration of a place as a dry place that is not decided at the commencement.
- (2) The application lapses on the commencement.

90 Existing application for the suspension of a declaration of a public place as a dry place

- (1) This section applies to an application, under section 32 of the pre-amended Act, for the suspension of a declaration of a public place as a dry place that is not decided at the commencement.
- (2) The application lapses on the commencement.

91 Appeals

- (1) Subsection (2) applies if—
 - (a) a person has appealed to a Magistrates Court, under section 38 of the pre-amended Act, against an appealable decision; and

- (b) the appeal has not been decided before the commencement.
- (2) The appeal lapses on the commencement.
- (3) Subsection (4) applies if—
 - (a) immediately before the commencement a person could have appealed to a Magistrates Court, under section 38 of the pre-amended Act, against an appealable decision; and
 - (b) the person has not appealed before the commencement.
- (4) The person may not appeal against the decision.

92 Offences

- (1) Proceedings for an offence against part 5 of the pre-amended Act may be started or continued, and the provisions of the pre-amended Act necessary or convenient to be used in relation to the proceedings continue to apply, as if the post-amended Act had not commenced.
- (2) For subsection (1), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.

Part 12 Transitional provisions for Electricity and Other Legislation Amendment Act 2016

93 Definition for part

In this part—

remaining term, of a person's appointment as a member or the chairperson of IIB, means the period remaining of the term of the person's appointment as a member or the chairperson immediately before the commencement.

94 References to IIB

From the commencement, a reference in an Act or document to IIB is taken to be a reference to Community Enterprise Queensland.

95 Members of IIB continue as board members

- (1) This section applies to a person who, immediately before the commencement, holds an appointment as a member of IIB.
- (2) On the commencement, the person—
 - (a) goes out of office as a member of IIB; and
 - (b) is taken to be appointed as a member of the board.
- (3) The term of the person's appointment as a member of the board is the remaining term of the person's appointment as a member of IIB.
- (4) The person is appointed on the same conditions as the conditions of the person's appointment as a member of IIB in effect immediately before the commencement.
- (5) This section applies despite section 60DB.
- (6) No compensation is payable to a member because of this section.

96 Chairperson of IIB continues as chairperson of board

- (1) The person who, immediately before the commencement, was the chairperson of IIB is taken to be appointed as the chairperson of the board under section 60E.
- (2) The term of the person's appointment as chairperson of the board is the remaining term of the person's appointment as chairperson of IIB.

97 Deputy chairperson of IIB continues as deputy chairperson of board

The person who, immediately before the commencement, was the deputy chairperson of IIB is taken to be the deputy chairperson of the board under section 60F.

98 Chief executive officer of IIB continues as chief executive officer

The person who, immediately before the commencement, was the chief executive officer of IIB is taken to be the chief executive officer under section 60R.

99 Annual report

- (1) Community Enterprise Queensland's full report under section 60V for the period ending 30 June 2017 must include a report of its operations for the period starting on 1 February 2016.
- (2) This section applies despite section 60V.