



Aboriginal and Torres Strait Islander Commission Amendment Act 2002

No. 40, 2002

***An Act to amend the *Aboriginal and Torres Strait
Islander Commission Act 1989*, and for related
purposes***

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
4	Transitional provisions	2

Schedule 1—Amendments	3
------------------------------	---

<i>Aboriginal and Torres Strait Islander Commission Act 1989</i>	3
--	---



Aboriginal and Torres Strait Islander Commission Amendment Act 2002

No. 40, 2002

**An Act to amend the *Aboriginal and Torres Strait
Islander Commission Act 1989*, and for related
purposes**

[Assented to 27 June 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Aboriginal and Torres Strait Islander
Commission Amendment Act 2002*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Transitional provisions

A request that a body corporate purported to make before the commencement of this section under the subsection repealed by item 46 of Schedule 1, and a decision that the Commission purported to make as a result of such a request, are taken to be, and to have at all times been, as valid as they would have been if the subsection substituted by that item had been in force when the body purported to make the request or the Commission purported to make the decision, as the case may be.

Schedule 1—Amendments

Aboriginal and Torres Strait Islander Commission Act 1989

1 After paragraph 31(2)(a)

Insert:

- (aa) has been convicted of 2 or more offences against a Commonwealth, State or Territory law and sentenced in respect of all the offences to a single penalty of imprisonment for one year or longer; or

2 At the end of paragraph 31(2)(b)

Add “; or”.

3 At the end of subsection 31(2)

Add:

- (c) has been convicted of 2 or more offences against a Commonwealth, State or Territory law involving dishonesty and sentenced in respect of all the offences to a single penalty of imprisonment for 3 months or longer.

4 Paragraph 33(1)(a)

Repeal the paragraph, substitute:

- (a) he or she ceases to be a Commissioner, otherwise than by the operation of subsection (2); or

5 At the end of paragraph 40(7)(a)

Add “or”.

6 After paragraph 40(7)(a)

Insert:

- (aa) is convicted of 2 or more offences against a Commonwealth, State or Territory law and sentenced in respect of all the offences to a single penalty of imprisonment for one year or longer; or

7 At the end of paragraph 40(7)(b)

Add “or”.

8 After paragraph 40(7)(b)

Insert:

(ba) is convicted of 2 or more offences against a Commonwealth, State or Territory law involving dishonesty and sentenced in respect of all the offences to a single penalty of imprisonment for 3 months or longer; or

9 After subsection 44(5)

Insert:

(5A) If the Chairperson is not a Commissioner, then he or she is not entitled to participate in any meeting of the Commission and is treated, for the purposes of this section, as not being present at any such meeting.

Note: Because the Chairperson is treated as not being present, subsection (7) applies in determining who presides at the meeting.

10 Paragraph 45(1)(d)

Repeal the paragraph.

11 Section 58

Repeal the section.

12 Section 59

Repeal the section.

13 Subsection 61(1)

Omit “estimates of the receipts and expenditure of”, substitute “budget estimates for”.

14 Subsection 61(7) (paragraph (b) of the definition of *money of the Commission*)

Omit “or” (last occurring).

15 Subsection 61(7) (paragraph (c) of the definition of *money of the Commission*)

Repeal the paragraph.

16 Subsection 62(2)

Omit “detailed estimates of expenditure”, substitute “budget estimates”.

17 Subsection 62(4)

Omit “proposed expenditure”, substitute “proposed expenses”.

18 Subsection 62(4)

Omit “that expenditure”, substitute “those expenses”.

19 Subsection 66(2) (paragraph (b) of the definition of *money of the Commission*)

Omit “or” (last occurring).

20 Subsection 66(2) (paragraph (c) of the definition of *money of the Commission*)

Repeal the paragraph.

21 Subsection 67(4)

Omit “estimates of the receipts of, and expenditure from,”, substitute “budget estimates for”.

22 Subsection 67(5)

Omit “estimates of expenditure”, substitute “budget estimates”.

23 Paragraph 94(1)(c)

Omit “for Commission expenditure”.

24 At the end of paragraph 102(1)(a)

Add “or”.

25 At the end of paragraph 102(1)(b)

Add “or”.

26 At the end of paragraph 102(1)(c)

Add “or”.

27 At the end of paragraph 102(1)(d)

Add “or”.

28 After paragraph 102(1)(d)

Insert:

- (da) subject to subsection (2), the person has been convicted of 2 or more offences against a Commonwealth, State or Territory law and sentenced in respect of all the offences to a single penalty of imprisonment for one year or longer; or

29 At the end of paragraph 102(1)(e)

Add “or”.

30 After paragraph 102(1)(e)

Insert:

- (ea) subject to subsection (2), the person has been convicted of 2 or more offences against a Commonwealth, State or Territory law involving dishonesty and sentenced in respect of all the offences to a single penalty of imprisonment for 3 months or longer; or

31 After subsection 102(1A)

Insert:

(1B) A person who:

- (a) has ceased to be a member of a Regional Council under subsection 122(2); or
- (b) has been removed from office as a Regional Councillor under subsection 122A(5) after having been suspended from office because of misbehaviour;

is not qualified to stand for election, or to be elected, as a member for a Regional Council ward until after the next round of elections for Regional Councils.

32 Subsection 102(2)

Omit “paragraph (1)(d) or (e)”, substitute “paragraph (1)(d), (da), (e) or (ea)”.

33 Paragraph 102(2)(a)

After “offence”, insert “or offences”.

34 Paragraph 102(2)(b)

After “offence”, insert “or offences”.

35 After paragraph 113(2)(c)

Insert:

(ca) nomination fees;

36 Subsection 115(1)

Before “116”, insert “115A or”.

37 After section 115

Insert:

115A Additional member where a member is appointed as Commissioner

- (1) This section applies to a Regional Council if:
 - (a) one of its members who is a Regional Councillor for a ward is appointed under section 27 as a member of the Commission; and
 - (b) there has not previously been an appointment under this section for the Regional Council during the current term of the Regional Council.
- (2) The Minister must appoint, as a member of the Regional Council, the person ascertained by applying the same rules as would apply to filling a casual vacancy in the ward.
- (3) A person appointed as a member of a Regional Council under this section holds office until the end of the next round of Regional Council elections following his or her appointment.

38 Subsection 127(1A)

Repeal the subsection, substitute:

- (1A) If a Commissioner is elected as Chairperson, the Commissioner:
 - (a) ceases to hold office as a Commissioner; and
 - (b) ceases to hold office as a person elected under Division 7 to represent a zone.

39 Subsection 127A(3)

Repeal the subsection, substitute:

- (3) The Chairperson of a Regional Council holds office for the period that:
- (a) starts when he or she is elected; and
 - (b) ends when a Chairperson is elected at the first meeting of the Regional Council after the end of the next election period of the Regional Council.

40 After paragraph 127C(7)(a)

Insert:

- (aa) is convicted of 2 or more offences against a Commonwealth, State or Territory law and sentenced in respect of all the offences to a single penalty of imprisonment for one year or longer; or

41 After paragraph 127C(7)(b)

Insert:

- (ba) is convicted of 2 or more offences against a Commonwealth, State or Territory law involving dishonesty and sentenced in respect of all the offences to a single penalty of imprisonment for 3 months or longer; or

42 After subsection 128(5)

Insert:

- (5A) If the Chairperson of a Regional Council is not a Regional Councillor, then he or she is not entitled to be present at any meeting of the Regional Council and is treated, for the purposes of this section, as not being present at any such meeting.

Note: Because the Chairperson is treated as not being present, subsection (7) applies in determining who presides at the meeting.

43 Paragraph 141A(1)(a)

Repeal the paragraph, substitute:

- (a) a Chairperson appointed by the Minister, being a person who is an Aboriginal person or a Torres Strait Islander and who is not a Commissioner, a member of the TSRA or a Regional Councillor;

44 Section 141B

Repeal the section.

45 Paragraph 141S(1)(a)

Repeal the paragraph, substitute:

- (a) a Chairperson appointed by the Minister, being a person who is an Aboriginal person or a Torres Strait Islander and who is not a Commissioner, a member of the TSRA or a Regional Councillor;

45A Section 141T

Repeal the section.

46 Subsection 195(1)

Repeal the subsection, substitute:

- (1) If a delegate of the Commission:
 - (a) refuses a housing loan under section 14 to an individual; or
 - (b) refuses a loan under section 14 to an individual, a body corporate or an unincorporated body to enable the individual or body to engage in a business enterprise; or
 - (c) refuses to give a guarantee under section 15 in respect of a housing loan made or to be made to an individual; or
 - (d) refuses to give a guarantee under section 15 in respect of a loan made or to be made to an individual, a body corporate or an unincorporated body, where the purpose of the loan is to enable the individual or body to engage in a business enterprise;the individual or body may, within 30 days after being notified of the refusal or decision, request the Commission to reconsider the matter.

47 At the end of section 195

Add:

- (3) If the Commission has delegated its powers to reconsider a matter and make a decision under subsection (2), subsection (1) does not apply to a refusal or decision by the delegate made in the exercise of those powers.

48 Paragraph 196(1)(aa)

Omit “to an individual to enable the individual”, substitute “to an individual, a body corporate or an unincorporated body to enable the individual or body”.

49 Paragraph 196(1)(b)

Omit “to an individual, where the purpose of the loan is to enable the individual to engage in a business enterprise”, substitute “to an individual, a body corporate or an unincorporated body, where the purpose of the loan is to enable the individual or body to engage in a business enterprise”.

50 Subsection 196(4) (definition of *decision made by the Commission*)

Repeal the definition, substitute:

decision made by the Commission means:

- (a) a decision made by the Commission itself; or
- (b) a decision made by a delegate of the Commission upon a reconsideration of a decision made by another delegate of the Commission.

[Minister's second reading speech made in—
House of Representatives on 13 March 2002
Senate on 16 May 2002]

(70/02)

