



Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018

No. 145, 2018

Compilation No. 5

Compilation date: 1 November 2023

Includes amendments up to: Act No. 81, 2023

Registered: 7 November 2023

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018* that shows the text of the law as amended and in force on 1 November 2023 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement.....	1
3 Simplified outline of this Act.....	2
4 Definitions.....	3
5 Crown to be bound.....	6
6 Extension to external Territories.....	7
7 Extra-territorial application.....	7
Part 2—Aboriginal and Torres Strait Islander Land and Sea Future Fund	8
Division 1—Introduction	8
8 Simplified outline of this Part.....	8
Division 2—Aboriginal and Torres Strait Islander Land and Sea Future Fund	10
9 Establishment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.....	10
10 Transfer of balance of the Aboriginal and Torres Strait Islander Land Account.....	10
11 Transfer of investments of the Aboriginal and Torres Strait Islander Land Account.....	10
Division 3—Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account	12
12 Establishment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.....	12
13 Credits of amounts to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.....	12
14 Purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account—main purposes.....	13
15 Purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account—purposes related exclusively to the investments etc. of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.....	13
16 Purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account—purposes not related exclusively to the Aboriginal and Torres Strait Islander Land and Sea Future Fund.....	14

17	Future Fund Board must ensure that the balance of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account is sufficient to cover authorised debits etc.	16
Division 4—Inter-fund transfers		17
18	Transfers from the Aboriginal and Torres Strait Islander Land and Sea Future Fund to the Future Fund.....	17
Part 3—Indigenous Land and Sea Corporation Funding Special Account		18
19	Simplified outline of this Part.....	18
20	Indigenous Land and Sea Corporation Funding Special Account	18
21	Purpose of the Indigenous Land and Sea Corporation Funding Special Account.....	19
22	Annual payments to the Indigenous Land and Sea Corporation.....	19
23	Annual payments—pre-payment transfers to the Indigenous Land and Sea Corporation Funding Special Account.....	20
24	Annual payments—indexation factor	21
25	Additional payments to the Indigenous Land and Sea Corporation.....	22
26	Additional payments—pre-payment transfers to the Indigenous Land and Sea Corporation Funding Special Account	23
27	Additional payments—advice given by the Future Fund Board.....	23
Part 4—Investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund		25
28	Simplified outline of this Part.....	25
29	Objects of investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund	25
30	Investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.....	26
31	Management of investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.....	26
32	Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate	27
33	Obligation on Future Fund Board in performing investment functions.....	28

34	Limitation on Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate	29
35	Future Fund Board to be consulted on Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate	29
35A	Indigenous Affairs Minister to be consulted on Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate	30
36	Compliance with Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate.....	31
37	Future Fund Board must not trigger the takeover provisions of the <i>Corporations Act 2001</i>	32
38	Borrowing.....	32
39	Aboriginal and Torres Strait Islander Land and Sea Future Fund investment policies	33
40	Derivatives	34
41	Additional financial assets.....	35
42	Securities lending arrangements	35
43	Investment managers	36
44	Refund of franking credits	37
45	Realisation of non-financial assets	37
46	Additional function of the Future Fund Board.....	38
Part 5—Reporting obligations etc.		39
47	Simplified outline of this Part.....	39
48	Finance Minister may require the Future Fund Board to prepare reports or give information	39
49	Keeping the responsible Ministers informed etc.....	40
50	Finance Minister may give reports to other Ministers etc.....	40
Part 6—Miscellaneous		41
51	Simplified outline of this Part.....	41
51A	Meeting to discuss quarterly performance report.....	41
52	Delegation by the Finance Minister	41
53	Delegation by the Treasurer.....	42
54	Delegation by the Indigenous Affairs Minister.....	42
55	Review of operation of Act	43
56	Rules.....	43
Endnotes		44
Endnote 1—About the endnotes		44

Endnote 2—Abbreviation key	46
Endnote 3—Legislation history	47
Endnote 4—Amendment history	48

An Act to establish the Aboriginal and Torres Strait Islander Land and Sea Future Fund, and for other purposes

Part 1—Preliminary

1 Short title

This Act is the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 February 2019 (F2018N00193)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline of this Act

- This Act establishes the Aboriginal and Torres Strait Islander Land and Sea Future Fund, which will enhance the Commonwealth's ability to make payments to the Indigenous Land and Sea Corporation.
- The Aboriginal and Torres Strait Islander Land and Sea Future Fund consists of:
 - (a) the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
 - (b) the investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- The balance of the Aboriginal and Torres Strait Islander Land Account will be transferred to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account. The investments of the Aboriginal and Torres Strait Islander Land Account will become investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- The Future Fund Board is responsible for deciding how to invest the Aboriginal and Torres Strait Islander Land and Sea Future Fund. In doing so, the Future Fund Board is bound by the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate given to it by the responsible Ministers.
- The Indigenous Affairs Minister must, on behalf of the Commonwealth, make an annual payment to the Indigenous Land and Sea Corporation.
- The Indigenous Affairs Minister may, on behalf of the Commonwealth, make an additional payment to the Indigenous Land and Sea Corporation in respect of a financial year.

- This Act establishes the Indigenous Land and Sea Corporation Funding Special Account.
- Payments to the Indigenous Land and Sea Corporation will be channelled through the Indigenous Land and Sea Corporation Funding Special Account.

Note: The Aboriginal and Torres Strait Islander Land Account was continued in existence by repealed section 192W of the *Aboriginal and Torres Strait Islander Act 2005*.

4 Definitions

In this Act:

Aboriginal and Torres Strait Islander Land Account means the Aboriginal and Torres Strait Islander Land Account that was continued in existence by repealed section 192W of the *Aboriginal and Torres Strait Islander Act 2005*.

Aboriginal and Torres Strait Islander Land and Sea Future Fund means the Aboriginal and Torres Strait Islander Land and Sea Future Fund established by section 9.

Aboriginal and Torres Strait Islander Land and Sea Future Fund investment function of the Future Fund Board means:

- (a) a function or power conferred on the Future Fund Board by section 30, 31, 38, 40, 42 or 43; or
- (b) a right or power conferred on the Future Fund Board in its capacity as the holder of an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate has the meaning given by subsection 32(3).

Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account means the Aboriginal and Torres Strait

Section 4

Islander Land and Sea Future Fund Special Account established by section 12.

acquire includes acquire by way of issue.

Agency means the Future Fund Management Agency.

Appropriation Act means an Act appropriating money for expenditure out of the Consolidated Revenue Fund.

asset has the same meaning as in the *Future Fund Act 2006*.

balance of the Aboriginal and Torres Strait Islander Land and Sea Future Fund means the sum of:

- (a) amounts standing to the credit of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
- (b) the value of investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

bank has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

business day means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

business entity means:

- (a) a company; or
- (b) a partnership; or
- (c) a trust; or
- (d) a body politic.

derivative means a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001*) that is a financial asset.

Finance Department means the Department administered by the Finance Minister.

Finance Minister has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

financial asset has the same meaning as in the *Future Fund Act 2006*.

Future Fund Board means the Future Fund Board of Guardians established by section 34 of the *Future Fund Act 2006*.

Future Fund Special Account means the Future Fund Special Account established by section 12 of the *Future Fund Act 2006*.

indexation factor has the meaning given by section 24.

Indigenous Affairs Department means the Department administered by the Indigenous Affairs Minister.

Indigenous Affairs Minister means the Minister who administers Part 4A of the *Aboriginal and Torres Strait Islander Act 2005*.

Indigenous Land and Sea Corporation means the corporation continued in existence by section 191A of the *Aboriginal and Torres Strait Islander Act 2005*.

Indigenous Land and Sea Corporation Board has the same meaning as in the *Aboriginal and Torres Strait Islander Act 2005*.

Indigenous Land and Sea Corporation Funding Special Account means the special account continued in existence by section 20.

investment means any mode of application of money or financial assets for the purpose of gaining a return (whether by way of income, capital gain or any other form of return).

investment manager means a person or body (other than the Agency) who undertakes to do any or all of the following:

- (a) invest amounts on behalf of the Future Fund Board;
- (b) manage the investment of funds on behalf of the Future Fund Board;
- (c) acquire derivatives on behalf of the Future Fund Board;
- (d) manage derivatives on behalf of the Future Fund Board;
- (e) enter into securities lending arrangements on behalf of the Future Fund Board;

Section 5

- (f) realise financial assets on behalf of the Future Fund Board;
- (g) perform custodial functions in relation to the financial assets of the Future Fund Board.

investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund means a financial asset that, under a provision of this Act, is taken to be an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

official has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

person includes a partnership.

Note: See also subsection 2C(1) of the *Acts Interpretation Act 1901*.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

realise includes redeem or dispose of.

responsible Ministers means:

- (a) the Treasurer; and
- (b) the Finance Minister.

rules means rules made under section 56.

Treasury Department means the Department administered by the Treasurer.

value of an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund means the market value of the investment. For this purpose, disregard anything that would prevent or restrict conversion of a financial asset to money.

5 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

6 Extension to external Territories

This Act extends to every external Territory.

7 Extra-territorial application

This Act extends to acts, omissions, matters and things outside Australia.

Part 2—Aboriginal and Torres Strait Islander Land and Sea Future Fund

Division 1—Introduction

8 Simplified outline of this Part

- The Aboriginal and Torres Strait Islander Land and Sea Future Fund consists of:
 - (a) the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
 - (b) the investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- The balance of the Aboriginal and Torres Strait Islander Land Account will be transferred to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.
- Financial assets that represent the investment of amounts standing to the credit of the Aboriginal and Torres Strait Islander Land Account will be transferred to the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- The responsible Ministers may determine that additional amounts be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.
- The Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account can be debited for 2 main purposes:
 - (a) to transfer amounts to the Indigenous Land and Sea Corporation Funding Special Account so that annual payments can be made to the Indigenous Land and Sea Corporation; and

- (b) to transfer amounts to the Indigenous Land and Sea Corporation Funding Special Account so that additional payments can be made to the Indigenous Land and Sea Corporation.
- The Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account can also be debited in relation to costs and other obligations incurred by the Future Fund Board in managing the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

Note: The Aboriginal and Torres Strait Islander Land Account was continued in existence by repealed section 192W of the *Aboriginal and Torres Strait Islander Act 2005*.

Section 9

Division 2—Aboriginal and Torres Strait Islander Land and Sea Future Fund

9 Establishment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund

- (1) The Aboriginal and Torres Strait Islander Land and Sea Future Fund is established by this section.
- (2) The Fund consists of:
 - (a) the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
 - (b) the investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

10 Transfer of balance of the Aboriginal and Torres Strait Islander Land Account

As soon as practicable after the commencement of this section, there is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account an amount equal to the balance of the Aboriginal and Torres Strait Islander Land Account immediately before the commencement of this section.

Note 1: The Aboriginal and Torres Strait Islander Land Account was continued in existence by repealed section 192W of the *Aboriginal and Torres Strait Islander Act 2005*.

Note 2: The balance of the Aboriginal and Torres Strait Islander Land Account does not include the value of a financial asset that represents the investment of an amount standing to the credit of that account.

11 Transfer of investments of the Aboriginal and Torres Strait Islander Land Account

Scope

- (1) This section applies to a financial asset if, immediately before the commencement of this section, the asset represented the

investment of an amount standing to the credit of the Aboriginal and Torres Strait Islander Land Account.

Note: The Aboriginal and Torres Strait Islander Land Account was continued in existence by repealed section 192W of the *Aboriginal and Torres Strait Islander Act 2005*.

Transfer

- (2) After the commencement of this section, the financial asset is taken to be an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- (3) As soon as practicable after the commencement of this section, the Treasurer or the Finance Minister must cause the financial asset to be transferred to the Future Fund Board.

Section 12

Division 3—Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account

12 Establishment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account

- (1) The Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account is established by this section.
- (2) The Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

13 Credits of amounts to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account

- (1) The responsible Ministers may, by writing, determine that:
 - (a) a specified amount is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account on a specified day; or
 - (b) a specified amount is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account in specified instalments on specified days.

Note 1: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Note 2: Amounts must also be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account under sections 10, 31, 42 and 44.

- (2) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

14 Purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account—main purposes

The main purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account are:

- (a) to transfer amounts to the Indigenous Land and Sea Corporation Funding Special Account in accordance with section 23 so that payments can be made to the Indigenous Land and Sea Corporation under section 22; and
- (b) to transfer amounts to the Indigenous Land and Sea Corporation Funding Special Account in accordance with section 26 so that payments can be made to the Indigenous Land and Sea Corporation under section 25.

Note 1: Section 22 deals with annual payments.

Note 2: Section 25 deals with additional payments.

15 Purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account—purposes related exclusively to the investments etc. of the Aboriginal and Torres Strait Islander Land and Sea Future Fund

Each of the following is a purpose of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account:

- (a) paying the costs of, or incidental to, the acquisition of financial assets under section 30;
- (b) paying expenses of an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund;
- (c) paying the costs of, or incidental to, the acquisition of derivatives under section 40;
- (d) paying or discharging the costs, expenses and other obligations incurred by the Future Fund Board under a contract between the Board and an investment manager engaged under subsection 43(1);
- (e) paying or discharging the costs, expenses and other obligations incurred in connection with the establishment, maintenance or operation of a bank account of the Future

Part 2 Aboriginal and Torres Strait Islander Land and Sea Future Fund

Division 3 Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account

Section 16

Fund Board, if the bank account relates exclusively to the Aboriginal and Torres Strait Islander Land and Sea Future Fund;

- (f) paying a premium in respect of a contract of insurance entered into by the Future Fund Board exclusively in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund;
- (g) paying or discharging any other costs, expenses, obligations or liabilities incurred by the Future Fund Board exclusively in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund;
- (h) paying expenses of an investment of an amount standing to the credit of the Aboriginal and Torres Strait Islander Land Account, where the expenses were incurred before the commencement of this section.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

16 Purposes of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account—purposes not related exclusively to the Aboriginal and Torres Strait Islander Land and Sea Future Fund

Each of the following is a purpose of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account:

- (a) paying or discharging the costs, expenses and other obligations incurred in connection with the establishment, maintenance or operation of a bank account of the Future Fund Board, if those costs, expenses or obligations are not covered by:
 - (i) paragraph 15(e); or
 - (ia) paragraph 15(e) of the *Disaster Ready Fund Act 2019*; or
 - (iaa) paragraph 13(e) of the *Housing Australia Future Fund Act 2023*; or

- (ii) paragraph 18(e) of the *Medical Research Future Fund Act 2015*; or
- (iii) paragraph 2(1)(g) of Schedule 2 to the *Future Fund Act 2006*; or
- (v) paragraph 15(e) of the *DisabilityCare Australia Fund Act 2013*; or
- (vi) paragraph 16(e) of the *Future Drought Fund Act 2019*;
- (b) paying a premium in respect of a contract of insurance entered into by the Future Fund Board, if the premium is not covered by:
 - (i) paragraph 15(f); or
 - (ia) paragraph 15(f) of the *Disaster Ready Fund Act 2019*;
or
 - (iaa) paragraph 13(f) of the *Housing Australia Future Fund Act 2023*; or
 - (ii) paragraph 18(f) of the *Medical Research Future Fund Act 2015*; or
 - (iii) paragraph 2(1)(h) of Schedule 2 to the *Future Fund Act 2006*; or
 - (v) paragraph 15(f) of the *DisabilityCare Australia Fund Act 2013*; or
 - (vi) paragraph 16(f) of the *Future Drought Fund Act 2019*;
- (c) paying or discharging any other costs, expenses, obligations or liabilities incurred by the Future Fund Board, if the costs, expenses, obligations or liabilities are not covered by:
 - (i) a paragraph of section 15; or
 - (ia) a paragraph of section 15 of the *Disaster Ready Fund Act 2019*; or
 - (iaa) a paragraph of section 13 of the *Housing Australia Future Fund Act 2023*; or
 - (ii) a paragraph of section 18 of the *Medical Research Future Fund Act 2015*; or
 - (iii) a paragraph of subclause 2(1) of Schedule 2 to the *Future Fund Act 2006*; or

Part 2 Aboriginal and Torres Strait Islander Land and Sea Future Fund

Division 3 Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account

Section 17

- (v) a paragraph of section 15 of the *DisabilityCare Australia Fund Act 2013*; or
- (vi) a paragraph of section 16 of the *Future Drought Fund Act 2019*;
- (d) paying remuneration and allowances of Future Fund Board members;
- (e) paying remuneration, and other employment-related costs and expenses, in respect of members of the staff of the Agency;
- (f) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth or the Future Fund Board:
 - (i) under a contract entered into under section 78 or 82 of the *Future Fund Act 2006*; or
 - (ii) in connection with the operation of the Agency.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

17 Future Fund Board must ensure that the balance of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account is sufficient to cover authorised debits etc.

The Future Fund Board must take all reasonable steps to ensure that the balance of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account is sufficient to cover debits of amounts for the purposes specified in sections 14, 15 and 16.

Note: This may require the Future Fund Board to realise an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund in accordance with section 31.

Division 4—Inter-fund transfers

18 Transfers from the Aboriginal and Torres Strait Islander Land and Sea Future Fund to the Future Fund

- (1) If an amount is debited from the Future Fund Special Account for a purpose mentioned in subclause 2(2) of Schedule 2 to the *Future Fund Act 2006*, the Finance Minister may, by writing, direct that, on a specified day, a specified amount is to be:
 - (a) debited from the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
 - (b) credited to the Future Fund Special Account.
- (2) The specified amount must not exceed the amount debited from the Future Fund Special Account as mentioned in subsection (1).
- (3) A direction under subsection (1) is not a legislative instrument.

Part 3—Indigenous Land and Sea Corporation Funding Special Account

19 Simplified outline of this Part

- This Part establishes the Indigenous Land and Sea Corporation Funding Special Account.
- The Indigenous Affairs Minister must, on behalf of the Commonwealth, make an annual payment to the Indigenous Land and Sea Corporation.
- The Indigenous Affairs Minister may, on behalf of the Commonwealth, make an additional payment to the Indigenous Land and Sea Corporation.
- Payments to the Indigenous Land and Sea Corporation will be channelled through the Indigenous Land and Sea Corporation Funding Special Account.

20 Indigenous Land and Sea Corporation Funding Special Account

- (1) The special account established by this section is continued in existence under the name Indigenous Land and Sea Corporation Funding Special Account.

Note: The special account was originally named the Indigenous Land Corporation Funding Special Account.

- (2) The Indigenous Land and Sea Corporation Funding Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers

to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

- (3) The Secretary of the Indigenous Affairs Department is responsible for the Indigenous Land and Sea Corporation Funding Special Account.

21 Purpose of the Indigenous Land and Sea Corporation Funding Special Account

The purpose of the Indigenous Land and Sea Corporation Funding Special Account is the making of payments to the Indigenous Land and Sea Corporation under sections 22 and 25.

Note 1: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

Note 2: Section 22 deals with annual payments.

Note 3: Section 25 deals with additional payments.

22 Annual payments to the Indigenous Land and Sea Corporation

Financial year beginning on 1 July 2018

- (1) On the first business day in October in the financial year beginning on 1 July 2018, the Indigenous Affairs Minister must, on behalf of the Commonwealth, pay to the Indigenous Land and Sea Corporation an amount equal to the amount that would have been the relevant funding amount for the financial year within the meaning of repealed subsection 193(2) of the *Aboriginal and Torres Strait Islander Act 2005* if section 193 of that Act had not been repealed.

Note: Repealed subsection 193(2) of the *Aboriginal and Torres Strait Islander Act 2005* provided for annual payments.

Later financial years

- (2) On the first business day in October in:
- (a) the financial year beginning on 1 July 2019; or
 - (b) a later financial year;

Section 23

the Indigenous Affairs Minister must, on behalf of the Commonwealth, pay to the Indigenous Land and Sea Corporation the amount worked out using the formula:

Indexation factor × Designated funding amount

where:

designated funding amount means:

- (a) for the financial year beginning on 1 July 2019—the amount worked out under subsection (1); or
- (b) for a later financial year—the amount worked out under this subsection for the previous financial year.

indexation factor means the indexation factor for the financial year worked out under section 24.

Rounding

- (3) If an amount to be paid under subsection (2) is an amount of dollars and cents, the cents are to be disregarded.

23 Annual payments—pre-payment transfers to the Indigenous Land and Sea Corporation Funding Special Account

- (1) On the business day before the first business day in October in the financial year beginning on 1 July 2018, the Finance Minister must cause an amount equal to the amount worked out under subsection 22(1) to be:
 - (a) debited from the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
 - (b) credited to the Indigenous Land and Sea Corporation Funding Special Account.
- (2) On the business day before the first business day in October in:
 - (a) the financial year beginning on 1 July 2019; or
 - (b) a later financial year;the Finance Minister must cause an amount equal to the amount worked out under subsection 22(2) for the financial year to be:

- (c) debited from the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
- (d) credited to the Indigenous Land and Sea Corporation Funding Special Account.

24 Annual payments—indexation factor

- (1) For the purposes of this Act, the *indexation factor* for a financial year is worked out using the formula:

$$\frac{\text{Sum of index numbers for quarters in first June year}}{\text{Sum of index numbers for quarters in second June year}}$$

where:

first June year means the period of 12 months ending on 30 June immediately before the financial year.

index number, for a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

second June year means the period of 12 months immediately before the first June year.

- (2) An indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.
- (3) If an indexation factor worked out under subsections (1) and (2) would be less than 1, that indexation factor is to be increased to 1.
- (4) Calculations under this section are to be made:
- (a) using only the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
 - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

Section 25

25 Additional payments to the Indigenous Land and Sea Corporation

- (1) The Finance Minister and the Indigenous Affairs Minister may, by notifiable instrument, determine that, on a specified day, the Indigenous Affairs Minister must, on behalf of the Commonwealth, pay a specified amount to the Indigenous Land and Sea Corporation.
- (2) In making a determination under subsection (1), the Finance Minister and the Indigenous Affairs Minister must have regard to:
 - (a) the advice given by the Future Fund Board under section 27 in relation to the impact of the making of the determination on the sustainability of payments required to be made under section 22; and
 - (b) such other matters (if any) as the Finance Minister and the Indigenous Affairs Minister consider relevant.
- (3) If the Finance Minister and the Indigenous Affairs Minister make a determination under subsection (1) that specifies a day in a financial year, the Finance Minister and the Indigenous Affairs Minister must not make another determination under subsection (1) that specifies:
 - (a) that day; or
 - (b) another day in the financial year.
- (4) A day specified in a determination under subsection (1) must not be earlier than 30 days after the day the determination is made.
- (5) If a determination is made under subsection (1), the Finance Minister must:
 - (a) give a copy of the determination to the Future Fund Board; and
 - (b) do so at least 30 days before the day specified in the determination.

26 Additional payments—pre-payment transfers to the Indigenous Land and Sea Corporation Funding Special Account

On the day before the day specified in a determination under subsection 25(1), the Finance Minister must cause an amount equal to the amount specified in the determination to be:

- (a) debited from the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account; and
- (b) credited to the Indigenous Land and Sea Corporation Funding Special Account.

27 Additional payments—advice given by the Future Fund Board

- (1) Before making a determination under subsection 25(1), the Finance Minister and the Indigenous Affairs Minister must give the Future Fund Board written notice that:
 - (a) sets out a draft of the determination; and
 - (b) requires the Future Fund Board to:
 - (i) give advice to those Ministers about the impact of the making of the determination on the sustainability of payments required to be made under section 22; and
 - (ii) do so within the period specified in the notice; and
 - (c) requires the Future Fund Board, in giving that advice, to have regard to:
 - (i) the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate; and
 - (ii) such other matters (if any) as are specified in the notice.

Note: Section 22 deals with annual payments.

- (2) The Future Fund Board must comply with a requirement in a notice under subsection (1).
- (3) A period specified under subparagraph (1)(b)(ii) must not be shorter than 90 days after the notice is given.
- (4) A matter specified under subparagraph (1)(c)(ii) must not be inconsistent with:

Section 27

- (a) this Act; or
 - (b) the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate.
- (5) Paragraph (1)(c) does not, by implication, limit the matters to which the Future Fund Board may have regard.

Part 4—Investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund

28 Simplified outline of this Part

- The Future Fund Board is responsible for deciding how to invest the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- Investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund consist of financial assets, and are held in the name of the Future Fund Board.
- The Future Fund Board is bound by an Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate given to it by the responsible Ministers.

29 Objects of investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund

- (1) The main object of the acquisition by the Future Fund Board of a financial asset as an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund is to enhance the ability to transfer amounts as mentioned in section 14.
- (2) The ancillary objects of the acquisition by the Future Fund Board of a financial asset as an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund are to enhance the ability of the Commonwealth and the Future Fund Board to discharge the costs, expenses, obligations and liabilities mentioned in sections 15 and 16.

Section 30

30 Investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund

- (1) The Future Fund Board may invest amounts standing to the credit of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account in any financial assets.
- (2) Investments under subsection (1) are to be made in the name of the Future Fund Board.
- (3) Investments under subsection (1) are taken to be investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- (4) This section does not authorise the acquisition of a derivative.

Note: For acquisition of derivatives, see section 40.

31 Management of investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund

- (1) Income derived from an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.
- (2) A return of capital, or any other financial distribution, relating to an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.
- (3) The Future Fund Board may realise an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- (4) Upon realisation of an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund, the proceeds of the investment are to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.
- (5) At any time before an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund matures, the Future Fund Board may authorise the re-investment of the proceeds upon

maturity in a financial asset investment with the same entity. The new investment is taken to be an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

- (6) Section 58 of the *Public Governance, Performance and Accountability Act 2013* (which deals with investment by the Commonwealth) does not apply to an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

32 Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate

- (1) The responsible Ministers may (subject to section 34) give the Future Fund Board written directions about the performance of its Aboriginal and Torres Strait Islander Land and Sea Future Fund investment functions, and must give at least one such direction.

Note 1: *Aboriginal and Torres Strait Islander Land and Sea Future Fund investment function* is defined in section 4.

Note 2: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) In giving a direction under subsection (1), the responsible Ministers must have regard to:
- (a) the need to maximise the return earned on the Aboriginal and Torres Strait Islander Land and Sea Future Fund over the long term, consistent with international best practice for institutional investment; and
 - (b) the sustainability of payments required to be made under section 22; and
 - (c) such other matters as the responsible Ministers consider relevant.

Note: Section 22 deals with annual payments.

- (3) Directions under subsection (1) are to be known collectively as the *Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate*.

Section 33

- (4) Without limiting subsection (1), a direction under that subsection may set out the policies to be pursued by the Future Fund Board in relation to:

- (a) matters of risk and return; and
- (b) the allocation of financial assets.

A policy relating to the allocation of financial assets must not be inconsistent with a policy relating to matters of risk and return.

Relationship between directions and other provisions of this Act

- (5) A direction under subsection (1):
- (a) prevails over section 33 to the extent of any inconsistency; and
 - (b) must not otherwise be inconsistent with this Act.

When direction takes effect

- (6) A direction under subsection (1) must not take effect before the 15th day after the day on which it is given.

Direction is a legislative instrument

- (8) A direction under subsection (1) is a legislative instrument.

Note 1: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 44(2)(b) of that Act.

Note 2: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the direction—see regulations made for the purposes of paragraph 54(2)(b) of that Act.

33 Obligation on Future Fund Board in performing investment functions

In performing its Aboriginal and Torres Strait Islander Land and Sea Future Fund investment function, the Future Fund Board must (subject to this Act and a direction under subsection 32(1)) seek to maximise the return earned on the Aboriginal and Torres Strait

Section 34

Islander Land and Sea Future Fund over the long term, consistent with international best practice for institutional investment.

34 Limitation on Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate

- (1) The responsible Ministers must not give a direction under subsection 32(1) that has the purpose, or has or is likely to have the effect, of directly or indirectly requiring the Future Fund Board to:
 - (a) invest an amount standing to the credit of the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account in a particular financial asset; or
 - (b) acquire a particular derivative; or
 - (c) allocate financial assets to:
 - (i) a particular business entity; or
 - (ii) a particular activity; or
 - (iii) a particular business.
- (2) Paragraphs (1)(a) and (b) do not limit paragraph (1)(c).

35 Future Fund Board to be consulted on Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate

- (1) Before giving the Future Fund Board a direction under subsection 32(1), the responsible Ministers must:
 - (a) send a draft of the direction to the Future Fund Board; and
 - (b) invite the Future Fund Board to make a submission to the responsible Ministers on the draft direction within a reasonable time limit specified by the responsible Ministers; and
 - (c) consider any submission that is received from the Future Fund Board within that time limit.
- (2) Any submission made by the Future Fund Board on a draft direction in accordance with paragraph (1)(b) must be tabled in each House of the Parliament with the direction.

Section 35A

Note: As the direction is a legislative instrument, it is also tabled in each House of the Parliament under section 38 of the *Legislation Act 2003*.

35A Indigenous Affairs Minister to be consulted on Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate

- (1) Before giving the Future Fund Board a direction under subsection 32(1), the responsible Ministers must:
 - (a) send a draft of the direction to the Indigenous Affairs Minister; and
 - (b) invite the Indigenous Affairs Minister to make a submission to the responsible Ministers on the draft direction within a reasonable time limit specified by the responsible Ministers; and
 - (c) consider any submission that is received from the Indigenous Affairs Minister within that time limit.
- (2) If a draft direction is sent to the Indigenous Affairs Minister under subsection (1):
 - (a) the Indigenous Affairs Minister must send a copy of the draft direction to the Indigenous Land and Sea Corporation Board; and
 - (b) the Indigenous Affairs Minister must invite the Indigenous Land and Sea Corporation Board to make a submission to the Indigenous Affairs Minister on the draft direction within a reasonable time limit that:
 - (i) is specified by the Indigenous Affairs Minister; and
 - (ii) ends before the time limit specified by the responsible Ministers under paragraph (1)(b) in relation to the making of a submission on the draft direction by the Indigenous Affairs Minister; and
 - (c) if a submission is received from the Indigenous Land and Sea Corporation Board within the time limit specified by the Indigenous Affairs Minister under paragraph (b) of this subsection:

Section 36

- (i) the Indigenous Affairs Minister must make a submission to the responsible Ministers on the draft direction within the time limit specified by the responsible Ministers under paragraph (1)(b); and
- (ii) in preparing the submission to the responsible Ministers, the Indigenous Affairs Minister must consider the submission received from the Indigenous Land and Sea Corporation Board.

36 Compliance with Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate

- (1) The Future Fund Board must take all reasonable steps to comply with the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate.
- (2) If the Future Fund Board becomes aware that it has failed to comply with the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate, the Board must give the responsible Ministers a written statement, as soon as practicable after becoming so aware:
 - (a) informing the responsible Ministers of the failure to comply with the Investment Mandate; and
 - (b) setting out the action that the Board proposes to take in order to comply with the Investment Mandate.
- (3) If the responsible Ministers are satisfied that the Future Fund Board has failed to comply with the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate, the responsible Ministers may, by written notice given to the Board, direct the Board:
 - (a) to give the responsible Ministers, within a period specified in the notice, a written explanation for the failure to comply with the Investment Mandate; and
 - (b) to take action specified in the notice, within a period specified in the notice, in order to comply with the Investment Mandate.

Section 37

- (4) The Future Fund Board must comply with a direction under subsection (3).
- (5) A failure to comply with:
 - (a) the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate; or
 - (b) a direction under subsection (3);does not affect the validity of any transaction.
- (6) A direction under subsection (3) is not a legislative instrument.

37 Future Fund Board must not trigger the takeover provisions of the *Corporations Act 2001*

- (1) Subsections 606(1A) and (2A) and section 611 of the *Corporations Act 2001* do not apply to an acquisition by the Future Fund Board if the acquisition is the result of the performance by the Future Fund Board of its Aboriginal and Torres Strait Islander Land and Sea Future Fund investment functions.
- (2) A failure by the Future Fund Board to comply with section 606 of the *Corporations Act 2001* (as modified by this section) does not affect the validity of any transaction.

Note: See also section 39 of the *Future Fund Act 2006* (application of the *Corporations Act 2001*).

38 Borrowing

- (1) The Future Fund Board must not borrow money for a purpose in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund unless the borrowing is authorised by subsection (2) or (3).
- (2) The Future Fund Board is authorised to borrow money for a purpose in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund if:

Section 39

- (a) the purpose of the borrowing is to enable the Board to cover settlement of a transaction for the acquisition of one or more financial assets; and
 - (b) at the time the relevant acquisition decision was made, it was likely that the borrowing would not be needed; and
 - (c) the period of the borrowing does not exceed 7 days; and
 - (d) if the borrowing were to take place, the total amount borrowed by the Board would not exceed 10% of the balance of the Fund.
- (3) The Future Fund Board is authorised to borrow money for a purpose in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund if the borrowing takes place in such circumstances (if any) as are specified in the rules.

39 Aboriginal and Torres Strait Islander Land and Sea Future Fund investment policies

- (1) The Future Fund Board must formulate written policies to be complied with by it in relation to the following matters in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund:
- (a) the investment strategy for the Fund;
 - (b) benchmarks and standards for assessing the performance of the Fund;
 - (c) risk management for the Fund;
 - (d) a matter relating to international best practice for institutional investment;
 - (e) a matter specified in the rules.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) The Future Fund Board must ensure that policies formulated under subsection (1) are consistent with the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate.

Section 40

Publication of policies

- (3) The Future Fund Board must cause copies of policies formulated under subsection (1) to be published on the internet.
- (4) The Future Fund Board must ensure that a copy of the first set of policies formulated under subsection (1) is published on the internet as soon as practicable after the commencement of this section.

Review of policies

- (5) The Future Fund Board must conduct periodic reviews of policies formulated under subsection (1).
- (6) If there is a change in the Aboriginal and Torres Strait Islander Land and Sea Future Fund Investment Mandate, the Future Fund Board must review any relevant policies formulated under subsection (1).

Compliance with policies

- (7) The Future Fund Board must take all reasonable steps to comply with policies formulated under subsection (1).
- (8) A failure to comply with a policy formulated under subsection (1) does not affect the validity of any transaction.

Policies

- (9) A policy formulated under subsection (1) is not a legislative instrument.

40 Derivatives

- (1) The Future Fund Board may acquire a derivative for the purpose of:
 - (a) protecting the value of an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund (other than a derivative); or

Section 41

- (b) protecting the return on an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund (other than a derivative); or
 - (c) achieving indirect exposure to financial assets (other than derivatives) for a purpose in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund; or
 - (d) achieving transactional efficiency for a purpose in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund;
- but must not acquire a derivative for the purpose of speculation or leverage.
- (2) The acquisition of a derivative under subsection (1) of this section must be consistent with the investment strategy embodied in a policy formulated by the Future Fund Board under subsection 39(1).
 - (3) A derivative acquired under subsection (1) is to be held in the name of the Future Fund Board.
 - (4) A derivative acquired under subsection (1) is taken to be an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

41 Additional financial assets

An asset is taken to be an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund if the Future Fund Board becomes the holder of the financial asset as a result of:

- (a) the Board's holding of an investment of the Fund; or
- (b) the exercise of any rights or powers conferred on the Board in its capacity as the holder of an investment of the Fund.

42 Securities lending arrangements

- (1) The Future Fund Board may enter into securities lending arrangements for a purpose in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

Section 43

- (2) Any money received by the Future Fund Board under a securities lending arrangement entered into under subsection (1) is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account.
- (3) To avoid doubt, a securities lending arrangement entered into under subsection (1) may provide for the Future Fund Board to realise an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- (4) A financial asset is taken to be an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund if, as the result of the operation of a securities lending arrangement entered into under subsection (1), the Future Fund Board becomes the holder of the financial asset.

43 Investment managers

- (1) The Future Fund Board may engage one or more investment managers for purposes in connection with the Aboriginal and Torres Strait Islander Land and Sea Future Fund.
- (2) The Future Fund Board must not:
 - (a) invest amounts under subsection 30(1); or
 - (b) acquire derivatives under subsection 40(1); or
 - (c) enter into a securities lending arrangement under subsection 42(1); or
 - (d) realise financial assets that are investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund;unless the Board does so:
 - (e) through an investment manager engaged by the Board under subsection (1); or
 - (f) in a manner approved, in writing, by the responsible Ministers.
- (3) The Future Fund Board must ensure that any investment manager engaged by the Board under subsection (1) operates within this Act.

Section 44

- (4) The Future Fund Board must ensure that any investment manager engaged by the Board under subsection (1) reports to the Board and the Agency on the state of the investments of the Aboriginal and Torres Strait Islander Land and Sea Future Fund at such times and in such manner as the Board determines.

44 Refund of franking credits

A refund of a tax offset under the *Income Tax Assessment Act 1997* is to be credited to the Aboriginal and Torres Strait Islander Land and Sea Future Fund Special Account if:

- (a) the Future Fund Board receives the refund; and
- (b) the tax offset is attributable to an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund.

Note 1: See also section 84B of the *Future Fund Act 2006*.

Note 2: For refunds of tax offsets, see Division 63 of the *Income Tax Assessment Act 1997*.

45 Realisation of non-financial assets

- (1) This section applies if the Future Fund Board becomes aware of the fact that:
- (a) an asset held by the Board as an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund has ceased to be a financial asset; or
 - (b) an asset acquired by the Board, purportedly as an investment of the Aboriginal and Torres Strait Islander Land and Sea Future Fund, is not a financial asset.
- (2) The Future Fund Board must realise the asset as soon as practicable after the Board becomes aware of the fact.
- (3) This Act (other than this section) applies in relation to the asset (including in relation to the realisation of the asset) as if the asset had been a financial asset, and an investment of the Aboriginal and

Section 46

Torres Strait Islander Land and Sea Future Fund, from the time of its acquisition by the Future Fund Board until the realisation.

46 Additional function of the Future Fund Board

The functions of the Future Fund Board include the function of investing amounts in accordance with this Act.

Part 5—Reporting obligations etc.

47 Simplified outline of this Part

- The Finance Minister may provide reports, documents and other information to Ministers.
- The Future Fund Board must keep the responsible Ministers informed of its operations under this Act. It may also be required by the Finance Minister to provide reports and provide information.

48 Finance Minister may require the Future Fund Board to prepare reports or give information

Reports and information

- (1) The Finance Minister may, by written notice given to the Future Fund Board, require the Board to:
 - (a) prepare a report or document about one or more specified matters relating to the performance of the Board's functions under this Act; and
 - (b) give copies of the report or document to the Finance Minister within the period specified in the notice.

Compliance

- (2) The Future Fund Board must comply with a requirement under subsection (1).

Publication of reports and documents

- (3) The Finance Minister may cause a report or document under subsection (1) to be published (whether on the internet or otherwise).

Section 49

Reports and documents

- (4) A report or document under subsection (1) is not a legislative instrument.

49 Keeping the responsible Ministers informed etc.

- (1) The Future Fund Board must keep the responsible Ministers informed of the operations of the Board under this Act.
- (2) The Future Fund Board must give the Finance Minister such reports, documents and information in relation to those operations as are appropriate.

50 Finance Minister may give reports to other Ministers etc.

The Finance Minister may give a Minister any of the following:

- (a) a report or document under subsection 48(1) or 49(2);
- (b) any other information or document obtained by the Finance Minister under this Act.

Part 6—Miscellaneous

51 Simplified outline of this Part

- This Part deals with miscellaneous matters, such as delegations and rules.

51A Meeting to discuss quarterly performance report

- (1) After the publication by the Future Fund Board of a performance report that:
 - (a) relates to the Aboriginal and Torres Strait Islander Land and Sea Future Fund; and
 - (b) covers a particular quarter;the Indigenous Land and Sea Corporation Board may request the Indigenous Affairs Minister to convene a meeting of:
 - (c) one or more officials of the Indigenous Affairs Department; and
 - (d) one or more officials of the Finance Department; and
 - (e) one or more officials of the Indigenous Land and Sea Corporation;to discuss the report.
- (2) The Indigenous Affairs Minister must comply with a request under subsection (1).

52 Delegation by the Finance Minister

- (1) The Finance Minister may, by writing, delegate any or all of the Finance Minister's functions or powers under sections 13, 23 and 26 to:
 - (a) the Secretary of the Finance Department; or
 - (b) an SES employee, or acting SES employee, in the Finance Department.

Section 53

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) The Finance Minister may, by writing, delegate any or all of the Finance Minister's powers under section 18 to:
- (a) the Secretary of the Finance Department; or
 - (b) an SES employee, or acting SES employee, in the Finance Department; or
 - (c) the Chair (within the meaning of section 5 of the *Future Fund Act 2006*); or
 - (d) an SES employee, or acting SES employee, in the Agency.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (3) In performing functions, or exercising powers, under a delegation under subsection (1) or (2), the delegate must comply with any directions of the Finance Minister.

53 Delegation by the Treasurer

- (1) The Treasurer may, by writing, delegate any or all of the Treasurer's powers under section 13 to:
- (a) the Secretary of the Treasury Department; or
 - (b) an SES employee, or acting SES employee, in the Treasury Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation under subsection (1), the delegate must comply with any directions of the Treasurer.

54 Delegation by the Indigenous Affairs Minister

- (1) The Indigenous Affairs Minister may, by writing, delegate any or all of the Indigenous Affairs Minister's functions under sections 22 and 51A to:
- (a) the Secretary of the Indigenous Affairs Department; or

- (b) an SES employee, or acting SES employee, in the Indigenous Affairs Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) In performing functions under a delegation under subsection (1), the delegate must comply with any directions of the Indigenous Affairs Minister.

55 Review of operation of Act

The responsible Ministers must cause a review of the operation of this Act to be undertaken before the tenth anniversary of the commencement of this section.

56 Rules

- (1) The Finance Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Aboriginal and Torres Strait Islander Land and Sea Future Fund Act 2018	145, 2018	30 Nov 2018	1 Feb 2019 (s 2(1) item 1)	
Aboriginal and Torres Strait Islander Land and Sea Future Fund (Consequential Amendments) Act 2018	146, 2018	30 Nov 2018	Sch 3: never commenced (s 2(1) item 4) Sch 4: 1 Feb 2019 (s 2(1) item 5)	—
Future Drought Fund (Consequential Amendments) Act 2019	56, 2019	30 July 2019	Sch 1 (items 1–3) and Sch 2 (items 1–3, 41–43): 1 Sept 2019 (s 2(1) item 2)	Sch 2 (items 41–43)
Emergency Response Fund (Consequential Amendments) Act 2019	91, 2019	28 Oct 2019	Sch 1 (items 1–3) and Sch 2 (items 2–4, 43–45): 12 Dec 2019 (s 2(1) item 1)	Sch 2 (items 43–45)
Emergency Response Fund Amendment (Disaster Ready Fund) Act 2022	65, 2022	29 Nov 2022	Sch 1 (items 156–158): 1 Mar 2023 (s 2(1) item 2)	—
Treasury Laws Amendment (Housing Measures No. 1) Act 2023	81, 2023	28 Sept 2023	Sch 4 (items 1–3): 1 Nov 2023 (s 2(1) item 6)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3	am No 146, 2018
s 4	am No 146, 2018
Part 2	
Division 1	
s 8	am No 146, 2018
Division 3	
s 14	am No 146, 2018
s 16	am No 56, 2019; No 91, 2019; No 65, 2022; No 81, 2023
Part 3	
Part 3 heading	am No 146, 2018
s 19	am No 146, 2018
s 20	am No 146, 2018
s 21	am No 146, 2018
s 22	am No 146, 2018
s 23	am No 146, 2018
s 25	am No 146, 2018
s 26	am No 146, 2018
Part 4	
s 35A	am No 146, 2018
Part 6	
s 51A	am No 146, 2018