EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Families, Housing, Community Services and Indigenous Affairs

Indigenous Affairs Legislation Amendment Act 2011

Item 3 of the table in subsection 2 (1) of the Indigenous Affairs Legislation Amendment Act 2011 (the Act) provides that Schedule 3 to the Act commences on a day to be fixed by Proclamation. However, if any of the provisions do not commence within 12 months of the date the Act receives the Royal Assent, then those provisions commence on the first day after the end of that 12 month period. The Act received the Royal Assent on 15 September 2011.

The purpose of the Proclamation is to fix 5 November 2011 as the day on which Schedule 3 to the Act commences.

Schedule 3 will amend the Aboriginal and Torres Strait Islander Act 2005 (the ATSI Act) to provide that Torres Strait Regional Authority (TSRA) elections will be held every four years, instead of the current requirement for every three years. This will maximise efficiency and save money.

Schedule 3 will amend also section 142S of the ATSI Act, which currently allows the Minister to make notices about how TSRA is to be constituted, with provisions about persons who are elected representing particular communities and other matters. New section 142S removes any references to Queensland’s legislation and also provides that, instead of notice by way of gazette, the Minister’s powers to determine the manner of representation on TSRA will be by way of disallowable legislative instrument.

This will remove the connection between the Local Government Act 2009 (Qld) and the appointment of members to the TSRA. It will also enable greater flexibility to determine the composition of the members of the TSRA.

Commencement on the 5 November 2011 is required to allow sufficient time for the TSRA election preparations.

The Proclamation is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (the LIA). Item 42 of the table in subsection 44 (2) of the LIA provides that Proclamations that provide solely for the commencement of Acts or of provisions of Acts are not subject to disallowance. Item 48 of the table in subsection 54 (2) of the LIA provides that Proclamations that provide solely for the commencement of Acts or of provisions of Acts are not subject to sunsetting.

The TSRA was consulted in relation to the commencement of Schedule 3 to the Act.