EXPLANATORY STATEMENT

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

Aboriginal and Torres Strait Islander Act 2005

Torres Strait Regional Authority Section 142S Revocation Declaration 2012

The Torres Strait Regional Authority Section 142S Declaration 2008 (the current Declaration) was made under subsection 142S(1) of the Aboriginal and Torres Strait Islander Act 2005 (the Act).

Subsection 142S(1) of the Act provides that the Minister may, by legislative instrument, make provision for and in relation to how the Torres Strait Regional Authority (TSRA) is to be constituted.

The Minister, under the current Declaration, declared that the TSRA would be best able to represent the Torres Strait Islanders and Aboriginal persons living in the Torres Strait area if it consisted of or included persons elected to represent communities in that area under Queensland local government legislation.

Amendments to the Act which took effect on 5 November 2011 removed the connection between Queensland local government legislation and the appointment of members of the TSRA with the intention that from the forthcoming TSRA election, all TSRA members would be directly elected under the Torres Strait Regional Authority Election Rules 1996 (the Election Rules). All matters dealt with in the current Declaration are provided for under the Act or would be provided for under complementary amendments to the Election Rules by the Torres Strait Regional Authority Election Amendment Rule 2012 (No. 1). The current Declaration is therefore redundant and should be revoked.

Notes on provisions

Section 1 - specifies the name of the Declaration.

Section 2 - provides that the Declaration commences on the day after registration on the Federal Register of Legislative Instruments.

Section 3 - provides for the revocation of the current Declaration. At the end of the following day the Declaration expires as its work in revoking the current Declaration is done.
Consultation

The TSRA was consulted about this Declaration given the Declaration’s relevance to the constitution of the TSRA. The Australian Electoral Commission was also consulted about this Declaration given its responsibility for conducting elections under the Election Rules.

Human Rights Compatibility

A Statement of Compatibility with Human Rights is attached.

The Declaration is a legislative instrument, subject to disallowance.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Torres Strait Regional Authority Section 142S Revocation Declaration 2012

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

The Torres Strait Regional Authority Section 142S Declaration 2008 (the current Declaration) was made under subsection 142S(1) of the Aboriginal and Torres Strait Islander Act 2005 (the Act). Subsection 142S(1) of the Act provides that the Minister may, by legislative instrument, make provision for and in relation to how the Torres Strait Regional Authority (TSRA) is to be constituted.

The Minister, under the current Declaration, declared that the TSRA would best be able to represent the Torres Strait Islanders and Aboriginal persons living in the Torres Strait area if it consisted of or included persons elected to represent communities in that area under Queensland local government legislation.

Amendments to the Act which took effect on 5 November 2011 removed the connection between Queensland local government legislation and the appointment of TSRA members. As all matters dealt with in the current Declaration are provided for under the Act or would be provided for under complimentary amendments to the Torres Strait Regional Authority Election Rules 1996, the current Declaration is now redundant. Consequently, the Torres Strait Regional Authority Section 142S Revocation Declaration 2012 revokes the current Declaration.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Minister for Families, Community Services and Indigenous Affairs