EXPLANATORY STATEMENT

Aboriginal and Torres Strait Islander Commission (Misbehaviour)
Revocation Determination 2012

Background

In February 2009, the Updated Economic and Fiscal Outlook announced that the Government would undertake a review of pre-2008 Commonwealth subordinate legislation and other regulation (the Review) “...to document those regulations which impose net costs on business, and identify the scope to improve regulatory efficiency”. The Department of Finance and Deregulation (Finance) was tasked with the responsibility of co-ordinating the Review on the Government’s behalf. A Pre-2008 Review of Subordinate Legislation Final Report (Final Report) was completed for each portfolio and agreed between the Minister Assisting on Deregulation and each Portfolio Minister. Responsibility for actioning the recommendations of each report resides with individual Ministers.

The Review identified in relation to the Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) portfolio 10 “in-scope” policy clusters, that included background information, relevant review history and Finance’s recommendations. Policy cluster 1 dealt with Aboriginal and Torres Strait Islander Commission (ATSIC) Regulations.

Finance recommended in the Final Report that FaHCSIA take action to repeal the regulations in cluster 1 (twelve in total) because they serve no further purpose as ATSIC was abolished with effect from 24 March 2005.

The instruments are now enabled by the Aboriginal and Torres Strait Islander Act 2005 (the Act) previously known as the Aboriginal and Torres Strait Islander Commission Act 1989.

Purpose

The purpose of the Aboriginal and Torres Strait Islander Commission (Misbehaviour Revocation) Determination 2012 (the Determination) is to revoke the Aboriginal and Torres Strait Islander Commission (Misbehaviour) Determination 2002 (the Misbehaviour Determination) made under subsection 4A(1) of the Act. This instrument was identified in the Final Report as being redundant.
Legislative Authority

The Determination is a legislative instrument as provided by subsection 4A(3) of the Act (specified as a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901 and declared to be a legislative instrument as provided by subparagraph 6(d)(i) of the Legislative Instruments Act 2003). It commences on the day after it is registered on the Federal Register of Legislative Instruments.

The Determination is made under subsection 4A(1) of the Act.

Cessation

The Determination ceases to have effect at the end of the day it commences.

Consultation

Consultation was considered unnecessary because the Determination is removing redundant regulation and is therefore of a minor or machinery nature and does not substantially alter existing arrangements (see paragraph 18(2)(a) of the Legislative Instruments Act 2003).

Regulatory Impact Analysis

The Determination is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.

Removing redundant regulation reduces costs incurred by business in understanding and complying with outdated regulatory requirements and is part of a range of better regulation initiatives being taken forward by the Government to improve the quality of regulatory stock and ensure regulation does not impose unnecessary costs and inefficiencies on business.
Statement of Compatibility with Human Rights

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

The Determination 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 Determination

The Determination revokes the Misbehaviour Determination because it is redundant and does not need to be retained as current subordinate regulation on the Federal Register of Legislative Instruments.

The Misbehaviour Determination is redundant because ATSIC was abolished with effect from 24 March 2005.

Human rights implications

The Determination does not engage any of the applicable rights or freedoms.

Conclusion

The Determination is compatible with human rights as it does not raise any human rights issues.

The Hon Jenny Macklin MP, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform