

# National Native Title Tribunal Regulations (Amendment) 1994 No. 6

## EXPLANATORY STATEMENT

### Statutory Rules 1994 No. 6

Issued by the authority of the Attorney-General

*Native Title Act 1993*

National Native Title Tribunal Regulations (Amendment)

Details of the proposed regulations are as follows.

Regulation 2 amends Schedule 1 of the Regulations which contains the forms for the purposes of the Act.

Form 1 is the form for making a native title determination application. Part A of Form 1 sets out the information required to be included in the application form where the application is made by a person or persons claiming to hold native title. Subregulation 2.1 amends clause A9 by omitting the reference to 'physical'. This means that a person or persons claiming to hold native title will not be required to include information about any physical connection that exists or did exist between the claimants and the area covered by the application.

Part B of Form 1 sets out the information required to be included in the application form where the application is made except by a person or persons claiming to hold native title. Subregulation 2.2 amends Part B by omitting the note at the end of Part B which requires that the form be accompanied by an affidavit in accordance with paragraph 62(1)(a) of the Act. This is a technical amendment as paragraph 62(1)(a) of the Act only refers to applications made by a person or persons claiming to hold native title.

Native title claimants will still be required to provide information of any connection that exists or did exist between the claimant and the area covered by the application. This is consistent with paragraph 223(1)(b) of the Act which defines native title or native title rights and interests as rights and interests of Aboriginal peoples and Torres Strait Islanders who, by traditional laws and customs, have a connection with land or waters. It is also consistent with paragraph 63(1)(b) of the Act which provides that the Registrar must accept an application unless he or she is of the opinion that prima facie the claim cannot be made out.

Form 3 is the form for making a compensation application. Part A of Form 3 sets out 'the information required to be included in the application form where compensation is claimed in relation to a past act that took place before, on or after 1 January 1994 and there is no registered native title body corporate for the area of land or waters covered by the claim. Subregulation 2.3 amends clause A9 by omitting the reference to 'physical'. This means that applicants for compensation will not be required to include information about any physical connection that exists or did exist between the claimants and the area covered by the application. As with native title claims a connection with the land or waters will still need to be established.