

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 219

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

Aboriginal and Torres Strait Islander Act 2005

Aboriginal and Torres Strait Islander Commission Repeal Regulation 2012

Subsection 201(1) of the *Aboriginal and Torres Strait Islander Act 2005* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The Regulation repeals the Aboriginal and Torres Strait Islander Commission Regulations (Statutory Rules 1992 No. 122) (the Principal Regulations) because they are redundant.

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.

In relation to the Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) portfolio, the Review identified 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 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 because the Aboriginal and Torres Strait Islander Commission (ATSIC) was abolished with effect from 24 March 2005.

The Principal Regulations are currently enabled by the Act which was previously known as the *Aboriginal and Torres Strait Islander Commission Act 1989*.

The Act does not impose any conditions that need to be satisfied before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on the day after registration on the Federal Register of Legislative Instruments.

The Regulation expires at the end of the day it commences.

Consultation

Consultation was considered unnecessary because the Regulation is repealing the redundant Principal Regulations 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*).

Statement of Compatibility with Human Rights

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

The Regulation 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 Regulation repeals the Principal Regulations because they are redundant and do not need to be retained as current subordinate regulation on the Federal Register of Legislative Instruments.

The Principal Regulations were identified as being redundant on the basis that ATSIC was abolished with effect from 24 March 2005.

Human rights implications

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

Conclusion

The Regulation is compatible with human rights.

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