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Aboriginal and Torres Strait Islander Commission
Amendment Bill 2002

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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No. 139 2001-02

Aboriginal and Torres Strait Islander Commission
Amendment Bill 2002

Sean Brennan
Law and Bills Digest Group
14 May 2002

Contents

Purpose	1
Background	1
The Aboriginal and Torres Strait Islander Commission and Indigenous Affairs at the Commonwealth Level	1
The Structure of ATSIC	2
Review of ATSIC Act	3
Greater Regional Autonomy	5
Review of Electoral Systems	6
Disqualifications from Holding ATSIC Offices	7
The Yanner Case	7
Accrual Accounting and the Outcomes and Outputs Framework	8
Main Provisions	8
Disqualifications from Holding ATSIC Offices	8
Continuity of Terms of Office	9

Replacement Regional Councillor When Member Appointed as Commissioner	9
Ex-Commissioner Seeking Election as Regional Council Chairperson	10
Removing a Potential Conflict of Interest in Electoral Review Panels	10
Review of ATSIC decisions	11
Adoption of Terminology Associated with Accrual Accounting and the Outcomes and Outputs Framework	11
Miscellaneous Items	11
Concluding Comments	12
What the Bill Does Not Contain	12
A Technical Flaw	12
Technical Disparities Between ATSIC and TSRA	12
Endnotes.	13

Aboriginal and Torres Strait Islander Commission Amendment Bill 2002

Date Introduced: 13 March 2002

House: House of Representatives

Portfolio: Immigration and Multicultural and Indigenous Affairs

Commencement: The substantive amendments made by the Bill commence 28 days after Royal Assent

Purpose

The Bill proposes a series of technical amendments to the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIIC Act). It makes mainly minor changes in areas such as the composition of Review Panels, disqualifications from office for Regional Councillors and Zone Commissioners, continuity of terms between election cycles, the availability of review from Commission decisions and consistency of terminology in financial provisions. Several of the amendments arise from a review conducted under section 26 of the ATSIIC Act in 1997-1998.

Background

The Aboriginal and Torres Strait Islander Commission and Indigenous Affairs at the Commonwealth Level

The Aboriginal and Torres Strait Islander Commission (ATSIIC) came into operation on 5 March 1990. It is a highly unusual organisation. In one respect it is a political institution, in which elected representatives control the basic functions of the organisation and advocate views independent of government policy. In another respect, ATSIIC is a statutory corporation located firmly inside the Executive branch, advising the relevant Minister and in some respects subject to Ministerial direction and influence. It is part-service delivery organisation, part-policymaker and adviser, part-advocate and protector of Indigenous interests, part-funder of community-based Indigenous organisations and part-watchdog on the activities of government in Indigenous affairs.

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It is the primary Commonwealth agency in Indigenous affairs, but it is not alone in the field of Indigenous policy advice and service delivery. A number of functions either remain with or have been transferred to mainstream public service departments. And successive governments have created alternative, often competing sources of advice. Currently the Office of Aboriginal and Torres Strait Islander Affairs operates inside the Department of Immigration and Multicultural and Indigenous Affairs providing 'high level advice to the Minister'.¹ The Department of Prime Minister & Cabinet retains a small general policy capacity in Indigenous affairs.²

The Structure of ATSIC

ATSIC is a statutory corporation established under the ATSIC Act, legislation which also sets out its structure and functions. Geographically it is organised around a system of zones and regions, with the Torres Strait area treated somewhat differently to everywhere else. There are 17 zones across Australia (including the Torres Strait zone) and between 1 and 4 regions within each Zone. Each of the 35 regions has an elected Regional Council while the Torres Strait area has the Torres Strait Regional Authority (TSRA). Regional Councillors elect one of their own to represent each zone, as do the members of the TSRA. Together these 17 zone Commissioners constitute the Commission known as ATSIC, also commonly referred to as 'the Board'.

The Chairperson and Deputy Chairperson are elected by the Board at its first meeting. The Chairperson ceases to hold office as a Regional Councillor and zone Commissioner and those positions are filled in accordance with the standard procedures for casual vacancies.³ This results in the addition of one more zone Commissioner, making a full complement of 18 on the Board. Commissioners serve 3 year terms and the Board meets at least 4 times per year.

Regional Councils assist in giving ATSIC a more decentralised and representative structure. They too are statutory corporations endowed with specific functions by the ATSIC Act and meet at least 4 times per year. Councillors are elected by secret ballot from up to 5 wards in each region. Each Regional Council must elect a Chairperson and Deputy Chairperson, the former being designated a full-time position under the Act. Councils are responsible for a regional plan for improving the position of Indigenous people in the region, as well as representing and advocating local Indigenous interests, communicating local views and recommending spending proposals to the Commission. The Commission can delegate some functions to Regional Councils. Councils cannot employ staff without the approval of the Commission. The fifth round of Regional Council elections is expected to take place in October 2002. Election of new Commissioners will follow soon after.⁴

On the administrative side, ATSIC has a Chief Executive Officer (CEO) who is appointed by the Minister, with the agreement of the Commission. The staff of the Commission are

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generally employed under the *Public Service Act 1999*. The Commission can delegate a wide range of functions to the CEO and other ATSIC staff.

The TSRA is constituted as a separate statutory corporation under the ATSIC Act. It has functions akin to ATSIC in discharging its responsibilities for Indigenous people living in the Torres Strait area.

A significant number of Torres Strait Islanders reside outside the Torres Strait area. ATSIC's structure reflects this reality in both its political and its administrative arms. The Minister appoints to the Torres Strait Islander Advisory Board seven people from around Australia including the Commissioner for the Torres Strait zone (as Chairperson). Members serve part-time for 3 year terms and advise the Minister and ATSIC about furthering the interests of Torres Strait Islanders living outside the Torres Strait area. The Act also establishes an Office of Torres Strait Islander Affairs inside ATSIC to discharge administrative functions in relation to Torres Strait Islanders, particularly those living outside the Torres Strait area.

Review of ATSIC Act

The Commission has the power to review the operation of the ATSIC Act and report to the Minister (section 26 review). Electoral boundaries and the electoral system are excluded from examination because they are the subject of separate regular review under section 141 of the Act.

There have been two section 26 reviews, the last one being established by the Board in April 1997 and reporting in February 1998. The steering committee for that review was chaired by the then ATSIC Chairperson Gatjil Djerrkura and included 2 other Commissioners, the CEO, a Regional Council Chairperson, then Minister Herron's Chief of Staff and a First Assistant Secretary from the Department of Prime Minister and Cabinet, Peter Vaughan.

The report of that review addressed a wide range of issues and contained 38 recommendations under the following subject headings:

1. The community view: ATSIC in the future
2. Functions and powers of the Commission and Regional Councils
 - objects of the Act
 - definitions
 - functions of the Commission
 - Regional Councils

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- the Board of Commissioners
 - making decisions about applications for funds
 - disclosure of interests
3. Relationships between ATSIC and the Minister and Government
 4. Strengthening the regional focus
 5. Torres Strait Islanders living on the mainland
 6. Financial provisions of the Act
 7. Relationships between ATSIC's elected and administrative arms, including staffing issues
 8. Administrative and legal problems with the Act
 9. Other issues.⁵

The report proposed, in its own words, 'a number of substantive changes to the Act to improve its operation and to strengthen ATSIC's capacity to address the aspirations and needs of Indigenous people *over the next 5 years* and beyond' as well as 'a number of technical changes to address administrative and legal problems that have arisen with the Act in its current form'.⁶

According to ATSIC the review resulted in some minor changes to the Act and a consultation process on greater regional autonomy.⁷ In truth only a fraction of the legislative recommendations in the section 26 review have been implemented over the last 4 years and the current Bill changes that situation only slightly. Even most of the technical changes identified in Attachment 2 to the report will remain unimplemented if the Bill is enacted. The issue of greater regional autonomy attracted attention during consultations on the review and there was particular interest in remote areas in 'having the capacity to move from existing forms of organisation such as Regional Councils towards other institutional forms such as regional authorities'. There was also 'widespread agreement' on the desirability of ATSIC being able to enter into regional agreements.⁸ The current Bill does not address the capacity to enter into regional agreements or facilitate the establishment of regional authorities. This issue is dealt with in more detail below.

The recommendations in the section 26 review which the current Bill does address relate to an independent chairperson for electoral review panels, disqualifications for officeholders (where a court imposes a single sentence for multiple criminal offences), repeal of redundant provisions, accrual accounting terminology and cessation of office as a Commissioner upon election as a Regional Council Chairperson.

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Greater Regional Autonomy

As noted above, the section 26 review report in 1998 noted interest, particularly strong in remote areas, in establishing regional authorities as alternatives to Regional Councils. It also commented on widespread support for enhancing ATSIC's capacity, especially at the Regional Council level, to enter into regional agreements.

The report pointed to the use of regional agreements in Canada to achieve comprehensive settlements of outstanding land claims and noted past advocacy in Australia of such agreements to achieve co-ordinated service delivery and a framework for settling social justice issues and 'unfinished business'. It noted a divergence of views existed and confirmed that more work needed to be done to clarify models and possible implications. It did, however, recommend that the Act be amended so that Regional Councils were specifically empowered to conclude regional agreements with governments, agencies and other organisations to achieve co-ordinated service provision in their region.

The report also said that proposals for regional authorities would be examined in detail and that provision should be made in the Act for the establishment of regional authorities after the Commission has considered and reported on the outcomes of the studies.⁹

As a result, in September 1999 a Discussion Paper was released by Minister Herron and Chairperson Djerrkura. A consultation exercise followed and a *Report on Greater Regional Autonomy* (the Autonomy Report) was endorsed by the ATSIC Board in June 2000 and forwarded to the Minister. The Autonomy Report said that consultations showed a preference for augmenting the role of Regional Councils 'rather than a strong movement towards regional authorities and other bodies' although it also noted 'cautious and qualified support for provision in the Act to support the establishment of regional authorities', support being much stronger in more discrete and remote communities. The priority in terms of progressing autonomy for Indigenous peoples, it said, was enhancing the capacity of Regional Councils to make regional agreements with other service providers.¹⁰ The Autonomy Report also:

- supported the right of Indigenous communities to establish regional authorities
- authorised further work be done on criteria such authorities would be required to meet, and
- recommended to the Minister that 'the necessary legislative approval be obtained to enable the establishment of a regional authority in any given case that meets the criteria'.¹¹

In 2001 Parliament passed the *Aboriginal and Torres Strait Islander Commission Amendment Act 2001* which included an amendment that confirmed that the Commission has the power 'to enter into contracts and agreements', although generally agreements cannot be made with a State or Territory without Commonwealth Ministerial approval. Nothing in the Explanatory Memorandum or the Minister's Second Reading Speech

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indicated that the amendment was a response to the section 26 review recommendation. The amendment did not specifically use the language of regional agreements or co-ordinated service provision but nor arguably is it inconsistent with use in that context. Notably the power was conferred on the Commission, not Regional Councils, and it is not one which can be delegated to the Regional Council under section 45A of the ATSIC Act. Also the general requirement for Ministerial approval when a State or Territory is a party obviously impinges on ATSIC's freedom of action in relation to such agreements.

The *Report on Greater Regional Autonomy* reveals that an amendment corresponding to the specific recommendation from the section 26 review on regional agreements had been included in both Drafting Instructions to the Office of Parliamentary Counsel and a draft Bill, but did not survive in the final version presented to Parliament in November 2000.

As the Minister pointed out in his Second Reading Speech, the current Bill implements recommendations from the section 26 review of 1997-1998. It does not, however, address the issues of greater regional autonomy, regional agreements by Regional Councils, or regional authorities.

Review of Electoral Systems

The Minister's Second Reading Speech attributed some of the proposals in the Bill to another ATSIC review, one carried out under section 141 of the ATSIC Act. That provision requires the Minister to convene a Review Panel within 90 days of each zone election.

It appears that the Minister was referring not to the most recent section 141 review but the one conducted 5 years ago after the 1996 ATSIC elections.

A Review Panel has 5 members including the ATSIC Chairperson (as Chair), the Australian Electoral Commissioner (or AEC nominee), 2 Indigenous people who are not elected ATSIC or TSRA officials and the General Manager of the Australian Surveying and Land Information Group (or AUSLIG nominee). Its job is to review electoral boundaries and the ATSIC and TSRA electoral systems and make recommendations to the Minister. The Review Panel takes submissions and conducts consultations. If someone objects to a draft boundary recommendation, the Minister must convene an Augmented Review Panel (ARP) by adding 2 new members to the existing 5, one of whom must be an Indigenous person. Again the Chairperson of ATSIC chairs the ARP.

The most recent Review Panel recommended, amongst other things, that in Tasmania the AEC establish a separate register of Aboriginal and Torres Strait Islander voters to replace the existing system which has been afflicted by arguments over eligibility for several years:

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The aim of this roll would be to determine eligibility (ie Aboriginality) to nominate and vote *prior* to the elections taking place. This would ensure that all voters and Regional Councillors are in fact Indigenous and would therefore obviate the need for litigation.

The required changes can be made administratively. Therefore while the Bill does not contain changes to the Tasmanian electoral roll, the Minister recently made rules to give effect to this recommendation (albeit in a modified 'postal vote only' form) and they were tabled in Parliament on 12 February 2002 (as a disallowable instrument).¹²

Notably the Bill does not take up a suggestion made in the most recent Review Panel report that zone Commissioners be directly elected by all eligible voters. Currently Commissioners are elected from among the ranks of Regional Councillors in the relevant zone by the Regional Councillors themselves.

Disqualifications from Holding ATSIC Offices

The ATSIC Act contains provision for disqualification of people from running for or retaining office as elected ATSIC officials in the event they fall into a particular category. One disqualification for candidates and ground of removal for office holders is that a Regional Councillor or a Commissioner is convicted of an offence and sentenced to imprisonment for one year or longer.¹³ The Bill contains amendments bearing on this issue.

It is also notable that the disqualification is nullified in certain circumstances, namely if:

- 2 years have elapsed since the person was convicted and they were never actually imprisoned
- 2 years have elapsed since they were released from prison; or
- the Federal Court makes a declaration that in spite of the conviction the person ought not be disqualified.¹⁴

The Yanner Case

Recent litigation involving Murrandoo Yanner, the ATSIC Commissioner for the Queensland Far North Zone, highlighted a problem with the last mentioned procedure, where the Federal Court can declare a Commissioner ought not be disqualified when the Act would otherwise require it.

On 30 July 1999 Yanner was convicted in the District Court at Mt Isa on two counts of wilful damage and four of assault occasioning bodily harm. He was sentenced to probation for a period of three years, 240 hours of community service and ordered to pay compensation totalling \$2,500. The Queensland Attorney-General appealed, and on

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10 December 1999 the Court of Appeal set aside the orders for probation and community service and sentenced him to imprisonment for eighteen months, suspended for a period of four years. Soon after Yanner was elected ATSIC Commissioner. By virtue of paragraph 31(2)(a) of the ATSIC Act the appeal court decision meant he was disqualified from holding office.

Yanner asked the Federal Court for a declaration relieving him of the disqualification. The trial judge rejected his application on a constitutional ground. He decided that the power conferred on the Federal Court to declare someone ought not be disqualified was not judicial power, and the procedure was therefore constitutionally invalid. That decision was upheld on appeal by a 2:1 majority.¹⁵ At that point Yanner obtained special leave from the High Court to appeal against that finding. The case fell away, however, when in September 2001 Yanner was reinstated because 2 years had elapsed since the conviction and he had never served the sentence of imprisonment.

The case has, however, left a serious question mark over the constitutional validity of subsection 31(3). The Bill, although it deals with the general topic of disqualification in some respects, does not address this issue.

Accrual Accounting and the Outcomes and Outputs Framework

In the 1999-2000 financial year, the Commonwealth moved from cash accounting and cash budgeting to accrual accounting and accrual budgeting. This was a major change in the way Commonwealth financial information is recorded and presented.

In the same year the Commonwealth adopted an outcomes and outputs framework for the presentation of its budgets. It requires Ministers and Departments to define as 'outcomes' the basic goals which they intend to achieve and then to specify the particular activities or 'outputs' in which they will engage to achieve those outcomes.

The Bill makes some minor technical amendments to bring the language of the ATSIC Act into line with accrual accounting and the outcomes and outputs framework.

Main Provisions

Disqualifications from Holding ATSIC Offices

As noted in the Background, a Regional Councillor or Commissioner is disqualified from holding office if they fall into certain categories. One of them is where that person is convicted of an offence and sentenced to imprisonment for a year or longer. Another is where they are convicted of a dishonesty offence and sentenced to imprisonment for 3 months or longer.

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In some instances a judge in a criminal trial may impose a single sentence on a defendant even though they have been found guilty of more than one offence. As currently worded, the disqualification provisions in the ATSI Act do not adequately cater for this situation. A number of amendments in the Bill will ensure that an office holder is disqualified where the single sentence for multiple offences exceeds the one year or 3 month threshold: **items 1, 3, 6, 8, 28, 30, 40 and 41 of Schedule 1**. A number of other items are consequential on these changes: **items 2, 5, 7, 27, 29 and 32-34**.

Clause 4 of the Bill deals with transitional provisions and makes clear that these amendments operate retrospectively: a person will be disqualified even where the conviction occurred before commencement of Schedule 1. The Senate Standing Committee for the Scrutiny of Bills noted that the Explanatory Memorandum provided no reason for this retrospective application and drew attention to the clause as it ‘may be considered to trespass unduly on personal rights and liberties’.¹⁶

Sections 122 and 122A of the ATSI Act deal with the situation where a Regional Councillor becomes ineligible to retain office because of statutory disqualification or where they are removed by the Commission for misbehaviour or incapacity. **Item 31** adds a new ‘sin bin’ provision which will deny such a person the opportunity to run at the next round of ATSI Regional Council elections. A similar provision already applies to zone Commissioners (subsection 131(2)).

Continuity of Terms of Office

Items 4 and 39 ensure that the offices of Commission Chairperson and Regional Council Chairperson remain filled by the incumbent right up to the point of a new Chairperson being elected, even where the earlier incumbent has not won re-election to the Commission or Regional Council. **Items 9 and 42** prevent this technical reform from giving the earlier incumbent substantive rights to participate in the first meeting, if they indeed fail to secure re-election to the Commission or Regional Council.

Replacement Regional Councillor When Member Appointed as Commissioner

In recognition of the fact that zone Commissioners hold office on a full-time basis, the Government has decided to allow Regional Councils to gain a replacement member if one of their number is appointed a Commissioner. This is the effect of **item 37** which also specifies that the rules for filling casual vacancies apply, that is currently, a countback to find the next most successful candidate who still wishes to be considered eligible.¹⁷

Item 36 is consequential on this amendment.

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Ex-Commissioner Seeking Election as Regional Council Chairperson

A Commissioner who either does not stand for re-election or is unsuccessful may wish to nominate for Chairperson of a Regional Council. At present he or she must first resign from office as Commissioner. The section 26 review report explains the rationale for the amendment in **item 38** as follows:

Other Commissioners continue to hold office, and receive the normal remuneration and entitlements of office, until the day that the Minister formally appoints another person to represent the zone following their election at a zone election.

As zone meetings are usually held in different locations around the country over a period of up to two weeks, and because there is usually a short delay following the final election before the Minister formalises all the appointments, there is usually a period of up to three weeks from the time of the first zone election until the new Commissioners are appointed. Thus, a Commissioner who resigns to contest election as a Chairperson, and in particular one who is unsuccessful in his or her bid for election, is disadvantaged against other Commissioners who continue to receive remuneration and other entitlements of office for a further period of up to three weeks.

The Commission considers that it would be preferable to provide that a Commissioner can be elected as a Regional Council Chairperson but, if elected, the person immediately ceases to hold office as a Commissioner.¹⁸

Item 38 gives effect to this section 26 review report recommendation.

Removing a Potential Conflict of Interest in Electoral Review Panels

Before the present incumbent, the Chairperson of the Commission was appointed by the Government. Now that person is an elected zone Commissioner and thus has a personal interest in the ATSIC electoral system.

The electoral Review Panel convened after each ATSIC election is, as pointed out earlier in the Background, chaired by the ATSIC Chairperson. The current Chairperson, Commissioner Geoff Clark, took no part in the most recent Review Panel in recognition of the potential conflict of interest involved in making recommendations about boundaries and other electoral matters.

Items 43 and **45** take this one step further by amending the Act to ensure that the Chairperson of a Review Panel or an Augmented Review Panel is no longer the Commission Chairperson but is instead an Indigenous person who is not an elected ATSIC or TSRA officeholder. **Item 44** is consequential on **item 43**.

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There is a drafting error in the Bill. The counterpart consequential amendment to item 45 (in similar terms to **item 44**) is missing. An amendment to the Bill to require the repeal of section 141T is necessary to avoid an internal contradiction in the legislation.

Review of ATSIC decisions

The Commission is empowered by the ATSIC Act to make a variety of decisions which affect the interests of individuals, groups and other entities. For example, it may, under sections 14 and 15, make grants and loans and give financial guarantees. It may delegate a wide range of powers to the CEO and other ATSIC staff under section 45. It may also delegate certain decisions to a Regional Council under section 45A. At present an individual affected by a delegate's decision about a loan or guarantee can seek reconsideration from the Commission under section 195. Review of a wide range of decisions (including those of a delegate) may also be obtained in the Administrative Appeals Tribunal (AAT).

A right to seek reconsideration under section 195 is only available to an 'individual'. **Item 46** makes the right available to bodies corporate and unincorporated bodies as well. **Items 48 and 49** make the same change in relation to review of loan and guarantee decisions by the AAT.

Item 10 allows ATSIC to delegate its function of reconsidering decisions in section 195. **Item 47** clarifies that where this occurs the affected party cannot seek further internal reconsideration, higher up the ATSIC chain to the Board itself.

Item 50 is designed to ensure that delegates' decisions are only reviewable by the AAT where avenues of internal reconsideration are exhausted.

Adoption of Terminology Associated with Accrual Accounting and the Outcomes and Outputs Framework

Under accrual accounting, as the Minister explained in his Second Reading Speech, individual agencies (such as Aboriginal Hostels Ltd and Indigenous Business Australia) receive individual appropriations. This explains the changes made by **items 11, 14, 15, 19 and 20**.

The adoption of these new budgetary frameworks is also the reason for **items 13, 16-18 and 21-23**.

Miscellaneous Items

The Bill also makes some other minor technical changes to the Act. **Items 24-26 and 29** clarify the effect of subsection 102(1) by ensuring that each of the paragraphs in that

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subsection is linked by the connector, 'or'.¹⁹ **Item 35** makes it clear that the electoral rules made by the Minister can include rules about nomination fees for candidates. **Item 12** is a technical provision which repeals a section of the Act which has been redundant since the early 1990s.

Concluding Comments

What the Bill Does Not Contain

The Bill deals with essentially minor and technical amendments. In doing so the Government has passed up the opportunity to tackle a wide range of matters which would involve legislative amendment. Many of those matters were the subject of recommendations made in the section 26 review more than 4 years ago.

The Government has promoted this Bill as giving effect to recommendations arising from the section 26 review it received in 1998, but the fact is that most of those recommendations for legislative change remain unimplemented. This includes a long list of changes which the section 26 review characterised as 'administrative and legal problems' set out in a separate Attachment to the report. It also includes a suite of proposals which the review authors called 'substantive changes to the Act to improve its operation and to strengthen ATSIC's capacity to address the aspirations and needs of Indigenous people *over the next 5 years and beyond*'.²⁰

Putting aside the administrative and legal matters outlined in the Attachment to the review, substantive issues not addressed in the Bill include the explicit capacity of Regional Councils to make regional agreements, direct election of Commissioners, facilitating greater regional autonomy and/or regional authorities and the constitutionally dubious process for reinstatement of elected officers by the Federal Court.

A Technical Flaw

As discussed in the Main Provisions, unless the Bill is amended to repeal section 141T it will contain an internal contradiction as to who chairs an Augmented Review Panel.

Technical Disparities Between ATSIC and TSRA

It has already been noted that the Torres Strait zone is treated somewhat differently from the rest of Australia and that the TSRA is an entity somewhat distinct from ATSIC. At the same time the provisions dealing with the TSRA are located within the ATSIC Act and, for example, the relevant Commissioner for the Torres Strait zone is a member of the ATSIC Board.

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Government has permitted the Torres Strait zone a degree of divergence and autonomy from the basic ATSIC model. This has operated at a political and to some extent legal and administrative level. It is not necessarily clear why, however, the two entities are being left to diverge on essentially technical issues such as those covered in the Bill. The Explanatory Memorandum does not explain why, for example, the Bill changes the situation for ATSIC but not the TSRA on disqualification (single sentence-multiple offences), review of decisions, accrual accounting terminology, continuity of terms for officeholders, the disqualification 'sin-bin' and the appointment of a replacement member at the regional level upon election of a Commissioner.

Endnotes

- 1 Department of Immigration and Multicultural and Indigenous Affairs, Office of Aboriginal and Torres Strait Islander Affairs website: <http://www.immi.gov.au/oatsia/index.htm> (checked 14/05/02).
- 2 Senate Legal and Constitutional Legislation Committee, Consideration of Additional Estimates, *Hansard*, 12 March 2002, L&C 365.
- 3 For Regional Council vacancies: Regional Council Election (Casual Vacancies) Rules 1990. For zone Commissioner vacancies: section 132 of the ATSIC Act and Zone Election Rules 1990, Part 6.
- 4 Section 133.
- 5 Aboriginal and Torres Strait Islander Commission (ATSIC), *Review of the operation of the Aboriginal and Torres Strait Islander Commission Act 1989. Report to the Minister for Aboriginal and Torres Strait Islander Affairs* (Section 26 Review), February 1998, http://www.atsic.gov.au/about_atsic/atsic_act/section26_fin/main.htm (checked 14/05/02), pp. ix–x.
- 6 *ibid*, p. xii [emphasis added].
- 7 ATSIC, 'About ATSIC' at: <http://www.atsic.gov.au/> (checked 14/05/02).
- 8 ATSIC, Section 26 Review, http://www.atsic.gov.au/about_atsic/atsic_act/section26_fin/main.htm (checked 14/05/02), p. 3.
- 9 Recommendation 20.
- 10 ATSIC Regional Autonomy Portfolio Commissioners Djerrkura OAM, Bedford and Williams, *Report on Greater Regional Autonomy*, May 2000, http://www.atsic.gov.au/issues/regional_autonomy/autonomy_2000/contents.asp (checked 14/05/02), p. 5.
- 11 *ibid*, p. 36.
- 12 Aboriginal and Torres Strait Islander Commission (Regional Council Election) Amendment Rules 2002 (No. 1).

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- 13 ATSIAC Act, sections 31 and 40 (Commissioners); sections 102 and 122 (Regional Councillors).
- 14 ATSIAC Act, subsection 31(3).
- 15 *Yanner v Minister, Aboriginal & Torres Strait Islander Affairs* [2001] FCA 36 (5 February 2001), at http://www.austlii.edu.au/au/cases/cth/federal_ct/2001/36.html (checked 14/05/02).
- 16 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 3 of 2002*, <http://www.aph.gov.au/senate/committee/scrutiny/alert02/index.htm> (checked 14/05/02), p. 5–6.
- 17 Regional Council Election (Casual Vacancies) Rules 1990.
- 18 ATSIAC, Section 26 Review, http://www.atsic.gov.au/about_atsic/atsic_act/section26_fin/main.htm (checked 14/05/02), pp. 47–48.
- 19 At present, only the penultimate and last paragraphs are linked by ‘or’.
- 20 ATSIAC, Section 26 Review, http://www.atsic.gov.au/about_atsic/atsic_act/section26_fin/main.htm (checked 14/05/02), p. xii [emphasis added].

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.