

Queensland



**COMMUNITY SERVICES
LEGISLATION AMENDMENT
ACT 2001**

Act No. 49 of 2001

Queensland



COMMUNITY SERVICES LEGISLATION AMENDMENT ACT 2001

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Queensland



**Community Services Legislation Amendment
Act 2001**

Act No. 49 of 2001

**An Act to amend the *Community Services (Aborigines) Act 1984* and
*Community Services (Torres Strait) Act 1984***

[Assented to 28 June 2001]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Community Services Legislation Amendment Act 2001*.

2 Commencement

Sections 6(1), 7, 8, 16(1), 17 to 28 and 30 to 32 commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF COMMUNITY SERVICES (ABORIGINES) ACT 1984

3 Act amended in pt 2

This part amends the *Community Services (Aborigines) Act 1984*.

4 Amendment of s 6 (Definitions)

Section 6—

insert—

‘**“Aboriginal Council Accounting Standards”** see section 27B(1).’.

5 Amendment of s 17 (Times for election of councillors)

(1) Section 17(2), ‘subsection (3)’—

omit, insert—

‘subsection (1)’.

(2) Section 17(3), ‘triennial’—

omit, insert—

‘quadrennial’.

6 Amendment of s 25 (Functions of Aboriginal councils)

(1) Section 25(3)—

insert—

‘(ba)the lending of amounts to adult residents of its council area;’.

(2) Section 25(3AA)(a), ‘local government’—

omit, insert—

‘ ‘local government’ ’.

(3) Section 25(6)(a), ‘7 penalty units’—

omit, insert—

‘20 penalty units’.

7 Insertion of new s 27AA

After section 27—

insert—

‘27AA Power of council to lend an amount to an adult resident

‘(1) An Aboriginal council may lend an amount to an adult resident of its council area only if—

- (a) it does so under a lending policy adopted by it by resolution (an **“adopted lending policy”**); and
- (b) the adopted lending policy has been approved by the Minister in writing given to the council.

‘(2) The Minister must approve an adopted lending policy submitted to the Minister for approval unless the Minister is satisfied on reasonable grounds the policy does not comply with the Aboriginal Council Accounting Standards.

‘(3) The Minister must decide whether or not to approve an adopted lending policy submitted to the Minister for approval as soon as practicable

after receiving the policy and must advise the Aboriginal council, that submitted the policy, in writing of the decision.

‘(4) If the Minister decides not to approve the adopted lending policy, the Minister’s advice must state how the policy does not comply with the Aboriginal Council Accounting Standards.’.

8 Amendment of s 27B (Issue of standards)

(1) Section 27B(1)—

insert—

‘(ba)the policies to be complied with by Aboriginal councils in relation to the lending of amounts to adult residents of council areas; and’.

(2) Section 27B(4)—

renumber as section 27B(5).

(3) Section 27B—

insert—

‘(4) A standard about the content of a policy mentioned in subsection (1)(ba) may include—

- (a) a model lending policy; or
- (b) model provisions of a lending policy.’.

9 Amendment of s 50 (Divisions of Aboriginal communities)

Section 50(1), ‘section 48(c)’—

omit, insert—

‘section 48(1)(c)’.

10 Amendment of s 51 (Selection of board members)

(1) Section 51(1), ‘section 48(c)’—

omit, insert—

‘section 48(1)(c)’.

(2) Section 51(1A), ‘section 48(d)’—

omit, insert—

‘section 48(1)(d)’.

11 Amendment of s 66 (General authority to be in area)

Section 66(1), ‘(1)’—

omit.

12 Amendment of s 84 (Use of churches etc. for provision of assistance)

Section 84, before ‘Subject to’—

insert—

‘(1)’.

PART 3—AMENDMENT OF COMMUNITY SERVICES (TORRES STRAIT) ACT 1984

13 Act amended in pt 3

This part amends the *Community Services (Torres Strait) Act 1984*.

14 Amendment of s 6 (Definitions)

Section 6—

insert—

‘“Island Council Accounting Standards” see section 25B(1).’.

15 Amendment of s 17 (Times for election of councillors)

(1) Section 17(2), ‘subsection (3)’—

omit, insert—

‘subsection (1)’.

(2) Section 17(3), ‘triennial’—
omit, insert—
‘quadrennial’.

16 Amendment of s 23 (Functions of Island councils)

(1) Section 23(3)—
insert—
‘(ba)the lending of amounts to adult residents of its council area;’.

(2) Section 23(3A)(a), ‘local government’—
omit, insert—
‘ ‘local government’ ’.

(3) Section 23(6)(a), ‘7 penalty units’—
omit, insert—
‘20 penalty units’.

17 Insertion of new s 25AA

After section 25—
insert—

‘25AA Power of council to lend an amount to an adult resident

‘(1) An Island council may lend an amount to an adult resident of its council area only if—

- (a) it does so under a lending policy adopted by it by resolution (an **“adopted lending policy”**); and
- (b) the adopted lending policy has been approved by the Minister in writing given to the council.

‘(2) The Minister must approve an adopted lending policy submitted to the Minister for approval unless the Minister is satisfied on reasonable grounds the policy does not comply with the Island Council Accounting Standards.

‘(3) The Minister must decide whether or not to approve an adopted lending policy submitted to the Minister for approval as soon as practicable

after receiving the policy and must advise the Island council, that submitted the policy, in writing of the decision.

‘(4) If the Minister decides not to approve the adopted lending policy, the Minister’s advice must state how the policy does not comply with the Island Council Accounting Standards.’.

18 Amendment of s 25B (Issue of standards)

(1) Section 25B(1)—

insert—

‘(ba) the policies to be complied with by Island councils in relation to the lending of amounts to adult residents of council areas; and’.

(2) Section 25B(4)—

renumber as section 25B(5).

(3) Section 25B—

insert—

‘(4) A standard about the content of a policy mentioned in subsection (1)(ba) may include—

(a) a model lending policy; or

(b) model provisions of a lending policy.’.

19 Amendment of s 46 (Functions of council)

Section 46(1)(c), ‘5 persons who are members’ to ‘Board and’—

omit.

20 Amendment of s 48 (Divisions of Torres Strait)

Section 48(1), ‘the Island Industries Board and’—

omit.

21 Amendment of s 49 (Selection of board members)

(1) Section 49, heading—

omit, insert—

‘49 Selection of members of the executive committee’.

(2) Section 49(1), ‘the Island Industries Board and’—

omit.

(3) Section 49(1), ‘the board or, as the case may be,’—

omit.

(4) Section 49(2), ‘the Island Industries Board or, as the case may be,’—

omit.

(5) Section 49(2), ‘in the case of a member of the executive committee’—

omit.

(6) Section 49(3), ‘the Island Industries Board or’—

omit.

(7) Section 49(4), ‘the Island Industries Board or’—

omit.

22 Amendment of s 50 (Casual vacancy in office of selected member)

Section 50, ‘the Island Industries Board or’—

omit.

23 Amendment of s 51 (Particular functions of council)

Section 51(2) and (3)—

omit.

24 Amendment of s 52 (The board)

Section 52(3), (3A) and (4)—

omit.

25 Replacement of ss 53–55

Sections 53 to 55—

omit, insert—

‘53 Membership of board

‘(1) The board consists of at least 5, but not more than 8, members appointed by the Governor in Council.

‘(2) A person is qualified to be nominated by the Minister for appointment as a member of the board only if the person—

(a) has—

- (i) commercial or management skills and experience; or
- (ii) other skills and experience relevant to the performance of the board’s functions; and

(b) is not disqualified under section 55C from being a member.

‘(3) The board must include 2 members nominated by the Minister from a panel of not less than 5 qualified persons proposed by the Island Coordinating Council.

‘54 Proposal of persons by Island Coordinating Council

‘(1) This section applies for the proposal of persons by the Island Coordinating Council under section 53(3).

‘(2) The Minister must give the Island Coordinating Council a notice stating a reasonable period within which the council may propose a panel of not less than 5 persons who are qualified for membership of the board.

‘(3) Subsection (4) applies if—

- (a) the Island Coordinating Council does not propose a panel of persons within the period stated in the notice; or
- (b) the Island Coordinating Council proposes a panel that consists of less than 5 persons; or
- (c) the persons, or any of the persons, proposed by the Island Coordinating Council are not qualified to be appointed as members of the board.

‘(4) The Minister must nominate 2 persons qualified to be appointed to the board and the nominations are taken to have been of persons included in a panel proposed by the Island Coordinating Council.

‘(5) To remove doubt, if subsection (3)(b) applies, it is declared that a nomination under subsection (4) may be of, or include, a person or persons proposed by the Island Coordinating Council.

‘55 Chairperson of board

‘(1) The Governor in Council is to appoint a member of the board to be the chairperson of the board.

‘(2) A person may be appointed as the chairperson at the same time the person is appointed as a member.

‘(3) The chairperson holds office for the term decided by the Governor in Council unless the person’s term of office as a member ends sooner than the person’s term of office as chairperson.

‘(4) A person may be appointed as the chairperson for not more than 2 consecutive terms.

‘(5) A vacancy occurs in the office of chairperson if the person holding the office resigns the office by signed notice of resignation given to the Minister or ceases to be a member.

‘(6) However, a person resigning the office of chairperson may continue to be a member.

‘55A Deputy chairperson of board

‘(1) The board must appoint a deputy chairperson from its members whenever there is a vacancy in the office, including a vacancy occurring because the office has not been filled.

‘(2) A vacancy occurs in the office of deputy chairperson if the person holding the office resigns the office by signed notice of resignation given to the chairperson, the person’s term of office as a member of the board ends or the person otherwise ceases to be a member of the board.

‘(3) However, a person resigning the office of deputy chairperson may continue to be a member.

‘(4) The deputy chairperson is to act as chairperson—

- (a) during a vacancy in the office of chairperson; and

- (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

‘55B Term of appointment

‘A member of the board is to be appointed for a term of not more than 4 years.

‘55C Disqualification from membership

‘(1) A person can not become, or continue as, a member of the board if the person—

- (a) is affected by bankruptcy action; or
- (b) is, or has been, convicted of an indictable offence; or
- (c) is, or has been, convicted of an offence against this Act.

‘(2) For subsection (1)(a), a person is affected by bankruptcy action if the person—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) as a debtor, has otherwise taken, or applied to take, advantage of any law about bankruptcy.

‘55D Vacation of office

‘(1) A member of the board is taken to have vacated office if the member—

- (a) resigns his or her position on the board by signed notice of resignation given to the Minister; or
- (b) can not continue as a member under section 55C; or
- (c) is absent without the board’s permission from 3 consecutive meetings of the board of which due notice has been given.

‘(2) In this section—

“**meeting**” means the following—

- (a) if the member does not attend—a meeting with a quorum present;

- (b) if the member attends—a meeting with or without a quorum present.

‘55E When notice of resignation takes effect

‘A notice of resignation under section 55(5), 55A(2) or 55D(1)(a) takes effect when the notice is given to the Minister or the chairperson or, if a later time is stated in the notice, the later time.

‘55F Conduct of business

‘Subject to this part, the board may conduct its business, including its meetings, in the way it considers appropriate.

‘55G Times and places of meetings

‘(1) Board meetings are to be held at the times and places the chairperson decides.

‘(2) However, the chairperson must call a meeting if asked, in writing, to do so by the Minister or at least the number of members forming a quorum for the board.

‘55H Quorum

‘A quorum for the board is the number equal to one-half of the number of its members or, if one-half is not a whole number, the next highest whole number.

‘55I Presiding at meetings

‘(1) The chairperson is to preside at all meetings of the board at which the chairperson is present.

‘(2) If the chairperson is absent from a board meeting, the deputy chairperson is to preside.

‘(3) If the chairperson and the deputy chairperson are both absent from a board meeting or the offices are vacant, a member chosen by the members present is to preside.

‘55J Conduct of meetings

‘(1) A question at a board meeting is decided by a majority of the votes of the members present.

‘(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

‘(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

‘(4) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between members taking part in the meeting.

Example of ‘technology allowing reasonably contemporaneous and continuous communication’—

Teleconferencing.

‘(5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.

‘(6) A resolution is validly made by the board, even if it is not passed at a board meeting, if—

- (a) a majority of the board members gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the board.

‘55K Minutes

‘(1) The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any resolutions made under section 55J(6).

‘(2) Subsection (3) applies if a resolution is passed at a board meeting by a majority of the members present.

‘(3) If asked by a member who voted against the passing of the resolution, the board must record in the minutes of the meeting that the member voted against the resolution.

‘55L Disclosure of interests

‘(1) This section applies to a member of the board (the **“interested person”**) if—

- (a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
- (b) the interest could conflict with the proper performance of the person’s duties about the consideration of the issue.

‘(2) As soon as practicable after the relevant facts come to the interested person’s knowledge, the person must disclose the nature of the interest to a board meeting.

‘(3) Unless the board otherwise directs, the interested person must not—

- (a) be present when the board considers the issue; or
- (b) take part in a decision of the board about the issue.

‘(4) The interested person must not be present when the board is considering whether to give a direction under subsection (3).

‘(5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—

- (a) be present when the board is considering whether to give a direction under subsection (3) about the interested person; or
- (b) take part in making the decision about giving the direction.

‘(6) If—

- (a) because of this section, a board member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the member were present;

the remaining persons present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

‘(7) A disclosure under subsection (2) must be recorded in the board’s minutes.’.

26 Amendment of s 56 (Officers and employees of board)

(1) Section 56(1)(a)—

omit, insert—

‘(a) must appoint an individual as its chief executive officer; and’.

(2) Section 56(2), ‘The secretary to the board’—

omit, insert—

‘The chief executive officer’.

(3) Section 56(2), ‘to the secretary’—

omit, insert—

‘to the chief executive officer’.

(4) Section 56(3) and (4)—

omit.

27 Amendment of s 61 (Administrator may replace board members)

Section 61(4), ‘the persons referred to in section 52(3)’—

omit, insert—

‘persons appointed under section 53’.

28 Amendment of s 62 (Relinquishment of board’s assets to local control)

Section 62(3) to (5)—

omit, insert—

‘(3) However, the board may enter into a contract, transaction or arrangement to transfer the conduct of the business only if the Minister has, by written notice given to the board—

- (a) approved the transfer of the conduct of the business to the Island council or member or members of the community; and
- (b) approved the terms of the contract, transaction or agreement.’.

29 Amendment of s 64 (General authority to be in area)

Section 64(1)—

renumber as section 64.

30 Amendment of pt 10 hdg (Transitional provision)

Part 10, heading, ‘PROVISION’—

omit, insert—

‘PROVISIONS’.

31 Insertion of new pt 10, div 1, hdg

Part 10, before section 84—

insert—

‘Division 1—Transitional provision for Community Services Legislation Amendment Act 1999’.

32 Insertion of new pt 10, div 2

Part 10, after section 84—

insert—

‘Division 2—Transitional provision for Community Services (Torres Strait) Amendment Act 2001

‘84A Existing members of the board to go out of office

‘(1) On the commencement of this section, the existing members of the board go out of office.

‘(2) No compensation is payable to an existing member of the board because of subsection (1).

‘(3) In this section—

“existing member”, of the board, means a member of the board who, immediately before the commencement of this section, held office under section 52(3).’.