

Queensland



**COMMUNITY SERVICES
LEGISLATION AMENDMENT
ACT 2002**

Act No. 46 of 2002

Queensland



COMMUNITY SERVICES LEGISLATION AMENDMENT ACT 2002

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	10
2	Commencement	10
PART 2—AMENDMENT OF COMMUNITY SERVICES (ABORIGINES) ACT 1984		
3	Act amended in pt 2 and schedule	10
4	Amendment of s 6 (Definitions)	10
5	Amendment of s 13D (Overruling by-laws)	12
6	Amendment of s 25 (Functions of Aboriginal councils)	13
7	Omission of ss 26 and 27	13
8	Insertion of new s 32AA	13
	32AA Special accounting provision for particular payments	13
9	Amendment of s 40 (Discharge of Aboriginal police function)	14
10	Insertion of new pt 3A	14
PART 3A—COMMUNITY JUSTICE GROUPS		
<i>Division 1—Establishment, functions and powers</i>		
	45C Establishment	14
	45D Functions and powers	15
<i>Division 2—Provisions about membership of groups and group coordinators</i>		
	45E Membership	15
	45F Criminal history checks	16
	45G Coordinator	17
<i>Division 3—Miscellaneous provisions</i>		

	45H	Authentication of documents	17
	45I	Protection of members from civil liability	17
	45J	Reporting requirements	17
11		Insertion of new pt 3B	18
		PART 3B—CONTROL OF POSSESSION AND CONSUMPTION OF ALCOHOL IN COMMUNITY AREAS	
		<i>Division 1—Preliminary</i>	
	45K	Purpose of pt 3B	18
	45L	Definitions for pt 3B	18
		<i>Division 2—Dry places</i>	
	45M	Declaration	19
	45N	Notice of proposal	20
	45O	Objections and supporting submissions	21
	45P	Notice about declaration	22
	45Q	Suspension of declaration	22
	45R	Effect of declaration of dry place	23
		<i>Division 3—Offences</i>	
	45S	Obstructing members	23
	45T	Possession or consumption of alcohol in or on dry place	23
	45U	False or misleading statements	24
	45V	False or misleading documents	24
		<i>Division 4—Appeals</i>	
	45W	Who may appeal	24
	45X	How to start appeal	25
	45Y	Stay of operation of decisions	25
	45Z	Powers of Magistrates Court	25
	45ZA	Constitution of Magistrates Court	26
	45ZB	Effect of Magistrates Court’s decision	26
	45ZC	Appeal to District Court	26
		<i>Division 5—Miscellaneous provision</i>	
	45ZD	Making applications	26
12		Insertion of new pt 3C	27

PART 3C—PROVISIONS ABOUT MAKING BY-LAWS AND
SUBORDINATE BY-LAWS

Division 1—Preliminary

45ZE Definitions for pt 3C 27

*Division 2—Publishing model by-laws and power to make subordinate
by-laws*

45ZF Minister may publish model by-laws. 28

45ZG Power to make subordinate by-laws 28

Division 3—Process for making by-laws

45ZH By-law process. 28

45ZI Step 1—propose a by-law 29

45ZJ Step 2—ensure proposed by-law satisfactorily deals with any
State interest 29

45ZK Step 3—consultation about proposed by-law 30

45ZL Step 4—give access to proposed by-law 31

45ZM Step 5—accept and consider all submissions 31

45ZN Step 6—decide whether to proceed with making proposed by-law 32

45ZO Step 7—again ensure proposed by-law satisfactorily deals with
any State interest 32

45ZP Step 8—make proposed by-law 33

45ZQ Step 9—give public notice of law 34

Division 4—Process for making subordinate by-laws

45ZR Subordinate by-law process 34

45ZS Step 1—propose a subordinate by-law 35

45ZT Step 2—consultation about proposed subordinate by-law. 35

45ZU Step 3—give access to proposed subordinate by-law 36

45ZV Step 4—accept and consider all submissions 36

45ZW Step 5—make proposed subordinate by-law 37

45ZX Step 6—give public notice of subordinate by-law 37

45ZY Early start for subordinate by-law making process 38

*Division 5—Commencement and status of by-laws and subordinate
by-laws*

45ZZ Commencement of by-laws and subordinate by-laws 38

45ZZA Effect of by-laws. 39

	45ZZB Extent to which subordinate by-law is binding	39
	45ZZC When subordinate by-laws cease to have effect	39
	45ZZD Proof of by-laws and subordinate by-laws	39
	45ZZE By-law and subordinate by-law presumed to be within power.	40
13	Amendment of s 81 (Evidentiary aids)	40
14	Insertion of new s 81A	40
	81A Approved forms	40
15	Amendment of s 82 (Regulations).	41
16	Insertion of new pt 10, div 2	41
	<i>Division 2—Transitional provision for Community Services Legislation Amendment Act 2002</i>	
	85A Transitional provision for process for making by-laws	41
17	Insertion of new pt 12	42
	PART 12—PROVISION FOR REPRINTING ACT	
	87 Numbering and renumbering of Act	42
	PART 3—AMENDMENT OF COMMUNITY SERVICES (TORRES STRAIT) ACT 1984	
18	Act amended in pt 3 and schedule.	42
19	Amendment of s 6 (Definitions)	42
20	Amendment of s 13D (Overruling by-laws)	44
21	Amendment of s 23 (Functions of Island councils)	45
22	Omission of ss 24 and 25	45
23	Insertion of new s 30AA	45
	30AA Special accounting provision for particular payments.	45
24	Amendment of s 38 (Discharge of Island police function)	46
25	Insertion of new pt 3A.	46
	PART 3A—COMMUNITY JUSTICE GROUPS	
	<i>Division 1—Establishment, functions and powers</i>	
	43C Establishment.	46
	43D Functions and powers	47
	<i>Division 2—Provisions about membership of groups and group coordinators</i>	
	43E Membership	47

	43F	Criminal history checks	48
	43G	Coordinator	49
	<i>Division 3—Miscellaneous provisions</i>		
	43H	Authentication of documents	49
	43I	Protection of members from civil liability	49
	43J	Reporting requirements	49
26		Insertion of new pt 3B	50
	PART 3B—CONTROL OF POSSESSION AND CONSUMPTION OF ALCOHOL IN COUNCIL AREAS		
	<i>Division 1—Preliminary</i>		
	43K	Purpose of pt 3B	50
	43L	Definitions for pt 3B	50
	<i>Division 2—Dry places</i>		
	43M	Declaration	51
	43N	Notice of proposal	52
	43O	Objections and supporting submissions	53
	43P	Notice about declaration	54
	43Q	Suspension of declaration	54
	43R	Effect of declaration of dry place	55
	<i>Division 3—Offences</i>		
	43S	Obstructing members	55
	43T	Possession or consumption of alcohol in or on dry place	55
	43U	False or misleading statements	56
	43V	False or misleading documents	56
	<i>Division 4—Appeals</i>		
	43W	Who may appeal	56
	43X	How to start appeal	56
	43Y	Stay of operation of decisions	57
	43Z	Powers of Magistrates Court	57
	43ZA	Constitution of Magistrates Court	58
	43ZB	Effect of Magistrates Court’s decision	58
	43ZC	Appeal to District Court	58
	<i>Division 5—Miscellaneous provision</i>		

	43ZD Making applications.	58
27	Insertion of new pt 3C.	59
	PART 3C—PROVISIONS ABOUT MAKING BY-LAWS AND SUBORDINATE BY-LAWS	
	<i>Division 1—Preliminary</i>	
	43ZE Definitions for pt 3C	59
	<i>Division 2—Publishing model by-laws and power to make subordinate by-laws</i>	
	43ZF Minister may publish model by-laws.	60
	43ZG Power to make subordinate by-laws	60
	<i>Division 3—Process for making by-laws</i>	
	43ZH By-law process.	60
	43ZI Step 1—propose a by-law	61
	43ZJ Step 2—ensure proposed by-law satisfactorily deals with any State interest	61
	43ZK Step 3—consultation about proposed by-law	62
	43ZL Step 4—give access to proposed by-law	63
	43ZM Step 5—accept and consider all submissions	63
	43ZN Step 6—decide whether to proceed with making proposed by-law	64
	43ZO Step 7—again ensure proposed by-law satisfactorily deals with any State interest	64
	43ZP Step 8—make proposed by-law.	65
	43ZQ Step 9—give public notice of law	66
	<i>Division 4—Process for making subordinate by-laws</i>	
	43ZR Subordinate by-law process.	66
	43ZS Step 1—propose a subordinate by-law	67
	43ZT Step 2—consultation about proposed subordinate by-law.	67
	43ZU Step 3—give access to proposed subordinate by-law	68
	43ZV Step 4—accept and consider all submissions	68
	45ZW Step 5—make proposed subordinate by-law	69
	43ZX Step 6—give public notice of subordinate by-law.	69
	43ZY Early start for subordinate by-law making process	70
	<i>Division 5—Commencement and status of by-laws and subordinate by-laws</i>	

	43ZZ Commencement of by-laws and subordinate by-laws	70
	43ZZA Effect of by-laws.	71
	43ZZB Extent to which subordinate by-law is binding	71
	43ZZC When subordinate by-laws cease to have effect	71
	43ZZD Proof of by-laws and subordinate by-laws	71
	43ZZE By-law and subordinate by-law presumed to be within power.	72
28	Amendment of s 80 (Evidentiary aids)	72
29	Insertion of new s 80A	72
	80A Approved forms	72
30	Amendment of s 81 (Regulations).	73
31	Insertion of new pt 10, div 3	73
	<i>Division 3—Transitional provision for Community Services Legislation Amendment Act 2002</i>	
	84B Transitional provision for process for making by-laws	73
32	Insertion of new pt 12	74
	PART 12—PROVISION FOR REPRINTING ACT	
	86 Numbering and renumbering of Act	74
	PART 4—AMENDMENT OF LOCAL GOVERNMENT (ABORIGINAL LANDS) ACT 1978	
33	Act amended in pt 4 and schedule.	74
34	Amendment of s 3 (Definitions)	74
35	Insertion of new s 15	75
	15 Special accounting provision for particular payments.	75
36	Amendment of s 33 (Law and order in shires)	75
37	Insertion of new s 55AA	76
	55AA Delegation	76
38	Omission of pt 6 (Control of possession or consumption of alcohol at Aurukun)	76
39	Insertion of new pt 8, div 2 and pt 9	76
	<i>Division 2—Transitional provisions for Community Services Legislation Amendment Act 2002</i>	
	112 Definitions for div 2.	76
	113 Law council dissolved	77
	114 Assets and liabilities	77

115	Application to declare dry place	77
116	Notice of proposal to declare dry place	77
117	Notice about dry place declaration	78
118	Dry place declaration continues in force	78
119	Reporting requirements	78
120	Transitional regulation-making power	79
	PART 9—PROVISION FOR REPRINTING ACT	
121	Numbering and renumbering of Act	80
	PART 5—MINOR AND CONSEQUENTIAL AMENDMENTS	
40	Acts amended	80
	SCHEDULE	81
	MINOR AND CONSEQUENTIAL AMENDMENTS	
	COMMUNITY SERVICES (ABORIGINES) ACT 1984	81
	COMMUNITY SERVICES (TORRES STRAIT) ACT 1984	82
	JUVENILE JUSTICE ACT 1992	83
	LOCAL GOVERNMENT (ABORIGINAL LANDS) ACT 1978	83
	PENALTIES AND SENTENCES ACT 1992	84

Queensland



**Community Services Legislation Amendment
Act 2002**

Act No. 46 of 2002

**An Act to amend the *Community Services (Aborigines) Act 1984*,
Community Services (Torres Strait) Act 1984 and *Local Government
(Aboriginal Lands) Act 1978*, and for other purposes**

[Assented to 24 September 2002]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Community Services Legislation Amendment Act 2002*.

2 Commencement

Sections 34, 36, 38 and 39 commence on a day to be fixed by proclamation.

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

3 Act amended in pt 2 and schedule

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

(2) The schedule also includes amendments of the *Community Services (Aborigines) Act 1984*.

4 Amendment of s 6 (Definitions)

Section 6—

insert—

‘ “**Aboriginal police officer**” means a person appointed under section 39 as an Aboriginal police officer for a council area.

“**advertised proposed by-law**”, for part 3C, see section 45ZN(a).

“**alcohol**” has the same meaning as “liquor” in the *Liquor Act 1992*.¹

“**amended proposed by-law**”, for part 3C, see section 45ZN(b).

“**appealable decision**”, for part 3B, see section 45L.

“**approved form**” means a form approved under section 81A.

“**canteen**” see the *Indigenous Communities Liquor Licences Act 2002*, schedule.

“**certified copy**”, for part 3C, see section 45ZE.

“**closing day for objections and submissions**”, for part 3B, see section 45N(2).

“**community area**” means a council area or the Shire of Aurukun or Mornington.

“**community council**” means an Aboriginal council or the Council of the Shire of Aurukun or Mornington.

“**community justice group**” means a community justice group established under part 3A for a community area.

“**consultation period**”, for part 3C, see section 45ZK(1) or 45ZT(1).

“**coordinator**”, for a community justice group, means the person appointed under section 45G by the group to perform the functions of coordinator for the group.

“**drafting certificate**”, for part 3C, see section 45ZE.

“**dry place**”, for part 3B, see section 45L.

“**entity**”, for part 3B, see section 45L.

“**liquor provisions**” means—

- (a) section 45T; and

1 The *Liquor Act 1992*, section 4B—

4B Meaning of “liquor”

(1) “**Liquor**” is a spiritous or fermented fluid of an intoxicating nature intended for human consumption.

(2) “**Liquor**” also includes any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5 mL/L (0.5%) at 20°C.

(3) However, “**liquor**” does not include a fluid, that would otherwise be liquor, if it is used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible.

(b) the *Liquor Act 1992*, sections 168B, 169 and 171.²

“**member**”, for parts 3A and 3B, means a member of a community justice group.

“**model by-law**”, for part 3C, see section 45ZF(1).

“**police officer in charge**”, for a council area, means the police officer in charge of the police station in the area or, if there is no police station in the area, the police officer in charge of the nearest police station.

“**possess**”, for part 3B, see section 45L.

“**private place**”, for part 3B, see section 45L.

“**proposed authorising law**”, for part 3C, see section 45ZY(1).

“**proposed by-law**”, for part 3C, see section 45ZI(1) or (2).

“**public place**”, for part 3B, see section 45L.

“**required number**”, for part 3C, see section 45ZE.

“**State interest**”, for a by-law or subordinate by-law, a provision of a by-law or subordinate by-law, or a provision of a proposed by-law or subordinate by-law, means—

- (a) an interest that affects an economic, social or environmental interest of the State or a region; or
- (b) an interest in ensuring there is an efficient, effective and accountable system of local government in the council area to which the law relates; or
- (c) an interest prescribed under a regulation.

“**subordinate by-law**”, for part 3C, see section 45ZG.’.

5 Amendment of s 13D (Overruling by-laws)

Section 13D(3)—

omit.

² Section 45T (Possession or consumption of alcohol in or on dry place) and the *Liquor Act 1992*, sections 168B (Prohibition of possession of liquor in restricted area), 169 (Authority required for sale) and 171 (Carrying or exposing liquor for sale)

6 Amendment of s 25 (Functions of Aboriginal councils)

Section 25(2A)—

omit, insert—

‘(2A) Without limiting the functions and powers of an Aboriginal council, a council may make by-laws—

- (a) not inconsistent with part 3B, for the purpose of regulating and controlling the possession or consumption of alcohol in its council area; or
- (b) conferring functions on the community justice group for its council area.’

7 Omission of ss 26 and 27

Sections 26 and 27—

omit.

8 Insertion of new s 32AA

After section 32—

insert—

‘32AA Special accounting provision for particular payments

‘(1) An Aboriginal council must keep separate accounting records for payments made to it under the *Indigenous Communities Liquor Licences Act 2002*, section 9.

‘(2) The council must ensure the amounts paid to it are used only for—

- (a) funding programs or services for the benefit of residents of its council area; or
- (b) if an implementation regulation under the *Indigenous Communities Liquor Licences Act 2002*, section 34, states this paragraph applies—for making a payment relating to the council’s liabilities stated in the regulation.’

9 Amendment of s 40 (Discharge of Aboriginal police function)

Section 40—

insert—

‘**(1A)** Also, for the administration and enforcement of the liquor provisions in a council area, the police officer in charge for the area may authorise an Aboriginal police officer to exercise in the area the powers of—

- (a) an investigator under the *Liquor Act, 1992*, part 7;³ or
- (b) a police officer under the *Police Powers and Responsibilities Act 2000*, sections 51 to 53.⁴

‘**(1B)** For subsection (1A)(b), the *Police Powers and Responsibilities Act 2000*, sections 51 to 53, apply as if a reference in the sections to a police officer were a reference to an Aboriginal police officer.’

10 Insertion of new pt 3A

After section 45B—

insert—

‘PART 3A—COMMUNITY JUSTICE GROUPS

‘Division 1—Establishment, functions and powers

‘45C Establishment

‘**(1)** A community justice group for a community area may be established under a regulation.

‘**(2)** The regulation must state the group’s name.

3 For exercise of powers by Aboriginal police officers under the *Liquor Act 1992*, part 7, see section 174A of that Act.

4 *Police Powers and Responsibilities Act 2000*, sections 51 (Stopping vehicles for prescribed purposes), 52 (Power to require vehicles to be moved) and 53 (Requirement to remain at a place)

‘45D Functions and powers

‘(1) The functions of the community justice group for a community area are to—

- (a) regulate the possession and consumption of alcohol in the area under part 3B, division 2; and
- (b) carry out local strategies to address justice issues affecting members of the community in the area; and
- (c) make recommendations to the community liquor licence board established under the *Indigenous Communities Liquor Licences Act 2002*, part 2, division 1, for the area about the operation of the canteen in the area;⁵ and
- (d) make recommendations to the Minister administering the *Liquor Act 1992*, part 6A, about declarations under that part; and
- (e) carry out other functions given to it under this or another Act.

Example for subsection (1)(c)—

The group may make a recommendation about the days and hours of operation of the canteen or the availability of takeaway alcohol.

‘(2) To remove any doubt, it is declared that the group may not make recommendations about the employment of canteen staff, including, for example, the appointment of the canteen manager.

‘(3) The group has power to do all things reasonably necessary to be done for performing its functions.

‘(4) Without limiting subsection (3), the group has the powers conferred on it by this or another Act.

‘Division 2—Provisions about membership of groups and group coordinators

‘45E Membership

‘(1) The community justice group for a community area comprises the number of members prescribed under a regulation.

⁵ See *Indigenous Communities Liquor Licences Act 2002*, section 8 (Board to implement recommendations of community justice group).

‘(2) A regulation may make provision about the following—

- (a) eligibility of persons to be members;
- (b) nomination of persons as members;
- (c) terms on which, and period, a member holds office.

‘(3) However, members must include at least 1 representative of each of the main indigenous social groupings in the area.

‘(4) Members must be of good standing in the community.

‘(5) In this section—

“indigenous social grouping” means a group of indigenous persons sharing a common basis of social affiliation, including family relationship, language, traditional land ownership and historical association.

‘45F Criminal history checks

‘(1) A regulation may provide for the disclosure by the commissioner of the police service to a stated entity of a person’s criminal history for deciding whether the person is suitable to be nominated as a member.

‘(2) The entity must—

- (a) not use the information for any purpose other than for the purpose mentioned in subsection (1); and
- (b) as soon as practicable after the information is no longer needed for the purpose, destroy it.

‘(3) In this section—

“criminal history”, of a person, means the convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this section.

“spent conviction” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

‘45G Coordinator

‘(1) The community justice group for a community area must appoint a coordinator for the group.

‘(2) A regulation may make provision about the eligibility of a person to be appointed as coordinator.

‘(3) The coordinator’s functions are to—

- (a) provide administrative support to the group; and

Example for paragraph (a)—

Ensuring notice requirements under part 3B, division 2, are met.

- (b) attend meetings of the group to advise it on any issue before it; and
- (c) ensure minutes of the group’s meetings are kept; and
- (d) ensure the reporting requirements under section 45N are complied with.

‘Division 3—Miscellaneous provisions**‘45H Authentication of documents**

‘A document made by the community justice group for a community area is sufficiently made if it is signed by the coordinator for the group.

‘45I Protection of members from civil liability

‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

‘(2) If subsection (1) prevents a civil liability attaching to the member, the liability attaches instead to the State.

‘45J Reporting requirements

‘(1) Within 90 days after the end of each reporting period, a community justice group must prepare a report on its activities for the period and give the report to the chief executive.

‘(2) The report must be in the approved form.

‘(3) In this section—

“**reporting period**” means—

- (a) the period prescribed under a regulation; or
- (b) if a period is not prescribed under paragraph (a)—each quarter of a financial year.’.

11 Insertion of new pt 3B

After part 3A, as inserted by section 10—

insert—

‘PART 3B—CONTROL OF POSSESSION AND CONSUMPTION OF ALCOHOL IN COMMUNITY AREAS

‘Division 1—Preliminary

‘45K Purpose of pt 3B

‘(1) The purpose of this part is to prevent harm in community areas caused by alcohol abuse and misuse and associated violence.

‘(2) The purpose is to be achieved by providing for the declaration of places in community areas in which the possession and consumption of alcohol is prohibited.

‘45L Definitions for pt 3B

‘In this part—

“**appealable decision**” means a community justice group’s decision—

- (a) to declare, or not to declare, a place as a dry place; or
- (b) to amend or revoke the declaration of a place as a dry place; or
- (c) to suspend, or not to suspend, the declaration of a place as a dry place.

“**closing day for objections and submissions**” see section 45N(2).

“**dry place**” means a place declared under division 2 as a dry place.

“entity” includes—

- (a) a department; and
- (b) a division, branch or other part of a department.

“possess” alcohol includes—

- (a) have custody or control of the alcohol; and
- (b) have an ability or right to obtain custody or control of the alcohol.

“private place” means—

- (a) a place occupied by a person, a group of persons, or an entity other than the State or a community council; or
- (b) a place to which a person or group of persons have the authority to control access under Aboriginal tradition.

“public place” means a place that is not a private place.

‘Division 2—Dry places

‘45M Declaration

‘(1) The community justice group for a community area may—

- (a) on its own initiative or on written application by the community council for the area or the chief executive of a department—
 - (i) declare a public place in the area as a dry place; or
 - (ii) amend or revoke a declaration made by it under subparagraph (i); or
- (b) on written or personal application by the occupier of a private place in the area, or a person or group of persons with authority to control access to the place under Aboriginal tradition—
 - (i) declare the place as a dry place; or
 - (ii) amend or revoke a declaration made by it under subparagraph (i).

‘(2) The community justice group may invite an application about a particular private place.

‘(3) The group must consider the application as soon as reasonably practicable.

‘(4) A declaration may be for the limited time stated in it, or without limit of time, and may state reasonable conditions to which it is subject.

‘(5) The group may also, on its own initiative, revoke a declaration made under subsection (1)(b) if it is satisfied it is necessary to revoke the declaration because the occupier of the place, or a person or group with authority to control access to the place under Aboriginal tradition, has acted in a way that is contrary to the effect of, or hinders the enforcement of, the declaration.

‘(6) The group must ensure a person or group of persons who wish to make a written application under subsection (1)(b) are given help to make the application.

‘45N Notice of proposal

‘(1) Before deciding whether to declare a place as a dry place, the community justice group for a community area must display written notice of the proposal—

- (a) in at least 1 prominent place in the area; and
- (b) if it considers it practicable, at the place.

‘(2) The notice must—

- (a) sufficiently identify the place; and
- (b) state the right of a person to object or make a supporting submission; and
- (c) state the day (the “**closing day for objections and submissions**”) on or before which—
 - (i) a written objection or supporting submission must be made; or
 - (ii) a written notice that a person wishes to object or make a supporting submission in person to the group, must be given; and
- (d) state the objection, submission or notice must be made or given to the coordinator for the group; and
- (e) if the proposed declaration is for a limited time—state that fact and the period proposed.

‘(3) The notice must be displayed for at least 14 days immediately before the closing day for objections and submissions.

‘(4) In addition to displaying written notice of the proposal as required by this section, the group must consult with members of the community resident in the area in the way it considers appropriate.

‘(5) This section applies to the amendment or revocation of a declaration of a place as a dry place in the same way as it applies to the making of the declaration.

‘450 Objections and supporting submissions

‘(1) A person whose interests will be affected by the declaration of a public place as a dry place may object to or support the proposal to make the declaration.

‘(2) A proposed declaration of a private place as a dry place may be objected to or supported by—

- (a) a person or group of persons with the authority to control access to the place or a neighbouring place under Aboriginal tradition; or
- (b) the occupier of, or a person or group who use, the place or a neighbouring place.

‘(3) The objection or supporting submission must be made—

- (a) in writing to the coordinator for the community justice group for the community area in which the place is located on or before the closing day for objections and submissions; or
- (b) if the objector or supporter tells the coordinator for the group, on or before that day, that he or she wishes to appear before the group to make a submission—personally to the group.

‘(4) The group must consider all written objections and supporting submissions made on or before the closing day for objections and submissions.

‘(5) If the group gives a person mentioned subsection (3)(b) a reasonable opportunity to appear before it and put the objection or supporting submission but the person fails to appear, the person loses the right to have the objection or supporting submission considered by the group.

‘(6) A fee is not payable by an objector or supporter.

‘(7) This section applies to the amendment or revocation of a declaration of a place as a dry place in the same way as it applies to the making of the declaration.

‘45P Notice about declaration

‘(1) The community justice group for a community area must display written notice of the declaration of a place as a dry place in at least 1 prominent place in the area for as long as the declaration is in force.

‘(2) The notice must—

- (a) sufficiently identify the place; and
- (b) state that the declaration takes effect on the day on which the declaration is displayed; and
- (c) if the declaration is for a limited time—state that fact and the period of the declaration; and
- (d) state the provisions of section 45T.

‘(3) This section applies to the amendment or revocation of the declaration of a place as a dry place in the same way as it applies to the making of the declaration.

‘(4) However, notice of the revocation must be displayed for at least 1 month and need not state the provisions of section 45T.

‘45Q Suspension of declaration

‘(1) The community justice group for a community area may, on written application by any person, suspend the declaration of a public place in the area as a dry place for a period of not more than 7 days.

‘(2) The application must state the purpose and period of the suspension sought.

‘(3) The group must consider the application as soon as reasonably practicable.

‘(4) The group may suspend the declaration only if it is satisfied it is in the best interests of the residents of the area to do so.

‘(5) The suspension may apply for all alcohol or a particular type of alcohol.

‘(6) Also, the suspension may state reasonable conditions to which it is subject.

‘(7) Sections 45N to 45P apply, with all necessary changes, to the suspension of a declaration of a place as a dry place as if it were a proposal to declare a place as a dry place.

‘(8) However, notice of the suspension displayed under section 45P need not state the provisions of section 45T.

‘45R Effect of declaration of dry place

‘(1) This section applies if—

- (a) under this division, a place is declared as a dry place (the “**dry place declaration**”); and
- (b) the place is in a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act (the “**restricted area declaration**”).

‘(2) The dry place declaration applies to the place despite the restricted area declaration.

‘Division 3—Offences

‘45S Obstructing members

‘(1) A person must not obstruct or improperly influence a member in performing the member’s functions under this Act.

Maximum penalty—200 penalty units.

‘(2) In this section—

“**influence**” includes attempt to influence.

“**obstruct**” includes hinder, resist and attempt to obstruct.

‘45T Possession or consumption of alcohol in or on dry place

‘(1) A person must not, in or on a dry place, possess or consume alcohol.

Maximum penalty—250 penalty units.

‘(2) A person must not, in or on a dry place, be drunk.

Maximum penalty—25 penalty units.

‘45U False or misleading statements

‘(1) A person must not state anything to a community justice group that the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

‘(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.

‘45V False or misleading documents

‘(1) A person must not give a community justice group a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

‘(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the group, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

‘(3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

‘Division 4—Appeals

‘45W Who may appeal

‘A person whose interests are affected by an appealable decision may appeal against the decision to a Magistrates Court.

‘45X How to start appeal

‘(1) An appeal is started by—

- (a) filing notice of appeal with the clerk of the court of a Magistrates Court in, or nearest to, the community area to which the decision relates; and
- (b) giving a copy of the notice to the community justice group that made the appealable decision within 7 days after the notice is filed.

‘(2) The notice of appeal must be filed within 28 days after the appellant becomes aware of the decision.

‘(3) The court may at any time extend the period for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

‘45Y Stay of operation of decisions

‘(1) The Magistrates Court may grant a stay of the appealable decision to secure the effectiveness of the appeal.

‘(2) The stay—

- (a) may be given on the conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be revoked or amended by the court.

‘(3) The period of the stay must not extend past the time when the court decides the appeal.

‘(4) The appeal affects the appealable decision, or carrying out of the decision, only if the decision is stayed.

‘45Z Powers of Magistrates Court

‘(1) In deciding the appeal, the Magistrates Court—

- (a) has the same powers as the community justice group; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice.

‘(2) The appeal is by way of rehearing unaffected by the decision appealed against on the material before the group and any further evidence allowed by the court.

‘(3) The court may—

- (a) confirm the appealable decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the group with the directions the court considers appropriate.

‘45ZA Constitution of Magistrates Court

‘The Magistrates Court must be constituted by a magistrate when exercising its jurisdiction to decide the appeal.

‘45ZB Effect of Magistrates Court’s decision

‘If the Magistrates Court substitutes another decision, the substituted decision is, for this part (other than this division), taken to be the community justice group’s decision.

‘45ZC Appeal to District Court

‘An appeal to the District Court from a decision of a Magistrates Court may be made only on a question of law.

‘Division 5—Miscellaneous provision

‘45ZD Making applications

‘(1) An application under this part must be made to the coordinator for the community justice group for the community area to which the application relates.

‘(2) A fee is not payable for an application—

- (a) to have a place declared as a dry place; or
- (b) to have the declaration amended, revoked or suspended.

12 Insertion of new pt 3C

After part 3B, as inserted by section 11—

insert—

‘PART 3C—PROVISIONS ABOUT MAKING BY-LAWS AND SUBORDINATE BY-LAWS

‘Division 1—Preliminary

‘45ZE Definitions for pt 3C

‘In this part—

“advertised proposed by-law” see section 45ZN(a).

“amended proposed by-law” see section 45ZN(b).

“certified copy”, of an Aboriginal council’s by-law or subordinate local law, means a copy of the by-law or subordinate local law certified by the council’s clerk to be the by-law or subordinate by-law as made by the council.

“consultation period” means—

- (a) for a proposed by-law—the period mentioned in section 45ZK(1); or
- (b) for a proposed subordinate by-law—the period mentioned in section 45ZT(1).

“drafting certificate”, for a proposed by-law or subordinate by-law, means a certificate signed by the relevant Aboriginal council’s clerk and a lawyer stating—

- (a) the law is drafted in sufficient accordance with drafting standards prescribed under a regulation for the law; and
- (b) if section 68(2)⁶ applies to the proposed law—the subsection has been complied with and all interested persons under the subsection located by the council have given written consent to the making of the law.

“model by-law” see section 45ZF(1).

⁶ Section 68 (Power of Aboriginal council to regulate presence in area)

“**proposed authorising law**” see section 45ZY(1).

“**proposed by-law**” see section 45ZI(1) or (2).

“**required number**” means the number decided by the Minister.

“**subordinate by-law**” see section 45ZG.

‘Division 2—Publishing model by-laws and power to make subordinate by-laws

‘45ZF Minister may publish model by-laws

‘(1) The Minister may prepare and publish in the gazette a by-law (a “**model by-law**”) about a matter within the functions of an Aboriginal council as suitable for adoption by Aboriginal councils as a by-law.

‘(2) Also, the Minister must publish a notice in the gazette stating whether steps 3 to 7 of division 3 apply for making the model by-law.

‘(3) However, steps 3 to 7 of division 3 may be applied for making the model by-law only if the Minister is satisfied the consultation process under the steps would serve a useful purpose.

‘45ZG Power to make subordinate by-laws

‘An Aboriginal council may make a law (a “**subordinate by-law**”) about a matter that a by-law expressly states that the council may make about the matter.

‘Division 3—Process for making by-laws

‘45ZH By-law process

‘(1) Subject to subsection (2), the process stated in this division must be used to make a by-law.

‘(2) Steps 3 to 7 apply to the making of a model by-law only if the steps apply to the making of the model by-law under a notice published under section 45ZF(2).

‘(3) If an Aboriginal council purports to make a by-law in contravention of this section, the purported law is of no effect.

‘45ZI Step 1—propose a by-law

‘(1) Before making a model by-law, an Aboriginal council must, by resolution, propose to adopt the model by-law (the “**proposed by-law**”).

‘(2) Before making another by-law, an Aboriginal council must, by resolution, propose to make the by-law (also the “**proposed by-law**”).

‘45ZJ Step 2—ensure proposed by-law satisfactorily deals with any State interest

‘(1) This section does not apply if the proposed by-law is a model by-law.

‘(2) The Aboriginal council must give the Minister the following—

- (a) a copy of the proposed by-law;
- (b) a drafting certificate for the proposed by-law;
- (c) information about the proposed by-law required by the Minister or under a regulation.

‘(3) The Minister must advise the council that it may proceed further in making the law if the Minister considers—

- (a) State interests are satisfactorily dealt with by the proposed by-law; and
- (b) the proposed by-law is drafted substantially in accordance with drafting standards prescribed under a regulation.

‘(4) Alternatively, if the Minister considers the matters mentioned in subsection (3) would be satisfactorily dealt with by the proposed by-law if the council satisfied particular conditions, the Minister—

- (a) may impose conditions on the council that the Minister considers appropriate; and
- (b) must advise the council that it may proceed further in making the law if it—
 - (i) satisfies any conditions about the content of the proposed by-law; and
 - (ii) agrees to satisfy any other conditions.

‘(5) If the Minister considers the proposed by-law only makes a minor amendment of an existing law (including, for example, the correction of a

minor error), the advice of the Minister also may state that the council may proceed to step 8 without satisfying steps 3 to 7.

‘(6) Steps 3 to 7 do not apply if the Minister’s advice to the council includes the statement mentioned in subsection (5).

‘(7) The advice of the Minister also may state that the council may proceed without satisfying step 7 if the council agrees to satisfy particular conditions.

‘(8) Before proceeding further in making a proposed by-law, the council must—

- (a) get an advice under subsection (3) or (4); and
- (b) satisfy any condition about the content of the proposed by-law; and
- (c) agree to satisfy any other conditions.

‘45ZK Step 3—consultation about proposed by-law

‘(1) The Aboriginal council must consult with residents of its council area about the proposed by-law for at least 14 days (the “**consultation period**”).

‘(2) However, a longer consultation period may be—

- (a) fixed by a condition agreed by the Minister and the council in step 2; or
- (b) prescribed under a regulation.

‘(3) The consultation period begins on the day when the notice mentioned in subsection (4) is first published.

‘(4) A notice about the proposed by-law must be—

- (a) published at least once in a newspaper, newsletter or other publication circulating generally in its council area; and
- (b) displayed in a conspicuous place in the following places from the first day of the consultation period until the end of the last day of the consultation period—
 - (i) the council’s office;
 - (ii) another prominent place in its council area.

‘(5) The notice must state the following—

- (a) the council's name;
- (b) the name of the proposed by-law;
- (c) the purposes and general effect of the proposed by-law;
- (d) the length of the consultation period and the first and last days of the period;
- (e) that written submissions by any person supporting or objecting to the proposed by-law may be made and given to the council on or before the last day stating—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds.

‘(6) Also, for a notice published under subsection (4)(a), the notice must state that a copy of the proposed by-law is open to inspection, or available, free of charge at the council's office until the end of the last day of the period.

‘(7) A copy of the proposed by-law must be attached to a notice displayed under subsection (4)(b).

‘(8) The council may also consult with residents of its council area about the proposed by-law in any way it considers appropriate.

‘(9) If an open meeting is held under subsection (8), the council's clerk must keep minutes of the meeting.

‘45ZL Step 4—give access to proposed by-law

‘On the first day of the consultation period and until the end of the last day of the consultation period a copy of the proposed by-law must be open to inspection, and be available, free of charge at the Aboriginal council's office.

‘45ZM Step 5—accept and consider all submissions

‘(1) The Aboriginal council must consider every submission properly made to it.

‘(2) A submission is properly made to the council if it—

- (a) is the written submission of any person about the proposed by-law; and

- (b) is given to the council on or before the last day of the consultation period.

‘(3) Also, a submission is properly made to the council if it is made at a meeting held under section 45ZK(8) and recorded in the minutes of the meeting.

‘45ZN Step 6—decide whether to proceed with making proposed by-law

‘After considering every submission properly made to it, the Aboriginal council must, by resolution, decide whether to—

- (a) proceed with making the proposed by-law as advertised (the “**advertised proposed by-law**”); or
- (b) proceed with making the proposed by-law with amendments (the “**amended proposed by-law**”); or
- (c) not proceed with making the proposed by-law.

‘45ZO Step 7—again ensure proposed by-law satisfactorily deals with any State interest

‘(1) This step does not apply in the following cases—

- (a) if the Aboriginal council receives an advice under section 45ZJ(5) or (7) and has satisfied any agreed conditions;
- (b) if the Aboriginal council decides to proceed with making the advertised proposed by-law;
- (c) if the Aboriginal council decides not to proceed with the proposed by-law;
- (d) if a regulation states the step does not apply.

‘(2) The council must—

- (a) advise the Minister of its decision under step 6; and
- (b) give the Minister information about the proposed by-law required by the Minister or by regulation.

‘(3) If the Minister considers that State interests are satisfactorily dealt with by the proposed by-law, the Minister must advise the council it may proceed to step 8.

‘(4) Alternatively, if the Minister considers State interests would be satisfactorily dealt with by the proposed by-law if the council satisfied particular conditions, the Minister—

- (a) may impose conditions on the council that the Minister considers appropriate; and
- (b) must advise the council that it may proceed to step 8 if it—
 - (i) satisfies any conditions about the content of the proposed by-law; and
 - (ii) agrees to satisfy any other conditions.

‘(5) Before proceeding further in making a proposed by-law, the council must—

- (a) get an advice under subsection (3) or (4); and
- (b) satisfy any condition about the content of the proposed by-law; and
- (c) agree to satisfy any other conditions.

‘45ZP Step 8—make proposed by-law

‘(1) If the proposed by-law is a model by-law about a matter, the Aboriginal council makes the model by-law if, by resolution, it—

- (a) adopts the model by-law; and
- (b) if there is an existing by-law about the matter that is inconsistent with what is adopted—amends or repeals the existing by-law so that there is no inconsistency.

‘(2) If the proposed by-law is not a model by-law, the council must, by resolution, make—

- (a) the advertised proposed by-law; or
- (b) the amended proposed by-law; or
- (c) the proposed by-law for which the council received advice from the Minister that it could proceed to this step without satisfying steps 3 to 7.

‘(3) The council’s clerk must certify the required number of copies of the by-law to be the by-law as made by the council under subsection (1) or (2).

‘45ZQ Step 9—give public notice of law

‘(1) A notice of the making of the by-law must be—

- (a) gazetted; and
- (b) displayed in a conspicuous place in the Aboriginal council’s office and the other prominent places in its council area the council considers appropriate.

‘(2) A notice under subsection (1) must state the following—

- (a) the name of the council making the by-law;
- (b) the name of the by-law;
- (c) the date of the council’s resolution making the by-law;
- (d) the name of any existing by-law amended or repealed by the new by-law.

‘(3) The notice also may state the following—

- (a) the purposes and general effect of the by-law;
- (b) that a certified copy of the by-law is open to inspection at the council’s office;
- (c) that a copy of the certified copy of the by-law is available free of charge at the council’s office and at the department’s offices.

‘(4) If notice of the making of the by-law is not gazetted within 1 year after the date of the council’s resolution making the by-law or the longer period decided by the Minister, the process stated in this division must be used again before the by-law is notified in the gazette.

‘(5) On the day notice of the making of the by-law is gazetted or as soon as practicable after the day, the council must give the Minister—

- (a) a copy of the notice; and
- (b) the required number of certified copies of the by-law.

‘Division 4—Process for making subordinate by-laws**‘45ZR Subordinate by-law process**

‘(1) The process stated in this division must be used to make a subordinate by-law.

‘(2) If an Aboriginal council purports to make a subordinate by-law in contravention of subsection (1), the purported subordinate by-law is of no effect.

‘45ZS Step 1—propose a subordinate by-law

‘Before making a subordinate by-law, the Aboriginal council must, by resolution, propose to make a subordinate by-law.

‘45ZT Step 2—consultation about proposed subordinate by-law

‘(1) The Aboriginal council must consult with residents of its council area about the proposed subordinate by-law for at least 14 days (the “consultation period”).

‘(2) However, a longer consultation period may be prescribed under a regulation.

‘(3) The consultation period begins on the day when the notice mentioned in subsection (4) is first published.

‘(4) A notice about the proposed subordinate by-law must be—

- (a) published at least once in a newspaper, newsletter or other publication circulating generally in its council area; and
- (b) displayed in a conspicuous place in the following places from the first day of the consultation period until the end of the last day of the consultation period—
 - (i) the council’s office;
 - (ii) another prominent place in its council area.

‘(5) The notice must state the following—

- (a) the council’s name;
- (b) the name of the proposed subordinate by-law;
- (c) the name of—
 - (i) the by-law allowing the subordinate by-law to be made; or
 - (ii) if this step is used under section 45ZY—the proposed authorising law;
- (d) the purposes and general effect of the proposed subordinate by-law;

- (e) the length of the consultation period and the first and last days of the period;
- (f) that a copy of the proposed subordinate by-law is open to inspection, or available, free of charge at the council's office until the end of the last day of the period;
- (g) that written submissions by any person supporting or objecting to the proposed subordinate by-law may be made and given to the council on or before the last day stating—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds.

‘(6) Also, for a notice published under subsection (4)(a), the notice must state that a copy of the proposed subordinate by-law is open to inspection, or available, free of charge at the council's office until the end of the last day of the period.

‘(7) A copy of the proposed subordinate by-law must be attached to a notice displayed under subsection (4)(b).

‘(8) The council may also consult with residents of its council area about the proposed subordinate by-law in any way it considers appropriate.

‘(9) If an open meeting is held under subsection (8), the council's clerk must keep minutes of the meeting.

‘45ZU Step 3—give access to proposed subordinate by-law

‘On the first day of the consultation period and until the end of the last day of the consultation period a copy of the proposed subordinate by-law must be open to inspection, and be available, free of charge at the Aboriginal council's office.

‘45ZV Step 4—accept and consider all submissions

‘(1) The Aboriginal council must consider every submission properly made to it.

‘(2) A submission is properly made to the council if it—

- (a) is the written submission of any person about the proposed subordinate by-law; and

- (b) is given to the council on or before the last day of the consultation period.

‘(3) Also, a submission is properly made to the council if it is made at a meeting held under section 45ZT(8) and recorded in the minutes of the meeting.

‘45ZW Step 5—make proposed subordinate by-law

‘(1) If, after considering every submission properly made to it, the Aboriginal council decides to make the proposed subordinate by-law, whether as advertised or with amendments, it must, by resolution, make the subordinate by-law.

‘(2) However, the council may substantially amend the proposed subordinate by-law only if the council again consults with residents of its council area under section 45ZT and complies with steps 3 and 4.

‘(3) The council’s clerk must certify the required number of copies of the subordinate by-law to be the subordinate by-law as made by the council.

‘45ZX Step 6—give public notice of subordinate by-law

‘(1) A notice of the making of the subordinate by-law must be—

- (a) gazetted; and
- (b) displayed in a conspicuous place in the Aboriginal council’s office and the other prominent places in its council area the council considers appropriate.

‘(2) A notice under subsection (1) must state the following—

- (a) the name of the council making the subordinate by-law;
- (b) the name of the subordinate by-law;
- (c) the date of the council’s resolution making the subordinate by-law;
- (d) the name of any existing subordinate by-law amended or repealed by the new subordinate by-law.

‘(3) The notice also may state—

- (a) the name of the by-law allowing the subordinate by-law to be made; or

(b) the purposes and general effect of the subordinate by-law.

‘(4) On the day notice of the making of the subordinate by-law is gazetted or as soon as practicable after the day, the council must give the Minister—

- (a) a copy of the notice; and
- (b) the required number of certified copies of the subordinate by-law; and
- (c) a drafting certificate for the subordinate by-law.

‘45ZY Early start for subordinate by-law making process

‘(1) The purpose of this section is to permit an Aboriginal council to start the process for making a subordinate by-law even though the process for making the by-law on which the subordinate by-law is to be based (the “**proposed authorising law**”) has not finished.

‘(2) A council may use steps 1 to 5 of the process for making the subordinate by-law, other than actually making the subordinate by-law, before the proposed authorising by-law is made if—

- (a) in making the proposed authorising law, the council has to satisfy steps 3 to 7 of division 3; and
- (b) the notice about the subordinate by-law under section 45ZT is published no earlier than the notice about the proposed authorising law under section 45ZK is published.

‘Division 5—Commencement and status of by-laws and subordinate by-laws

‘45ZZ Commencement of by-laws and subordinate by-laws

‘(1) A by-law or subordinate by-law commences—

- (a) on the day notice of the making of the by-law or subordinate by-law is gazetted; or
- (b) if a later day or time is fixed in the by-law or subordinate by-law—on that day or at that time.

‘(2) If notice of the making of the by-law or subordinate by-law is gazetted on a day after the day or time fixed by the by-law or subordinate

by-law for its commencement, the by-law or subordinate by-law is valid, but commences on the day on which it is notified.

‘45ZZA Effect of by-laws

‘On commencement, a by-law made by an Aboriginal council has the force of law.

‘45ZZB Extent to which subordinate by-law is binding

‘(1) An Aboriginal council’s subordinate by-law is binding on the council.

‘(2) An Aboriginal council’s subordinate by-law on a matter is binding on anyone else to the extent stated in the by-law stating the matter about which the subordinate by-law may be made.

‘45ZZC When subordinate by-laws cease to have effect

‘(1) This section applies if—

- (a) a by-law or provision of a by-law states a matter about which a subordinate by-law may be made; and
- (b) a subordinate by-law is made about the matter; and
- (c) the by-law is repealed or the provision is omitted.

‘(2) To remove any doubt, it is declared that the subordinate by-law ceases to have effect on the repeal or omission.

‘45ZZD Proof of by-laws and subordinate by-laws

‘(1) In a proceeding, a certified copy of a by-law or subordinate by-law is evidence of the content of the by-law or subordinate by-law.

‘(2) All courts, judges and persons acting judicially must take judicial notice of a certified copy of a by-law or subordinate by-law.

‘(3) In a proceeding, a copy of the gazette, newspaper, newsletter or other publication containing a notice about the making of a by-law or subordinate by-law is—

- (a) evidence of the matters stated in the notice; and

- (b) evidence that the by-law or subordinate by-law has been properly made.

‘45ZZE By-law and subordinate by-law presumed to be within power

‘In a proceeding, the competence of an Aboriginal council to make a particular by-law or subordinate by-law is presumed unless the issue is raised.’

13 Amendment of s 81 (Evidentiary aids)

Section 81—

insert—

‘(2) Subsections (3) and (4) apply to a proceeding for an offence against section 45T(1).⁷

‘(3) A statement in the complaint for the offence that fluid was in a container of a type that usually holds alcohol is evidence that the fluid was alcohol.

‘(4) A certificate purporting to be signed by an analyst stating the results of an analysis of a fluid is evidence of the results of the analysis.

‘(5) In this section—

“analyst” see the *Health Act 1937*, section 5(1).⁸’.

14 Insertion of new s 81A

After section 81—

insert—

‘81A Approved forms

‘The chief executive may approve forms for use under this Act.’.

⁷ Section 45T (Possession or consumption of alcohol in or on dry place)

⁸ *Health Act 1937*, section 5(1)—

“analyst”, other than for a relevant provision or part 4A, means a person appointed under section 27 as a State analyst or a person holding accreditation of a kind prescribed under a regulation.

15 Amendment of s 82 (Regulations)

(1) Section 82, heading—

omit, insert—

‘82 Regulation-making power’.

(2) Section 82(t)—

omit, insert—

‘(t) the business and conduct of meetings of Aboriginal councils or community justice groups, including, for example, about the following—

- (i) the times and places of meetings;
- (ii) the quorum for meetings;
- (iii) the presiding member at meetings;
- (iv) the disclosure of a member’s interest before meetings; and’.

16 Insertion of new pt 10, div 2

After section 85—

insert—

‘Division 2—Transitional provision for Community Services Legislation Amendment Act 2002**‘85A Transitional provision for process for making by-laws**

‘(1) This section applies if—

- (a) before the commencement of this section, an Aboriginal council had, under section 26, started the process of making a by-law under the section; and
- (b) immediately before the commencement, the process for making the by-law had not finished.

‘(2) Despite their repeal, sections 26 and 27 continue to apply to the making of the by-law as if they had not been repealed.’

17 Insertion of new pt 12

After section 86—

insert—

‘PART 12—PROVISION FOR REPRINTING ACT**‘87 Numbering and renumbering of Act**

‘In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

**PART 3—AMENDMENT OF COMMUNITY SERVICES
(TORRES STRAIT) ACT 1984****18 Act amended in pt 3 and schedule**

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

(2) The schedule also includes amendments of the *Community Services (Torres Strait) Act 1984*.

19 Amendment of s 6 (Definitions)

Section 6—

insert—

‘**“advertised proposed by-law”**, for part 3C, see section 43ZN(a).

“**alcohol**” has the same meaning as “liquor” in the *Liquor Act 1992*.⁹

“**amended proposed by-law**”, for part 3C, see section 43ZN(b).

“**appealable decision**”, for part 3B, see section 43L.

“**approved form**” means a form approved under section 80A.

“**canteen**” see the *Indigenous Communities Liquor Licences Act 2002*, schedule.

“**certified copy**”, for part 3C, see section 43ZE.

“**closing day for objections and submissions**”, for part 3B, see section 43N(2).

“**community justice group**” means a community justice group established under part 3A for a council area.

“**consultation period**”, for part 3C, see section 43ZK(1) or 43ZT(1).

“**coordinator**”, for a community justice group, means the person appointed under section 43G by the group to perform the functions of coordinator for the group.

“**drafting certificate**”, for part 3C, see section 43ZE.

“**dry place**”, for part 3B, see section 43L.

“**entity**”, for part 3B, see section 43L.

“**Island police officer**” means a person appointed under section 37 as an Island police officer for a council area.

“**liquor provisions**” means—

- (a) section 43T; and

9 The *Liquor Act 1992*, section 4B—

4B Meaning of “liquor”

(1) “**Liquor**” is a spiritous or fermented fluid of an intoxicating nature intended for human consumption.

(2) “**Liquor**” also includes any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5 mL/L (0.5%) at 20°C.

(3) However, “**liquor**” does not include a fluid, that would otherwise be liquor, if it is used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible.

(b) the *Liquor Act 1992*, sections 168B, 169 and 171.¹⁰

“**member**”, for parts 3A and 3B, means a member of a community justice group.

“**model by-law**”, for part 3C, see section 43ZF(1).

“**police officer in charge**”, for a council area, means the police officer in charge of the police station in the area or, if there is no police station in the area, the police officer in charge of the nearest police station.

“**possess**”, for part 3B, see section 43L.

“**proposed authorising law**”, for part 3C, see section 43ZY(1).

“**proposed by-law**”, for part 3C, see section 43ZI(1) or (2).

“**private place**”, for part 3B, see section 43L.

“**public place**”, for part 3B, see section 43L.

“**required number**”, for part 3C, see section 43ZE.

“**State interest**”, for a by-law or subordinate by-law, a provision of a by-law or subordinate by-law, or a provision of a proposed by-law or subordinate by-law, means—

- (a) an interest that affects an economic, social or environmental interest of the State or a region; or
- (b) an interest in ensuring there is an efficient, effective and accountable system of local government in the council area to which the law relates; or
- (c) an interest prescribed under a regulation.

“**subordinate by-law**”, for part 3C, see section 43ZG.’.

20 Amendment of s 13D (Overruling by-laws)

Section 13D(3)—

omit.

¹⁰ Section 43T (Possession or consumption of alcohol in or on dry place) and the *Liquor Act 1992*, sections 168B (Prohibition of possession of liquor in restricted area), 169 (Authority required for sale) and 171 (Carrying or exposing liquor for sale)

21 Amendment of s 23 (Functions of Island councils)

Section 23(2A)—

omit, insert—

‘(2A) Without limiting the functions and powers of an Island council, a council may make by-laws—

- (a) not inconsistent with part 3B, for the purpose of regulating and controlling the possession or consumption of alcohol in its council area; or
- (b) conferring functions on the community justice group for its council area.’.

22 Omission of ss 24 and 25

Sections 24 and 25—

omit.

23 Insertion of new s 30AA

After section 30—

insert—

‘30AA Special accounting provision for particular payments

‘(1) An Island council must keep separate accounting records for payments made to it under the *Indigenous Communities Liquor Licences Act 2002*, section 9.

‘(2) The council must ensure the amounts paid to it are used only for—

- (a) funding programs or services for the benefit of residents of its council area; or
- (b) if an implementation regulation under the *Indigenous Communities Liquor Licences Act 2002*, section 34, states this paragraph applies—for making a payment relating to the council’s liabilities stated in the regulation.’.

24 Amendment of s 38 (Discharge of Island police function)

Section 38—

insert—

‘**(1A)** Also, for the administration and enforcement of the liquor provisions in a council area, the police officer in charge for the area may authorise an Island police officer to exercise in the area the powers of—

- (a) an investigator under the *Liquor Act, 1992*, part 7;¹¹ or
- (b) a police officer under the *Police Powers and Responsibilities Act 2000*, sections 51 to 53.¹²

‘**(1B)** For subsection (1A)(b), the *Police Powers and Responsibilities Act 2000*, sections 51 to 53, apply as if a reference in the sections to a police officer were a reference to an Island police officer.’.

25 Insertion of new pt 3A

After section 43B—

insert—

‘PART 3A—COMMUNITY JUSTICE GROUPS***‘Division 1—Establishment, functions and powers*****‘43C Establishment**

‘**(1)** A community justice group for a council area may be established under a regulation.

‘**(2)** The regulation must state the group’s name.

11 For exercise of powers by Island police officers under the *Liquor Act 1992*, part 7, see section 174A of that Act.

12 *Police Powers and Responsibilities Act 2000*, sections 51 (Stopping vehicles for prescribed purposes), 52 (Power to require vehicles to be moved) and 53 (Requirement to remain at a place)

‘43D Functions and powers

‘(1) The functions of the community justice group for a council area are to—

- (a) regulate the possession and consumption of alcohol in the area under part 3B, division 2; and
- (b) carry out local strategies to address justice issues affecting members of the community in the area; and
- (c) make recommendations to the community liquor licence board established under the *Indigenous Communities Liquor Licences Act 2002*, part 2, division 1, for the area about the operation of the canteen in the area;¹³ and
- (d) make recommendations to the Minister administering the *Liquor Act 1992*, part 6A, about declarations under that part; and
- (e) carry out other functions given to it under this or another Act.

Example for subsection (1)(c)—

The group may make a recommendation about the days and hours of operation of the canteen or the availability of takeaway alcohol.

‘(2) To remove any doubt, it is declared that the group may not make recommendations about the employment of canteen staff, including, for example, the appointment of the canteen manager.

‘(3) The group has power to do all things reasonably necessary to be done for performing its functions.

‘(4) Without limiting subsection (3), the group has the powers conferred on it by this or another Act.

‘Division 2—Provisions about membership of groups and group coordinators

‘43E Membership

‘(1) The community justice group for a council area comprises the number of members prescribed under a regulation.

13 See *Indigenous Communities Liquor Licences Act 2002*, section 8 (Board to implement recommendations of community justice group).

‘(2) A regulation may make provision about the following—

- (a) eligibility of persons to be members;
- (b) nomination of persons as members;
- (c) terms on which, and period, a member holds office.

‘(3) However, members must include at least 1 representative of each of the main indigenous social groupings in the area.

‘(4) Members must be of good standing in the community.

‘(5) In this section—

“indigenous social grouping” means a group of indigenous persons sharing a common basis of social affiliation, including family relationship, language, traditional land ownership and historical association.

‘43F Criminal history checks

‘(1) A regulation may provide for the disclosure by the commissioner of the police service to a stated entity of a person’s criminal history for deciding whether the person is suitable to be nominated as a member.

‘(2) The entity must—

- (a) not use the information for any purpose other than for the purpose mentioned in subsection (1); and
- (b) as soon as practicable after the information is no longer needed for the purpose, destroy it.

‘(3) In this section—

“criminal history”, of a person, means the convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this section.

“spent conviction” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

‘43G Coordinator

‘(1) The community justice group for a council area must appoint a coordinator for the group.

‘(2) A regulation may make provision about the eligibility of a person to be appointed as coordinator.

‘(3) The coordinator’s functions are to—

- (a) provide administrative support to the group; and

Example for paragraph (a)—

Ensuring notice requirements under part 3B, division 2, are met.

- (b) attend meetings of the group to advise it on any issue before it; and
- (c) ensure minutes of the group’s meetings are kept; and
- (d) ensure the reporting requirements under section 43J are complied with.

‘Division 3—Miscellaneous provisions**‘43H Authentication of documents**

‘A document made by the community justice group for a council area is sufficiently made if it is signed by the coordinator for the group.

‘43I Protection of members from civil liability

‘(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

‘(2) If subsection (1) prevents a civil liability attaching to the member, the liability attaches instead to the State.

‘43J Reporting requirements

‘(1) Within 90 days after the end of each reporting period, a community justice group must prepare a report on its activities for the period and give the report to the chief executive.

‘(2) The report must be in the approved form.

‘(3) In this section—

“reporting period” means—

- (a) the period prescribed under a regulation; or
- (b) if a period is not prescribed under paragraph (a)—each quarter of a financial year.’

26 Insertion of new pt 3B

After part 3A, as inserted by section 25—

insert—

‘PART 3B—CONTROL OF POSSESSION AND CONSUMPTION OF ALCOHOL IN COUNCIL AREAS

‘Division 1—Preliminary

‘43K Purpose of pt 3B

‘(1) The purpose of this part is to prevent harm in council areas caused by alcohol abuse and misuse and associated violence.

‘(2) The purpose is to be achieved by providing for the declaration of places in council areas in which the possession and consumption of alcohol is prohibited.

‘43L Definitions for pt 3B

‘In this part—

“appealable decision” means a community justice group’s decision—

- (a) to declare, or not to declare, a place as a dry place; or
- (b) to amend or revoke the declaration of a place as a dry place; or
- (c) to suspend, or not to suspend, the declaration of a place as a dry place.

“closing day for objections and submissions” see section 43N(2).

“dry place” means a place declared under division 2 as a dry place.

“entity” includes—

- (a) a department; and
- (b) a division, branch or other part of a department.

“possess” alcohol includes—

- (a) have custody or control of the alcohol; and
- (b) have an ability or right to obtain custody or control of the alcohol.

“private place” means—

- (a) a place occupied by a person, a group of persons, or an entity other than the State or an Island council; or
- (b) a place to which a person or group of persons have the authority to control access under Island custom.

“public place” means a place that is not a private place.

‘Division 2—Dry places

‘43M Declaration

‘(1) The community justice group for a council area may—

- (a) on its own initiative or on written application by the Island council for the area or the chief executive of a department—
 - (i) declare a public place in the area as a dry place; or
 - (ii) amend or revoke a declaration made by it under subparagraph (i); or
- (b) on written or personal application by the occupier of a private place in the area, or a person or group of persons with authority to control access to the place under Island custom—
 - (i) declare the place as a dry place; or
 - (ii) amend or revoke a declaration made by it under subparagraph (i).

‘(2) The community justice group may invite an application about a particular private place.

‘(3) The group must consider the application as soon as reasonably practicable.

‘(4) A declaration may be for the limited time stated in it, or without limit of time, and may state reasonable conditions to which it is subject.

‘(5) The group may also, on its own initiative, revoke a declaration made under subsection (1)(b) if it is satisfied it is necessary to revoke the declaration because the occupier of the place, or a person or group with authority to control access to the place under Island custom, has acted in a way that is contrary to the effect of, or hinders the enforcement of, the declaration.

‘(6) The group must ensure a person or group of persons who wish to make a written application under subsection (1)(b) are given help to make the application.

‘43N Notice of proposal

‘(1) Before deciding whether to declare a place as a dry place, the community justice group for a council area must display written notice of the proposal—

- (a) in at least 1 prominent place in the area; and
- (b) if it considers it practicable, at the place.

‘(2) The notice must—

- (a) sufficiently identify the place; and
- (b) state the right of a person to object or make a supporting submission; and
- (c) state the day (the “**closing day for objections and submissions**”) on or before which—
 - (i) a written objection or supporting submission must be made; or
 - (ii) a written notice that a person wishes to object or make a supporting submission in person to the group, must be given; and
- (d) state the objection, submission or notice must be made or given to the coordinator for the group; and
- (e) if the proposed declaration is for a limited time—state that fact and the period proposed.

‘(3) The notice must be displayed for at least 14 days immediately before the closing day for objections and submissions.

‘(4) In addition to displaying written notice of the proposal as required by this section, the group may consult with members of the community resident in the area in any way it considers appropriate.

‘(5) This section applies to the amendment or revocation of a declaration of a place as a dry place in the same way as it applies to the making of the declaration.

‘430 Objections and supporting submissions

‘(1) A person whose interests will be affected by the declaration of a public place as a dry place may object to or support the proposal to make the declaration.

‘(2) A proposed declaration of a private place as a dry place may be objected to or supported by—

- (a) a person or group of persons with the authority to control access to the place or a neighbouring place under Island custom; or
- (b) the occupier of, or a person or group who use, the place or a neighbouring place.

‘(3) The objection or supporting submission must be made—

- (a) in writing to the coordinator for the community justice group for the council area in which the place is located on or before the closing day for objections and submissions; or
- (b) if the objector or supporter tells the coordinator for the group, on or before that day, that he or she wishes to appear before the group to make a submission—personally to the group.

‘(4) The group must consider all written objections and supporting submissions made on or before the closing day for objections and submissions.

‘(5) If the group gives a person mentioned in subsection (3)(b) a reasonable opportunity to appear before it and put the objection or supporting submission but the person fails to appear, the person loses the right to have the objection or supporting submission considered by the group.

‘(6) A fee is not payable by an objector or supporter.

‘(7) This section applies to the amendment or revocation of a declaration of a place as a dry place in the same way as it applies to the making of the declaration.

‘43P Notice about declaration

‘(1) The community justice group for a council area must display written notice of the declaration of a place as a dry place in at least 1 prominent place in the area for as long as the declaration is in force.

‘(2) The notice must—

- (a) sufficiently identify the place; and
- (b) state that the declaration takes effect on the day on which the declaration is displayed; and
- (c) if the declaration is for a limited time—state that fact and the period of the declaration; and
- (d) state the provisions of section 43T.

‘(3) This section applies to the amendment or revocation of the declaration of a place as a dry place in the same way as it applies to the making of the declaration.

‘(4) However, notice of the revocation must be displayed for at least 1 month and need not state the provisions of section 43T.

‘43Q Suspension of declaration

‘(1) The community justice group for a council area may, on written application by any person, suspend the declaration of a public place in the area as a dry place for a period of not more than 7 days.

‘(2) The application must state the purpose and period of the suspension sought.

‘(3) The group must consider the application as soon as reasonably practicable.

‘(4) The group may suspend the declaration only if it is satisfied it is in the best interests of the residents of the area to do so.

‘(5) The suspension may apply for all alcohol or a particular type of alcohol.

‘(6) Also, the suspension may state reasonable conditions to which it is subject.

‘(7) Sections 43N to 43P apply, with all necessary changes, to the suspension of a declaration of a place as a dry place as if it were a proposal to declare a place as a dry place.

‘(8) However, notice of the suspension displayed under section 43P need not state the provisions of section 43T.

‘43R Effect of declaration of dry place

‘(1) This section applies if—

- (a) under this division, a place is declared as a dry place (the “**dry place declaration**”); and
- (b) the place is in a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act (the “**restricted area declaration**”).

‘(2) The dry place declaration applies to the place despite the restricted area declaration.

‘Division 3—Offences

‘43S Obstructing members

‘(1) A person must not obstruct or improperly influence a member in performing the member’s functions under this Act.

Maximum penalty—200 penalty units.

‘(2) In this section—

“**influence**” includes attempt to influence.

“**obstruct**” includes hinder, resist and attempt to obstruct.

‘43T Possession or consumption of alcohol in or on dry place

‘(1) A person must not, in or on a dry place, possess or consume alcohol.

Maximum penalty—250 penalty units.

‘(2) A person must not, in or on a dry place, be drunk.

Maximum penalty—25 penalty units.

‘43U False or misleading statements

‘(1) A person must not state anything to a community justice group that the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

‘(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.

‘43V False or misleading documents

‘(1) A person must not give a community justice group a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

‘(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the group, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

‘(3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

‘Division 4—Appeals**‘43W Who may appeal**

‘A person whose interests are affected by an appealable decision may appeal against the decision to a Magistrates Court.

‘43X How to start appeal

‘(1) An appeal is started by—

- (a) filing notice of appeal with the clerk of the court of a Magistrates Court in, or nearest to, the council area to which the decision relates; and

- (b) giving a copy of the notice to the community justice group that made the appealable decision within 7 days after the notice is filed.

‘(2) The notice of appeal must be filed within 28 days after the appellant becomes aware of the decision.

‘(3) The court may at any time extend the period for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

‘43Y Stay of operation of decisions

‘(1) The Magistrates Court may grant a stay of the appealable decision to secure the effectiveness of the appeal.

‘(2) The stay—

- (a) may be given on the conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be revoked or amended by the court.

‘(3) The period of the stay must not extend past the time when the court decides the appeal.

‘(4) The appeal affects the appealable decision, or carrying out of the decision, only if the decision is stayed.

‘43Z Powers of Magistrates Court

‘(1) In deciding the appeal, the Magistrates Court—

- (a) has the same powers as the community justice group; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice.

‘(2) The appeal is by way of rehearing unaffected by the decision appealed against on the material before the group and any further evidence allowed by the court.

‘(3) The court may—

- (a) confirm the appealable decision; or

- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the group with the directions the court considers appropriate.

‘43ZA Constitution of Magistrates Court

‘The Magistrates Court must be constituted by a magistrate when exercising its jurisdiction to decide the appeal.

‘43ZB Effect of Magistrates Court’s decision

‘If the Magistrates Court substitutes another decision, the substituted decision is, for this part (other than this division), taken to be the community justice group’s decision.

‘43ZC Appeal to District Court

‘An appeal to the District Court from a decision of a Magistrates Court may be made only on a question of law.

‘Division 5—Miscellaneous provision

‘43ZD Making applications

‘(1) An application under this part must be made to the coordinator for the community justice group for the council area to which the application relates.

‘(2) A fee is not payable for an application—

- (a) to have a place declared as a dry place; or
- (b) to have the declaration amended, revoked or suspended.’.

27 Insertion of new pt 3C

After part 3B, as inserted by section 26—

insert—

**‘PART 3C—PROVISIONS ABOUT MAKING BY-LAWS
AND SUBORDINATE BY-LAWS**

‘Division 1—Preliminary

‘43ZE Definitions for pt 3C

‘In this part—

“advertised proposed by-law” see section 43ZN(a).

“amended proposed by-law” see section 43ZN(b).

“certified copy”, of an Island council’s by-law or subordinate local law, means a copy of the by-law or subordinate local law certified by the council’s clerk to be the by-law or subordinate by-law as made by the council.

“consultation period” means—

- (a) for a proposed by-law—the period mentioned in section 43ZK(1); or
- (b) for a proposed subordinate by-law—the period mentioned in section 43ZT(1).

“drafting certificate”, for a proposed by-law or subordinate by-law, means a certificate signed by the relevant Island council’s clerk and a lawyer stating—

- (a) the law is drafted in sufficient accordance with drafting standards prescribed under a regulation for the law; and
- (b) if section 66(2)¹⁴ applies to the proposed law—the subsection has been complied with and all interested persons under the subsection located by the council have given written consent to the making of the law.

“model by-law” see section 43ZF(1).

14 Section 66 (Power of Island council to regulate presence in area)

“**proposed authorising law**” see section 43ZY(1).

“**proposed by-law**” see section 43ZI(1) or (2).

“**required number**” means the number decided by the Minister.

“**subordinate by-law**” see section 43ZG.

‘Division 2—Publishing model by-laws and power to make subordinate by-laws

‘43ZF Minister may publish model by-laws

‘(1) The Minister may prepare and publish in the gazette a by-law (a “**model by-law**”) about a matter within the functions of an Island council as suitable for adoption by Island councils as a by-law.

‘(2) Also, the Minister must publish a notice in the gazette stating whether steps 3 to 7 of division 3 apply for making the model by-law.

‘(3) However, steps 3 to 7 of division 3 may be applied for making the model by-law only if the Minister is satisfied the consultation process under the steps would serve a useful purpose.

‘43ZG Power to make subordinate by-laws

‘An Island council may make a law (a “**subordinate by-law**”) about a matter that a by-law expressly states that the council may make about the matter.

‘Division 3—Process for making by-laws

‘43ZH By-law process

‘(1) Subject to subsection (2), the process stated in this division must be used to make a by-law.

‘(2) Steps 3 to 7 apply to the making of a model by-law only if the steps apply to the making of the model by-law under a notice published under section 43ZF(2).

‘(3) If an Island council purports to make a by-law in contravention of this section, the purported law is of no effect.

‘43ZI Step 1—propose a by-law

‘(1) Before making a model by-law, an Island council must, by resolution, propose to adopt the model by-law (the **“proposed by-law”**).

‘(2) Before making another by-law, an Island council must, by resolution, propose to make the by-law (also the **“proposed by-law”**).

‘43ZJ Step 2—ensure proposed by-law satisfactorily deals with any State interest

‘(1) This section does not apply if the proposed by-law is a model by-law.

‘(2) The Island council must give the Minister the following—

- (a) a copy of the proposed by-law;
- (b) a drafting certificate for the proposed by-law;
- (c) information about the proposed by-law required by the Minister or under a regulation.

‘(3) The Minister must advise the council that it may proceed further in making the law if the Minister considers—

- (a) State interests are satisfactorily dealt with by the proposed by-law; and
- (b) the proposed by-law is drafted substantially in accordance with drafting standards prescribed under a regulation.

‘(4) Alternatively, if the Minister considers the matters mentioned in subsection (3) would be satisfactorily dealt with by the proposed by-law if the council satisfied particular conditions, the Minister—

- (a) may impose conditions on the council that the Minister considers appropriate; and
- (b) must advise the council that it may proceed further in making the law if it—
 - (i) satisfies any conditions about the content of the proposed by-law; and
 - (ii) agrees to satisfy any other conditions.

‘(5) If the Minister considers the proposed by-law only makes a minor amendment of an existing law (including, for example, the correction of a

minor error), the advice of the Minister also may state that the council may proceed to step 8 without satisfying steps 3 to 7.

‘(6) Steps 3 to 7 do not apply if the Minister’s advice to the council includes the statement mentioned in subsection (5).

‘(7) The advice of the Minister also may state that the council may proceed without satisfying step 7 if the council agrees to satisfy particular conditions.

‘(8) Before proceeding further in making a proposed by-law, the council must—

- (a) get an advice under subsection (3) or (4); and
- (b) satisfy any condition about the content of the proposed by-law; and
- (c) agree to satisfy any other conditions.

‘43ZK Step 3—consultation about proposed by-law

‘(1) The Island council must consult with residents of its council area about the proposed by-law for at least 14 days (the “**consultation period**”).

‘(2) However, a longer consultation period may be—

- (a) fixed by a condition agreed by the Minister and the council in step 2; or
- (b) prescribed under a regulation.

‘(3) The consultation period begins on the day when the notice mentioned in subsection (4) is first published.

‘(4) A notice about the proposed by-law must be—

- (a) published at least once in a newspaper, newsletter or other publication circulating generally in its council area; and
- (b) displayed in a conspicuous place in the following places from the first day of the consultation period until the end of the last day of the consultation period—
 - (i) the council’s office;
 - (ii) another prominent place in its council area.

‘(5) The notice must state the following—

- (a) the council's name;
- (b) the name of the proposed by-law;
- (c) the purposes and general effect of the proposed by-law;
- (d) the length of the consultation period and the first and last days of the period;
- (e) that written submissions by any person supporting or objecting to the proposed by-law may be made and given to the council on or before the last day stating—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds.

‘(6) Also, for a notice published under subsection (4)(a), the notice must state that a copy of the proposed by-law is open to inspection, or available, free of charge at the council's office until the end of the last day of the period.

‘(7) A copy of the proposed by-law must be attached to a notice displayed under subsection (4)(b).

‘(8) The council may also consult with residents of its council area about the proposed by-law in any way it considers appropriate.

‘(9) If an open meeting is held under subsection (8), the council's clerk must keep minutes of the meeting.

‘43ZL Step 4—give access to proposed by-law

‘On the first day of the consultation period and until the end of the last day of the consultation period a copy of the proposed by-law must be open to inspection, and be available, free of charge at the Island council's office.

‘43ZM Step 5—accept and consider all submissions

‘(1) The Island council must consider every submission properly made to it.

‘(2) A submission is properly made to the council if it—

- (a) is the written submission of any person about the proposed by-law; and

- (b) is given to the council on or before the last day of the consultation period.

‘(3) Also, a submission is properly made to the council if it is made at a meeting held under section 43ZK(8) and recorded in the minutes of the meeting.

‘43ZN Step 6—decide whether to proceed with making proposed by-law

‘After considering every submission properly made to it, the Island council must, by resolution, decide whether to—

- (a) proceed with making the proposed by-law as advertised (the **“advertised proposed by-law”**); or
- (b) proceed with making the proposed by-law with amendments (the **“amended proposed by-law”**); or
- (c) not proceed with making the proposed by-law.

‘43ZO Step 7—again ensure proposed by-law satisfactorily deals with any State interest

‘(1) This step does not apply in the following cases—

- (a) if the Island council receives an advice under section 43ZJ(5) or (7) and has satisfied any agreed conditions;
- (b) if the Island council decides to proceed with making the advertised proposed by-law;
- (c) if the Island council decides not to proceed with the proposed by-law;
- (d) if a regulation states the step does not apply.

‘(2) The council must—

- (a) advise the Minister of its decision under step 6; and
- (b) give the Minister information about the proposed by-law required by the Minister or by regulation.

‘(3) If the Minister considers that State interests are satisfactorily dealt with by the proposed by-law, the Minister must advise the council it may proceed to step 8.

‘(4) Alternatively, if the Minister considers State interests would be satisfactorily dealt with by the proposed by-law if the council satisfied particular conditions, the Minister—

- (a) may impose conditions on the council that the Minister considers appropriate; and
- (b) must advise the council that it may proceed to step 8 if it—
 - (i) satisfies any conditions about the content of the proposed by-law; and
 - (ii) agrees to satisfy any other conditions.

‘(5) Before proceeding further in making a proposed by-law, the council must—

- (a) get an advice under subsection (3) or (4); and
- (b) satisfy any condition about the content of the proposed by-law; and
- (c) agree to satisfy any other conditions.

‘43ZP Step 8—make proposed by-law

‘(1) If the proposed by-law is a model by-law about a matter, the Island council makes the model by-law if, by resolution, it—

- (a) adopts the model by-law; and
- (b) if there is an existing by-law about the matter that is inconsistent with what is adopted—amends or repeals the existing by-law so that there is no inconsistency.

‘(2) If the proposed by-law is not a model by-law, the council must, by resolution, make—

- (a) the advertised proposed by-law; or
- (b) the amended proposed by-law; or
- (c) the proposed by-law for which the council received advice from the Minister that it could proceed to this step without satisfying steps 3 to 7.

‘(3) The council’s clerk must certify the required number of copies of the by-law to be the by-law as made by the council under subsection (1) or (2).

‘43ZQ Step 9—give public notice of law

‘(1) A notice of the making of the by-law must be—

- (a) gazetted; and
- (b) displayed in a conspicuous place in the Island council’s office and the other prominent places in its council area the council considers appropriate.

‘(2) A notice under subsection (1) must state the following—

- (a) the name of the council making the by-law;
- (b) the name of the by-law;
- (c) the date of the council’s resolution making the by-law;
- (d) the name of any existing by-law amended or repealed by the new by-law.

‘(3) The notice also may state the following—

- (a) the purposes and general effect of the by-law;
- (b) that a certified copy of the by-law is open to inspection at the council’s office;
- (c) that a copy of the certified copy of the by-law is available free of charge at the council’s office and at the department’s offices.

‘(4) If notice of the making of the by-law is not gazetted within 1 year after the date of the council’s resolution making the by-law or the longer period decided by the Minister, the process stated in this division must be used again before the by-law is notified in the gazette.

‘(5) On the day notice of the making of the by-law is gazetted or as soon as practicable after the day, the council must give the Minister—

- (a) a copy of the notice; and
- (b) the required number of certified copies of the by-law.

‘Division 4—Process for making subordinate by-laws**‘43ZR Subordinate by-law process**

‘(1) The process stated in this division must be used to make a subordinate by-law.

‘(2) If an Island council purports to make a subordinate by-law in contravention of subsection (1), the purported subordinate by-law is of no effect.

‘43ZS Step 1—propose a subordinate by-law

‘Before making a subordinate by-law, the Island council must, by resolution, propose to make a subordinate by-law.

‘43ZT Step 2—consultation about proposed subordinate by-law

‘(1) The Island council must consult with residents of its council area about the proposed subordinate by-law for at least 14 days (the “consultation period”).

‘(2) However, a longer consultation period may be prescribed under a regulation.

‘(3) The consultation period begins on the day when the notice mentioned in subsection (4) is first published.

‘(4) A notice about the proposed subordinate by-law must be—

- (a) published at least once in a newspaper, newsletter or other publication circulating generally in its council area; and
- (b) displayed in a conspicuous place in the following places from the first day of the consultation period until the end of the last day of the consultation period—
 - (i) the council’s office;
 - (ii) another prominent place in its council area.

‘(5) The notice must state the following—

- (a) the council’s name;
- (b) the name of the proposed subordinate by-law;
- (c) the name of—
 - (i) the by-law allowing the subordinate by-law to be made; or
 - (ii) if this step is used under section 43ZY—the proposed authorising law;
- (d) the purposes and general effect of the proposed subordinate by-law;

- (e) the length of the consultation period and the first and last days of the period;
- (f) that a copy of the proposed subordinate by-law is open to inspection, or available, free of charge at the council's office until the end of the last day of the period;
- (g) that written submissions by any person supporting or objecting to the proposed subordinate by-law may be made and given to the council on or before the last day stating—
 - (i) the grounds of the submission; and
 - (ii) the facts and circumstances relied on in support of the grounds.

‘(6) Also, for a notice published under subsection (4)(a), the notice must state that a copy of the proposed subordinate by-law is open to inspection, or available, free of charge at the council's office until the end of the last day of the period.

‘(7) A copy of the proposed subordinate by-law must be attached to a notice displayed under subsection (4)(b).

‘(8) The council may also consult with residents of its council area about the proposed subordinate by-law in any way it considers appropriate.

‘(9) If an open meeting is held under subsection (8), the council's clerk must keep minutes of the meeting.

‘43ZU Step 3—give access to proposed subordinate by-law

‘On the first day of the consultation period and until the end of the last day of the consultation period a copy of the proposed subordinate by-law must be open to inspection, and be available, free of charge at the Island council's office.

‘43ZV Step 4—accept and consider all submissions

‘(1) The Island council must consider every submission properly made to it.

‘(2) A submission is properly made to the council if it—

- (a) is the written submission of any person about the proposed subordinate by-law; and

(b) is given to the council on or before the last day of the consultation period.

‘(3) Also, a submission is properly made to the council if it is made at a meeting held under section 43ZT(8) and recorded in the minutes of the meeting.

‘45ZW Step 5—make proposed subordinate by-law

‘(1) If, after considering every submission properly made to it, the Island council decides to make the proposed subordinate by-law, whether as advertised or with amendments, it must, by resolution, make the subordinate by-law.

‘(2) However, the council may substantially amend the proposed subordinate by-law only if the council again consults with residents of its council area under section 43ZT and complies with steps 3 and 4.

‘(3) The council’s clerk must certify the required number of copies of the subordinate by-law to be the subordinate by-law as made by the council.

‘43ZX Step 6—give public notice of subordinate by-law

‘(1) A notice of the making of the subordinate by-law must be—

- (a) gazetted; and
- (b) displayed in a conspicuous place in the Island council’s office and the other prominent places in its council area the council considers appropriate.

‘(2) A notice under subsection (1) must state the following—

- (a) the name of the council making the subordinate by-law;
- (b) the name of the subordinate by-law;
- (c) the date of the council’s resolution making the subordinate by-law;
- (d) the name of any existing subordinate by-law amended or repealed by the new subordinate by-law.

‘(3) The notice also may state—

- (a) the name of the by-law allowing the subordinate by-law to be made; or

(b) the purposes and general effect of the subordinate by-law.

‘(4) On the day notice of the making of the subordinate by-law is gazetted or as soon as practicable after the day, the council must give the Minister—

- (a) a copy of the notice; and
- (b) the required number of certified copies of the subordinate by-law; and
- (c) a drafting certificate for the subordinate by-law.

‘43ZY Early start for subordinate by-law making process

‘(1) The purpose of this section is to permit an Island council to start the process for making a subordinate by-law even though the process for making the by-law on which the subordinate by-law is to be based (the “**proposed authorising law**”) has not finished.

‘(2) A council may use steps 1 to 5 of the process for making the subordinate by-law, other than actually making the subordinate by-law, before the proposed authorising by-law is made if—

- (a) in making the proposed authorising law, the council has to satisfy steps 3 to 7 of division 3; and
- (b) the notice about the subordinate by-law under section 43ZT is published no earlier than the notice about the proposed authorising law under section 43ZK is published.

‘Division 5—Commencement and status of by-laws and subordinate by-laws

‘43ZZ Commencement of by-laws and subordinate by-laws

‘(1) A by-law or subordinate by-law commences—

- (a) on the day notice of the making of the by-law or subordinate by-law is gazetted; or
- (b) if a later day or time is fixed in the by-law or subordinate by-law—on that day or at that time.

‘(2) If notice of the making of the by-law or subordinate by-law is gazetted on a day after the day or time fixed by the by-law or subordinate

by-law for its commencement, the by-law or subordinate by-law is valid, but commences on the day on which it is notified.

‘43ZZA Effect of by-laws

‘On commencement, a by-law made by an Island council has the force of law.

‘43ZZB Extent to which subordinate by-law is binding

‘(1) An Island council’s subordinate by-law is binding on the council.

‘(2) An Island council’s subordinate by-law on a matter is binding on anyone else to the extent stated in the by-law stating the matter about which the subordinate by-law may be made.

‘43ZZC When subordinate by-laws cease to have effect

‘(1) This section applies if—

- (a) a by-law or provision of a by-law states a matter about which a subordinate by-law may be made; and
- (b) a subordinate by-law is made about the matter; and
- (c) the by-law is repealed or the provision is omitted.

‘(2) To remove any doubt, it is declared that the subordinate by-law ceases to have effect on the repeal or omission.

‘43ZZD Proof of by-laws and subordinate by-laws

‘(1) In a proceeding, a certified copy of a by-law or subordinate by-law is evidence of the content of the by-law or subordinate by-law.

‘(2) All courts, judges and persons acting judicially must take judicial notice of a certified copy of a by-law or subordinate by-law.

‘(3) In a proceeding, a copy of the gazette, newspaper, newsletter or other publication containing a notice about the making of a by-law or subordinate by-law is—

- (a) evidence of the matters stated in the notice; and
- (b) evidence that the by-law or subordinate by-law has been properly made.

‘43ZZE By-law and subordinate by-law presumed to be within power

‘In a proceeding, the competence of an Island council to make a particular by-law or subordinate by-law is presumed unless the issue is raised.’

28 Amendment of s 80 (Evidentiary aids)

Section 80—

insert—

‘(2) Subsections (3) and (4) apply to a proceeding for an offence against section 43T(1).¹⁵

‘(3) A statement in the complaint for the offence that fluid was in a container of a type that usually holds alcohol is evidence that the fluid was alcohol.

‘(4) A certificate purporting to be signed by an analyst stating the results of an analysis of a fluid is evidence of the results of the analysis.

‘(5) In this section—

“analyst” see the *Health Act 1937*, section 5(1).¹⁶’.

29 Insertion of new s 80A

After section 80—

insert—

‘80A Approved forms

‘The chief executive may approve forms for use under this Act.’.

15 Section 43T (Possession or consumption of alcohol in or on dry place)

16 *Health Act 1937*, section 5(1)—

“analyst”, other than for a relevant provision or part 4A, means a person appointed under section 27 as a State analyst or a person holding accreditation of a kind prescribed under a regulation.

30 Amendment of s 81 (Regulations)

(1) Section 81, heading—

omit, insert—

‘81 Regulation-making power’.

(2) Section 81(t)—

omit, insert—

‘(t) the business and conduct of meetings of Island councils or community justice groups, including, for example, about the following—

- (i) the times and places of meetings;
- (ii) the quorum for meetings;
- (iii) the presiding member at meetings;
- (iv) the disclosure of a member’s interest before meetings; and’.

31 Insertion of new pt 10, div 3

After section 84A—

insert—

‘Division 3—Transitional provision for Community Services Legislation Amendment Act 2002**‘84B Transitional provision for process for making by-laws**

‘(1) This section applies if—

- (a) before the commencement of this section, an Island council had, under section 24, started the process of making a by-law under the section; and
- (b) immediately before the commencement, the process for making the by-law had not finished.

‘(2) Despite their repeal, sections 24 and 25 continue to apply to the making of the by-law as if they had not been repealed.’.

32 Insertion of new pt 12

After section 85—

insert—

‘PART 12—PROVISION FOR REPRINTING ACT**‘86 Numbering and renumbering of Act**

‘In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

**PART 4—AMENDMENT OF LOCAL GOVERNMENT
(ABORIGINAL LANDS) ACT 1978****33 Act amended in pt 4 and schedule**

(1) This part amends the *Local Government (Aboriginal Lands) Act 1978*.

(2) The schedule also includes amendments of the *Local Government (Aboriginal Lands) Act 1978*.

34 Amendment of s 3 (Definitions)

Section 3—

insert—

‘“**liquor provisions**” means—

- (a) the *Community Services (Aborigines) Act 1984*, section 45T; and
- (b) the *Liquor Act 1992*, sections 168B, 169 and 171.¹⁷

¹⁷ *Community Services (Aborigines) Act 1984*, section 45T (Possession or consumption of alcohol in or on dry place) and the *Liquor Act 1992*, sections 168B (Prohibition of possession of liquor in restricted area), 169 (Authority required for sale) and 171 (Carrying or exposing liquor for sale)

“**police officer in charge**”, for a shire, means the police officer in charge of a police station in the shire.’.

35 Insertion of new s 15

After section 14—

insert—

‘15 Special accounting provision for particular payments

‘(1) Each of the Councils of the Shires of Aurukun and Mornington must keep separate accounting records for payments made to it under the *Indigenous Communities Liquor Licences Act 2002*, section 9.

‘(2) The council must ensure the amounts paid to it are used only for—

- (a) funding programs or services for the benefit of residents of its shire; or
- (b) if an implementation regulation under the *Indigenous Communities Liquor Licences Act 2002*, section 34, states this paragraph applies—for making a payment relating to the Council’s liabilities stated in the regulation.’.

36 Amendment of s 33 (Law and order in shires)

Section 33—

insert—

‘(2C) Also, for the administration and enforcement of the liquor provisions in a shire, the police officer in charge for the shire may authorise an Aboriginal police officer to exercise in the area the powers of—

- (a) an investigator under the *Liquor Act, 1992*, part 7;¹⁸ or
- (b) a police officer under the *Police Powers and Responsibilities Act 2000*, sections 51 to 53.¹⁹

18 For exercise of powers by Aboriginal police officers under the *Liquor Act 1992*, part 7, see section 174A of that Act.

19 *Police Powers and Responsibilities Act 2000*, sections 51 (Stopping vehicles for prescribed purposes), 52 (Power to require vehicles to be moved) and 53 (Requirement to remain at a place)

‘(2D) For subsection (2C)(b), the *Police Powers and Responsibilities Act 2000*, sections 51 to 53, apply as if a reference in the sections to a police officer were a reference to an Aboriginal police officer.’.

37 Insertion of new s 55AA

After section 55—

insert—

‘55AA Delegation

‘(1) The secretary may delegate the secretary’s powers under this Act to an appropriately qualified employee of the shire council.

‘(2) In this section—

“**appropriately qualified**”, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.’.

38 Omission of pt 6 (Control of possession or consumption of alcohol at Aurukun)

Part 6—

omit.

39 Insertion of new pt 8, div 2 and pt 9

After section 111—

insert—

‘Division 2—Transitional provisions for Community Services Legislation Amendment Act 2002

‘112 Definitions for div 2

‘In this division—

“**law council**” means the Aurukun Alcohol Law Council established under the repealed part.

“community justice group” means the community justice group established under the *Community Services (Aborigines) Act 1984*, part 3A, for the Shire of Aurukun.

“new dry place provisions” means the *Community Services (Aborigines) Act 1984*, part 3B.

“repeal” means the repeal of part 6 of this Act by the *Community Services Legislation Amendment Act 2002*.

“repealed part” means part 6 of this Act as in force before its repeal.

“shire council” means the Council of the Shire of Aurukun.

‘113 Law council dissolved

‘On the repeal, the law council is dissolved.

‘114 Assets and liabilities

‘On the repeal, assets and liabilities of the law council immediately before the repeal vest in the shire council.

‘115 Application to declare dry place

‘(1) This section applies if, before the repeal—

- (a) an application under the repealed part for a place to be declared to be a dry place had been made to the law council; and
- (b) the law council had not given notice of the proposal under the repealed part.

‘(2) The community justice group must deal with the application under the new dry place provisions as if the application were made under the provisions.

‘116 Notice of proposal to declare dry place

‘(1) This section applies if, before the repeal, the law council—

- (a) had, under the repealed part, given notice of a proposal to declare a place to be a dry place; but
- (b) had not, under the repealed part, declared the place to be a dry place.

‘(2) The community justice group must deal with the matter, including, considering any objections and submissions to the proposal, under the new dry place provisions as if the proposal were made and notified under the provisions.

‘117 Notice about dry place declaration

‘This section applies if, before the repeal, the law council—

- (a) had, under the repealed part, declared a place to be a dry place; but
- (b) had not, under the repealed part, displayed notice of the declaration.

‘(2) The declaration is taken to be a declaration by the community justice group, under the new dry place provisions, of the place as a dry place and the community justice group must display notice of the declaration under the provisions as if it were made under the provisions.

‘118 Dry place declaration continues in force

‘(1) This section applies if—

- (a) under the repealed part, the law council declared a place to be a dry place; and
- (b) the declaration was in force immediately before the repeal.

‘(2) The declaration is taken to be a declaration by the community justice group, under the new dry place provisions, of the place as a dry place.

‘119 Reporting requirements

‘(1) Within 30 days after the repeal, the chief executive officer of the shire of Aurukun must—

- (a) prepare a report on the law council’s activities for the reporting period; and
- (b) give the report to the shire council.

‘(2) As soon as practicable after giving the report to the shire council, the chief executive officer must—

- (a) publish a notice in a newspaper circulating generally in the shire; and

(b) display a notice in a prominent place in the township of Aurukun.

‘(3) The notices must advise that copies of the report are open for inspection, or available, free of charge at the shire council’s office.

‘(4) The shire council’s annual report prepared under the *Local Government Act 1993* for the financial year that includes the reporting period must contain the chief executive officer’s report.

‘(5) In this section—

“**reporting period**” means the period starting on the first day of the financial year after the last financial year for which a report was prepared under repealed section 56 and ending on the day before the repeal.

‘120 Transitional regulation-making power

‘(1) A regulation (a “**transitional regulation**”) may make provision about a matter for which—

(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of repealed part 6 to the operation of the *Community Services (Aborigines) Act 1984*, parts 3A and 3B; and

(b) this division does not make provision or sufficient provision.

‘(2) Without limiting subsection (1), a regulation may be made about the following—

(a) the enforcement of contracts, guarantees, undertakings and securities entered into or given by or on behalf of the law council;

(b) reviews and appeals against decisions under the repealed part being started or continued under the part;

(c) legal proceedings taken, or that could have been taken, against the law council.

‘(3) A transitional regulation may have retrospective operation to a day not earlier than the repeal.

‘(4) A transitional regulation must declare it is a transitional regulation.

‘(5) This section and any transitional regulation expire 1 year after the repeal.

‘PART 9—PROVISION FOR REPRINTING ACT

‘121 Numbering and renumbering of Act

‘In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

PART 5—MINOR AND CONSEQUENTIAL AMENDMENTS

40 Acts amended

The schedule amends the Acts it mentions.

SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

sections 3(2), 18(2), 33(2) and 40

COMMUNITY SERVICES (ABORIGINES) ACT 1984

1 Sections 36(3), 39(1), 40(1) and (2) and 41, after ‘Aboriginal police’—

insert—

‘officers’.

2 Section 40, heading, ‘function’—

omit, insert—

‘officers’ functions etc.’.

3 Section 45B(1)(a), ‘any member of the Aboriginal police’—

omit, insert—

‘an Aboriginal police officer’.

4 Section 82(n), after ‘service of Aboriginal police’—

insert—

‘officers’.

SCHEDULE (continued)

5 Part 10, heading—*omit, insert—***‘PART 10—TRANSITIONAL PROVISIONS***‘Division 1—Transitional provision for Community Services Legislation Amendment Act 1999’.***COMMUNITY SERVICES (TORRES STRAIT) ACT 1984****1 Sections 34(3), 37(1), 38(1) and (2) and 39, after ‘Island police’—***insert—*

‘officers’.

2 Section 38, heading, ‘function’—*omit, insert—*

‘officers’ functions etc.’.

3 Section 43B(1)(a), ‘any member of the Island police’—*omit, insert—*

‘an Island police officer’.

4 Section 81(n), after ‘service of Island police’—*insert—*

‘officers’.

SCHEDULE (continued)

JUVENILE JUSTICE ACT 1992**1 Section 109(5), definition “community justice group”—***omit, insert—*‘**“community justice group”**, for a child, means—

- (a) the community justice group established under the *Community Services (Aborigines) Act 1984*, part 3A, division 1, or *Community Services (Torres Strait) Act 1984*, part 3A, division 1, for the child’s community; or
- (b) a group of persons within the child’s community, other than a department of government, that is involved in the provision of any of the following—
 - (i) information to a court about Aboriginal or Torres Strait Islander offenders;
 - (ii) diversionary, interventionist or rehabilitation activities relating to Aboriginal or Torres Strait Islander offenders;
 - (iii) other activities relating to local justice issues; or
- (c) a group of persons made up of the elders or other respected persons of the child’s community.’.

**LOCAL GOVERNMENT (ABORIGINAL LANDS)
ACT 1978****1 Section 8, from ‘held by’ to ‘1993,’—***omit, insert—*

‘held by the Council of the Shire of Aurukun or the Council of the Shire of Mornington’.

2 Sections 18(1)(a) and (b), 21(a) to (d) and 25(1)(a), ‘;’—*omit, insert—*

‘; and’.

SCHEDULE (continued)

3 Section 32, from ‘or section 4’ to ‘is not empowered’—

omit, insert—

‘, the Council of the Shire of Aurukun or the Council of the Shire of Mornington is not empowered’.

4 Part 8, heading—

omit, insert—

‘PART 8—VALIDATING AND TRANSITIONAL PROVISIONS

‘Division 1—Validating provision’.

PENALTIES AND SENTENCES ACT 1992**1 Section 9(6), definition “community justice group”—**

omit, insert—

‘“community justice group”, for an offender, means —

- (a) the community justice group established under the *Community Services (Aborigines) Act 1984*, part 3A, division 1, or *Community Services (Torres Strait) Act 1984*, part 3A, division 1, for the offender’s community; or
- (b) a group of persons within the offender’s community, other than a department of government, that is involved in the provision of any of the following—
 - (i) information to a court about Aboriginal or Torres Strait Islander offenders;
 - (ii) diversionary, interventionist or rehabilitation activities relating to Aboriginal or Torres Strait Islander offenders;
 - (iii) other activities relating to local justice issues; or

SCHEDULE (continued)

- (c) a group of persons made up of elders or other respected persons of the offender's community.'.