



Queensland

Aboriginal Land Act 1991

Reprinted as in force on 9 September 2011

Reprint No. 71

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Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of renumbered provisions**
- **editorial changes made in earlier reprints.**

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Aboriginal Land Act 1991

[as amended by all amendments that commenced on or before 9 September 2011]

An Act providing for the grant, and the claim and grant, of land as Aboriginal land, and for other purposes

Whereas—

- 1 Before European settlement land in what is now the State of Queensland had been occupied, used and enjoyed since time immemorial by Aboriginal people in accordance with Aboriginal tradition.
- 2 Land is of spiritual, social, historical, cultural and economic importance to Aboriginal people.
- 3 After European settlement many Aboriginal people were dispossessed and dispersed.
- 4 Some Aboriginal people have maintained their ancestors' traditional affiliation with particular areas of land.
- 5 Some Aboriginal people have a historical association with particular areas of land based on them or their ancestors having lived on or used the land or neighbouring land.
- 6 Some Aboriginal people have a requirement for land to ensure their economic or cultural viability.
- 7 Some land has been set aside for Aboriginal reserves or for the benefit of Aboriginal people and deeds of grant in trust are held on behalf of certain Aboriginal people.
- 8 The Parliament is satisfied that Aboriginal interests and responsibilities in relation to land have not been adequately and appropriately recognised by the law and that this has contributed to a general failure of previous policies in relation to Aboriginal people.

[s 1]

- 9 The Parliament is further satisfied that special measures need to be enacted for the purpose of securing adequate advancement of the interests and responsibilities of Aboriginal people in Queensland and to rectify the consequences of past injustices.
- 10 It is, therefore, the intention of the Parliament to make provision, by the special measures enacted by this Act, for the adequate and appropriate recognition of the interests and responsibilities of Aboriginal people in relation to land and thereby to foster the capacity for self-development, and the self-reliance and cultural integrity, of the Aboriginal people of Queensland.

Part 1 Preliminary

1 Short title

This Act may be cited as the *Aboriginal Land Act 1991*.

2 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

3 Aborigines particularly concerned with land etc.

- (1) For the purposes of this Act, an Aborigine is particularly concerned with land if the Aborigine—
 - (a) has a particular connection with the land under Aboriginal tradition; or
 - (b) lives on or uses the land or neighbouring land.
- (2) For the purposes of this Act, Aboriginal people are particularly concerned with land if—

- (a) they are members of a group that has a particular connection with the land under Aboriginal tradition; or
- (b) they live on or use the land or neighbouring land.

4 Act binds all persons

This Act binds all persons, including the State, and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

Part 2 Basic concepts

Division 1 Aboriginal people and their traditions

5 Meaning of Aboriginal people

Aboriginal people are people of the Aboriginal race of Australia.

6 Meaning of Aborigine

An Aborigine is a person of the Aboriginal race of Australia.

7 Meaning of Aboriginal tradition

Aboriginal tradition is the body of traditions, observances, customs and beliefs of Aboriginal people generally or of a particular group of Aboriginal people, and includes any such traditions, observances, customs and beliefs relating to particular persons, areas, objects or relationships.

Division 2 Aboriginal land

8 Meaning of Aboriginal land

- (1) Aboriginal land is transferred land or granted land.
- (2) Aboriginal land includes land that was transferred land and has subsequently become granted land.

Division 3 Transferable and transferred land

9 Meaning of transferable and transferred land

- (1) Transferable land is land that is to be granted under part 4 without a claim being made under this Act for the land.
- (2) Transferred land is land that is granted under part 4 without a claim being made under this Act for the land.

10 Lands that are transferable lands

- (1) The following lands are transferable lands—
 - (a) DOGIT land;
 - (b) Aboriginal reserve land;
 - (c) Aurukun Shire lease land;
 - (d) Mornington Shire lease land;
 - (e) available State land declared by regulation to be transferable land;
 - (f) land that is transferable land under section 174, 176 or 177;
 - (g) land that becomes transferable land under section 230;
 - (h) land in the following lots—
 - (i) Lot 1 on SP228365;
 - (ii) Lot 5 on SP228365;

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- (iii) Lot 129 on SP228365;
 - (iv) Lot 130 on SP228365;
 - (v) Lot 113 on SP228365;
 - (vi) Lot 119 on SP228365;
 - (vii) Lot 1 on SP228366;
 - (viii) Lot 2 on SP228367;
 - (ix) Lot 1951 on SP228368;
 - (x) Lot 90 on CP816530;
 - (xi) Lot 147 on SL7542;
 - (xii) Lot 300 on SP104019.
- (2) However, land mentioned in subsection (1)—
- (a) ceases to be transferable land if it is taken, under the Acquisition Act, by a constructing authority; and
 - (b) if the land is Aboriginal trust land—is not transferable land if it is subject to a lease for more than 30 years granted under this Act for a commercial purpose; and
 - (c) is not transferable land if it is the subject of a declaration in force under section 16.

11 **DOGIT land**

- (1) DOGIT land is land that, at the beginning of the enactment day, was—
- (a) prescribed DOGIT land or land granted in trust under the *Land Act 1962* for the benefit of Aboriginal inhabitants or for the purpose of an Aboriginal reserve; or
 - (b) within the external boundaries of an area of such land and—
 - (i) reserved and set apart for, or dedicated to, a public purpose under the *Land Act 1962*; or

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- (ii) land that has become unallocated State land by way of resumption for a public purpose within the meaning of the *Land Act 1962*; or
 - (iii) subject to a lease granted under the Land Holding Act; or
 - (iv) subject to a special lease granted under the *Land Act 1962*; or
 - (v) the subject of an application under the Land Holding Act, section 5, that had been approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act, but for which a lease under that Act has not been granted;
- other than—
- (vi) a road; or
 - (vii) a stock route or associated reserve.
- (2) DOGIT land includes land within the external boundaries of land mentioned in subsection (1)(a) that has, since the enactment day, ceased to be a road if the land was or is—
- (a) declared by regulation to be transferable land; or
 - (b) included in a new deed of grant issued under the Land Act, section 358 for the land mentioned in subsection (1)(a), because of the closing of a road under section 109(2)(b) or 109B of that Act.
- (3) Also, DOGIT land includes land within the external boundaries of land mentioned in subsection (1)(a) if—
- (a) the land was the subject of an application under the Land Holding Act, section 5, that was approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act after the enactment day; and
 - (b) a lease under that Act has not been granted for the land.
- (4) DOGIT land does not include land within the external boundaries of land mentioned in subsection (1)(a) if the land—

- (a) is a road that became a road after the enactment day and before the commencement of this subsection; or
- (b) becomes a road after the commencement.

12 Aboriginal reserve land

- (1) Aboriginal reserve land is land that, at the beginning of the enactment day, is—
 - (a) reserved and set apart under the *Land Act 1962* for an Aboriginal reserve or for the benefit of Aboriginal inhabitants; or
 - (b) within the external boundaries of an area of such land and—
 - (i) subject to a lease granted under the Land Holding Act; or
 - (ii) the subject of an application under the Land Holding Act, section 5, that had been approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act, but for which a lease under that Act has not been granted;

and includes land reserved and set apart under the *Land Act 1962* for any other public purpose if the land is declared by regulation to be land that was, or is included in land that was, at the beginning of the enactment day, being used as an Aboriginal reserve or for the benefit of Aboriginal people.

- (2) Also, Aboriginal reserve land includes land within the external boundaries of land mentioned in subsection (1)(a) if—
 - (a) the land was the subject of an application under the Land Holding Act, section 5, that was approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act after the enactment day; and
 - (b) a lease under that Act has not been granted for the land.

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13 Aurukun Shire lease land

(1) Aurukun Shire lease land is land that, at the beginning of the enactment day, is—

(a) demised to the council of the Shire of Aurukun under the *Local Government (Aboriginal Lands) Act 1978*; or

Note—

For the Act mentioned in paragraph (a), see the *Aurukun and Mornington Shire Leases Act 1978*.

(b) within the external boundaries of that land and reserved and set apart for, or dedicated to, a public purpose under the *Land Act 1962*, other than—

(i) a road; or

(ii) a stock route or associated reserve;

and includes land within those external boundaries that has, since the enactment day, ceased to be a road if the land is declared by regulation to be transferable land.

(2) Aurukun Shire lease land does not include land within the external boundaries of land mentioned in subsection (1)(a) if the land—

(a) is a road that became a road after the enactment day and before the commencement of this subsection; or

(b) becomes a road after the commencement.

(3) In this section—

road includes a road mentioned in the *Aurukun and Mornington Shire Leases Act 1978*, section 4A(1).

14 Mornington Shire lease land

(1) Mornington Shire lease land is land that, at the beginning of the enactment day, is—

(a) demised to the council of the Shire of Mornington under the *Local Government (Aboriginal Lands) Act 1978*; or

Note—

For the Act mentioned in paragraph (a), see the *Aurukun and Mornington Shire Leases Act 1978*.

(b) within the external boundaries of that land and reserved and set apart for, or dedicated to, a public purpose under the *Land Act 1962*, other than—

(i) a road; or

(ii) a stock route or associated reserve;

and includes land within those external boundaries that has, since the enactment day, ceased to be a road if the land is declared by regulation to be transferable land.

(2) Mornington Shire lease land does not include land within the external boundaries of land mentioned in subsection (1)(a) if the land—

(a) is a road that became a road after the enactment day and before the commencement of this subsection; or

(b) becomes a road after the commencement.

(3) In this section—

road includes a road mentioned in the *Aurukun and Mornington Shire Leases Act 1978*, section 4A(1).

Division 4 Declarations about particular transferable land

15 Definition for div 4

In this division—

relevant land means the following land, or a part of the land—

(a) DOGIT land;

(b) Aboriginal reserve land, other than land declared under a regulation for section 12;

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- (c) Aurukun Shire lease land;
- (d) Mornington Shire lease land.

16 Particular land may be declared to be not transferable land

- (1) The Minister may, by gazette notice, make a declaration that relevant land is not transferable land if the Minister is satisfied that—
 - (a) housing or essential or other infrastructure is situated on the land; or
 - (b) the land is being used as a town site or part of a town site; or
 - (c) the land is being used as if it were a road; or
 - (d) having regard to the nature or use of the land, it is not appropriate or practicable in the circumstances for the land to be granted in fee simple under this Act.
- (2) In considering whether to make a declaration under subsection (1)(d), the Minister may have regard to matters relating to the nature or use of the relevant land the Minister considers appropriate, including, for example—
 - (a) whether the land is likely to be used as a town site or part of a town site; and
 - (b) whether the land is in a condition suitable to be granted under this Act.
- (3) The Minister must not make a declaration under subsection (1)(d) before—
 - (a) if no appeal is made to the Land Court against the decision to make the declaration—the period for making an appeal ends; or
 - (b) if an appeal is made to the Land Court against the decision to make the declaration—the day the appeal is finally decided.

17 Notice of intention to make declaration

- (1) If the Minister intends to make a declaration under section 16, the Minister must—
 - (a) give written notice of the Minister’s intention to make the declaration to the trustee of the relevant land; and
 - (b) as soon as practicable after giving the notice under paragraph (a), publish notice of the Minister’s intention to make the declaration in a newspaper or other publication circulating generally in the area where the relevant land is situated; and
 - (c) consider all representations made under subsection (4).
- (2) The notice must—
 - (a) include a description of the relevant land; and
 - (b) state the following—
 - (i) the reasons for the proposed declaration;
 - (ii) that a person may make written representations to the Minister about the proposed declaration;
 - (iii) the place where the representations may be made;
 - (iv) the period in which the representations must be made.
- (3) The stated period must end at least 28 days after the notice is published.
- (4) A person may make written representations about the proposed declaration to the Minister within the stated period.

18 Minister to consider representations and give notice of decision

- (1) After considering all representations made under section 17(4) about the proposed declaration, the Minister must—
 - (a) decide whether to make the declaration; and
 - (b) give written notice of the decision to—

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- (i) each person who made the representations; and
 - (ii) the trustee of the relevant land, if the trustee did not make any representations.
- (2) The Minister may, after considering the representations, decide to make the declaration for all or a part of the relevant land described in the notice under section 17.
- (3) If the Minister decides to make the declaration, the notice must—
 - (a) include a description of the relevant land to be declared not transferable under this division; and
 - (b) state all of the following—
 - (i) the provision under which the declaration is to be made;
 - (ii) the reasons for the decision;
 - (iii) if the Minister is to make the declaration under section 16(1)(d)—that a person who made representations about the proposed declaration may appeal against the decision to the Land Court within 28 days after receiving the notice, and how the person may appeal.

19 Notice about declarations—trustee

As soon as practicable after a declaration that relevant land is not transferable land is made, the chief executive must give the trustee of the land written notice of the declaration.

20 Notice about declarations—registrar

- (1) As soon as practicable after a declaration that relevant land is not transferable land is made, the chief executive must give the registrar written notice of the declaration.
- (2) The notice must include particulars of the land the subject of the declaration.

- (3) The registrar must keep records that show the land is not transferable land.
- (4) The registrar must keep the records in a way that a search of the appropriate register kept by the registrar will show the land is not transferable land.
- (5) As soon as practicable after a declaration is repealed—
 - (a) the chief executive must give the registrar written notice of the fact; and
 - (b) the registrar must amend the registrar's records to show the land the subject of the repealed declaration is transferable land.

21 Requirements about plans of subdivision for declarations

- (1) This section applies if—
 - (a) under section 16, the Minister declares land is not transferable land; and
 - (b) a plan of subdivision is lodged for the land under the Land Title Act or Land Act for the purpose of identifying the land; and
 - (c) the plan of subdivision has been consented to by the Minister.
- (2) The registrar must register the plan of subdivision without the consent of anyone whose consent would otherwise have been required under the relevant section if the plan otherwise complies with the relevant section.
- (3) In this section—

relevant section means—

 - (a) for freehold land—the Land Title Act, section 50; or
 - (b) for other land—the Land Act, section 290J.

Division 5 Claimable and granted land

22 Meaning of claimable and granted land

- (1) Claimable land is land that may be claimed by, and granted under this Act to, a group of Aboriginal people.
- (2) Granted land is claimable land that has been claimed by, and granted under this Act to, a group of Aboriginal people.

23 Land that is claimable land

- (1) Subject to subsection (3), claimable land is—
 - (a) available State land declared by regulation to be claimable land for this Act; or
 - (b) Aboriginal land that—
 - (i) is transferred land; and
 - (ii) became transferred land before 22 December 2006.
- (2) A declaration under subsection (1)(a) may describe the available State land concerned in any way, including, for example, describing the land as land included in a stated area of the State.
- (3) A regulation may declare that an area of transferred land is not claimable land.
- (4) A declaration under subsection (3) may be made only if—
 - (a) the land is primarily used or occupied by Aboriginal people for residential or community purposes; or
 - (b) the Minister has consulted with Aboriginal people particularly concerned with the land and a substantial majority of the Aboriginal people are opposed to the land being claimable land.

Division 6 Available State land

24 Land that is available State land—general

- (1) Land is available State land if it is—
 - (a) land, other than excluded land, in which no person other than the State has an interest; or
 - (b) land, other than excluded land, that is subject to an interest granted by the State, if an available State land agreement is in force for the land; or
 - (c) land inside the Torres Strait area that is land—
 - (i) in which no person other than the State has an interest; and
 - (ii) declared under a regulation to be available State land.
- (2) Subsection (1) is subject to sections 26 and 27.
- (3) In this section—

interest means a legal or equitable interest in the land but does not include native title, a mining interest or an easement.

25 Agreement about particular land

- (1) The Minister may enter into a written agreement (an *available State land agreement*) about land, other than excluded land—
 - (a) with a person who has an interest in the land granted by the State; and
 - (b) under which the State and the person agree that the land may be available State land.
- (2) The Minister may enter into an available State land agreement for particular land only if satisfied that entering into the agreement is appropriate in the circumstances having regard to an evaluation of the land under the Land Act, section 16.
- (3) An available State land agreement must provide that on the grant of the land under part 4 the person's interest in the land

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is to cease and a new interest granted by the trustee of the land is to have effect in substitution for the person's interest.

- (4) However, if the interest is a lease granted under the Land Act the agreement may provide that the lease is to continue in force under section 45.
- (5) Subsection (6) applies if a proposed available State land agreement is to state that a person's interest in land is to cease and a new interest granted by the proposed trustee of the land is to have effect in substitution for the person's interest.
- (6) To remove any doubt, it is declared that the Minister need not enter into the available State land agreement unless satisfied a new interest granted by the proposed trustee of the land is to have effect in substitution for the person's interest in the land.

26 Watercourses and lakes

Available State land includes a watercourse or lake only to the extent the watercourse or lake is—

- (a) within the external boundaries of land that is otherwise available State land; and
- (b) capable of being owned in fee simple by a person other than the State.

27 Tidal land

- (1) Available State land includes tidal land only if the particular tidal land is declared by regulation to be available State land.
- (2) Subject to subsection (1), this Act applies to tidal land as if it were not tidal land.

28 Meaning of city or town land

- (1) Subject to subsection (2), city or town land is land that is within the boundaries of a city or town constituted under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

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- (2) A regulation may change the boundaries of a city or town.
 - (3) A regulation under subsection (2) has effect only for this Act.

29 Meaning of township land

A regulation may declare that land is township land for this Act.

30 National parks

To allay any doubt, it is declared that available State land includes any national park.

31 Land that is not available State land

- (1) To remove any doubt, it is declared that the following land is not available State land—
 - (a) the waters of the sea, and the seabed, other than tidal land declared to be available State land under section 27(1);
 - (b) freehold land;
 - (c) an associated reserve;
 - (d) land subject to a lease, licence or permit under the Land Act.
- (2) Despite subsection (1)(d), land subject to a lease, licence or permit under the Land Act is available State land if an available State land agreement is in force for the land.

Division 7 Application of laws to Aboriginal land

32 Application of laws

- (1) To allay any doubt, it is declared that, except as provided by this Act or any other Act, the laws of the State apply to

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Aboriginal land, persons and things on Aboriginal land, and acts and things done on Aboriginal land, to the same extent, and in the same way, as if the land were not Aboriginal land.

- (2) Without limiting subsection (1), to allay any doubt it is declared that this Act has effect subject to the *Fisheries Act 1994*.

Part 3 **Formal expression of interest about land**

33 **Purpose of pt 3**

The purpose of this part is to provide for a process under which Aboriginal people may formally express an interest to the chief executive in having particular land made transferable land.

34 **Land to which pt 3 applies**

This part applies to the following land—

- (a) available State land;
- (b) land dedicated as a reserve under the Land Act;
- (c) a stock route;
- (d) land subject to an occupation licence;
- (e) land held under a lease under the Land Act by or for Aboriginal people.

35 **Expression of interest in having land made transferable land**

- (1) Aboriginal people particularly concerned with land mentioned in section 34 may, by notice given to the chief executive (an

expression of interest), express an interest in having the land made transferable land.

- (2) The expression of interest must—
 - (a) be in the approved form; and
 - (b) include the details required in the approved form to enable the chief executive to properly consider the expression of interest.

36 Chief executive to consider expression of interest

- (1) The chief executive must consider each expression of interest.
- (2) Without limiting subsection (1), the chief executive may consider an expression of interest by evaluating the land to which it relates under the Land Act, section 16.

37 Consideration of expression of interest does not impose obligation on State

The chief executive's consideration of an expression of interest does not impose an obligation on the State under this Act to make the land to which it relates transferable land.

Part 4 Grant of transferable land as Aboriginal land

Division 1 Grant of land

38 Deeds of grant to be prepared

- (1) The chief executive must prepare such deeds of grant in fee simple as the Minister considers necessary and directs over transferable lands.

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- (2) Transferable land need not be surveyed but may be described in a deed of grant in such manner as the Minister directs.
- (3) The deed of grant must show that the land is held by the grantee—
 - (a) if the grantee is a registered native title body corporate appointed as the grantee under section 39—for the native title holders of the land; or
 - (b) otherwise—
 - (i) for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants; or
 - (ii) if the land is prescribed DOGIT land that is to be held for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land—for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land, and their ancestors and descendants.
- (4) If the grantee is a registered native title body corporate appointed under section 39, the deed of grant also must include information to identify the native title holders of the land.
- (5) Subsections (2), (3) and (4) have effect despite any other Act or any rule of law or practice.

39 Appointment of registered native title body corporate as grantee to hold land for native title holders

- (1) This section applies to transferable land if—
 - (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) there is a registered native title body corporate for the determination.
- (2) The Minister may, with the consent of the registered native title body corporate, appoint the body corporate to be the

grantee of the land under a deed of grant prepared under section 38.

- (3) If the Minister appoints the registered native title body corporate to be the grantee of the land under this section, the body corporate holds the land for the native title holders of the land the subject of the determination mentioned in subsection (1)(a).
- (4) In considering whether to appoint a registered native title body corporate under this section, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example—
 - (a) whether the making of the proposed appointment was a matter relevant to the native title claim under the Commonwealth Native Title Act that resulted in the determination that native title existed in relation to all or a part of the land; and
 - (b) whether any Aboriginal people particularly concerned with the land, other than the native title holders of the land, may be adversely affected by the proposed appointment; and
 - (c) if the Minister is satisfied Aboriginal people particularly concerned with the land will be adversely affected by the proposed appointment—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.

40 Appointment of grantee to hold land for benefit of Aboriginal people

- (1) This section applies if the Minister does not appoint, under section 39, a registered native title body corporate as the grantee of land.
- (2) The Minister may appoint as grantee of the land—
 - (a) a CATSI corporation that is qualified to hold the land; or
 - (b) a land trust; or

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- (c) the Aurukun Shire Council, if the land is Aurukun Shire lease land; or
 - (d) the Mornington Shire Council, if the land is Mornington Shire lease land.
- (3) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as a grantee of land under subsection (2) only if—
- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- (4) Before making the appointment, the Minister must consult with, and consider the views of, Aboriginal people particularly concerned with the land.
- (5) Subsection (4) does not apply if an ILUA has been entered into for the land and the entity is nominated in the ILUA as the proposed grantee for the land under this Act.
- (6) However, in considering whether to appoint an entity nominated in an ILUA as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example—
- (a) whether any Aboriginal people particularly concerned with the land may be adversely affected by the appointment; and
 - (b) if the Minister is satisfied any Aboriginal people particularly concerned with the land will be adversely affected by the appointment—any action the entity intends to take to address the concerns of the Aboriginal people.
- (7) Also, in considering whether to appoint a registered native title body corporate as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers

relevant to the proposed appointment, including, for example, the matters mentioned in section 39(4)(b) and (c).

- (8) In appointing a grantee of land under this section, the Minister must have regard to any Aboriginal tradition applicable to the land.
- (9) Despite subsection (8), the Minister may appoint the Aurukun Shire Council or Mornington Shire Council to be a grantee if the Minister considers that in all the circumstances it is appropriate to do so.

41 Procedure for appointing particular grantee

- (1) Before appointing a grantee of land under this part, other than an entity nominated in an ILUA as the proposed grantee for the land, the Minister must—
 - (a) publish notice of the Minister’s intention to appoint the grantee in a newspaper or other publication circulating generally in the area in which the land the subject of the deed of grant is situated; and
 - (b) consider all representations made to the Minister under subsection (4).
- (2) The notice must—
 - (a) include a description of the land; and
 - (b) state the following—
 - (i) the name of the proposed grantee;
 - (ii) that an Aboriginal person particularly concerned with the land may make written representations to the Minister about the proposed appointment;
 - (iii) the place where the representations may be made;
 - (iv) the period in which the representations must be made.
- (3) The stated period must end at least 28 days after the notice is published.

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- (4) An Aboriginal person particularly concerned with the land may make written representations about the proposed appointment to the Minister within the stated period.

42 Minister to act as soon as possible

- (1) The Minister must, as soon as practicable after the commencement of sections 38 and 40, give all necessary directions under section 38, and make all necessary appointments under section 39 or 40, in relation to land that is transferable land on the enactment day.
- (2) If, under section 10(1)(e) or 12, land becomes transferable land after the enactment day, the Minister must, as soon as practicable after the land becomes transferable land, give all necessary directions under section 38, and make all necessary appointments under section 39 or 40, in relation to the land.
- (3) However, the Minister need not act as mentioned in subsections (1) and (2) in relation to land until the Minister is reasonably satisfied—
- (a) arrangements are in place to ensure—
- (i) the Commonwealth and the State can continue to provide services to communities on the land after it is granted; and
 - (ii) the local government for the area in which the land is situated can continue to provide local government services to communities on the land after it is granted; and

Example of an arrangement for paragraph (a)—

a lease

- (b) if the land is proposed to be granted to an entity other than a registered native title body corporate, arrangements that the Minister considers necessary—
- (i) to support use of the land by Aboriginal people particularly concerned with it; and

- (ii) to ensure appropriate services, including, for example, social housing, public works and community infrastructure, can be provided for communities on the land;

are in place to deal with matters relevant to the use of the land after it is granted; and

Example of an arrangement for paragraph (b)—

an ILUA

- (c) if the land is or includes township land, arrangements are in place to provide for—

- (i) the land to continue to be used as township land; and

- (ii) residents of the township land to continue to live on and access the land, and obtain tenure over the land under this Act.

Examples of an arrangement for paragraph (c)—

an ILUA, a townsite lease or another lease

- (4) In this section—

local government services includes any services a local government might ordinarily provide for the community in its local government area.

43 Authority to grant fee simple in transferable land

The Governor in Council may, under this Act and the Land Act, grant transferable land in fee simple.

44 Deed of grant takes effect on delivery

- (1) A deed of grant prepared under this division takes effect on the delivery of the deed of grant to the grantee.
- (2) On delivery of the deed of grant to the grantee, the land the subject of the deed becomes Aboriginal land that is transferred land.

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- (3) Subsection (1) has effect despite any other Act or any rule of law or practice.

45 Existing interests

- (1) If transferable land was, immediately before becoming Aboriginal land under this division, subject to an interest or benefited by an easement, the interest continues in force or the land continues to be benefited by the easement.
- (2) Without limiting subsection (1), if transferable land was, immediately before becoming Aboriginal land under this division, the subject of—
- (a) a lease granted under the Land Holding Act; or
 - (b) a lease under the Land Act; or
 - (c) a trustee (Aboriginal) lease;
- the trustee of the land is, by operation of this section, substituted for the lessor as a party to the lease.
- (3) The terms of a lease mentioned in subsection (2) are not affected by the operation of this section, section 46 or any other provision of this Act and, for the purposes of those terms, the Land Act continues to apply to a lease under that Act, with all necessary modifications and such modifications as are prescribed, as if the lease continued to be such a lease and the trustee of the land were the lessor.
- (4) However, subsection (5) applies to an interest in transferable land (the *previous interest*) that, under an available State land agreement, is to cease on the grant of the land under this part and a new interest granted by the trustee of the land is to have effect in substitution for the previous interest on the grant of the land.
- (5) Despite subsections (1) to (3), on the grant of the land the previous interest ceases.
- (6) Subsection (5) applies despite any other Act.

(7) In this section—

interest includes native title, but does not include an interest in favour of the State or Commonwealth that is not registered.

46 Interests to be endorsed on deed

- (1) If land the subject of a deed of grant prepared under section 38 is, at the beginning of the enactment day, subject to, or subsequently becomes subject to, an interest (other than an interest in favour of the State or Commonwealth that is not registered) and the interest is created under the *Aurukun and Mornington Shire Leases Act 1978*, the council of the relevant shire must, as soon as practicable after being requested so to do by the chief executive, give to the chief executive the original or an office copy of the instrument under which the interest arose.
- (2) The chief executive must endorse on the deed, in the proper order of priority—
 - (a) the instruments—
 - (i) given to the chief executive under subsection (1);
or
 - (ii) created or registered under the Land Act and held by the chief executive;
before the issue of the deed; and
 - (b) if the land was previously held under a deed of grant in trust—any existing instruments that were endorsed on the deed of grant in trust.
- (3) An instrument endorsed on the deed of grant under subsection (2) has effect as a registered instrument on the deed under the Land Title Act.
- (4) If the registrar of titles is given notice of the creation of an interest after the issue of the deed of grant, the registrar of titles must make an appropriate note in the register.

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47 Cancellation of deed of grant in trust

If—

- (a) an indigenous local government, other than an indigenous regional council, under the *Local Government Act 2009* holds title to land under a deed of grant in trust under the Land Act; and
- (b) a deed of grant (the *new deed*) over the whole or a part of the land takes effect under section 44;

the deed of grant in trust is cancelled, to the extent of the new deed, by operation of this section.

48 Cancellation of leases over Aurukun and Mornington Shire lease lands

- (1) When a deed of grant over the whole or a part of Aurukun Shire lease land or Mornington Shire lease land takes effect under section 44, the lease granted to the relevant council under the *Aurukun and Mornington Shire Leases Act 1978* is cancelled, to the extent of the deed of grant, by operation of this section.
- (2) To allay any doubt, if a lease is cancelled only in relation to part of the land, a reference in the *Aurukun and Mornington Shire Leases Act 1978* to the demised land is a reference to the remaining part of the land.

49 Land Court may resolve difficulties

- (1) If a difficulty arises in—
 - (a) the application of this division to a particular matter; or
 - (b) the application, to a particular matter, of a provision of another Act because of the operation of this division;

the Land Court may, on the application of the chief executive or an interested person, make such order as it considers proper to resolve the difficulty.

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- (2) An order made under subsection (1) has effect despite anything contained in this division or in an Act in force immediately before the commencement of this section.

Division 2 Approvals to change how land is held

50 Application to hold Aboriginal land for native title holders

- (1) This section applies if—
- (a) a CATSI corporation that is the trustee of Aboriginal land becomes a registered native title body corporate after it became the trustee of the land; and
 - (b) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (c) the registered native title body corporate is registered on the National Native Title Register for the determination.
- (2) The registered native title body corporate may apply to the Minister in the approved form for an approval to hold the land under this Act for the native title holders of the land.

51 Decision on application

- (1) The Minister must consider an application made under section 50 and decide—
- (a) to give the approval; or
 - (b) to refuse the application.
- (2) In considering the application, the Minister must have regard to—
- (a) whether any Aboriginal people particularly concerned with the land, other than native title holders of the land, may be adversely affected by the approval; and

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- (b) if the Minister is satisfied Aboriginal people particularly concerned with the land will be adversely affected by the approval—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.
- (3) The Minister may give the approval only if, having regard to the matters mentioned in subsection (2), the Minister is satisfied it is appropriate in the circumstances to give the approval.

52 Notices about decision

- (1) The Minister must give the registered native title body corporate written notice of the Minister's decision under section 51.
- (2) If the Minister gives the approval, the chief executive must notify the approval by gazette notice.
- (3) The gazette notice must—
 - (a) state the name of the registered native title body corporate; and
 - (b) include a description of the Aboriginal land held by it that relates to the approval.
- (4) As soon as practicable after the gazette notice is published, the chief executive must give the registrar of titles written notice of the approval.
- (5) The notice must include a description of the Aboriginal land held by the registered native title body corporate for the native title holders of the land.
- (6) On receiving the notice, the registrar must record in the freehold land register that the land is held under this Act by the registered native title body corporate for the native title holders of the land.
- (7) In this section—

description, in relation to land, means the description of the land as shown in the freehold land register.

53 Effect of gazette notice

On publication of the gazette notice, the registered native title body corporate is taken to hold the land under this Act for the native title holders of the land.

Division 3 Reservations

54 Reservations of minerals and petroleum

A deed of grant of transferred land must contain a reservation to the State of—

- (a) all minerals; and
- (b) all petroleum;

on and below the surface of the land.

55 Reservations of forest products and quarry material etc.

(1) A deed of grant of transferred land may contain a reservation to the State of forest products or quarry material above, on or below the surface of the land only if it is declared by regulation that—

- (a) the forest products or quarry material is of vital State interest; and
- (b) the rights in the forest products or quarry material are reserved to the State.

(2) If a deed of grant of transferred land does not contain a reservation of particular forest products or quarry material above, on or below the land, a regulation may declare that—

- (a) the forest products or quarry material are of vital State interest; and
- (b) rights in the forest products or quarry material are acquired by the State.

(3) If a regulation is made under subsection (1) or (2), the trustee of the land is entitled to be paid by the State such reasonable

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compensation because of the reservation or acquisition as is agreed between the State and the trustee or, failing agreement, as is determined by the Land Court.

- (4) Despite subsection (1), a permit, lease, licence, agreement or contract granted or made under the *Forestry Act 1959*, before the day on which land became transferred land, in relation to the getting and selling of forest products or quarry material above, on or below the surface of the land, continues in force as if this section had not been enacted.

Part 5 **Claims for claimable land**

Division 1 **Requirements for claims**

56 **Duly made claims**

A claim for claimable land must comply with the following provisions in order to be duly made—

- (a) section 57;
- (b) section 58;
- (c) section 59;
- (d) section 60.

57 **Who may make a claim**

- (1) A group of Aboriginal people may make a claim for an area of claimable land.
- (2) The claim may be made by members of a group of Aboriginal people on behalf of those Aboriginal people and other Aboriginal people who are members of the group.

58 Grounds on which claim may be made

A claim under this Act may only be made on 1 or more of the following grounds—

- (a) traditional affiliation;
- (b) historical association.

59 How claim is to be made

A claim under this Act must—

- (a) be made by written application to the chief executive; and
- (b) be in the appropriate form made available by the chief executive; and
- (c) include—
 - (i) a description of the land claimed and a map showing clearly the location of the land; and
 - (ii) a statement of the ground on which the claim is made; and
 - (iii) a description of the group of Aboriginal people making the claim; and
 - (iv) a statement of the responsibilities in relation to the land that the claimants agree to assume if the land is granted because of the claim.

60 Time limit for making of claims

A claim under this Act must be made not later than 15 years after the commencement of section 57.

Note—

The time for making a claim ended on 22 December 2006.

Division 2 Determination of claims

61 Deciding whether claim duly made

- (1) If a claim is made to the chief executive, the chief executive must decide whether the claim appears to be duly made.
- (2) If the chief executive is satisfied that the claim appears to be duly made, the chief executive must accept the application and refer the claim to the Land Tribunal.
- (3) If the chief executive is not satisfied, the chief executive must refuse to accept the application.
- (4) The chief executive must notify the claimants, in writing, of his or her decision.
- (5) If the chief executive refuses to accept the application, the chief executive must also notify the claimants, in writing, of his or her reasons for refusing to accept the application.
- (6) If the chief executive refuses to accept the application, the claimants may ask the chairperson of the Land Tribunal to decide whether the claim is duly made.
- (7) If the chairperson decides that the claim is duly made, the chairperson must direct the chief executive to accept the application under subsection (2).
- (8) If the chairperson decides that a claim is not duly made, the chairperson must notify the claimants, in writing, of his or her reasons for refusing to accept the application.
- (9) Despite subsection (1), if a recommendation has been made to the Minister under section 71 for a grant in fee simple, another claim may not be duly made over the same land.
- (10) Nothing in this section prevents the chief executive from accepting an application if—
 - (a) a claim (the *repeat claim*) has been made to the chief executive under section 59 and it appears to the chief executive that the land to which the claim relates is

completely or partly the same as land that has previously been claimed (the *previous claim*); and

- (b) no recommendation was made to the Minister under section 71 about the previous claim.

62 Tribunal to notify making of claims

- (1) As soon as practicable after a claim is referred to the Land Tribunal, the tribunal must comply with this section.
- (2) The tribunal must cause copies of the application to be made available for public inspection at offices of the tribunal during ordinary working hours and at such other places as it considers appropriate.
- (3) The tribunal must publish notice of the claim in the gazette, a newspaper circulating throughout the State and such regional newspapers as the tribunal considers appropriate.
- (4) The tribunal must give notice of the claim, by letter or such other means as it considers more effective, to each person that it is aware is or may be an interested person.
- (5) A notice under subsection (3) or (4) must include a statement to the effect that—
 - (a) copies of the application are available for public inspection at places, and during times, specified in the notice; and
 - (b) interested persons may, within the period specified in the notice, apply to the tribunal to be made a party to the proceeding for the hearing of the claim; and
 - (c) any other group of Aboriginal people may, within that period, make a claim for the whole or part of the land the subject of the claim or for such an area and additional area of claimable land.
- (6) The period specified in a notice for the purposes of subsection (5)(a) must be a period of not less than 60 days after the publication of notice of the claim in the gazette.

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63 Joint hearing of claims

If—

- (a) a claim (the *first claim*) is duly made under this Act by a group of Aboriginal people for an area of claimable land; and
- (b) a claim (the *subsequent claim*) is duly made under this Act by another group of Aboriginal people for the whole or a part of the area of claimable land (whether or not an additional area of claimable land is also claimed); and
- (c) the subsequent claim is referred to the Land Tribunal within the period specified in the notice published under section 62 in relation to the first claim or before the hearing of the first claim has started;

then—

- (d) the first claim and the subsequent claim are to be heard and determined together; and
- (e) if the subsequent claim does not include an additional area of claimable land—section 62 does not apply to the subsequent claim.

64 Repeat claims

If a repeat claim mentioned in section 61(10) has been referred to the Land Tribunal, the tribunal may hear the repeat claim only if a presiding member is satisfied that the repeat claim could be established on 1 or more grounds mentioned in section 65 or 66 because—

- (a) the basis on which the repeat claim is made is substantially different to the basis on which the previous claim was made; or
- (b) information has become available to the tribunal that was not previously available and, if the information had previously been available to the tribunal, it may have affected the decision of the tribunal on the previous claim.

65 Establishment of claim on ground of traditional affiliation

- (1) A claim by a group of Aboriginal people for an area of claimable land on the ground of traditional affiliation is established if the Land Tribunal is satisfied that the members of the group have a common connection with the land based on spiritual and other associations with, rights in relation to, and responsibilities for, the land under Aboriginal tradition.
- (2) In determining the claim, the tribunal must consult with, and consider the views of, the persons recognised under Aboriginal tradition as the elders of the group of Aboriginal people.

66 Establishment of claim on ground of historical association

- (1) A claim by a group of Aboriginal people for an area of claimable land on the ground of historical association is established if the Land Tribunal is satisfied that the group has an association with the land based on them or their ancestors having, for a substantial period, lived on or used—
 - (a) the land; or
 - (b) land in the district or region in which the land is located.
- (2) Without limiting subsection (1), the claim may be established whether or not all or a majority of the members of the group have themselves lived on or used such land.
- (3) In determining the claim, the tribunal must consult with, and consider the views of, the persons recognised under Aboriginal tradition as the elders of the group of Aboriginal people.

67 Claim may be established for only part of land claimed

A claim by a group of Aboriginal people for an area of claimable land may be established for a part only of the land.

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68 Claim may be established on more than 1 ground

A claim by a group of Aboriginal people for an area of claimable land may be established on more than 1 ground.

69 Time at which it is to be decided whether land is claimable land

The question whether land claimed under this Act is claimable land is to be decided as at the beginning of the day on which the relevant claim for the land was made under this part.

70 Amendment of claim

- (1) A claim under this Act may be amended with the leave of the Land Tribunal.
- (2) If a claim is amended to include land that was not claimed in the original claim, section 62 applies as if a separate claim had been made for that land and the claim had been referred to the tribunal.

71 Recommendation to Minister

- (1) Subject to section 72, if a claim by a group of Aboriginal people for an area of claimable land is established, the Land Tribunal must recommend to the Minister that the land be granted in fee simple to the group.
- (2) When the tribunal makes a recommendation under subsection (1), the tribunal must also make recommendations to the Minister as to the entity, or the persons who are to be represented by an entity, that should be appointed to be the grantee of the land as trustee for the benefit of the group of Aboriginal people concerned.
- (3) In making recommendations under subsection (2), the tribunal must, unless it is satisfied that exceptional circumstances exist that require it to do otherwise, act in a manner that is consistent with—
 - (a) any Aboriginal tradition applicable to the land; and

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- (b) the views of the group of Aboriginal people concerned so far as they are not inconsistent with any such Aboriginal tradition.
 - (4) When the tribunal makes a recommendation under subsection (1), the tribunal must advise the Minister, in writing, in relation to each of the following matters—
 - (a) the number of Aborigines who will be advantaged by a grant of the land, and the nature and extent of the advantage that will accrue to them;
 - (b) the responsibilities in relation to the land that the group of Aboriginal people concerned agree to assume if the land is granted because of the claim, and how those responsibilities should be expressed in any deed of grant for the land;
 - (c) the detriment to persons or communities (including other Aboriginal groups and Torres Strait Islanders) that might result from a grant of the land;
 - (d) the effect (if any) that a grant of the land is likely to have on the existing and proposed patterns of land usage in the region of the land.
 - (5) In this section—

Minister means the Minister administering the Land Act.

72 Resolution of conflicting claims

- (1) Subject to subsection (2), if claims by 2 or more groups of Aboriginal people for the same area of claimable land are established on the same ground, the Land Tribunal must recommend to the Minister that the land be granted jointly to the groups.
- (2) If—
 - (a) more than 1 claim is established; and
 - (b) each of the competing claims is established on 1 or more grounds; and

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(c) 1 or more of the claims is established on the ground of traditional affiliation;

a recommendation must not be made in favour of any other group on the ground of historical association.

(3) In this section—

Minister means the Minister administering the Land Act.

73 Notification of parties

(1) If a claim by a group of Aboriginal people for an area of claimable land is established on 1 or more grounds, the Land Tribunal must notify each party to the proceeding, in writing—

(a) that the claim has been so established; and

(b) of the recommendations (if any) made to the Minister in relation to the claim.

(2) If a claim by a group of Aboriginal people for an area of claimable land is not established on 1 or more grounds, the Land Tribunal must notify each party to the proceeding, in writing, that the claim has not been so established.

(3) In this section—

Minister means the Minister administering the Land Act.

Part 6 Grant of claimable land as Aboriginal land

Division 1 Grant of land

74 Deeds of grant to be prepared

(1) If—

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- (a) the Land Tribunal recommends to the Minister that an area of land be granted in fee simple to a group of Aboriginal people; and
 - (b) the Minister is satisfied that the land, or a part of the land, should be so granted to the group;
- the Minister must direct the chief executive to prepare a deed of grant in fee simple over the land or that part of the land.
- (2) The land need not be surveyed but may be described in the deed of grant in such manner as the Minister directs.
 - (3) The deed of grant must show that the land is held by the grantees for the benefit of the group of Aboriginal people and their ancestors and descendants.
 - (4) The deed of grant must specify—
 - (a) the ground on which the Land Tribunal recommended that the land be granted; and
 - (b) the responsibilities that the group of Aboriginal people have agreed to assume in relation to the land.
 - (5) Subsections (2), (3) and (4) have effect despite any other Act or any rule of law or practice.

75 Appointment of grantee

- (1) The Minister may appoint the following entities as grantee of land the subject of a deed of grant prepared under section 74—
 - (a) a CATSI corporation that is qualified to hold the land; or
 - (b) a land trust.
- (2) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as a grantee of land under subsection (1) only if—
 - (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and

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- (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- (3) Before making the appointment, the Minister—
 - (a) must consult with, and consider the views of, the group of Aboriginal people concerned; and
 - (b) unless the Minister is satisfied that exceptional circumstances exist that require the Minister to do otherwise, must have regard to—
 - (i) any Aboriginal tradition applicable to the land; and
 - (ii) the views of the group to the extent the views are not inconsistent with any Aboriginal tradition applicable to the land.
- (4) Also, in considering whether to appoint a registered native title body corporate as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example—
 - (a) whether any of the group of Aboriginal people concerned, other than the native title holders of the land, may be adversely affected by the proposed appointment; and
 - (b) if the Minister is satisfied any of the group of Aboriginal people concerned will be adversely affected by the proposed appointment—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.

76 Authority to grant fee simple in claimable land

The Governor in Council may, under this Act and the Land Act, grant claimable land in fee simple.

77 Deed of grant takes effect on delivery

- (1) A deed of grant prepared under this division takes effect on the delivery of the deed of grant to the grantee.

- (2) On delivery of the deed of grant to the grantee, the land the subject of the deed becomes granted land and, if the land is not already Aboriginal land, becomes Aboriginal land.
- (3) Subsection (1) has effect despite any other Act or any rule of law or practice.

78 Existing interests

- (1) If granted land was, immediately before becoming Aboriginal land under this division, subject to an interest or benefited by an easement, the interest continues in force or the land continues to be benefited by the easement.
- (2) In this section—
interest includes native title, but does not include an interest in favour of the State or Commonwealth that is not registered.

79 Cancellation of existing deed of grant

- (1) If—
 - (a) land is the subject of a deed of grant issued under part 4 (the *existing deed*); and
 - (b) a deed of grant (the *new deed*) over the whole or a part of the land takes effect under section 77;the existing deed is cancelled, to the extent of the new deed, by operation of this section.
- (2) The Minister must cause written notice to be given to the registrar of titles of the day of delivery of the new deed to the grantees and the registrar must note the cancellation of the existing deed in the register accordingly.
- (3) The trustee that holds the existing deed must, on receipt of written notice by the Minister so to do, deliver the existing deed to the chief executive within such reasonable period, as is specified in the notice.
- (4) If the existing deed is cancelled only in relation to part of the land, the chief executive must prepare and issue to the trustee

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that holds the deed a deed of grant under the Land Act (the *replacement deed*) over the remaining part of the land.

- (5) The replacement deed is, for the purposes of this Act, taken to be a deed of grant prepared and issued under part 4.
- (6) The chief executive must endorse on the replacement deed, in the proper order of priority, the instruments under which existing relevant interests arose.

80 Land Court may resolve difficulties

- (1) If a difficulty arises in—
 - (a) the application of this division to a particular matter; or
 - (b) the application, to a particular matter, of a provision of another Act because of the operation of this division;the Land Court may, on the application of the chief executive or an interested person, make such order as it considers proper to resolve the difficulty.
- (2) An order made under subsection (1) has effect despite anything contained in this part or in an Act in force immediately before the commencement of this section.

Division 2 Reservations

81 Reservations of minerals and petroleum

A deed of grant of granted land must contain a reservation to the State of—

- (a) all minerals; and
 - (b) all petroleum;
- on and below the surface of the land.

82 Reservations of forest products and quarry material etc.

- (1) A deed of grant of granted land that was transferred land may contain a reservation to the State of forest products or quarry material above, on or below the surface of the land only if it is declared by regulation that—
 - (a) the forest products or quarry material is of vital State interest; and
 - (b) the rights in the forest products or quarry material are reserved to the State.
- (2) A deed of grant of granted land that was not transferred land must contain a reservation to the State of—
 - (a) all forest products; and
 - (b) all quarry material;above, on and below the surface of the land.
- (3) Despite subsection (1), a permit, lease, licence, agreement or contract granted or made under the *Forestry Act 1959*, before the day on which transferred land became granted land, in relation to the getting and selling of forest products or quarry material above, on or below the surface of the land, continues in force as if this section had not been enacted.
- (4) If a deed of grant of granted land that was transferred land does not contain a reservation of particular forest products or quarry material above, on or below the land, a regulation may declare that—
 - (a) the forest products or quarry material is of vital State interest; and
 - (b) the rights in the forest products or quarry material are acquired by the State.
- (5) If a regulation is made under subsection (1) or (4), the trustee of the land is entitled to be paid by the State such reasonable compensation because of the reservation or acquisition as is agreed on between the State and the trustee or, failing agreement, as is determined by the Land Court.

Division 3 Access to coastal land

83 Rights of access preserved

(1) If—

- (a) land that is an area of coast becomes Aboriginal land because of a claim under this Act; and
- (b) a right of access to or across the area (whether by persons generally or particular persons) existed immediately before the land became claimable land;

the right of access continues in force as if the land had not become Aboriginal land.

(2) In this section—

coast means all land, including the bed and banks of any river, stream, watercourse, lake or other body of water, that is—

- (a) above the highest astronomical tide mark and within 400m, measured by the shortest distance, of that mark; or
- (b) below the highest astronomical tide mark.

highest astronomical tide means the highest level of the tides that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.

Part 7 Register of entities holding Aboriginal land

84 Keeping register of entities holding Aboriginal land

- (1) The chief executive must keep a register of entities that hold Aboriginal land (the ***Aboriginal land holding entity register***).

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- (2) The register must contain the following information for each entity—
- (a) the entity's name, address for the service of documents and contact telephone number;
 - (b) a description of the Aboriginal land held by the entity.
- (3) If the entity is a land trust, the register must also contain all the following information about the land trust—
- (a) the names and addresses of all the current members of the land trust;
 - (b) the name of each member of the land trust's executive committee, and the position held by the member;
 - (c) a contact telephone number for the chairperson and secretary of the land trust;
 - (d) a copy of the land trust's adopted rules;
 - (e) copies of annual financial statements and audit reports the chief executive receives from the land trust under this Act;
 - (f) a statement about whether or not the land trust has, for each financial year, operated in compliance with the Act.

Note—

Under section 258, the chief executive must record in the register whether or not a land trust has operated in compliance with the Act.

- (4) The chief executive may keep the register in the form the chief executive considers appropriate, including, for example, in electronic form.

85 Giving information for register to the chief executive

- (1) Each entity, other than a land trust, that holds Aboriginal land must—

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- (a) as soon as practicable after the end of each financial year, give to the chief executive the information mentioned in section 84(2) for the entity; and
 - (b) as soon as practicable after any of the information changes—give the chief executive a written notice of the change.
- (2) A land trust must give to the chief executive all the information the chief executive reasonably requires to ensure the information in the register about the land trust is accurate.

86 Obtaining information in register

- (1) A person may, in the approved form, ask the chief executive to give the person information included in the Aboriginal land holding entity register.
- (2) The chief executive must, if asked under subsection (1), give the person the information included in the publicly available part of the register.
- (3) The chief executive may, if asked under subsection (1), give the person the additional information for a land trust only if the chairperson of the land trust consents in writing to the giving of the information.
- (4) In this section—

additional information, for a land trust, means the following—

- (a) the names of all the current members of the land trust;
- (b) the information mentioned in section 84(3)(b), (d) or (e).

publicly available part, of the Aboriginal land holding entity register, means the part of the register containing all the following information—

- (a) the information mentioned in section 84(2);
- (b) for a land trust—

- (i) the names of the chairperson and secretary of the land trust; and
- (ii) the information mentioned in section 84(3)(f).

Part 8 Transfer of Aboriginal land by Minister

Division 1 Preliminary

87 Purpose of pt 8

The purpose of this part is to provide for—

- (a) particular Aboriginal land to vest in the State; and
- (b) the transfer of Aboriginal land that vests in the State to another entity to hold as Aboriginal land.

88 Application of pt 8

This part applies to Aboriginal land that is or was held by a CATSI corporation for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants, if—

- (a) under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cwlth)—
 - (i) the corporation stops being registered; and
 - (ii) the land is vested in the State; or
- (b) the corporation is no longer qualified to hold the land.

Division 2 Vesting and transfer of land

89 Vesting of land in the State

- (1) If the CATSI corporation is no longer qualified to hold the land, the Minister may, by gazette notice, declare that the land vests in the State.
- (2) The gazette notice must—
 - (a) include a description of the land; and
 - (b) state the reason that the CATSI corporation is no longer qualified to hold the land.

90 How land is held by the State

- (1) This section applies if—
 - (a) the land vests in the State under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cwlth); or
 - (b) the land vests in the State under section 89.
- (2) The land—
 - (a) vests in the State in fee simple; and
 - (b) the State holds the land for the benefit of the persons for whose benefit the land was held immediately before it vested in the State.

91 Minister to transfer land as soon as practicable

- (1) The Minister must, by gazette notice as soon as practicable after the land vests in the State, transfer the land under this part.
- (2) The gazette notice must include—
 - (a) a description of the land being transferred; and
 - (b) the name of the entity to whom the land is transferred.

92 Transfer to registered native title body corporate to hold for native title holders

- (1) This section applies if—
 - (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) there is a registered native title body corporate for the determination.
- (2) The Minister may, with the consent of the registered native title body corporate, transfer the land to it.
- (3) If the Minister transfers the land under this section to a registered native title body corporate, the body corporate holds the land for the native title holders of the land the subject of the determination mentioned in subsection (1)(a).
- (4) In considering whether to transfer the land to a registered native title body corporate, the Minister may have regard to any matter the Minister considers relevant to the proposed transfer, including, for example—
 - (a) whether any Aboriginal people particularly concerned with the land, other than the native title holders of the land, may be adversely affected by the proposed transfer; and
 - (b) if the Minister is satisfied any Aboriginal people particularly concerned with the land will be adversely affected by the proposed transfer—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.

93 Transfer to entity to hold for benefit of Aboriginal people

- (1) This section applies if the Minister does not transfer the land under section 92 to a registered native title body corporate.
- (2) The Minister may transfer the land to—
 - (a) a CATSI corporation that is qualified to hold the land; or
 - (b) a land trust.

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- (3) However, the Minister may transfer the land to a CATSI corporation that is a registered native title body corporate under subsection (2) only if—
 - (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- (4) Before transferring the land, the Minister must consult with, and consider the views of—
 - (a) if the land is transferred land—Aboriginal people particularly concerned with the land; or
 - (b) if the land is granted land—the group of Aboriginal people for whom the land is held.
- (5) Also, in considering whether to transfer the land to a registered native title body corporate, the Minister may have regard to any matter the Minister considers relevant to the proposed transfer, including, for example—
 - (a) whether any Aboriginal people particularly concerned with the land may be adversely affected by the proposed transfer; and
 - (b) if the Minister is satisfied any Aboriginal people particularly concerned with the land will be adversely affected by the proposed transfer—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.
- (6) In deciding to transfer land under this section, the Minister must have regard to any Aboriginal tradition applicable to the land.
- (7) If the land is transferred under this section, the entity to whom the land is transferred holds the land for the benefit of the persons for whose benefit the land was held immediately before it was transferred.

94 Procedure for transferring land

- (1) Before transferring the land, the Minister must—
 - (a) publish notice of the Minister’s intention to transfer the land in a newspaper or other publication circulating generally in the area in which the land is situated; and
 - (b) consider all representations made to the Minister under subsection (4).
- (2) The notice must—
 - (a) include a description of the land; and
 - (b) state the following—
 - (i) the name of the proposed transferee;
 - (ii) if the land is transferred land—that an Aboriginal person particularly concerned with the land may make written representations to the Minister about the proposed transfer;
 - (iii) if the land is granted land—that the group of Aboriginal people for whom the land is held may make written representations to the Minister about the proposed transfer;
 - (iv) the place where the representations may be made;
 - (v) the period in which the representations must be made.
- (3) The stated period must end at least 28 days after the notice is published.
- (4) A person, or the group, mentioned in subsection (2)(b)(ii) or (iii) may make written representations about the proposed transfer to the Minister within the stated period.

95 Effect of gazette notice about transfer

The transfer of the land under this part has effect on publication of the gazette notice about the transfer under section 91.

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Division 3 Notices to registrar

96 Notice about land

- (1) If land vests in the State or is transferred under this part, the chief executive must give the registrar written notice of the vesting or transfer.
- (2) The notice must include particulars of the land the subject of the vesting or transfer.
- (3) On receiving the notice, the registrar must record in the freehold land register the vesting or transfer.

Part 9 General provisions for dealing with Aboriginal land

Division 1 Trustee's power to deal with Aboriginal land and Ministerial consent

97 Power to deal with Aboriginal land

Subject to this part and part 10, the trustee of Aboriginal land may—

- (a) grant, transfer or otherwise create an interest in, or in relation to, the land in the way the trustee considers appropriate, including, for example, by—
 - (i) granting a lease or licence over all or a part of the land; or
 - (ii) consenting to the creation of a mining interest in the land; or
 - (iii) granting an easement over the land; or

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- (iv) entering into a conservation agreement under the *Nature Conservation Act 1992*, section 45, for the land; or
 - (v) entering into an agreement with the State or the Commonwealth in relation to the getting and sale of forest products or quarry material above, on or below the land; or
 - (b) dedicate a part of the land to public use by registering a plan of subdivision under the Land Title Act, part 4, division 3; or
 - (c) surrender all or a part of the land to the State.

Note—

For restrictions on dealing with particular land in the Cape York Peninsula Region, see section 114.

98 Requirement for consultation

- (1) The trustee of Aboriginal land must not deal with the land unless—
 - (a) the trustee has explained to the Aboriginal people particularly concerned with the land the nature, purpose and effect of the dealing; and
 - (b) the Aboriginal people are given a suitable opportunity to express their views on, and are generally in agreement with, the dealing.
- (2) Despite section 116, dealing with land in contravention of subsection (1) is not void under that section.
- (3) In this section—

deal, with land, means—

 - (a) grant a lease, other than under section 119(1)(a)(i) for private residential purposes, for more than 10 years over the land; or
 - (b) grant a licence for the use of the land for more than 10 years; or

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- (c) grant or otherwise create an interest in, or in relation to, the land, other than—
 - (i) a residential tenancy; or
 - (ii) a lease or licence for the use of the land for not more than 10 years; or
 - (iii) a lease under section 119(1)(a)(i) for private residential purposes; or
- (d) dedicate a part of the land to public use; or
- (e) surrender any of the land to the State.

trustee, of Aboriginal land, does not include a registered native title body corporate.

99 Provision about Minister's consent

- (1) Subsection (2) applies if the Minister's prior written consent is required for the grant of a lease or licence by the trustee of Aboriginal land, or for the creation of an interest under a lease or licence.
- (2) The Minister's consent may be given for—
 - (a) the grant of a particular lease or licence, or a particular type of lease or licence; or
 - (b) the creation of a particular interest under a lease or licence, or a particular type of interest; or
 - (c) if the Minister considers it appropriate—
 - (i) all leases or licences, or all leases or licences of a particular type, that may be granted by the trustee; or
 - (ii) the creation of all interests, or all interests of a particular type, that may be created under a lease or licence.
- (3) Subsection (4) applies if the Minister's prior written consent is required for the grant of a townsite sublease or licence by the lessee of a townsite lease, or for the creation of an interest under a townsite sublease or licence.

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- (4) The Minister's consent may be given for—
- (a) the grant of a particular townsite sublease or licence, or a particular type of townsite sublease or licence; or
 - (b) the creation of a particular interest under a townsite sublease or licence, or a particular type of interest; or
 - (c) if the Minister considers it appropriate—
 - (i) all townsite subleases or licences, or all townsite subleases or licences of a particular type, that may be granted by the lessee; or
 - (ii) the creation of all interests, or all interests of a particular type, that may be created under a townsite sublease or licence.

Division 2 Sale or mortgage prohibited

100 Prohibition on sale or mortgage of Aboriginal land

The trustee of Aboriginal land must not sell or mortgage the land.

Division 3 Grant of licences

101 Grant of licence for Aboriginal land

- (1) The trustee of Aboriginal land may grant a licence for the use of all or a part of the land only—
- (a) to an Aborigine for not more than 30 years; or
 - (b) to the State for not more than 30 years; or
 - (c) to another person—
 - (i) for not more than 10 years; or
 - (ii) with the Minister's prior written consent, for more than 10 years but not more than 30 years.

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- (2) The lessee of the townsite lease may grant a licence for the use of all or a part of the lease land only—
 - (a) to an Aborigine for not more than 30 years; or
 - (b) to the State for not more than 30 years; or
 - (c) to another person—
 - (i) for not more than 10 years; or
 - (ii) with the Minister's prior written consent, for more than 10 years but not more than 30 years.

102 Conditions of licences

- (1) A licence granted under section 101(1)(a) or (2)(a) is subject to the condition that an interest may be created under the licence in favour of a person who is not an Aborigine only if—
 - (a) the interest is in favour of the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased; or
 - (b) the interest is—
 - (i) for not more than 10 years; or
 - (ii) created with the Minister's prior written consent.
- (2) A licence granted under section 101(1)(b) or (c), or (2)(b) or (c), is subject to the condition that an interest can not be created under the licence.
- (3) A licence granted under section 101(1) or (2) can not be renewed or transferred.

Division 4 Transfer of Aboriginal land by trustee

Subdivision 1 Land held other than by CATSI corporation

103 Application of sdiv 1

This subdivision applies to Aboriginal land held by—

- (a) a land trust; or
- (b) Aurukun Shire Council; or
- (c) Mornington Shire Council.

104 Transfer of Aboriginal land

- (1) The trustee of the Aboriginal land (the *transferor*) may transfer all or a part of the land only—
 - (a) with the Minister’s written approval; and
 - (b) if the trustee is a land trust—to a following entity (the *transferee*)—
 - (i) another land trust;
 - (ii) a CATSI corporation that is qualified to hold the land;
 - (iii) Aurukun Shire Council;
 - (iv) Mornington Shire Council; and
 - (c) if the trustee is Aurukun Shire Council or Mornington Shire Council—a CATSI corporation that is qualified to hold the land (also the *transferee*).
- (2) However, the trustee may transfer all or a part of the land to a CATSI corporation that is a registered native title body corporate only if—

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- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- (3) If a trustee transfers land under this subdivision—
- (a) all improvements on the land must be transferred with the land; and
 - (b) for a transferee that is a registered native title body corporate—the transferee holds the land for—
 - (i) the native title holders of the land if the transferor and the transferee agree it is to be held for the native title holders; or
 - (ii) the benefit of the Aboriginal people particularly concerned with the land and their ancestors and descendants if the land is transferred land and subparagraph (i) does not apply to the transfer; or
 - (iii) the benefit of the group of Aboriginal people and their ancestors and descendants if the land is granted land and subparagraph (i) does not apply to the transfer; and
 - (c) for a transferee that is not a registered native title body corporate—the transferee holds the land for—
 - (i) the benefit of the Aboriginal people particularly concerned with the land and their ancestors and descendants if the land is transferred land; or
 - (ii) the benefit of the group of Aboriginal people and their ancestors and descendants if the land is granted land; and
 - (d) if the trustee is a land trust and all the Aboriginal land held by the trustee is transferred to the transferee—
 - (i) the land trust for the land that is transferred is dissolved; and

- (ii) all the assets and liabilities of the trustee become the assets and liabilities of the transferee; and
- (e) if the trustee is a land trust and paragraph (d) does not apply—the assets and liabilities of the trustee mentioned in section 106(1)(a)(ii) become the assets and liabilities of the transferee.

105 Application for approval to transfer

- (1) The trustee of the Aboriginal land may apply to the Minister for an approval to transfer all or a part of the land.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) if the transferor or transferee is a land trust—be accompanied by evidence satisfactory to the Minister of each matter mentioned in section 106(1)(a), (b) or (c) that applies to the transfer; and
 - (c) if the transferee is a CATSI corporation—be accompanied by evidence satisfactory to the Minister of the matters mentioned in section 106(1)(c).

106 Minister's approval to transfer

- (1) The Minister may give an approval to transfer the land only if satisfied—
 - (a) if the transferor is a land trust—at least 75% of the transferor's members present at a general meeting of the transferor, agree to the transfer of—
 - (i) the land; and
 - (ii) the assets and liabilities of the transferor that will become the assets and liabilities of the transferee; and
 - (b) if the transferee is a land trust—at least 75% of the transferee's members present at a general meeting of the transferee, agree to the transfer of—

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- (i) the land; and
 - (ii) the assets and liabilities of the transferor that will become the assets and liabilities of the transferee; and
 - (c) if the transferee is a CATSI corporation—
 - (i) the transferee agrees to the transfer; and
 - (ii) the transferee is qualified to hold the land; and
 - (d) it is appropriate in the circumstances to transfer the land.
- (2) If the Minister gives an approval to transfer the land, the chief executive must notify the approval by gazette notice.
- (3) The gazette notice must—
- (a) include all of the following—
 - (i) the name of the transferor;
 - (ii) a description of the land being transferred;
 - (iii) details of each registered interest in the land being transferred;
 - (iv) a description of all Aboriginal land, if any, that will be held by the transferor after the transfer;
 - (v) the name of the transferee;
 - (vi) a description of all Aboriginal land that will be held by the transferee after the transfer; and
 - (b) if the transferor is a land trust that is dissolved under section 104(3)(d)(i) because of the transfer—state the land trust will be dissolved.
- (4) In this section—

description, in relation to land, means the description of the land as shown in the freehold land register.

registered interest means an interest registered under the Land Title Act.

107 Effect of gazette notice about transfer

On publication of the gazette notice the Aboriginal land proposed to be transferred may be transferred to the transferee.

Subdivision 2 Land held by CATSI corporation

108 Application of sdiv 2

- (1) This subdivision applies to Aboriginal land held by a CATSI corporation.
- (2) However, this subdivision does not apply to a transfer of Aboriginal land from a registered native title body corporate (the *original body corporate*) to another registered native title body corporate that, under the Commonwealth Native Title Act, replaces the original body corporate.

109 Transfer of Aboriginal land

- (1) The trustee of the Aboriginal land (the *transferor*) may transfer all or a part of the land only—
 - (a) with the Minister's written approval; and
 - (b) to another CATSI corporation that is qualified to hold the land (the *transferee*).
- (2) However, the trustee may transfer all or a part of the land to a CATSI corporation that is a registered native title body corporate only if—
 - (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- (3) The transferee holds the land for—
 - (a) the native title holders of the land, if—

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- (i) the transferee is a registered native title body corporate; and
- (ii) the transferor and the transferee agree it is to be held for the native title holders; or
- (b) otherwise—
 - (i) the benefit of the Aboriginal people particularly concerned with the land and their ancestors and descendants if the land is transferred land; or
 - (ii) the benefit of the group of Aboriginal people and their ancestors and descendants if the land is granted land.

110 Application for approval to transfer

- (1) The trustee of the Aboriginal land may apply to the Minister for an approval to transfer all or a part of the land.
- (2) The application must be in the approved form.

111 Minister's approval to transfer

- (1) The Minister may give an approval to transfer the land only if satisfied—
 - (a) the transferee agrees to the transfer; and
 - (b) the transferee is qualified to hold the land; and
 - (c) it is appropriate in the circumstances to transfer the land.
- (2) If the Minister gives an approval to transfer the land, the chief executive must notify the approval by gazette notice.
- (3) The gazette notice must include all of the following—
 - (a) the name of the transferor;
 - (b) a description of the land being transferred;
 - (c) the name of the transferee.
- (4) In this section—

description, in relation to land, means the description of the land as shown in the freehold land register.

112 Effect of gazette notice about transfer

On publication of the gazette notice the Aboriginal land proposed to be transferred may be transferred to the transferee.

Subdivision 3 Exemption from fees and charges

113 Exemption

If a trustee of Aboriginal land transfers all or a part of the land under this division, no fee or charge is payable by the trustee or the entity to whom the land is transferred in relation to lodgement and registration of any instrument in the land registry to give effect to the transfer.

Division 5 Land in Cape York Peninsula Region

114 Dealing with Aboriginal land in Cape York Peninsula Region

- (1) Subsection (2) applies to Aboriginal land in the Cape York Peninsula Region if the State and the trustee of the land agree the land or a part of the land is to become a national park (Cape York Peninsula Aboriginal land).
- (2) The trustee must, before the land or part becomes a national park (Cape York Peninsula Aboriginal land), enter into an indigenous management agreement with the State about the management of the land or part.
- (3) The trustee of land that is a national park (Cape York Peninsula Aboriginal land)—

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- (a) may surrender all or any part of the land to the State; and
 - (b) must not, other than under the *Nature Conservation Act 1992*, sections 42AD and 42AE, transfer, grant or otherwise create, or consent to the creation of, any other interest in the land.
- (4) Subsection (3)(b) applies despite any other provision of this or another Act.

Division 6 Other matters

115 Trustee to advise chief executive of change to description of land

If a trustee deals with Aboriginal land held by the trustee in a way that changes the description of the land as shown in the freehold land register, the trustee must as soon as practicable after the dealing happens give the chief executive written notice of the change.

116 Particular dealings in Aboriginal land void

- (1) A grant, transfer or other creation of an interest in Aboriginal land in contravention of this part or part 10 is void.

Note—

See also section 98.

- (2) Subsection (1) does not apply to a registered interest.

117 Provision about resumption of Aboriginal land etc.

- (1) An interest in Aboriginal land can not be resumed, taken or otherwise compulsorily acquired, sold or dealt with other than under the Acquisition Act by a constructing authority.
- (2) However, an interest in Aboriginal land may be taken under the Acquisition Act only for a relevant purpose.

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- (3) To remove any doubt, it is declared that, for taking an interest in Aboriginal land under the Acquisition Act, the Aboriginal land is land as defined in that Act.
 - (4) Subsection (1) has effect despite any other Act, whether enacted before or after the commencement of this section.
 - (5) In this section—

relevant purpose means any purpose for which land may be taken under the Acquisition Act by a constructing authority, other than a purpose under—

 - (a) the *Geothermal Energy Act 2010*; or
 - (b) the *Greenhouse Gas Storage Act 2009*; or
 - (c) the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (d) the *State Development and Public Works Organisation Act 1971*.

118 Devolution of granted land

- (1) This section applies if—
 - (a) a trustee holds granted land for the benefit of a single group of Aboriginal people; and
 - (b) the last surviving member of the group dies without leaving a descendant.
- (2) The trustee holds the land for the benefit of Aboriginal people particularly concerned with the land unless the Minister decides, in writing, that the trustee holds the land for a stated group of Aboriginal people.
- (3) The chief executive must give written notice to the registrar of titles about how the land is vested in the trustee.
- (4) On receiving the notice, the registrar of titles must record in the freehold land register how the land is vested in the trustee.
- (5) Before making a decision under subsection (2), the Minister must consult with the Aboriginal people particularly concerned with the land and, unless the Minister is satisfied

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that exceptional circumstances exist that require the Minister to do otherwise, must have regard to—

- (a) any Aboriginal tradition applicable to the land; and
 - (b) the views of the Aboriginal people to the extent they are not inconsistent with the Aboriginal tradition.
- (6) Subsection (2) applies despite any other Act.

Part 10 Leasing of Aboriginal Land

Division 1 Grant of leases for Aboriginal land

119 Grant of lease for Aboriginal land

- (1) The trustee of Aboriginal land may grant a lease over all or a part of the land only if—
 - (a) the lease is for not more than 99 years and is granted to—
 - (i) an Aborigine; or
 - (ii) the State; or
 - (iii) another person; or
 - (b) the lease is a perpetual lease granted to a local government over land that is township land.
- (2) A lease mentioned in subsection (1)(a) is a *standard lease*.
- (3) A lease mentioned in subsection (1)(b) is a *townsite lease*.
- (4) Despite subsection (1)(a)(i)—
 - (a) a person who is not an Aborigine may be a party to a lease granted under the subsection if—
 - (i) the lease is for private residential purposes; and
 - (ii) the person is the spouse of an Aborigine; and

- (b) a lease may be granted under the subsection for private residential purposes to a person who is not an Aborigine if the person is the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased.

Division 2 Standard leases

Subdivision 1 Restrictions on grant of standard leases

120 Restrictions on grant of standard lease to an Aborigine

- (1) This section applies to standard lease under section 119(1)(a)(i).
- (2) If the lease is for more than 30 years it may be granted only—
 - (a) for private residential purposes; or
 - (b) with the Minister's prior written consent, for another purpose.

Examples of another purpose for paragraph (b)—

a commercial purpose or providing public infrastructure

- (3) The Minister may consent to the grant of the lease for another purpose under subsection (2)(b) only if—
 - (a) having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and
 - (b) for a lease for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.

Note—

For a lease for more than 30 years and for a commercial purpose, also see section 124.

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121 Restrictions on grant of standard lease to State

- (1) This section applies to a standard lease under section 119(1)(a)(ii).
- (2) If the lease is for more than 30 years it may be granted only—
 - (a) for a following purpose—
 - (i) a purpose under the *Housing Act 2003*;
 - (ii) providing public infrastructure;
 - (iii) providing residential accommodation for public service employees or police officers; or
 - (b) with the Minister's prior written consent, for another purpose.

Example of another purpose for paragraph (b)—
a commercial purpose

- (3) The Minister may consent to the grant of the lease for another purpose under subsection (2)(b) only if—
 - (a) having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and
 - (b) for a lease for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.

122 Restrictions on grant of standard lease to another person

- (1) This section applies to a standard lease under section 119(1)(a)(iii).
- (2) The lease may be granted for a private residential purpose only if the lease supports a standard lease granted to the person for a commercial purpose.
- (3) If the lease is for more than 10 years it may be granted only with the Minister's prior written consent unless the lease is for—
 - (a) a commercial purpose and for not more than 30 years; or

- (b) a private residential purpose to support a lease for a commercial purpose.
- (4) The Minister may consent to the grant of the lease only if—
 - (a) having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and
 - (b) for a lease for more than 30 years and for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.

Subdivision 2 Requirements for Minister's consent

123 General requirements for Minister's consent

- (1) A person seeking the Minister's consent to the grant of a standard lease must give the Minister the information or documents reasonably required by the Minister to show—
 - (a) the purpose of the lease; and
 - (b) that the grant of the lease is for the benefit of persons for whom the trustee holds the land; and
 - (c) if the lease is for more than 30 years—that the grant of the lease is appropriate in the circumstances.
- (2) Also, a person seeking the Minister's consent to the grant of a standard lease for more than 30 years for a commercial purpose must give the Minister—
 - (a) a business plan outlining the details of the commercial purpose of the lease, including, for example, financial details about any proposed development under the lease; and
 - (b) evidence to show that an appropriate return on the investment for the commercial purpose can not be obtained under a lease for not more than 30 years; and

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- (c) other information or documents reasonably required by the Minister to show the purpose of the lease.
- (3) In considering whether to give consent to the grant of a standard lease, the Minister—
 - (a) must have regard to the information or documents given to the Minister under subsection (1) or (2); and
 - (b) may have regard to other information the Minister considers relevant to the proposed lease.
- (4) Before giving consent to the grant of a standard lease for more than 30 years, the Minister must be satisfied—
 - (a) the trustee has complied with section 98(1)(a) for the lease; and
 - (b) the Aboriginal people particularly concerned with the lease land are generally in agreement with the grant of the lease.

124 Requirement for Minister's consent for standard lease for commercial purpose

- (1) Before the Minister consents to the grant of a standard lease for more than 30 years for a commercial purpose, the Minister must—
 - (a) obtain an independent assessment of—
 - (i) the business plan and evidence given to the Minister under section 123(2)(a) and (b); and
 - (ii) the proposed lessee's financial and managerial capabilities; and
 - (b) be satisfied, having regard to the independent assessment, that—
 - (i) any proposed development under the lease will be commercially viable; and
 - (ii) the evidence given under section 123(2)(b) satisfactorily shows that an appropriate return on the investment for the purpose of the lease can not

be obtained under a lease for not more than 30 years; and

(iii) the proposed lessee's financial and managerial capabilities are appropriate for carrying out any proposed development under the lease.

- (2) The proposed lessee must pay the cost of the independent assessment.
- (3) The cost is not refundable.

125 Requirement for Minister's consent for creation of interest under a standard lease

- (1) This section applies if, under section 141, an interest under a standard lease may be created only with the Minister's written consent.
- (2) The Minister may consent to the creation of the interest only if—
- (a) having regard to the nature of the interest, the Minister is satisfied the creation of the interest is for the benefit of persons for whom the trustee holds the lease land; and
- (b) if the lease is for more than 30 years—
- (i) the interest is consistent with the purpose for which the lease was granted; or
- (ii) the interest would not diminish the purpose for which the lease was granted.
- (3) A person seeking the Minister's consent must give the Minister the information or documents relevant to the proposed interest reasonably required by the Minister, including, for example, information or documents to show that the creation of the interest is for the benefit of persons for whom the trustee holds the lease land.

Division 3 Townsite leases

Subdivision 1 Restriction on grant of townsite leases

126 Minister's consent for grant of townsite lease

- (1) A townsite lease may be granted only with the Minister's prior written consent.
- (2) The Minister may consent to the grant of a townsite lease only if—
 - (a) the lease is over an entire lot as shown in the appropriate register; and
 - (b) the Minister is satisfied that any existing interests in the lease land that is to be a town site under the lease are not inconsistent with the lease.

Subdivision 2 Requirements for Minister's consent

127 General requirements for Minister's consent

- (1) A person seeking the Minister's consent to the grant of a townsite lease must give the Minister the information or documents reasonably required by the Minister to show—
 - (a) the purpose of the lease; and
 - (b) the grant of the lease is for the benefit of persons for whom the trustee holds the lease land; and
 - (c) the grant of the lease—
 - (i) will facilitate the continued operation of a township on the lease land; and

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- (ii) will not prevent residents of the township land from continuing to live on and access the land, or from obtaining tenure over the land under this Act.
- (2) In considering whether to give consent to the grant of a townsite lease, the Minister—
- (a) must have regard to the information or documents given to the Minister under subsection (1); and
 - (b) may have regard to other information the Minister considers relevant to the proposed lease.
- (3) Before giving consent to the grant of a townsite lease, the Minister must be satisfied—
- (a) the trustee has complied with section 98(1)(a) for the lease; and
 - (b) the Aboriginal people particularly concerned with the lease land are generally in agreement with the grant of the lease; and
 - (c) the grant of the lease—
 - (i) will facilitate the continued operation of a township on the lease land; and
 - (ii) will not prevent residents of the township land from continuing to live on and access the land, or from obtaining tenure over the land under this Act.

Subdivision 3 Provisions about dealing with townsite leases

128 Transfer or amendment of townsite lease

- (1) A townsite lease must not be transferred or amended without—
- (a) the agreement of both the trustee and the lessee of the lease land; and
 - (b) the Minister's prior written consent.

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- (2) A person seeking the Minister's consent to the transfer or amendment of a townsite lease must give the Minister the information or documents relevant to the proposed transfer or amendment reasonably required by the Minister.
- (3) In considering whether to consent to the transfer of a townsite lease, the Minister must consider whether the proposed transferee can comply with the conditions of the lease.
- (4) The Minister may consent to the amendment of a townsite lease only if satisfied—
 - (a) the amendment does not significantly change the conditions of the townsite lease; and
 - (b) the amendment will not diminish the purpose of the lease.
- (5) A townsite lease must not be transferred to a person who, under this Act, would not be entitled to a grant of the lease.

129 Townsite lease and transfer, amendment or surrender of lease to be registered

- (1) A townsite lease, and any transfer, amendment or surrender of a townsite lease, must be registered.
- (2) Despite the Land Title Act, section 65(2), the instrument of lease for a townsite lease must include a plan of survey identifying the lease land.

130 Surrender of townsite lease

A townsite lease must not be surrendered without the Minister's prior written consent.

131 No forfeiture of townsite lease

A townsite lease can not be forfeited.

Subdivision 4 Effect of townsite lease on existing interests

132 Lessee of townsite lease taken to be lessor of existing leases

- (1) Subsection (2) applies if a townsite lease is granted over Aboriginal land that is, immediately before the grant of the townsite lease, the subject of a following lease (each a *continued lease*)—
 - (a) a lease granted under the Land Holding Act;
 - (b) a lease under the Land Act;
 - (c) a trustee (Aboriginal) lease.
- (2) On the grant of the townsite lease—
 - (a) the continued lease continues in force and is taken to be a townsite sublease; and
 - (b) the lessee for the townsite lease is substituted for the lessor as a party to the continued lease.

Note—

Under section 45(2) the trustee of the Aboriginal land is the lessor of the continued lease.

- (3) Section 45(3) applies for the continued lease as if the reference in that subsection to the trustee of the land were a reference to the lessee of the townsite lease.
- (4) Subsection (5) applies if lease land for a townsite lease—
 - (a) is Aboriginal land that was Aurukun Shire lease land or Mornington Shire lease land; and
 - (b) is the subject of a sublease under a lease granted under the *Aurukun and Mornington Shire Leases Act 1978*.
- (5) On the grant of the townsite lease—
 - (a) a sublease mentioned in subsection (4)(b) continues in force and is taken to be a townsite sublease; and

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- (b) the lessee for the townsite lease is substituted for the lessor as a party to the townsite sublease.

Division 4 Townsite subleases

Subdivision 1 Grant of subleases under townsite lease

133 Grant of sublease

- (1) The lessee of a townsite lease may grant a sublease (a *townsite sublease*) over all or a part of the lease land.
- (2) A townsite sublease may not be granted for more than 99 years and may be granted only to—
 - (a) an Aborigine; or
 - (b) the State; or
 - (c) another person.
- (3) Despite subsection (2)(a)—
 - (a) a person who is not an Aborigine may be a party to a sublease granted under the subsection if—
 - (i) the sublease is for private residential purposes; and
 - (ii) the person is the spouse of an Aborigine; and
 - (b) a sublease may be granted under the subsection for private residential purposes to a person who is not an Aborigine if the person is the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased.

Subdivision 2 Requirements about grants of subleases under townsite leases

134 Restrictions on grant of townsite sublease to an Aborigine

- (1) This section applies to a townsite sublease under section 133(2)(a).
- (2) If the sublease is for more than 30 years, it may be granted only—
 - (a) for private residential purposes; or
 - (b) with the Minister’s prior written consent, for another purpose.

Examples of another purpose for paragraph (b)—

a commercial purpose or providing public infrastructure

- (3) The Minister may consent to the grant of the sublease for another purpose under subsection (2)(b) only if—
 - (a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and
 - (b) for a townsite sublease for more than 30 years and for a commercial purpose—the sublease is granted over an entire lot as shown in the appropriate register.

Note—

For a lease for more than 30 years and for a commercial purpose, also see section 138.

135 Restrictions on grant of townsite sublease to State

- (1) This section applies to a townsite sublease under section 133(2)(b).
- (2) If the sublease is for more than 30 years it may be granted only—

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- (a) for a following purpose—
 - (i) a purpose under the *Housing Act 2003*;
 - (ii) providing public infrastructure;
 - (iii) providing residential accommodation for public service employees or police officers; or
- (b) with the Minister's prior written consent, for another purpose.

Example of another purpose for paragraph (b)—

a commercial purpose

- (3) The Minister may consent to the grant of the sublease for another purpose under subsection (2)(b) only if—
 - (a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and
 - (b) for a townsite sublease for a commercial purpose and for more than 30 years—the sublease is granted over an entire lot as shown in the appropriate register.

136 Restrictions on grant of townsite sublease to another person

- (1) This section applies to a townsite sublease under section 133(2)(c).
- (2) The sublease may be granted for a private residential purpose only if the sublease supports a sublease granted to the person for a commercial purpose.
- (3) If the sublease is for more than 10 years it may be granted only with the Minister's prior written consent unless the sublease is for—
 - (a) a commercial purpose and for not more than 30 years; or
 - (b) a private residential purpose to support a sublease for a commercial purpose.

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- (4) The Minister may consent to the grant of the townsite sublease only if—
- (a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and
 - (b) for a townsite sublease for more than 30 years and for a commercial purpose—the sublease is granted over an entire lot as shown in the appropriate register.

Subdivision 3 Requirements for Minister's consent

137 General requirements for Minister's consent

- (1) A person seeking the Minister's consent to the grant of a townsite sublease must give the Minister the information or documents reasonably required by the Minister to show—
- (a) the purpose of the sublease; and
 - (b) the sublease will not diminish the purpose for which the townsite lease was granted; and
 - (c) if the sublease is for more than 30 years—the grant of the sublease is appropriate in the circumstances.
- (2) Also, a person seeking the Minister's consent to the grant of a townsite sublease for more than 30 years for a commercial purpose must give the Minister—
- (a) a business plan outlining the details of the commercial purpose of the sublease, including, for example, financial details about any proposed development under the sublease; and
 - (b) evidence to show that an appropriate return on the investment for the commercial purpose can not be obtained under a sublease for not more than 30 years; and

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- (c) other information or documents reasonably required by the Minister to show the purpose of the sublease.
- (3) In considering whether to give consent to the grant of a townsite sublease, the Minister—
 - (a) must have regard to the information or documents given to the Minister under subsection (1) or (2); and
 - (b) may have regard to other information the Minister considers relevant to the proposed sublease.
- (4) Before giving consent to the grant of a townsite sublease for more than 30 years, the Minister must be satisfied the grant of the sublease will not diminish the purpose for which the townsite lease was granted.

138 Requirement for Minister's consent for townsite sublease for commercial purpose

- (1) Before the Minister consents to the grant of a townsite sublease for more than 30 years for a commercial purpose, the Minister must—
 - (a) obtain an independent assessment of—
 - (i) the business plan and evidence given to the Minister under section 137(2)(a) and (b); and
 - (ii) the proposed sublessee's financial and managerial capabilities; and
 - (b) be satisfied, having regard to the independent assessment, that—
 - (i) any proposed development under the sublease will be commercially viable; and
 - (ii) the evidence given under section 137(2)(b) satisfactorily shows that an appropriate return on the investment for the purpose of the sublease can not be obtained under a sublease for not more than 30 years; and

-
- (iii) the proposed sublessee's financial and managerial capabilities are appropriate for carrying out any proposed development under the lease.
 - (2) The proposed sublessee must pay the cost of the independent assessment.
 - (3) The cost is not refundable.

139 Requirement for Minister's consent for creation of interest under a townsite sublease

- (1) This section applies if, under section 141, an interest under a townsite sublease may be created only with the Minister's written consent.
- (2) The Minister may consent to the creation of the interest only if—
 - (a) the interest is consistent with the purpose for which the townsite lease was granted; or
 - (b) the interest would not diminish the purpose for which the townsite lease was granted.
- (3) A person seeking the Minister's consent must give the Minister the information or documents relevant to the proposed interest reasonably required by the Minister, including, for example, information or documents to show that the creation of the interest would not diminish the purpose for which the townsite lease was granted.

Division 5 Common provisions for standard leases and townsite subleases

Subdivision 1 Preliminary

140 Definitions for div 5

In this division—

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lease means—

- (a) a standard lease; or
- (b) a townsite sublease.

lessor means—

- (a) for a standard lease—the trustee of the lease land; or
- (b) for a townsite sublease—the lessee of the townsite lease under which the townsite sublease is granted.

Subdivision 2 Conditions of leases

141 Conditions of leases—general

- (1) A lease is subject to a condition that an interest, other than a mortgage of the lease, for a term of more than 10 years may be created under the lease only with the Minister's prior written consent.

Note—

For requirements for the Minister's consent, see sections 125 and 139.

- (2) Despite subsection (1)—
 - (a) an interest under a lease granted under section 119(1)(a)(i) or 133(2)(a) may be created without the Minister's prior written consent if the interest is in favour of—
 - (i) an Aborigine; or
 - (ii) another person who is not an Aborigine if the person is the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased; and
 - (b) an interest under another lease may be created without the Minister's prior written consent if, under this part, the grant of the lease did not require the consent of the Minister.
- (3) A lease may include a condition that—

-
- (a) a stated standard terms document under the Land Title Act forms part of the lease; or
 - (b) the lease must not be transferred without the lessor's prior written consent; or
 - (c) an interest under the lease, other than a mortgage of the lease, must not be created without the lessor's prior written consent.
- (4) If a lease includes a condition mentioned in subsection (3)(b) or (c), the lessor must not unreasonably withhold consent to the transfer or creation of an interest under the lease.
- (5) A lease may be mortgaged without the consent of the Minister or the lessor.
- (6) Subject to subsection (5), this section does not limit the conditions that may be imposed on a lease.

142 Leases for private residential purposes—general conditions and requirements

- (1) A lease granted for private residential purposes is subject to all of the following conditions—
- (a) if the lease is granted under section 119(1)(a)(i) or 133(2)(a)—
 - (i) it must be for 99 years; and
 - (ii) the annual rental under the lease is the amount, of not more than \$1, decided by the lessor; and
 - (iii) the consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the lease land as decided by the lessor using at least 1 of the following—
 - (A) a valuation methodology decided by the chief executive;
 - (B) the benchmark purchase price, as prescribed under a regulation, for land in the part of the State in which the lease land is situated; and

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- (iv) the lease land must be used primarily for private residential use;
 - (b) if a private residential premises is not situated on the lease land when the lease is granted—the lessee must ensure a private residential premises is built on the land within 8 years after the lease is granted;
 - (c) an interest may be created under the lease only if the interest is a residential tenancy or a mortgage of the lease.
- (2) A lessor may grant a lease under section 119(1)(a)(i) or 133(2)(a) for private residential purposes only if the amount mentioned in subsection (1)(a)(iii) has been paid to the lessor.
- (3) The chief executive—
- (a) must, if requested, give a person a copy of the valuation methodology mentioned in subsection (1)(a)(iii); and
 - (b) may make the valuation methodology available for inspection on the department’s website.

143 Leases for private residential purposes—particular requirements if dwelling situated on land

- (1) This section applies if—
- (a) a lessor proposes to grant a lease for private residential purposes; and
 - (b) a dwelling is situated on the land the subject of the proposed lease.
- (2) The lessor must give the housing chief executive written notice of the lessor’s intention to grant the lease.
- (3) Within 28 days after receiving the notice, the housing chief executive must give the lessor a written notice stating whether the housing chief executive considers the dwelling has been used to provide subsidised housing for residential use.
- (4) The lessor must not grant the lease before receiving the housing chief executive’s notice under subsection (3).

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- (5) Subsections (6) to (10) apply if the notice states the housing chief executive considers the dwelling has been used to provide subsidised housing for residential use.
 - (6) The lessor must, before the lease is granted, decide the value of the dwelling by using a valuation methodology agreed between the lessor and the housing chief executive.
 - (7) The consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the dwelling decided under subsection (6).
 - (8) The lessor may grant the lease only—
 - (a) with the written approval of the housing chief executive; and
 - (b) if the amount mentioned in subsection (7) has been paid to the lessor.
 - (9) In considering whether to give an approval, the housing chief executive must have regard to whether it would be more appropriate in the circumstances for the dwelling to continue to be used to provide subsidised housing for residential use.
 - (10) If the lessor grants the lease, the lessor must, within 28 days after the lease is registered, give the housing chief executive—
 - (a) a written notice stating—
 - (i) the day the lease was registered; and
 - (ii) the names of the parties to the lease; and
 - (b) evidence showing the amount mentioned in subsection (7) for the dwelling was paid to the lessor; and
 - (c) evidence showing the amount decided by the lessor under section 142(1)(a)(iii) for the lease land was paid to the lessor.

Note—

The amount mentioned in subsection (7) must be used by the lessor as required under section 288.

- (11) This section does not limit section 142.
- (12) In this section—

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housing chief executive means the chief executive of the department in which the *Housing Act 2003* is administered.

144 Option to renew particular lease or sublease

- (1) A lease or a sublease of a lease, other than a lease for private residential purposes, may include an option to renew the lease or sublease.
- (2) The term of a renewed lease or sublease must not be more than the initial term of the lease or sublease.

Subdivision 3 Provisions about transfer, amendment or surrender of leases

145 Transfer or amendment of lease or sublease

- (1) A lease or a sublease of a lease must not be transferred or amended without—
 - (a) if, under a condition of the lease, the transfer or amendment of the lease or sublease requires the consent of the lessor—the lessor’s prior written consent; and
 - (b) if, under this part, the grant of the lease or sublease requires the consent of the Minister—the Minister’s prior written consent.
- (2) A person seeking the Minister’s consent to the transfer or amendment of a lease or sublease must give the Minister the information or documents relevant to the proposed transfer or amendment reasonably required by the Minister.
- (3) In considering whether to consent to the transfer of a lease or sublease, the Minister must consider whether the proposed transferee can comply with the conditions of the lease.
- (4) The Minister may consent to the amendment of a lease or sublease only if the Minister is satisfied—
 - (a) the amendment does not significantly change the conditions of the lease or sublease; and

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- (b) the amended lease or sublease—
 - (i) for a standard lease—is for the benefit of persons for whom the trustee holds the land; or
 - (ii) for a townsite sublease—will not diminish the purpose of the relevant townsite lease.
 - (5) Before the Minister consents to the transfer of a lease for more than 30 years for a commercial purpose, the Minister must—
 - (a) obtain an independent assessment of the proposed transferee’s financial and managerial capabilities; and
 - (b) be satisfied, having regard to the independent assessment, that the proposed transferee’s financial and managerial capabilities are appropriate for complying with the conditions of the lease.
 - (6) The proposed transferee must pay the cost of the independent assessment.
 - (7) The cost is not refundable.
 - (8) A lease or sublease of a lease must not be transferred to a person who, under this Act, would not be entitled to a grant of the lease.

146 Lease, sublease and particular dealings to be registered

- (1) All leases, and any sublease of a lease or transfer, amendment or surrender of a lease or sublease, must be registered.
- (2) Despite the Land Title Act, section 65(2), an instrument of lease for Aboriginal land, must include a plan of survey identifying the lease land.
- (3) Subsection (2) does not apply to a lease entered into only in relation to an area completely within a building.

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Division 6 Forfeiture and renewal of residential leases

Subdivision 1 Preliminary

147 Definitions for div 6

In this division—

lessee means—

- (a) for a residential lease that is a standard lease—the lessee under the lease; or
- (b) for a residential lease that is a townsite sublease—the sublessee under the sublease.

lessor means—

- (a) for a residential lease that is a standard lease—the trustee of the lease land; or
- (b) for a residential lease that is a townsite sublease—the lessee of the townsite sublease under which the townsite sublease is created.

residential lease means—

- (a) a standard lease granted under section 120(1)(a)(i) for private residential purposes; or
- (b) a townsite sublease granted under section 135(2)(a) for private residential purposes.

148 Application of div 6

This division applies to all residential leases.

Subdivision 2 Forfeiture

149 Grounds for forfeiture

- (1) A residential lease may be forfeited only if—
 - (a) the lessee breaches a relevant condition of the lease and fails to remedy the breach within 6 months after receiving written notice of the breach from the lessor; or
 - (b) the lessee acquired the lease by fraud.
- (2) In this section—

relevant condition, of a residential lease, means—

 - (a) a condition of the lease mentioned in section 142(1)(b);
or
 - (b) another condition, if the lessor reasonably considers a breach of the condition is of a serious nature and warrants forfeiture of the lease.

150 Referral to Land Court for forfeiture

- (1) Before the residential lease is forfeited, the lessor must refer the matter to the Land Court to decide whether the lease may be forfeited.
- (2) The lessor must give the lessee, and any mortgagee of the lease, at least 28 days written notice of the lessor's intention to refer the matter to the Land Court.
- (3) The notice must state the grounds on which the lessor considers the lease may be forfeited.
- (4) In deciding whether the lease may be forfeited, the Land Court must have regard to—
 - (a) the stated grounds; and
 - (b) if the lease is proposed to be forfeited because of a breach of a condition of the lease—whether the court considers the breach is of a serious nature and warrants forfeiture of the lease.

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- (5) The lessor must file a copy of the notice in the Land Court when the lessor refers the matter to the court.

151 Lessor's options if Land Court decides residential lease may be forfeited

If the Land Court decides the residential lease may be forfeited, the lessor may—

- (a) forfeit the lease under this subdivision; or
- (b) if the proposed forfeiture is because of a breach of a condition of the lease—decide not to forfeit the lease, but instead to allow the lease to continue subject to the lease being amended to include conditions agreed between the lessor and the lessee.

152 Notice and effect of forfeiture

- (1) If the lessor forfeits the residential lease, the lessor must, within 60 days after receiving notice of the Land Court's decision about forfeiture of the lease, give written notice that the lease is forfeited to—
 - (a) the lessee and any mortgagee of the lease; and
 - (b) the registrar of titles.
- (2) On receiving the notice, the registrar must record the forfeiture of the lease in the appropriate register.
- (3) The forfeiture of the lease takes effect on the day the registrar acts under subsection (2).
- (4) On forfeiture of the lease—
 - (a) the lease ends; and
 - (b) the lessee is divested of any interest in the lease; and
 - (c) any person occupying the lease land must immediately vacate the land.

153 Extension of term of lease—referral for forfeiture

- (1) This section applies to the residential lease if—
 - (a) a matter has been referred to the Land Court for forfeiture of the lease; and
 - (b) after the referral but before the Land Court makes its decision on the matter, the term of the lease would, but for subsection (2), end.
- (2) The term of the lease is taken to continue until—
 - (a) if the lease is forfeited—notice of its forfeiture is given to the registrar of titles under this subdivision; or
 - (b) otherwise—the end of 60 days after the lessor receives notice of the Land Court’s decision.
- (3) Subsection (2) applies to the lease despite the provisions of the lease and any other provision of this Act.

Subdivision 3 Renewal

154 Notice of expiry of lease

- (1) This section applies if the lessee under a residential lease has not, under section 155, applied for renewal of the lease at least 1 year before the term of the lease ends.
- (2) The lessor must, as soon as practicable, give the lessee written notice stating—
 - (a) the day the term of the lease ends; and
 - (b) that the lessee may apply under this subdivision for renewal of the lease and how the lessee may apply.

155 Application to renew lease

- (1) The lessee under a residential lease may apply in writing to the lessor to renew the lease.

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- (2) The application must be made not more than 2 years before the term of the lease ends.
- (3) The application must—
 - (a) state the name of the lessee; and
 - (b) include information to identify the lease.

156 Lessor to consider and decide application

The lessor must, within 6 months after an application is made under section 155, consider the application and decide to renew or not to renew the residential lease.

157 Decision to renew lease

- (1) If the lessor decides to renew the residential lease, the lessor must give the lessee—
 - (a) written notice of the decision; and
 - (b) a copy of the renewed lease.
- (2) The renewed lease—
 - (a) must be for the same term as the lease it replaces (the *replaced lease*); and
 - (b) has effect immediately after the replaced lease ends; and
 - (c) is subject to all the conditions to which the replaced lease was subject immediately before it ended.
- (3) No amount is payable under section 142(1)(a)(iii) for the renewed lease.
- (4) Also, section 143 does not apply for the renewal of the lease.

158 Lessor may decide not to renew lease

The lessor may decide not to renew the residential lease only if the lessor is satisfied the lease land is not being used for private residential purposes.

159 Notice to lessee about decision not to renew lease

If the lessor decides not to renew the residential lease, the lessor must give the lessee a written notice stating the following—

- (a) that the lessor has decided not to renew the lease;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may appeal to the Land Court against the decision within 28 days after receiving the notice;
- (d) how the person may appeal.

160 Extension of term of lease—application for renewal

- (1) This section applies to the residential lease if—
 - (a) the lessee has applied to renew the lease under this subdivision; and
 - (b) before the lessor makes its decision on the application, the term of the lease would, but for subsection (2), end.
- (2) The term of the lease is taken to continue until notice of the lessor's decision is given to the lessee under this subdivision.
- (3) Subsection (2) applies to the lease despite the provisions of the lease and any other provision of this Act.

Subdivision 4 General matters about forfeiture or non-renewal of residential leases

161 Right to remove improvements if residential lease forfeited or not renewed

- (1) If the lessor forfeits or decides not to renew the residential lease, the lessor must allow the lessee to remove the lessee's improvements on the lease land within a reasonable period decided by the lessor.

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- (2) If the improvements are not removed within the period, they become the property of the lessor.

162 Payment by lessor for forfeited or non-renewed residential lease

- (1) If the lessor forfeits or decides not to renew the residential lease, the lessor must pay to the person who was the lessee the amount worked out under subsection (2) (the *required amount*).
- (2) The required amount is the amount equal to the combined value of the following (the *maximum amount*) less any amounts deducted from the maximum amount under section 164—
 - (a) the value of the lease land on the day the lease is forfeited or ends;
 - (b) the value of the lessee's improvements on the land that become the property of the lessee.
- (3) The value of the lease land is the amount as decided by the lessor using the valuation methodology mentioned in section 142(1)(a)(iii).
- (4) The value of any improvements on the lease land must be assessed as the market value of the improvements in a sale of a lease of the same term and tenure as the forfeited or non-renewed lease.
- (5) Subject to subsections (3) and (4), the lessor must decide the required amount.
- (6) The lessor must decide the required amount as soon as practicable after giving the person notice that the lease is forfeited or not renewed.
- (7) On deciding the required amount, the lessor must give the person written notice of the decision.
- (8) The notice must state—
 - (a) the required amount; and

- (b) that the person may appeal to the Land Court against the decision within 28 days after receiving the notice; and
 - (c) how the person may appeal.
- (9) This section is subject to section 163.

163 Unclaimed amounts

If the lessor can not find the person entitled to receive the required amount, or the person does not collect the amount from the lessor within 9 years after the day the lease is forfeited or not renewed, the required amount is forfeited to the lessor.

164 Amounts owing to lessor or mortgagee to be deducted

If the lessor forfeits or decides not to renew the lease, the lessor may deduct the following amounts from the maximum amount—

- (a) an amount in payment of all costs properly incurred by the lessor in forfeiting or not renewing the lease;
- (b) an amount in payment of expenses incurred by the lessor to rectify damage caused to the lease land by the person who was the lessee;
- (c) any amount owing to the lessor by the person under the lease;
- (d) any amount owing to a mortgagee of the lease by the person under a mortgage of the lease.

165 Payment of amount to mortgagee in discharge of mortgage

- (1) This section applies if the lessor forfeits or decides not to renew the lease and, under a mortgage of the lease, an amount is owing to a mortgagee of the lease by the person who was the lessee.
- (2) The lessor must pay to the mortgagee—

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- (a) if the amount that may be deducted from the maximum amount under section 164(d) is less than the difference between the maximum amount and the amounts deducted under section 164(a), (b) or (c)—the amount that may be deducted from the maximum amount under section 164(d); or
 - (b) otherwise—the amount equal to the difference between the maximum amount and the amounts deducted under section 164(a), (b) or (c).
- (3) The lessor must pay the amount payable under subsection (2) to the mortgagee—
- (a) if no appeal is made to the Land Court about the required amount payable to the person who was the lessee—within 28 days after the time for making an appeal ends; or
 - (b) if an appeal is made to the Land Court about the required amount—within 28 days after the appeal is finally decided.
- (4) If the lessor pays an amount to the mortgagee in relation to a mortgage of the lease, the mortgagee must use the amount in discharge of the mortgage.

Division 7 Miscellaneous

166 Effect of option to renew or extend on calculation of term of leases

- (1) This section applies to a lease granted for an initial term of—
 - (a) not more than 10 years; or
 - (b) at least 10 years but not more than 30 years.
- (2) For the purposes of section 98 and this part, the lease is taken to be a lease for more than 10 years or more than 30 years if the lease includes an option to renew or extend the lease that, if exercised, would extend the term of the lease for more than 10 years or more than 30 years.

- (3) In this section—

lease means a standard lease or a townsite sublease.

167 Exemption from fees and charges

- (1) This section applies to an instrument of lease for a residential lease.
- (2) No fee or charge is payable for—
- (a) the lodgement and registration of the instrument in the land registry; or
 - (b) the provision by the registrar of titles of other services for the lodgement and registration of the instrument.

168 Leases for private residential purposes—beneficiary

- (1) A person who is beneficially entitled under a will to a residential lease may ask the lessor—
- (a) to give the person a written notice stating whether or not the person is entitled to a grant of the lease under this Act; and
 - (b) if, under a condition of the lease, the lease can not be transferred without the lessor's written consent—for written notice of the lessor's consent to the transfer of the lease.

Note—

Under section 141, the lease may include a condition that it must not be transferred without the lessor's prior written consent.

- (2) The lessor must comply with a request under subsection (1) as soon as practicable after receiving the request.

Part 11 **Indigenous management agreements and land in Cape York Peninsula Region and North Stradbroke Island Region**

Division 1 **Indigenous management agreements**

169 **Entering into indigenous management agreement**

- (1) This section applies if—
 - (a) it is proposed that an entity holds land in the Cape York Peninsula Region or the North Stradbroke Island Region as Aboriginal land; and
 - (b) the State and the entity agree that the land, or part of the land, is to become—
 - (i) for land in the Cape York Peninsula Region—a national park (Cape York Peninsula Aboriginal land); or
 - (ii) for land in the North Stradbroke Island Region—an indigenous joint management area.
- (2) Before the land is granted, the entity must enter into an indigenous management agreement with the State about the proposed management of the land, or the part of the land, that is to become a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area.

170 **Requirements for indigenous management agreement**

- (1) An indigenous management agreement about the management of land must—
 - (a) include a lot on plan description of the land; and
 - (b) state the land will be managed in perpetuity as—

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- (i) for land in the Cape York Peninsula Region—a national park (Cape York Peninsula Aboriginal land); or
 - (ii) for land in the North Stradbroke Island Region—an indigenous joint management area; and
 - (c) state how the land is proposed to be managed; and
 - (d) include details of any interim arrangements for its management before the approval of a management plan for the land; and
 - (e) state the responsibilities of the environment Minister, and the chief executive under the *Nature Conservation Act 1992*, in relation to the management of the land; and
 - (f) state the responsibilities of the trustee in relation to its management; and
 - (g) include details of the process for developing a management plan for the land; and
 - (h) include details of areas of the land to which general public access may be restricted; and
 - (i) include information about the management of any infrastructure on the land; and
 - (j) state how existing interests in the land will be managed and how future interests in the land will be created and managed.
- (2) An indigenous management agreement about the management of land that is a national park that is to become a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area must not result in a decrease, in the aggregate, in the public rights of access that existed in relation to the national park immediately before it becomes a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area.
 - (3) An indigenous management agreement about the management of land may include other matters relevant to the management

of the land that the trustee, or proposed trustee, for the land and the environment Minister consider appropriate.

- (4) An indigenous management agreement about the management of land can not be entered into without the consent of the environment Minister.
- (5) In this section—

management plan means a management plan under the *Nature Conservation Act 1992*.

171 Amending indigenous management agreement

An indigenous management agreement about the management of land may be amended with the agreement of the trustee, or proposed trustee, for the land and the environment Minister.

172 Recording of indigenous management agreement

- (1) The chief executive must give the registrar of titles written notice of each indigenous management agreement entered into under this Act.
- (2) The chief executive must give the notice—
 - (a) if the land the subject of the agreement becomes Aboriginal land after the agreement is entered into—as soon as practicable after the land becomes Aboriginal land; or
 - (b) if the land the subject of the agreement is Aboriginal land when the agreement is entered into—as soon as practicable after the agreement is entered into.
- (3) The notice must include particulars of the land.
- (4) The registrar must keep records that show the land is the subject of an indigenous management agreement.
- (5) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show the existence of the agreement.

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- (6) While the indigenous management agreement has effect for the land, and is recorded by the registrar under this section, the agreement is binding on—
- (a) each entity that is from time to time the trustee for the land, whether or not the entity entered into the agreement or agreed to any amendment of the agreement; and
 - (b) each person who has an interest in the land.

Division 2 National parks in Cape York Peninsula Region

173 Requirements about grant of national parks in Cape York Peninsula Region

- (1) This section applies to the following land if the land is, or includes part of, a national park in the Cape York Peninsula Region (the *national park land*)—
- (a) transferable land;
 - (b) land for which the Land Tribunal has, under section 71, made a recommendation to the Minister before the commencement of this section.
- (2) Before the national park land is granted under this Act, the trustee or proposed trustee for the land must enter into an indigenous management agreement with the State about the management of the national park land.
- (3) A grant of the national park land under this Act is subject to the condition that the national park land must become a national park (Cape York Peninsula Aboriginal land).

174 Particular national parks taken to be transferable land

- (1) This section applies to all national parks in the Cape York Peninsula Region, other than a national park that is claimable land.

- (2) The national parks are transferable land for the purposes of this Act.

Division 3 Protected areas in North Stradbroke Island Region

175 Requirement about grant of prescribed protected areas in North Stradbroke Island Region

- (1) This section applies to transferable land if the land is, or includes part of, a prescribed protected area in the North Stradbroke Island Region.
- (2) Before the land is granted under this Act, the trustee, or proposed trustee, for the land must enter into an indigenous management agreement with the State about the management of the land.
- (3) A grant of the land under this Act is subject to the condition that the land must become an indigenous joint management area.
- (4) In this section—

prescribed protected area means land that is any of the following under the *Nature Conservation Act 1992*—

- (a) a national park (scientific);
- (b) a national park;
- (c) a national park (recovery);
- (d) a conservation park;
- (e) a resources reserve.

Part 12 **Provision about particular claimable land**

176 Particular claimable land taken to be transferable land

- (1) This section applies to claimable land that is in the Cape York Peninsula Region, other than—
 - (a) claimable land that is transferred land; or
 - (b) claimable land for which the Land Tribunal has, under section 71, made a recommendation to the Minister before the commencement of this section.
- (2) On the commencement of this section—
 - (a) the land is transferable land for the purposes of this Act; and
 - (b) the land stops being claimable land; and
 - (c) any proceeding before the Land Tribunal in relation to a claim for the land ends; and
 - (d) part 5, and part 6, division 1, stop applying to the claim for the land.
- (3) Subsection (2) applies despite any other provision of this Act.

177 Claimable land recommended for grant taken to be transferable land

- (1) This section applies to the following land for which the Land Tribunal has, under section 71, made a recommendation to the Minister—
 - (a) land shown as national park 4 on plan NPW42;
 - (b) land shown as national park 8 on plan NPW118;
 - (c) land shown as national park 10 on plan NPW452, including the area shown and described on the plan as closed road;
 - (d) land shown as national park 16 on plan NPW359;

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- (e) lot 44 on plan NPW472;
 - (f) land declared to be national park by proclamation published in the gazette on 2 December 1939 at pages 1845 and 1846 and described as the Flinders Group of islands, comprising Flinders Island—exclusive of Special Lease No. 8544—and Stanley, Blackwood, Maclear, and Denham Islands;
 - (g) lots 1 and 2 on CP887589, lots 1 and 2 on CP887590, lot 3 on CP887717, lot 4 on CP887719, lot 5 on CP887718 and lot 285 on plan C157365.
- (2) On the commencement of this section—
- (a) the land is transferable land for the purposes of this Act; and
 - (b) the land stops being claimable land; and
 - (c) any proceeding before the Land Tribunal in relation to a claim for the land ends; and
 - (d) part 5, and part 6, division 1, stop applying to the claim for the land.
- (3) Subsection (2) applies despite any other provision of this Act.

Part 13 Decision-making process

178 When agreement of Aboriginal people is given

If this Act provides that Aboriginal people be generally in agreement with a grant, consent or agreement about Aboriginal land, the agreement of the Aboriginal people is taken to have been given when—

- (a) if there is a particular process of decision making that, under the Aboriginal tradition of the Aboriginal people, must be complied with for decisions of that kind—the decision was made under the process; or

- (b) otherwise—the decision was made under the process of decision making agreed to and adopted by the Aboriginal people for the decision or for decisions of that kind.

179 Decision-making by trustee

- (1) This section applies if this Act provides that the trustee of Aboriginal land is required to make a decision about the land, including, for example, a decision about whether to grant an interest in the land, consent to the creation of a mining interest in the land or enter into an agreement about the land.
- (2) The trustee must—
 - (a) have regard to—
 - (i) if the Aboriginal people for whom the trustee holds the land have agreed on a decision-making process for decisions of that kind—the process; or
 - (ii) if subparagraph (i) does not apply—any Aboriginal tradition, for decisions of that kind, of the Aboriginal people for whom the trustee holds the land; or
 - (b) if there is no decision-making process mentioned in paragraph (a)(i) or relevant Aboriginal tradition—make the decision under a process of decision-making agreed to and adopted by the trustee for the decision or for decisions of that kind.

Part 14 **Provisions about mortgages of leases over Aboriginal land**

Division 1 **Preliminary**

180 **Definitions for pt 14**

In this part—

lease means—

- (a) a standard lease; or
- (b) a townsite sublease.

lessor means—

- (a) for a standard lease—the trustee of the lease land; or
- (b) for a townsite sublease—the lessee of the townsite lease under which the townsite sublease is granted.

181 **Application of pt 14**

If, in relation to the mortgaging of a lease over Aboriginal land, there is an inconsistency between a provision of this part and the Land Title Act, part 6, division 3, or the *Property Law Act 1974*, the provision of this part prevails to the extent of the inconsistency.

Division 2 **Mortgages of leases over Aboriginal land**

182 **Provision about entering into possession of, and selling, lease**

- (1) This section applies if a mortgagee enters into possession of a lease granted over Aboriginal land.

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- (2) The mortgagee must give the lessor for the lease written notice of the fact within 28 days after entering into possession.
 - (3) The mortgagee must arrange to sell the lease within—
 - (a) 4 years after entering into possession of the lease; or
 - (b) the longer period agreed in writing between the mortgagee and lessor.
 - (4) For subsection (3)(b)—
 - (a) the period mentioned in subsection (3)(a) may be extended or further extended for not more than 2 years at a time; and
 - (b) an extension or further extension of the period must be agreed in writing before the period or further extended period would otherwise have ended.
 - (5) In considering whether to agree to an extension or further extension, the lessor must have regard to the measures the mortgagee has already taken to sell the lease.
 - (6) If the mortgagee does not sell the lease within the period mentioned in subsection (3), the lessor may sell the lease.
 - (7) The mortgagee or lessor may sell the lease only to a person who, under this Act, would be entitled to a grant of the lease.
 - (8) The lessor must not sell the lease for less than—
 - (a) the amount owing to the mortgagee by the lessee under the mortgage on the day the lease is sold; or
 - (b) if the lessor and the mortgagee agree the lease may be sold for an amount less than the amount mentioned in paragraph (a)—the agreed amount.
 - (9) In this section—

lessee means—

 - (a) for a standard lease—the lessee under the lease; or
 - (b) for a townsite sublease—the sublessee under the sublease.

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183 How lessor deals with proceeds of sale

- (1) This section applies if, under section 182, a lessor sells a mortgaged lease.
- (2) The lessor must apply the proceeds of the sale, under the *Property Law Act 1974*, as if the lease were sold by the mortgagee and the amount of the sale were received by the mortgagee.
- (3) However, in applying the proceeds of the sale, the lessor must firstly apply the proceeds to the payment of all costs, charges and expenses properly incurred by the lessor for the sale or any attempted sale.

Part 15 Leasing of Aboriginal trust land

Division 1 Preliminary

184 Definitions for pt 15

In this part—

Aboriginal trust land means—

- (a) land subject to a deed of grant in trust granted for the benefit of Aboriginal inhabitants or for the purpose of an Aboriginal reserve under the repealed *Land Act 1962*; or
- (b) land reserved and set apart under the repealed *Land Act 1962* for an Aboriginal reserve or for the benefit of Aboriginal inhabitants; or
- (c) land subject to a deed of grant in trust granted for the benefit of Aboriginal inhabitants under the Land Act; or
- (d) land dedicated under the Land Act as a reserve for Aboriginal purposes or the provision of services beneficial to Aboriginal people particularly concerned with the land.

trustee, of Aboriginal trust land, means the trustee of the land under the Land Act.

trustee (Aboriginal) lease means a lease of Aboriginal trust land granted under—

- (a) part 10 as applied under section 186(2); or
- (b) the Land Act, section 57 before the commencement of this part.

185 Relationship with Land Act

- (1) The following provisions of the Land Act, chapter 3, part 1, division 7 do not apply to Aboriginal trust land—
 - (a) sections 57 to 59;
 - (b) section 61, to the extent it relates to a lease or sublease of the land;
 - (c) section 63, to the extent it relates to a lease of the land;
 - (d) section 64;
 - (e) sections 65 and 66, to the extent the provisions relate to a lease of the land.
- (2) For the purposes of the Land Act, other than the provisions mentioned in subsection (1), a trustee (Aboriginal) lease is taken to be a trustee lease under that Act.

Division 2 Leases

186 Trustee (Aboriginal) leases

- (1) A trustee of Aboriginal trust land may lease all or a part of the land under part 10.
- (2) For subsection (1), the relevant provisions apply in relation to the leasing of Aboriginal trust land—
 - (a) as if a reference in the provisions to Aboriginal land were a reference to Aboriginal trust land; and

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- (b) as if a reference in the provisions to the Minister were a reference to—
 - (i) if the Aboriginal trust land is transferable land—the Minister administering this Act; and
 - (ii) if the Aboriginal trust land is not transferable land—the Minister administering the Land Act; and
 - (c) as if the reference in section 123(4)(a) to section 98(1)(a) were a reference to section 186(4)(a); and
 - (d) as if the reference in section 141(3)(a) to a stated standard terms document under the Land Title Act were a reference to a stated mandatory standard terms document under the Land Act.
- (3) If the consent of the Minister is required in relation to a lease of Aboriginal trust land that is transferable land, the Minister must not give the consent unless satisfied the lease is for the benefit of Aboriginal people particularly concerned with the land.
- (4) The trustee of Aboriginal trust land that is transferable land must not grant a lease over the land for more than 30 years unless—
- (a) the trustee has explained to the Aboriginal people particularly concerned with the land the nature, purpose and effect of the lease; and
 - (b) the Aboriginal people are given a suitable opportunity to express their views on, and are generally in agreement with, the grant of the lease.
- (5) The grant of a lease over Aboriginal trust land in contravention of part 10 is void, unless the lease is registered.
- (6) Subsection (5) applies despite any other Act.
- (7) In this section—
- relevant provisions*** means section 99 and part 10, divisions 1 to 6.

187 Amending trustee (Aboriginal) lease

- (1) A document of amendment of a registered trustee (Aboriginal) lease must not—
 - (a) increase or decrease the area leased; or
 - (b) add or remove a party to the lease; or
 - (c) be lodged after the lease's term has ended.
- (2) In this section—

term, of a trustee (Aboriginal) lease, includes a period of possession under the lease because of—

 - (a) the renewal of the lease; or
 - (b) a registered document of amendment extending the term of the lease.

188 Mortgage of trustee (Aboriginal) lease

- (1) Subject to subsection (2), a lessee of Aboriginal trust land may, under the Land Act, chapter 6, part 4, division 4, mortgage a trustee (Aboriginal) lease.
- (2) For mortgaging a trustee (Aboriginal) lease—
 - (a) the Land Act, chapter 6, part 4, division 4, applies—
 - (i) as if the reference in section 345(2) to the Minister were a reference to the trustee; and
 - (ii) as if section 346(1) provided that the mortgagee may offer the lease for sale by public auction or may sell the lease by private contract; and
 - (iii) as if the reference in section 346(3) to a person qualified under the Land Act to hold the lease were a reference to a person entitled under this Act to a grant of the lease; and
 - (iv) as if section 347 were omitted; and
 - (b) section 182 applies as if the reference in section 182(1) to Aboriginal land were a reference to Aboriginal trust land.

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189 Surrender of trustee (Aboriginal) lease

All or part of a trustee (Aboriginal) lease or a sublease of a trustee (Aboriginal) lease may be surrendered only if each registered mortgagee and registered sublessee of the interest being surrendered has given written agreement to the surrender.

Division 3 Other matters

190 Trustee to advise about ending of particular lease for commercial purpose

- (1) This section applies if a trustee (Aboriginal) lease granted by a trustee over transferable land for more than 30 years for a commercial purpose ends.
- (2) The trustee must give the registrar written notice of the ending.
- (3) The notice must include particulars of the land that was the subject of the trustee (Aboriginal) lease.

191 Recording information about land

- (1) If a trustee (Aboriginal) lease for more than 30 years for a commercial purpose on transferable land is registered, the registrar must keep records that show the land is not transferable land.
- (2) The registrar must keep the records in a way that a search of the appropriate register kept by the registrar will show the land is not transferable land.
- (3) If a trustee gives the registrar a notice under section 190(2) about particular land, the registrar must keep records that show the land is transferable land.
- (4) The registrar must keep the records in a way that a search of the appropriate register kept by the registrar will show the land is transferable land.

Part 16 **Special provisions about prescribed DOGIT land and prescribed reserve land**

Division 1 **Prescribed DOGIT land**

192 **Application of div 1**

This division applies to prescribed DOGIT land.

193 **Prescribed DOGIT land may be granted under this Act**

- (1) Despite any other provision of this Act, prescribed DOGIT land may be—
 - (a) granted under part 4; and
 - (b) held by a trustee for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land, and their ancestors and descendants.
- (2) If the land is held as mentioned in subsection (1)(b), the land may, for any dealing with the land under this Act or another Act, be called Aboriginal and Torres Strait Islander land.

194 **Minister to consult before grant of land**

Before the land is granted under part 4, the Minister must—

- (a) consult with Aboriginal people and Torres Strait Islanders particularly concerned with the land—
 - (i) to identify how the continued use of, and access to, the land by the Aboriginal people and Torres Strait Islanders can be achieved; and
 - (ii) about how the Aboriginal people and Torres Strait Islanders want the land to be held under this Act; and

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- (b) consider the views of the Aboriginal people and Torres Strait Islanders mentioned in paragraph (a).

195 Application of general provisions

- (1) The following provisions apply in relation to the land as if a reference in the provisions to Aboriginal people includes a reference to Torres Strait Islanders—
 - (a) section 202(6) and (7);
 - (b) section 282(2).
- (2) However, subsection (1)(a) applies for prescribed DOGIT land that is transferred land only if the land is held for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land, and their ancestors and descendants.

196 Application of provisions for grant of land

- (1) This section applies if the land is to be or is—
 - (a) granted under part 4; and
 - (b) held for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land, and their ancestors and descendants.
- (2) The following provisions apply in relation to the land as if a reference in the provisions to Aboriginal people includes a reference to Torres Strait Islanders—
 - (a) sections 39 and 40;
 - (b) section 42;
 - (c) section 98;
 - (d) section 104;
 - (e) section 109;
 - (f) section 123;
 - (g) section 127;

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- (h) sections 178 and 179;
 - (i) section 201;
 - (j) section 203;
 - (k) section 283;
 - (l) section 288.
- (3) Schedule 1, definition *qualified*, applies in relation to the land as follows—
- qualified***, for a CATSI corporation that holds, or proposes to hold, Aboriginal land under this Act that is prescribed DOGIT land, means—
- (a) membership of the CATSI corporation is restricted to—
 - (i) Aboriginal people particularly concerned with the land; or
 - (ii) Aboriginal people and Torres Strait Islanders particularly concerned with the land; or
 - (b) the CATSI corporation is a trustee of a trust the beneficiaries of which are restricted to—
 - (i) Aboriginal people particularly concerned with the land; or
 - (ii) Aboriginal people and Torres Strait Islanders particularly concerned with the land.
- (4) Section 41 applies in relation to the land as if a reference in the section to an Aboriginal person includes a reference to a Torres Strait Islander.
- (5) The following provisions apply in relation to the land as if a reference in the provisions to an Aborigine includes a reference to a Torres Strait Islander—
- (a) sections 101 and 102;
 - (b) section 119;
 - (c) section 141.

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- (6) Sections 178 and 179 apply in relation to the land as if a reference in the sections to Aboriginal tradition included a reference to Island custom.
- (7) In this section—
Island custom see the *Torres Strait Islander Land Act 1991*, section 6.

Division 2 Prescribed reserve land

197 Meaning of *prescribed reserve land*

Prescribed reserve land means any of the following land that is situated on Thursday Island and prescribed under a regulation for this section—

- (a) land reserved and set apart under the repealed *Land Act 1962* for an Aboriginal reserve or for the benefit of Aboriginal inhabitants;
- (b) land dedicated under the Land Act as a reserve for Aboriginal purposes or the provision of services beneficial to Aboriginal people particularly concerned with the land.

198 Application of particular provisions

Sections 119 and 141 apply in relation to prescribed reserve land as if a reference in the provisions to an Aborigine includes a reference to a Torres Strait Islander.

Part 17

Occupation and use of Aboriginal land by the State or Commonwealth

199 Use of Aboriginal land preserved

- (1) If, on the day land becomes Aboriginal land, the land or any part of the land is being occupied or used by the State or the Commonwealth, the State or Commonwealth is entitled to continue to occupy or use it for such period as the land, or that part of the land, is required by the State or Commonwealth.
- (2) While the State or Commonwealth is entitled to the occupation or use of land under subsection (1), the improvements on the land are the property of the State or Commonwealth.
- (3) If the chief executive becomes aware the occupation or use of land under subsection (1) is no longer required by the State or Commonwealth, the chief executive must give the trustee of the land written notice of that fact.
- (4) Despite subsection (1), if the State or Commonwealth intends to continue to occupy or use the land, the State or Commonwealth and the trustee of the land are to use their best endeavours to provide for the continued occupation and use of the land under an interest in, or in relation to, the land given by the trustee of the land.
- (5) Subsection (1) ceases to apply to land if—
 - (a) it is leased to a person for a private residential purpose under part 10; or
 - (b) the State or Commonwealth has a right to occupy or use the land under an interest in, or in relation to, the land given by the trustee of the land; or
 - (c) the trustee of the land receives a notice under subsection (3) for the land.

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- (6) Subsection (7) applies if the Aboriginal land being occupied or used by the State or the Commonwealth is land that is the subject of a townsite lease.
- (7) Subsections (3) to (5) apply as if a reference to the trustee of the land were a reference to the lessee for the townsite lease.

200 No rent payable

The State or Commonwealth is not liable to pay any amount in the nature of rent in relation to its occupation or use of land under section 199(1).

201 Access to land

- (1) While the State or Commonwealth is entitled to the occupation or use of land under section 199(1), the officers, employees, agents and servants of the State or Commonwealth and their licensees and invitees are entitled, with or without vehicles, machinery, plant and equipment (of any description), to enter and cross Aboriginal land for the purpose of gaining access to the land.
- (2) A person mentioned in subsection (1) must only cross Aboriginal land by—
 - (a) the routes that were commonly used before the land became Aboriginal land; or
 - (b) other routes agreed on from time to time by the State or Commonwealth and the trustee of the land.
- (3) The trustee of Aboriginal land, other than a registered native title body corporate, must not agree on a route for subsection (2)(b) unless—
 - (a) the trustee has explained to the Aboriginal people particularly concerned with the land the purpose and effect of the proposed route; and
 - (b) the Aboriginal people are given adequate opportunity to express their views on, and are generally in agreement with, the proposed route.

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- (4) Contravention of subsection (3) does not invalidate an agreement made for the purposes of subsection (2)(b).
 - (5) If the Aboriginal land being occupied or used by the State or the Commonwealth under section 199(1) is land that is the subject of a townsite lease or other registered interest (*relevant land*)—
 - (a) subsection (2) applies to the relevant land as if the reference to the trustee of the land were a reference to the lessee of the townsite lease or the person registered in the appropriate register as the holder of the other interest; and
 - (b) subsection (3) does not apply.
 - (6) Subsection (5) does not affect the operation of subsections (2) and (3) in relation to Aboriginal land that is not relevant land.

Part 18 Mining

202 Application of Mineral Resources Act

- (1) To allay any doubt, it is declared that the *Mineral Resources Act 1989* applies to transferable land as if it were a reserve within the meaning of that Act.
- (2) Subject to subsection (5), the *Mineral Resources Act 1989* applies to the following land as if it were a reserve, and the trustee of the land were the owner of the land, within the meaning of that Act—
 - (a) Aboriginal land that is or was transferred land;
 - (b) Aboriginal land (other than land that was transferred land) that was claimable land, but was not subject to a mining interest at the beginning of the day on which the relevant claim for the land was made under this Act, other than—

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- (i) land that was acquired by or on behalf of Aboriginal people if all interests in the land (other than interests in favour of the State) were surrendered to or acquired by the State before the land became claimable land; or
 - (ii) any national park.
- (3) To allay any doubt, it is declared that the *Mineral Resources Act 1989* applies to Aboriginal land (other than land that was transferred land) that—
 - (a) was claimable land; and
 - (b) was acquired by or on behalf of Aboriginal people if all interests in the land (other than interests in favour of the State) were surrendered to or acquired by the State before the land became claimable land;as if that land were not Aboriginal land.
- (4) If Aboriginal land (other than land that was transferred land) was claimable land and was subject to a mining interest at the beginning of the day on which the relevant claim for the land was made under this Act, then—
 - (a) in relation to the mining interest and any associated interest—to allay any doubt, it is declared that the *Mineral Resources Act 1989* applies to the land as if the land were not Aboriginal land; and
 - (b) in relation to any other mining interest—subject to subsection (5), the *Mineral Resources Act 1989* applies to the land as if it were a reserve, and the trustee of the land were the owner of the land, within the meaning of that Act.
- (5) Subsections (2) and (4)(b) do not apply in relation to the *Mineral Resources Act 1989*, sections 316 and 317.
- (6) The holder of a mining lease must, before making application for a mining lease under the *Mineral Resources Act 1989*, section 316 or a variation of a mining lease under section 317 of that Act, consult and endeavour to reach agreement with the Aboriginal people particularly concerned with the land in

relation to which the application is to be made about the route of the proposed access over the land.

(7) Subsection (6) applies in relation to Aboriginal land held by a registered native title body corporate as if the reference in the subsection to Aboriginal people particularly concerned with the land were a reference to the registered native title body corporate that holds the land.

(8) In this section—

associated interest, in relation to a mining interest, means—

- (a) any renewal or other continuance in force of the interest;
or
- (b) any other mining interest derived through, or as a result of, the interest.

relevant claim, in relation to Aboriginal land, means the claim because of which the land became Aboriginal land.

203 Royalties in relation to mining on Aboriginal land

(1) This section applies if the State receives an amount (the ***royalty amount***), by way of royalty under the *Mineral Resources Act 1989* or the *Petroleum and Gas (Production and Safety) Act 2004*, in relation to land that is Aboriginal land.

(2) The trustee of the land is entitled to receive, out of money appropriated by the Parliament, the percentage prescribed for the purposes of this subsection of the total royalty amount received in a financial year and must apply the amount received for the benefit of the Aboriginal people for whose benefit the trustee holds the land, particularly those that are affected by the activities to which the royalty amount relates.

Part 19 The Land Tribunal

Division 1 Establishment and membership

204 Land Tribunal

- (1) A tribunal called the Land Tribunal is established for the purposes of this Act.
- (2) The Land Tribunal consists of the chairperson and such number of deputy chairpersons and other members as are appointed under this Act.

205 Appointment of members

- (1) The members of the tribunal are to be appointed by the Governor in Council.
- (2) The chairperson is to be appointed on a part-time or full-time basis, and the deputy chairpersons and other members are to be appointed on a part-time basis.
- (3) A member of the tribunal is to be appointed under this Act, and not under the *Public Service Act 2008*.
- (4) Nothing in this Act prevents the chairperson also holding office as the chairperson or other member of the Land Tribunal established for the purposes of the *Torres Strait Islander Land Act 1991*.

206 Qualifications for appointment

- (1) A person is not eligible for appointment as chairperson or deputy chairperson of the Land Tribunal unless the person is a barrister, solicitor, barrister and solicitor or legal practitioner of the High Court or the Supreme Court of the State, another State or a Territory of not less than 5 years standing.
- (2) A person is not eligible for appointment as a non-presiding member of the Land Tribunal unless the person—

- (a) has, in the opinion of the Governor in Council, suitable knowledge of Aboriginal people or Aboriginal tradition; or
- (b) has had experience, for not less than 5 years, at a high level in industry, commerce, public administration, industrial relations, the practice of a profession or the service of a government or an authority of a government.

207 Term of appointment

A member of the Land Tribunal is appointed for such term (not exceeding 7 years) as is specified in the instrument of appointment, but is eligible for reappointment.

208 Terms and conditions of appointment

- (1) A member of the Land Tribunal is to be paid such remuneration and allowances as are determined by the Governor in Council.
- (2) A member of the Land Tribunal holds office on such terms and conditions not provided for by this Act as are determined by the Governor in Council.

209 Preservation of rights

- (1) This section applies if an officer of the public service is appointed as the chairperson of the Land Tribunal.
- (2) The person retains and is entitled to all rights that have accrued to the person because of employment as an officer of the public service, or that would accrue in the future to the person because of that employment, as if service as chairperson were a continuation of service as an officer of the public service.
- (3) If the person has not attained 65 years of age at the time of the expiry of the person's term of office or resignation—

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- (a) the person is entitled to be appointed to an office in the public service at a salary level not less than the salary level, at that time, of an office equivalent to the one the person held before being appointed as chairperson; and
- (b) the person's service as chairperson is to be regarded as service in the public service for the purpose of determining the person's rights as an officer of the public service.

210 Leave of absence

The Minister may grant leave of absence to the chairperson of the Land Tribunal on such terms and conditions as the Minister considers appropriate.

211 Resignation

A member of the Land Tribunal may resign by writing signed and delivered to the Governor.

212 Disclosure of interests

- (1) If a member of the Land Tribunal is, or is to be, a member of the tribunal as constituted for the purposes of a proceeding and the member has or acquires an interest (whether pecuniary or otherwise) that could conflict with the proper performance of the member's functions in relation to the proceeding—
 - (a) the member must disclose the interest to the parties to the proceeding; and
 - (b) except with the consent of all parties to the proceeding—the member must not take part in the proceeding or exercise any powers in relation to the proceeding.
- (2) Where the chairperson of the Land Tribunal becomes aware that a member of the tribunal, who is, or is to be, a member of the tribunal as constituted for the purposes of a proceeding,

has in relation to the proceeding an interest of the kind mentioned in subsection (1)—

- (a) if the chairperson considers that the member should not take part, or continue to take part, in the proceeding—the chairperson must direct the member accordingly; or
- (b) in any other case—the chairperson must cause the interest of the member to be disclosed to the parties to the proceeding if the interest has not already been disclosed to them.

213 Termination of appointment

- (1) The Governor in Council may terminate the appointment of a member of the Land Tribunal if the member—
 - (a) becomes mentally or physically incapable of satisfactorily performing the member's duties; or
 - (b) is convicted of an indictable offence (whether in Queensland or elsewhere); or
 - (c) is guilty of misconduct of a kind that could warrant dismissal from the public service if the member were an officer of the public service; or
 - (d) contravenes section 212 or a direction given under that section; or
 - (e) in the case of the chairperson—is absent, without the Minister's leave and without reasonable excuse, for 14 consecutive days or 28 days in any 12 months.
- (2) Subsection (1)(c) applies only to a non-presiding member.

214 Acting chairperson

The Governor in Council may appoint a person to act as chairperson of the Land Tribunal—

- (a) during a vacancy in the office; or

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- (b) during any period, or during all periods, when the chairperson is absent from duty or from the State or is, for any other reason, unable to perform the duties of the office.

Division 2 Organisation of tribunal

215 Arrangement of business

- (1) Subject to section 216, the chairperson of the Land Tribunal may give directions as to the arrangement of the business of the tribunal and as to the members who are to constitute the tribunal for the purposes of particular proceedings.
- (2) If the chairperson gives a direction as to the members who are to constitute the tribunal for the purposes of a particular proceeding, the chairperson may—
 - (a) at any time after giving the direction and before the start of the hearing of the proceeding; or
 - (b) if, in the case of a proceeding before the tribunal constituted by 3 members, 1 of those members ceases to be a member, or ceases to be available for the purposes of the proceeding, during the hearing of the proceeding or after the completion of the hearing but before the matter to which the proceeding relates is determined—at any time after the member ceases to be a member or to be available;

revoke the direction and give a further direction under subsection (1) as to the persons who are to constitute the tribunal for the purposes of the proceeding.
- (3) In giving a direction under this section as to the members who are to constitute the tribunal for the purposes of a particular proceeding, the chairperson must have regard to—
 - (a) the degree of public importance or complexity of the matters to which the proceeding relates; and

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- (b) the need for the tribunal's affairs to be conducted expeditiously and efficiently; and
 - (c) the nature of the issues likely to be involved in the proceeding.

216 Constitution of tribunal

- (1) Subject to section 218, the tribunal is to be constituted for the purposes of the hearing and determination of a proceeding by—
 - (a) a presiding member; or
 - (b) subject to subsection (2), a presiding member and 2 non-presiding members.
- (2) If the tribunal is to be constituted as mentioned in subsection (1)(b)—
 - (a) 1 of the non-presiding members must be a person who, in the opinion of the chairperson of the tribunal, has suitable knowledge of Aboriginal people or Aboriginal tradition; and
 - (b) the other non-presiding member must have had experience, for not less than 5 years, at a high level in industry, commerce, public administration, industrial relations, the practice of a profession or the service of a government or an authority of a government.
- (3) The tribunal may be constituted for the exercise of powers in relation to the hearing of a proceeding, or for the purposes other than the hearing and determination of a proceeding, by a presiding member.

217 Member presiding

At the hearing of a proceeding before the tribunal at which the tribunal is constituted for the purposes of the proceeding by more than 1 member, the presiding member is to preside unless another member is directed under section 218 to preside.

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218 Member of tribunal ceasing to be available

- (1) If the hearing of a proceeding has been commenced or completed by the Land Tribunal constituted by 3 members but, before the matter to which the proceeding relates has been determined, 1 of the members constituting the tribunal ceases to be a member, or ceases to be available for the purposes of the proceeding—
 - (a) if the parties agree and the chairperson does not give a direction under section 215—the hearing and determination, or the determination, of the proceeding may be completed by the tribunal constituted by the remaining members or member; or
 - (b) in any other case—the proceeding is to be reheard by the tribunal as reconstituted under section 216.
- (2) If the member who ceases to be a member, or ceases to be available for the purposes of the proceeding, is the member who is, but for this subsection, to preside, the chairperson may, in writing, appoint 1 of the remaining members, or the remaining member, to preside.
- (3) If a proceeding is reheard by the tribunal, the tribunal may, for the purposes of the proceeding, have regard to any record of the proceeding before the tribunal as previously constituted, including any evidence taken in the proceeding.

219 Sitting places

Sittings of the Land Tribunal may be held from time to time as required at any place in the State.

Division 3 Conduct of proceedings before tribunal

220 Parties to proceeding before tribunal

- (1) Subject to section 229, the parties to a proceeding for the hearing of a claim under this Act are—

- (a) the claimants; and
 - (b) the claimants of any other claim under this Act that is to be heard and determined with that claim; and
 - (c) any other person who has been made a party to the proceeding by the tribunal on application by the person under subsection (2).
- (2) An interested person may, within the period specified in the notice published under section 62 in relation to the claim or within such further period as the tribunal allows, apply, in writing, to the tribunal to be made a party to the proceeding and the tribunal may, by order, make the person a party to the proceeding.

221 Tribunal to determine who are interested persons

- (1) If it is necessary for the purposes of this Act to decide whether a person is an interested person in relation to a claim under this Act, the matter is to be decided by the Land Tribunal.
- (2) If the tribunal decides that a person is not an interested person in relation to a claim under this Act, the tribunal must give the person written reasons for its decision.

222 Representation before tribunal

At the hearing of a proceeding before the tribunal, a party to the proceeding may appear in person or be represented by an agent duly appointed in writing for the purpose but, unless the tribunal otherwise orders, can not be represented by counsel or a solicitor (enrolled in Queensland or elsewhere) engaged as counsel or solicitor for the proceeding.

223 Procedure of tribunal

- (1) In a proceeding before the Land Tribunal—
 - (a) the procedure of the tribunal is, subject to this Act, within the discretion of the tribunal; and

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- (b) the tribunal must pursue the objective of performing its functions in a fair, just, economical, informal and prompt way; and
 - (c) the tribunal must take account of relevant cultural and customary concerns of Aboriginal people; and
 - (d) the tribunal is not bound by technicalities, legal forms or rules of evidence but may inform itself on anything in any way that it considers appropriate.
- (2) For the purposes of subsection (1), directions as to the procedure to be followed at or in connection with the hearing of a proceeding before the tribunal may be given—
- (a) if the hearing of the proceeding has not started—by the chairperson or by a presiding member authorised by the chairperson to give directions for the purposes of this paragraph; and
 - (b) if the hearing of the proceeding has started—by the member presiding at the hearing or by another member authorised by the member presiding to give such directions.
- (3) A direction may be varied or revoked by a member empowered to give the direction.
- (4) An authorisation by the chairperson may be of general application or may relate to the hearing of a particular proceeding or class of proceedings.
- (5) The chairperson may vary or revoke an authorisation.

224 Conferences

- (1) If a claim is referred to the Land Tribunal, the chairperson may direct the holding of a conference of the parties presided over by a presiding member if the chairperson considers the holding of the conference may help to resolve the claim.
- (2) A party to a proceeding to which the conference relates may be represented at the conference by a person who, under this Act, may represent the party at the hearing of the proceeding.

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- (3) If a conference is held under subsection (1) and—
- (a) at or after the conference, agreement is reached between the parties as to the terms of a decision of the tribunal in the proceeding that would be acceptable to the parties; and
 - (b) the terms of the agreement are reduced to writing, signed by the parties and given to the tribunal; and
 - (c) the tribunal is satisfied that—
 - (i) a decision in those terms would be within the powers of the tribunal; and
 - (ii) that it would be appropriate to make a decision in those terms;

the tribunal may, without holding a hearing, make a recommendation to the Minister in accordance with or based on those terms.

- (4) At the hearing of a proceeding before the tribunal, unless the parties otherwise agree, evidence must not be given, and statements must not be made, about anything that happens at a conference held under subsection (1) in relation to the proceeding.
- (5) If—
- (a) a conference held under subsection (1) in relation to a proceeding is presided over by a member of the tribunal; and
 - (b) a party to the proceeding who was present at the conference notifies the tribunal before, or at the start of, the hearing that the party objects to the member participating in the hearing;

the member is not entitled to be a member of the tribunal as constituted for the purposes of the proceeding.

- (6) In this section—

Minister means the Minister administering the Land Act.

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225 Hearings to be in public except in special circumstances

- (1) Subject to this section, the hearing of a proceeding before the Land Tribunal is to be in public.
- (2) If the tribunal is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason, the tribunal may, by order—
 - (a) direct that a hearing or part of a hearing is to take place in private and give directions as to the persons who may be present; or
 - (b) give directions prohibiting or restricting the publication of evidence given before the tribunal, whether in public or in private, or of matters contained in documents lodged with the tribunal or received in evidence by the tribunal; or
 - (c) give directions prohibiting or restricting the disclosure to some or all of the parties to a proceeding of evidence given before the tribunal, or of matters contained in documents lodged with the tribunal or received in evidence by the tribunal.
- (3) In considering—
 - (a) whether the hearing of a proceeding should be held in private; or
 - (b) whether publication, or disclosure to a party, of evidence, or of a matter contained in a document or received in evidence, should be prohibited or restricted;

the tribunal is to take as the basis of its consideration the principle that it is desirable that the hearing of a proceeding before the tribunal should be held in public and that evidence given before the tribunal and the contents of documents lodged with the tribunal or received in evidence by the tribunal should be made available to the public and to all the parties, but must pay due regard to any reasons given to the tribunal why the hearing should be held in private or why publication or disclosure of the evidence or matter should be prohibited or restricted, particularly if those reasons are based on any applicable Aboriginal tradition.

226 Opportunity to make submissions

Subject to section 225, the Land Tribunal must ensure that every party to a proceeding before the tribunal is given a reasonable opportunity to present the party's case and, in particular, to inspect any documents to which the tribunal proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to the documents.

227 Particular powers of tribunal

- (1) For the purpose of a proceeding, the Land Tribunal may—
 - (a) take evidence on oath or affirmation; or
 - (b) proceed in the absence of a party who has had reasonable notice of the proceeding; or
 - (c) adjourn the proceeding from time to time.
- (2) For the purposes of the hearing of a proceeding, the chairperson, a presiding member, or an officer of the tribunal authorised in writing by the chairperson or a presiding member, may summon a person to appear before the tribunal to give evidence and to produce such documents (if any) as are specified in the summons.
- (3) The member who presides at the hearing of a proceeding—
 - (a) may require a person appearing before the tribunal to give evidence either to take an oath or to make an affirmation; and
 - (b) may administer an oath or affirmation to a person so appearing before the tribunal.
- (4) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the answers the person will give to questions asked of the person will be true.

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228 Manner in which questions to be decided

- (1) A question of law arising in a proceeding before the Land Tribunal at which a presiding member is presiding (including the question whether a particular question is one of law) is to be decided in accordance with the opinion of the member presiding.
- (2) Subject to subsection (1), when the members constituting the tribunal for the purposes of a particular proceeding are divided in opinion as to the decision to be made on any question—
 - (a) if there is a majority of the one opinion—the question is to be decided according to the opinion of the majority; or
 - (b) in any other case—the question is to be decided according to the opinion of the member presiding.

229 Power of tribunal to dismiss claim or strike out party

If a party to a proceeding before the Land Tribunal fails either to appear at a preliminary conference or at the hearing of the proceeding, the tribunal may—

- (a) if the party has made a claim under this Act to which the proceeding relates—dismiss the claim concerned; or
- (b) in any other case—direct that the person who failed to appear is to cease to be a party to the proceeding.

230 Tribunal may order that particular claimable land is transferable land

- (1) This section applies if, before the Land Tribunal makes a decision about whether or not a claim under this Act for claimable land, other than transferred land, is established—
 - (a) each party to the proceeding that made a claim agrees in writing that the claimable land become transferable land; and
 - (b) the tribunal is given written notice of the agreement.

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- (2) If the Land Tribunal is satisfied it is appropriate in the circumstances that the land become transferable land, the tribunal may make an order that it is transferable land.
 - (3) Before the Land Tribunal makes an order under subsection (2), the tribunal must have regard to the interests of any other party to the proceeding and how the interests are likely to be affected by the order.
 - (4) If the Land Tribunal makes an order under subsection (2)—
 - (a) the land becomes transferable land when the order is made; and
 - (b) all claims for the land are taken to have been dismissed by the tribunal.

231 General powers

For the purpose of a proceeding in relation to a claim, the Land Tribunal may do all other things necessary or convenient to be done for or in connection with the hearing and determination of the claim.

232 Reasons to be given by tribunal

- (1) Subject to this section and to section 225, the Land Tribunal must give written reasons for—
 - (a) its recommendations to the Minister in relation to a claim; and
 - (b) a claim being or not being established on 1 or more grounds.
- (2) The reasons must include its findings on material questions of fact and a reference to the evidence or other material on which those findings were based.
- (3) Subsection (2) does not apply if the tribunal's recommendations to the Minister are made without holding a hearing.

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- (4) The tribunal must cause a copy of its reasons to be given (in writing) to the Minister and each party to the proceeding.
- (5) In this section—
Minister means the Minister administering the Land Act.

233 Appeals to Land Appeal Court from decisions of tribunal

- (1) A party to a proceeding before the Land Tribunal may—
 - (a) appeal to the Land Appeal Court against a decision of the tribunal—
 - (i) that an area of land is or is not claimable land; or
 - (ii) that a claim for an area of claimable land is or is not established on a particular ground; or
 - (iii) to make or not to make a particular recommendation to the Minister in relation to a claim; or
 - (iv) as to the terms of a particular recommendation to the Minister; and
 - (b) appeal to the Land Appeal Court, with the leave of that court, against any other decision of the tribunal made in or in relation to the proceeding.
- (2) If—
 - (a) a person has applied to be made a party to a proceeding before the Land Tribunal; and
 - (b) the tribunal decides that the person is not an interested person;the person may appeal to the Land Appeal Court against the decision.
- (3) An interested person who is dissatisfied with a determination of the Land Tribunal under section 283(2)(b) may appeal to the Land Appeal Court.

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- (4) If the chairperson of the tribunal decides under section 61 that a claim is not duly made, the claimants may appeal to the Land Appeal Court.
 - (5) An appeal, or application for leave to appeal, under this section must be made in accordance with any applicable rules of court and any regulations made for the purpose of this section.
 - (6) The Land Appeal Court must hear and determine the appeal, or application for leave to appeal, and may make such order as it considers appropriate.
 - (7) Without limiting subsection (6), the orders that may be made by the Land Appeal Court on an appeal include—
 - (a) an order affirming a decision of the Land Tribunal; or
 - (b) an order varying a decision of the Land Tribunal; or
 - (c) an order setting aside a decision of the Land Tribunal and—
 - (i) making a decision in substitution for the decision set aside; or
 - (ii) remitting the matter for reconsideration in accordance with any directions or recommendations of the Land Appeal Court.
 - (8) For the purposes of an appeal, the Land Appeal Court may exercise all the powers and discretions conferred on the Land Tribunal.
 - (9) In this section—

Minister means the Minister administering the Land Act.

234 Reference of questions of law to Land Appeal Court

- (1) The Land Tribunal may, of its own motion or at the request of a party, refer a question of law arising in a proceeding before the tribunal to the Land Appeal Court for decision, but a question is not to be referred without the agreement of the presiding member (if any) who is presiding or the chairperson of the tribunal.

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- (2) If a question of law arising in a proceeding before the Land Tribunal has been referred to the Land Appeal Court, the tribunal must not, in the proceeding—
- (a) give a decision to which the question is relevant while the reference is pending; or
 - (b) proceed in a manner, or make a decision, that is inconsistent with the decision of the Land Appeal Court on the question.

235 Evidence and other findings in other proceedings

In a proceeding, the Land Tribunal may—

- (a) receive into evidence the transcript of evidence in another proceeding before—
 - (i) a court; or
 - (ii) the Land Tribunal; or
 - (iii) the National Native Title Tribunal; or
 - (iv) a recognised State/Territory body within the meaning of the *Native Title Act 1993* (Cwlth); or
 - (v) another entity;and draw conclusions of fact from the transcript; and
- (b) receive into evidence a document or other thing introduced into evidence in another proceeding before a court, tribunal, body or other entity and draw conclusions from the document or thing; and
- (c) adopt findings, reports, recommendations, decisions, determinations or judgments of a court, tribunal, body or other entity.

236 Protection of members etc.

- (1) A member of the Land Tribunal has, in the performance of the member's duties as a member, the same protection and immunity as a judge of the Supreme Court.

- (2) A person representing a party before the Land Tribunal has the same protection and immunity as a barrister has in appearing for a party in a proceeding in the Supreme Court.
- (3) A person summoned to attend or appearing before the Land Tribunal as a witness has the same protection as a witness in a proceeding in the Supreme Court.

237 Continuing authority of member

If a member's appointment expires, the appointment continues until the member finishes performing any function started, but not finished, before the expiry of the appointment.

238 Failure of witness to attend

A person served, as prescribed, with a summons to appear as a witness before the Land Tribunal must not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to appear from time to time in the course of the proceeding as required by the presiding member.

Maximum penalty—20 penalty units.

239 Refusal of witness to be sworn or to answer questions

- (1) A person appearing as a witness at a hearing of the Land Tribunal must not, without reasonable excuse—
 - (a) fail to be sworn or to make an affirmation; or
 - (b) fail to answer a question that the person is required to answer by the presiding member; or
 - (c) fail to produce a document that the person was required to produce by a summons under this Act served on the person as prescribed.

Maximum penalty—20 penalty units.

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- (2) It is a reasonable excuse for a person to fail to answer a question if answering the question may tend to incriminate the person.
- (3) It is a reasonable excuse for a person to fail to produce a document if producing the document may tend to incriminate the person.

240 Obstructing tribunal etc.

- (1) A person must not obstruct or improperly influence the conduct of a hearing of the Land Tribunal or attempt to do so.
- (2) A person must not contravene an order under section 225.
Maximum penalty—40 penalty units.

241 Allowances for witnesses

A witness summoned to appear at a hearing of the Land Tribunal is entitled to be paid such allowances and expenses—

- (a) as are prescribed; or
- (b) as the chairperson of the tribunal determines in the absence of regulations.

Division 4 Miscellaneous

242 Management of administrative affairs of tribunal

The chairperson of the Land Tribunal is responsible for managing the administrative affairs of the tribunal.

243 Staff of tribunal employed under Public Service Act

The staff of the Land Tribunal are to be employed under the *Public Service Act 2008*.

244 Consultants to tribunal

The Land Tribunal may, on behalf of the State, engage persons having suitable qualifications and experience as consultants to the tribunal.

245 Annual report

- (1) The chairperson of the Land Tribunal must, not later than 4 months after the end of each financial year, prepare and give to the Minister a report on the operations of the tribunal during the year.
- (2) The Minister must cause a copy of the report to be laid before the Legislative Assembly within 14 days after its receipt by the Minister.
- (3) If, at the time the Minister would otherwise be required to lay a copy of the report before the Legislative Assembly, the Legislative Assembly is not in session or not actually sitting, the Minister must give a copy of the report to the clerk of the Parliament.
- (4) The clerk must cause a copy of the report to be laid before the Legislative Assembly on its next sitting day.
- (5) For the purposes of its publication, the report is taken to have been laid before the Legislative Assembly, and to have been ordered to be published by the Legislative Assembly, when it is given to the clerk.

246 Delegation of powers by chairperson

The chairperson of the Land Tribunal may delegate his or her powers under this or any other Act to another presiding member of the tribunal.

Part 20 **Provisions about land trusts**

Division 1 **Preliminary**

247 **Composition of land trust**

A land trust for an area of Aboriginal land consists of all the members for the time being of the land trust.

248 **Nature of land trust**

- (1) A land trust—
 - (a) is a body corporate with perpetual succession; and
 - (b) has a seal; and
 - (c) may sue and be sued in its corporate name.
- (2) A land trust has all the powers of an individual and may, for example—
 - (a) acquire, hold and dispose of property; and
 - (b) borrow, receive and spend money; and
 - (c) employ staff, and engage consultants, necessary for the performance of its function.
- (3) The land trust's seal—
 - (a) is effective only if the land trust's name is inscribed on the seal in legible characters, but the seal may include other words; and
 - (b) is to be kept by a person who is authorised by the land trust for that purpose; and
 - (c) may be attached to a document only with the written authority signed by—
 - (i) if the land trust consists of 1 member—the member; or

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- (ii) if the land trust consists of no more than 3 members—the chairperson of the land trust and at least 1 other member; or
 - (iii) in any other case—
 - (A) the chairperson and at least 2 other members; or
 - (B) at least 3 members.
 - (4) Judicial notice must be taken of the seal on a document.
 - (5) A document marked with the seal must be presumed to have been properly sealed, unless the contrary is proved.

249 Function and powers of land trust

- (1) The function of a land trust is to provide a legal entity by which the members of the land trust may perform functions under this Act.
- (2) A land trust may exercise all powers necessary or convenient to perform its function.

Note—

Also see section 267.

Division 2 Minister's power to appoint, remove or suspend members of land trusts

Subdivision 1 Appointment of members

250 Minister may appoint member

- (1) The Minister may, by written notice given to a land trust, appoint a person to be a member of the land trust if—
 - (a) the rules of the land trust do not provide for the appointment of members; or

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- (b) because of any circumstances affecting the operation of the land trust, the land trust can not appoint a member and a majority of members of the land trust have asked the Minister in writing to appoint the person as a member; or

Example of circumstances affecting the operation of a land trust—

A land trust can not form a quorum for a meeting of the land trust to appoint a member.

- (c) the Minister considers it appropriate to appoint the member to ensure the land trust can carry out its functions under this Act.

Example—

The Minister might appoint a member to replace a member removed by the Minister under this division.

- (2) Before acting under subsection (1), the Minister must—
- (a) consult with the land trust; and
- (b) if the Minister considers it appropriate in the circumstances—consult with, and consider the views of, Aboriginal people particularly concerned with the Aboriginal land held by the land trust.
- (3) The Minister must not appoint a person under subsection (1) without the person's consent.
- (4) The Minister must give the person a copy of the notice mentioned in subsection (1) when the notice is given to the land trust.
- (5) A person appointed as a member of a land trust under this section becomes a member on the day stated in the notice.
- (6) In acting under this section, the Minister must have regard to any Aboriginal tradition applicable to the Aboriginal land held by the land trust.

Subdivision 2 Removal or suspension of members

251 Grounds for removal or suspension of member

Each of the following is a ground for removing or suspending a member—

- (a) if the member is a member of the executive committee of the land trust, the member—
 - (i) in performing the member's functions as a member of the committee, has contravened or is contravening a provision of this Act; or
 - (ii) is carrying on, or has carried on, the business of the land trust in a fraudulent or improper way;
- (b) the member has stolen, misappropriated or improperly applied trust property;
- (c) the member is acting, or has acted, towards the land trust or another member in a fraudulent or improper way;
- (d) if the rules of the land trust do not provide for the removal or suspension of members—
 - (i) the land trust has asked the Minister in writing to remove or suspend the member; and
 - (ii) a ground mentioned in paragraph (a), (b) or (c) exists in relation to the member;
- (e) because of any circumstances affecting the operation of the land trust—
 - (i) the land trust can not remove or suspend a member and a majority of members of the land trust have asked the Minister in writing to remove or suspend the member; and
 - (ii) a ground mentioned in paragraph (a), (b) or (c) exists in relation to the member.

Example of circumstances affecting the operation of a land trust—

A land trust can not form a quorum for a meeting of the land trust to remove or suspend a member.

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252 Show cause notice

- (1) This section applies if the Minister believes a ground exists to remove or suspend a member of a land trust.
- (2) The Minister must give the member and the land trust a notice (a *show cause notice*).
- (3) The show cause notice must state the following—
 - (a) the action the Minister proposes to take under this subdivision (the *proposed action*);
 - (b) the ground for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the ground;
 - (d) if the proposed action is suspension of the member—the proposed suspension period;
 - (e) that the member and the land trust may, within a stated period (the *show cause period*), make written representations to the Minister to show why the proposed action should not be taken.
- (4) The show cause period must end at least 1 month after the show cause notice is given.

253 Representations about show cause notice

- (1) The member or land trust may make written representations to the Minister about the show cause notice during the show cause period.
- (2) The Minister must consider all representations (the *accepted representations*) made under subsection (1).

254 Ending show cause process without further action

If, after considering the accepted representations for the show cause notice, the Minister no longer believes a ground exists to remove or suspend the member, the Minister must—

- (a) take no further action about the show cause notice; and

- (b) give the member and the land trust a notice that no further action is to be taken about the show cause notice.

255 Removing or suspending member

- (1) This section applies if—
 - (a) there are no accepted representations about the show cause notice; or
 - (b) after considering the accepted representations about the show cause notice, the Minister—
 - (i) still believes a ground exists to remove or suspend the member; and
 - (ii) believes removal or suspension of the member is warranted.
- (2) The Minister may—
 - (a) if the proposed action was to remove the member—remove the member; or
 - (b) if the proposed action was to suspend the member—suspend the member for not longer than the proposed suspension period.
- (3) Before acting under subsection (2), the Minister must, if the Minister considers it appropriate in the circumstances, consult with and consider the views of Aboriginal people particularly concerned with the Aboriginal land held by the land trust.
- (4) In acting under this section, the Minister must have regard to any Aboriginal tradition applicable to the Aboriginal land held by the land trust.
- (5) If the Minister decides to take action under subsection (2), the Minister must as soon as practicable give—
 - (a) the person an information notice for the decision; and
 - (b) the land trust written notice of the decision.
- (6) The decision takes effect on the later of the following—
 - (a) the day the information notice is given to the person;

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- (b) the day stated in the information notice for that purpose.
- (7) In this section—
- information notice*, for a decision of the Minister, means a notice stating all of the following—
- (a) the decision;
 - (b) the reasons for the decision;
 - (c) that the person to whom the notice is given may appeal to the Land Court against the decision within 28 days after receiving the notice;
 - (d) how the person may appeal.

256 Immediate removal or suspension of member

- (1) The Minister may remove or suspend a member immediately if the Minister believes—
- (a) a ground exists for removing or suspending the member; and
 - (b) it is necessary to remove or suspend the member immediately because there is an immediate and serious risk to the proper operation of the land trust or proper dealing with trust property.
- (2) The removal or suspension under this section—
- (a) can be effected only by the Minister—
 - (i) giving an information notice to the member about the decision to remove or suspend the member, together with a show cause notice; and
 - (ii) giving notice of the removal or suspension to the land trust when the notices under subparagraph (i) are given to the member; and
 - (b) operates immediately the notices are given to the member; and
 - (c) continues to operate until the earlier of the following happens—

- (i) the show cause notice is finally dealt with;
- (ii) 60 days have passed since the notices were given to the member.

Subdivision 3 Other matters

257 Limitation on land trust's power about appointment or suspension of member

- (1) This section applies to a land trust that, under its rules, may appoint, remove or suspend members of the land trust.
- (2) The land trust can not—
 - (a) appoint a person as a member of the land trust if the person has been removed as a member by the Minister under this division; or
 - (b) end the suspension of a person from membership of the land trust if the suspension is imposed by the Minister under this division.

Division 3 Recording information about compliance with Act

258 Particular information to be recorded in register

- (1) The chief executive must, for each land trust and each financial year, record in the Aboriginal land holding entity register whether or not the land trust has, for the financial year, operated in compliance with the Act.
- (2) In deciding whether or not a land trust has operated in compliance with the Act, the chief executive must have regard to any minimum requirements, prescribed under a regulation, that a land trust must meet to be compliant.

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Division 4 Land trusts to give information to chief executive

259 Definition for div 4

In this division—

information includes a document.

260 Power to require particular information

- (1) The chief executive may, by written notice, require a land trust to give the chief executive stated information, or stated types of information, in its possession or control that is, or are, relevant to the operation of the land trust or the conduct of its business.

Examples of information—

- information about how a land trust made a particular decision
 - accounts, bank statements and other financial information
 - minutes of meetings
- (2) The notice must state a reasonable period to comply with the requirement.
- (3) The land trust must comply with the requirement unless complying with the notice would place the land trust in contravention of a law.

Division 5 Freezing accounts of land trusts

261 Definitions for div 5

In this division—

account, of a land trust, means—

- (a) an account, with a financial institution, in the land trust's name or in which the land trust has an interest; or
- (b) another account to which trust money is deposited.

holder, of a land trust's account, means the land trust or other person authorised to operate the account.

trust money means any amount that is trust property.

262 Freezing land trust's accounts

- (1) The chief executive may give a direction under subsection (2) if, on considering a report on an audit of a land trust's accounts, it appears to the chief executive that—
 - (a) the land trust, a member of the land trust or another person has, or may have, stolen, misappropriated or misapplied trust money; or
 - (b) the accounts of the land trust are not being kept appropriately.
- (2) The chief executive may direct, by a written notice, that—
 - (a) an amount must not be drawn from a stated account other than with the chief executive's approval; or
 - (b) a stated account may be operated only under stated conditions.
- (3) The direction must—
 - (a) be given to the holder of the account and the financial institution where the account is kept; and
 - (b) state the account to which it relates; and
 - (c) if it includes a direction under subsection (2)(b), state the conditions under which the account may be operated.

263 Financial institution must comply with direction

- (1) After the direction is given to a financial institution, and until it is withdrawn, the financial institution must not—
 - (a) pay a cheque or other instrument drawn on the account stated in the direction unless the cheque or instrument is also signed by the chief executive; or

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- (b) give effect to another transaction on the account that is not authorised because of the direction.

Maximum penalty—100 penalty units.

- (2) For section 262(2)(a), the chief executive's signature on the cheque or instrument is sufficient evidence of the chief executive's approval to draw an amount from the account to honour the cheque or instrument.

264 Withdrawal of direction

- (1) The chief executive may withdraw a direction given under section 262 at any time.
- (2) If the direction is withdrawn, the chief executive must immediately give all persons who were given the direction a written notice, signed by the chief executive, that the direction has been withdrawn.
- (3) A direction stops having effect when it is withdrawn.

Division 6 Miscellaneous

265 Chief executive may prepare model rules

- (1) The chief executive may prepare model rules for land trusts.
- (2) In adopting changes to its rules, or adopting new rules, a land trust must have regard to the model rules prepared under subsection (1).
- (3) If the chief executive prepares model rules under subsection (1), the chief executive must give a copy of the model rules to each land trust.

266 Provision about vesting of Aboriginal land

- (1) If Aboriginal land is held by a land trust, the land is taken to have been vested in the land trust.

- (2) Subsection (1) applies to Aboriginal land whether or not the land was first held by the land trust before the commencement of this section.

Part 21 Application of Trusts Act 1973

Division 1 Preliminary

267 Application of Trusts Act 1973

- (1) The *Trusts Act 1973* applies to a land trust and its members in relation to dealings with Aboriginal land only to the extent prescribed under this part.
- (2) To the extent that the *Trusts Act 1973* does apply to a land trust and its members in relation to dealings with Aboriginal land, it applies with the changes prescribed under this part.
- (3) To remove any doubt, it is declared that the *Trusts Act 1973* applies, without changes, to a land trust and its members in relation to dealings with trust property that is not Aboriginal land.

268 Functions and powers of land trust under Trusts Act 1973

- (1) A land trust may perform all the functions and exercise all the powers of a trustee under the *Trusts Act 1973*.
- (2) Subsection (1)—
 - (a) applies subject to any other provision of this Act; and
 - (b) does not limit section 249(2).

Division 2 Powers of Supreme Court

269 Jurisdiction of Supreme Court

- (1) Subject to subsection (2), the jurisdiction of the Supreme Court under the *Trusts Act 1973* includes matters arising under this Act.
- (2) The powers of the Supreme Court under the *Trusts Act 1973* are to be exercised—
 - (a) if provision is made in this part for a matter—in accordance with this part; or
 - (b) otherwise—in a way that is consistent with, and best achieves, the purposes of this Act.

270 Power of court to relieve member of land trust from personal liability

- (1) This section applies if it appears to the Supreme Court that a member of a land trust is or may be personally liable for a breach of trust by the member, another member or the land trust.
- (2) If it appears to the court that the member—
 - (a) has acted honestly and reasonably; and
 - (b) ought fairly to be excused for the breach of trust or for omitting to obtain the directions of the court in the matter in which the member, the other member or the land trust committed the breach;

the court may relieve the member wholly or partly from personal liability for the breach.

271 Court may order beneficiary to indemnify for certain breaches

- (1) This section applies if a land trust or a member of a land trust commits a breach of trust at the instigation or request of, or with the written consent of, a beneficiary.

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- (2) The Supreme Court may, as it considers just, order that all or part of the interest of the beneficiary in the trust property is impounded to indemnify the land trust, the member or persons claiming through the land trust or member.

272 Right of land trust or member to apply to court for directions

- (1) A land trust or member of a land trust may apply to the Supreme Court for directions in relation to—
- (a) the trust property of the land trust or its management or administration; or
 - (b) the exercise of a power of the land trust or a member of the land trust.
- (2) The application must be served on, and the hearing of the application may be attended by—
- (a) all persons interested in the application; or
 - (b) the persons interested in the application, or their representatives, that the court considers appropriate.

273 Court's jurisdiction to make orders conferring power on land trust or members

- (1) This section applies if, in the Supreme Court's opinion, a disposition or transaction—
- (a) is expedient for the management or administration of trust property by a land trust or members of a land trust; or
 - (b) would be in the best interest of the Aboriginal people, or a majority of the Aboriginal people, for whose benefit the property is held;
- but—
- (c) it is inexpedient, difficult or impractical to effect the disposition or transaction without the assistance of the Supreme Court; or

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- (d) the land trust or members do not have power under the Act to effect the disposition or transaction.
- (2) The Supreme Court may—
 - (a) confer on the land trust or members the necessary power for the purpose of effecting the disposition or transaction (other than a power to sell or mortgage Aboriginal land), on such terms and subject to any conditions, as the court considers appropriate; and
 - (b) direct the way that—
 - (i) any amount authorised to be spent, and the costs of the disposition or transaction, are to be paid or borne from trust property; and
 - (ii) the amount is to be apportioned between the capital and income of the trust property.
- (3) The Supreme Court may—
 - (a) rescind or vary an order under this section; or
 - (b) make a new or further order.
- (4) The rescision or variation of an order does not affect anything done by a person relying on the order before the person became aware of the application to the court to rescind or vary the order.
- (5) An application to the court under this section may be made by—
 - (a) a land trust; or
 - (b) a member of a land trust; or
 - (c) a person for whose benefit the trust property is held.
- (6) In this section—

disposition means a sale, lease, mortgage, surrender, release or another type of disposition.

transaction means a purchase, investment, acquisition, retention, expenditure or another type of transaction.

274 Protection of land trust or member while acting under direction of court

- (1) If a land trust or member of a land trust acts under direction of the Supreme Court, the land trust or member is to be taken to have discharged the duty as trustee in the subject matter of the direction.
- (2) Subsection (1) applies even if the direction is subsequently declared invalid, overruled, set aside or otherwise rendered of no effect or varied.
- (3) This section does not indemnify a land trust or member of a land trust in relation to an act done in accordance with a direction of the court obtained by the land trust or member by fraud, wilful concealment or misrepresentation or in acquiescence in the fraud, wilful concealment or misrepresentation.

275 Power of Supreme Court to make orders in absence of member

- (1) If, in a proceeding under this Act, the Supreme Court is satisfied that—
 - (a) a diligent search has been made for a member of a land trust who is named as a party in an action; and
 - (b) the member can not be found to serve the member with a process of the court;the court may hear and decide the proceeding and give judgment against the member as if the member had been served or had entered an appearance in the action, and had also appeared by counsel or solicitor at the hearing.
- (2) Subsection (1) applies without prejudice to any interest the member may have in the matter in question in the proceeding in any other capacity.
- (3) If a member, at the time of the proceeding—
 - (a) is not within the jurisdiction; or
 - (b) is under a disability; or

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(c) can not be found;

the court may appoint a person to represent the member and may proceed in the absence of the member, and all orders made in the proceeding are binding on the member as if the member had been present and of full capacity.

276 Power of Supreme Court to charge costs on trust property

The Supreme Court may order the cost and expenses of, and incidental to, an application for an order or direction under this part to be—

- (a) paid or raised out of the trust property (other than Aboriginal land) as the court considers appropriate; or
- (b) borne and paid in the way and by the persons as the court considers just.

Part 22 Appeals

277 Who may appeal

- (1) A person who made representations to the Minister under part 2, division 4 about a proposed declaration under section 16(1)(d) may appeal to the Land Court against the decision to make the declaration.
- (2) A lessee of a residential lease the subject of a decision under section 156 to not renew the lease may appeal to the Land Court against the decision.
- (3) A person the subject of a decision under section 162 about an amount payable to the person for forfeiture or non-renewal of a residential lease may appeal to the Land Court against the decision.
- (4) A member of a land trust who is given, or is entitled to be given, an information notice under part 20, division 2 about a

decision to remove or suspend the member from the land trust may appeal to the Land Court against the decision.

278 Starting appeal

- (1) An appeal is started by filing written notice of appeal with the registrar of the Land Court.
- (2) The notice of appeal must be filed within 28 days after the person receives the notice of the decision or information notice about the decision.
- (3) However, the Land Court may, at any time within the 28 days, extend the period for making the appeal.

279 Nature of appeal

The appeal is by way of rehearing, unaffected by the decision, on the material before the decision-maker and any further evidence allowed by the Land Court.

280 Notice of appeal

A person who appeals against a decision under this part must give a copy of the notice of appeal to—

- (a) for a decision mentioned in section 277(1), (2) or (3)—the decision-maker; or
- (b) for a decision mentioned in section 277(4)—the decision-maker and the land trust.

281 Powers of Land Court on appeal

- (1) In deciding the appeal, the Land Court has the same powers as the decision-maker.
- (2) The Land Court may—
 - (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or

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- (c) set aside the decision and return the issue to the decision-maker with directions the court considers appropriate.
- (3) If the Land Court substitutes another decision, the substituted decision is, other than for the purpose of an appeal under this part, taken to be the decision of the decision-maker.

Part 23 Miscellaneous

282 Creation of interests in transferable and claimable land

- (1) Nothing in this Act prevents the creation of an interest in transferable land if—
 - (a) the interest is a mining interest or a geothermal exploration permit under the *Geothermal Exploration Act 2004*; or
 - (b) the interest is a residential tenancy; or
 - (c) the interest is a lease or permit granted in relation to transferable land that is Aboriginal trust land; or
 - (d) the interest is the transfer, mortgage or sublease of a trustee (Aboriginal) lease; or
 - (e) for another interest—the Minister, subject to subsection (2), consents to the creation of the interest.
- (2) The Minister must not consent under subsection (1)(e) to the creation of the interest unless the Minister is satisfied that the creation of the interest is for the benefit of Aboriginal people particularly concerned with the land.
- (3) The Minister may give a relevant entity a written authority dispensing with the need to obtain the Minister’s consent to the creation of a particular type of interest in transferable land if the Minister considers it is appropriate in all the circumstances to give the authority.

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- (4) Nothing in this Act prevents the creation of an interest in claimable land that is not transferred land (whether or not a claim has been made under this Act for the land) if—
- (a) the interest is a mining interest or a geothermal exploration permit under the *Geothermal Exploration Act 2004*; or
 - (b) for another interest—the Minister, subject to subsection (5), consents to the creation of the interest.
- (5) The Minister must not consent under subsection (4)(b) to the creation of the interest unless the Minister is satisfied that—
- (a) the creation of the interest is for the benefit of Aboriginal people particularly concerned with the land; or
 - (b) the interest will cease to have effect before, or if and when, the land becomes Aboriginal land.
- (6) This section has effect despite anything in any other Act.
- (7) In this section—
- relevant entity* means—
- (a) a trustee, under the Land Act, of Aboriginal trust land; or
 - (b) the Council of the Shire of Aurukun or the Council of the Shire of Mornington.

283 Rights of access to interests preserved

- (1) This section applies if—
- (a) a person has an interest in land (the *person's land*); and
 - (b) the person's land is—
 - (i) surrounded by Aboriginal land; or
 - (ii) in the vicinity of Aboriginal land and the only practicable way of gaining access to the person's land is across the Aboriginal land.

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- (2) The person and the person's officers, employees, agents, servants, licensees and invitees are entitled, with or without vehicles, machinery, plant and equipment (of any description), to enter and cross Aboriginal land for the purpose of gaining access to the person's land by a route—
 - (a) that is agreed on from time to time by the trustee of the Aboriginal land and the person; or
 - (b) if the trustee and the person fail to agree within a reasonable time—that is determined by the Land Court on application by the person.
- (3) The trustee of Aboriginal land, other than a registered native title body corporate, must not agree on a route for the purposes of subsection (2)(a) unless—
 - (a) the trustee has explained to the Aboriginal people particularly concerned with the land the purpose and effect of the proposed route; and
 - (b) those Aboriginal people are given an adequate opportunity to express their views on, and are generally in agreement with, the proposed route.
- (4) Contravention of subsection (3) does not invalidate an agreement made for the purposes of subsection (2)(a).
- (5) If the only practicable way of gaining access to the person's land is across Aboriginal land that is the subject of a townsite lease or other registered interest (*relevant land*)—
 - (a) subsection (2) applies to the relevant land as if the reference to the trustee of the Aboriginal land, or the trustee, were a reference to the lessee of the townsite lease or the person registered in the appropriate register as the holder of the other interest; and
 - (b) subsection (3) does not apply.
- (6) Subsection (5) does not affect the operation of subsections (2) and (3) in relation to Aboriginal land that is not relevant land.

284 National park subject to lease to State etc.

- (1) If transferred land or granted land is, or includes part of, a national park (the *national park land*), the grant of the national park land—
 - (a) is subject to the condition that the grantee leases the national park land, in perpetuity, to the State for the purposes of the management of the national park land under the *Nature Conservation Act 1992*; and
 - (b) is subject to the conditions prescribed under a regulation for the national park land or national parks generally.
- (2) There is to be a board of management for the national park land.
- (3) Subject to subsections (4) and (5), the board of management is to be composed in the way approved by the Minister.
- (4) The Aboriginal people particularly concerned with the national park land are to be represented on the board of management if the land is granted other than to a registered native title body corporate.
- (5) If the national park land is granted to a registered native title body corporate, the registered native title body corporate is to be represented on the board of management.
- (6) The Minister must, in cooperation with the board of management and before the grant of the land, prepare a management plan for the national park land.
- (7) The *Nature Conservation Act 1992*, part 7 applies to the management plan as if it were a management plan required to be prepared under the part.
- (8) In the preparation of a management plan, the Minister must—
 - (a) if the national park land is granted other than to a registered native title body corporate—consult with, and consider the views of, the Aboriginal people particularly concerned with the national park land; and
 - (b) subject to this section and the *Nature Conservation Act 1992*, have regard to any Aboriginal tradition applicable

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to the national park land (including any tradition relating to activities on the national park land).

- (9) The lease of the national park land must be subject to the following conditions—
- (a) that the national park is to be managed in accordance with the management plan as in force from time to time;
 - (b) that the management plan is to be implemented by the board of management.
- (10) The grantee of the transferred land or granted land must—
- (a) sign a lease of the national park land in registrable form containing the required conditions and such other terms and conditions as are agreed; and
 - (b) give the signed lease to the Minister before or at the time of delivery of the deed of grant issued under section 38 or 74 in relation to the land.
- (11) Nothing in this Act or a management plan or lease under this section is to result in a decrease, in the aggregate, in the public rights of access that existed in relation to the national park land immediately before the land became transferable land or claimable land.
- (12) In this section—

Minister means the Minister administering the *Nature Conservation Act 1992*.

national park does not include a national park in the Cape York Peninsula Region.

285 Persons and bodies representing State or Commonwealth

The regulations may declare that a person or body is to be treated for the purposes of this Act, or a particular provision of this Act, as representing, or as not representing, the State or the Commonwealth (whether generally or in relation to a particular area or class of land).

286 Delegation by Minister

The Minister may, by signed writing, delegate to an officer of the public service all or any of the Minister's powers under or in relation to this Act.

287 Amendment of description of land

- (1) If, at any time after a deed of grant under this Act takes effect, greater certainty, by survey or otherwise, is obtained as to the boundaries of the land, the trustee must, on receipt of a written notice to do so by the chief executive, surrender to the State the deed to the land within such reasonable period as is specified in the notice.
- (2) On surrender of the deed, a new deed of grant delineating the amended boundaries is to be issued to the trustee.
- (3) The new deed of grant is to be issued on the same ground (if any) as the surrendered deed of grant.
- (4) The registrar of titles must endorse on the new deed of grant, in the proper order or priority, the instruments under which existing relevant interests arose.

288 Dealing with particular trust property

- (1) Subsection (2) applies to a trustee, other than the State, if the trustee receives an amount paid under section 143 for the value of a dwelling.
- (2) The trustee must ensure an amount equal to the amount received is used by the trustee for housing services for Aboriginal people concerned with the land held by the trustee.
- (3) Subsection (4) applies to the lessee of a townsite lease if the lessee receives an amount paid under section 143 for the value of a dwelling.
- (4) The lessee must ensure an amount equal to the amount received is used by the lessee for housing services for Aboriginal people concerned with the land the subject of the townsite lease.

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(5) In this section—

housing service means—

- (a) providing housing to an individual for residential use; or
- (b) any of the following kinds of service—
 - (i) tenant advisory services;
 - (ii) tenant advocacy services;
 - (iii) home maintenance services;
 - (iv) home modification services;
 - (v) housing-related referral and information services.

trustee includes a trustee, under the Land Act, of Aboriginal trust land.

289 Application of Residential Tenancies and Rooming Accommodation Act 2008

The *Residential Tenancies and Rooming Accommodation Act 2008* does not apply to a lease granted under this Act for private residential purposes.

290 Survey costs etc. to be paid by State

- (1) Survey costs incurred in relation to the preparation of a deed of grant under section 38, 74 or 287 are to be paid by the State.
- (2) No fees or charges are payable for the preparation and registration of—
 - (a) a deed of grant in fee simple under this Act; or
 - (b) a lease prepared for section 284; or
 - (c) a surrender, under or for this Act, of a deed of grant or lease mentioned in paragraph (a) or (b).
- (3) This section has effect despite any other Act.

291 Application of Financial Accountability Act 2009

- (1) A land trust is not a statutory body for the *Financial Accountability Act 2009*.
- (2) However, a land trust must, at all reasonable times—
 - (a) allow a suitably qualified person appointed by the chief executive to audit the accounts of the land trust; and
 - (b) give the person appointed to audit the accounts of the land trust the help the person reasonably requires for conducting the audit, including disclosing financial institution account details.

292 Confirmation of status of particular land

- (1) To remove any doubt, it is declared that—
 - (a) the sales permit does not create, and never has created, for the purposes of section 24, an interest in land; and
 - (b) the amending regulation was valid.
- (2) In this section—

amending regulation means the *Aboriginal Land Amendment Regulation (No. 1) 2002*.

sales permit means Sales Permit No. 004490, dated 18 October 1990, issued under the *Forestry Act 1959*.

293 Approval of forms

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

294 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may make provision for—

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- (a) matters relevant to the operations, including the functions, of a land trust; and
 - (b) the indemnification of members of a land trust from personal liability; and
 - (c) rules for land trusts, including, for example, the adoption of rules and the matters that must be included in the rules; and
 - (d) accounting requirements for land trusts, including, for example, keeping accounts, preparing financial statements, auditing accounts and giving audit reports to the chief executive; and
 - (e) matters relating to the dissolution of Aboriginal land claim associations; and
 - (f) the minimum annual rental amount payable by the State under a lease granted to the State under this Act.
- (3) In this section—

Aboriginal land claim association means an Aboriginal land claim association incorporated under the repealed regulation and in existence immediately before the commencement of the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*, part 3.

Part 24 Validation provisions

295 Existing conservation agreements

- (1) This section applies to a conservation agreement in relation to transferred land entered into, or purportedly entered into, under the *Nature Conservation Act 1992*, section 45, by the grantees of the land before 18 March 2005.
- (2) The agreement is taken to be, and always to have been, valid.

296 Existing interest in transferable land

- (1) This section applies to an interest in transferable land that is a residential tenancy agreement if, on the commencement—
 - (a) the agreement is in force; and
 - (b) the Minister had not consented to the creation of the interest under section 131.
- (2) On the commencement, the Minister is taken to have consented to the creation of the interest under section 131 as in force before the commencement.
- (3) In this section—

commencement means the day this section commences.

Editor's note—

Section 131 has been renumbered as section 282—see section 306.

297 Retrospective validation of dealings with trustee (Aboriginal) lease

- (1) Subsection (2) applies to a trustee (Aboriginal) lease if the lease—
 - (a) was granted under the Land Act, section 57 before 18 July 2008; and
 - (b) was amended, transferred, mortgaged or subleased, during the relevant period, under the Land Act, chapter 3, part 1, division 7.
- (2) The amendment, transfer, mortgage or sublease of the trustee (Aboriginal) lease (the *dealing*) is taken to be, and to always have been, as valid as if—
 - (a) the dealing were a dealing carried out under this Act; and
 - (b) section 184, as in force immediately after the commencement of this section, had been in force on the day the dealing was carried out.
- (3) Subsection (4) applies to a trustee (Aboriginal) lease if the lease—

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- (a) was granted under the Land Act, section 57 before 18 July 2008; and
 - (b) was amended, transferred, mortgaged or subleased, during the relevant period, under this Act.
- (4) The amendment, transfer, mortgage or sublease of the trustee (Aboriginal) lease (also the *dealing*) is taken to be, and to always have been, as valid as if section 184, as in force immediately after the commencement of this section, had been in force on the day the dealing was carried out.
- (5) In this section—
relevant period means the period starting on 18 July 2008 and ending immediately before the commencement of this section.

Part 25 Transitional provisions

Division 1 Transitional provision for Audit Legislation Amendment Act 2006

298 Further amendment, or repeal, of Aboriginal Land Regulation 1991

The amendment of the *Aboriginal Land Regulation 1991* by the *Audit Legislation Amendment Act 2006* does not affect the power of the Governor in Council to further amend that regulation or to repeal it.

Division 2 Transitional provisions for Aboriginal and Torres Strait Islander Land Amendment Act 2008

Subdivision 1 Preliminary

299 Definition for div 2

In this division—

commencement means the day on which the provision in which the term is used commences.

Subdivision 2 Transitional provisions

300 Transferred land—change to beneficiaries

- (1) This section applies to transferred land granted before the commencement.
- (2) On the commencement, the trustee of the land is taken to hold it for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants.
- (3) As soon as practicable after the commencement, the chief executive must give written notice to the registrar of titles that the land vests in the trustee as mentioned in subsection (2).
- (4) On receiving the notice, the registrar of titles must record in the freehold land register that the land is vested as mentioned in subsection (2).

301 Interests in Aboriginal land continue

If Aboriginal land was, immediately before the commencement, subject to an interest granted or otherwise

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created under section 39 or 76 as in force before the commencement, the interest continues in force.

Editor's note—

Section 39 has been renumbered as section 50—see section 306.

Division 3

Transitional provisions for Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011

302 Definition for div 3

In this division—

previous, for a provision of this Act, means the provision as in force immediately before the commencement of this division.

Editor's note—

The provisions of this Act as in force before the commencement have been renumbered—see section 306.

303 Continued operation of provisions for appointing grantees

- (1) This section applies despite the amendment of this Act by the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*.
- (2) The Minister may, on or before 31 December 2011 and under previous section 40, appoint persons the Minister considers necessary to be the grantees, as trustees for the benefit of Aboriginal people, of land the subject of a deed of grant under previous section 38.
- (3) The Minister may, on or before 31 December 2011 and under previous section 75, appoint persons the Minister considers necessary to be the grantees, as trustees for the benefit of the group of Aboriginal people concerned, of land.

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- (4) If the Minister appoints grantees under previous section 40 or 75, the grantees are, on appointment, taken to be incorporated as a land trust under this Act for the land.
 - (5) As soon as practicable after the grantees are incorporated, the Minister must, by gazette notice, state—
 - (a) the name of the land trust; and
 - (b) the description of the land as stated in the deed of grant held by the grantees; and
 - (c) an address for service of documents on the land trust.
 - (6) The last 2 words of the name of the land trust must be the words ‘Land Trust’.

304 Continued operation of provisions about land trusts

- (1) The Minister may, on or before 31 December 2011, establish a land trust under previous part 9 for the purpose stated in previous section 83B.
- (2) For subsection (1), previous section 83A applies—
 - (a) as if the reference in previous section 83A(3)(b) to the *Aboriginal Land Regulation 1991* were a reference to the repealed regulation; and
 - (b) as if the reference in previous section 83A(5) to ‘as far as practicable, act in a way that is consistent with’ were a reference to ‘have regard to’; and
 - (c) as if the reference in previous section 83A(6) to ‘act in a way that is consistent with’ were a reference to ‘have regard to’.
- (3) Previous sections 83C to 83E continue to apply in relation to a land trust established under previous section 83A.
- (4) For subsection (2)(a), the repealed regulation, as in force immediately before its repeal, continues in force despite its repeal.

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- (5) This section applies despite the amendment of this Act by the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*.

305 References to previous provisions after renumbering

- (1) A reference in another Act, a regulation or document to a particular previous provision of this Act may, if the context permits, be taken as a reference to any provision of the renumbered Act, all or part of which corresponds, or substantially corresponds, to the previous provision.
- (2) In this section—
renumbered Act means this Act as renumbered under section 306.

Part 26 Renumbering of Acts

306 Amendment to renumber

- (1) On the commencement of this section, the provisions of this Act are amended by numbering and renumbering them in the same way as a reprint may be numbered and renumbered under the *Reprints Act 1992*, section 43.
- (2) Subsection (1) applies to a provision of this Act enacted or otherwise affected (a *relevant provision*) by a provision of an amending Act enacted but uncommenced when subsection (1) is commenced (the *uncommenced provision*), with the following intent for the relevant provision—
- (a) if the number of the relevant provision would have changed under subsection (1) had the uncommenced provision commenced—
- (i) a number is allocated to the relevant provision as if the uncommenced provision had commenced; and

- (ii) when the uncommenced provision commences, the number of the relevant provision is amended by omitting it and inserting the number allocated to it under subparagraph (i);
 - (b) if the relevant provision would have been omitted or relocated had the uncommenced provision commenced, its number remains the same as it was before the commencement of subsection (1) until the omission or relocation takes effect.
- (3) Without limiting the *Reprints Act 1992*, section 43(4), each reference in this Act, and each reference in the *Torres Strait Islander Land Act 1991* to a provision of this Act renumbered under subsection (1), is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number.
- (4) In this section—
- amending Act* means an Act that amends this Act.

307 Expiry of part

This part expires on the later of the following—

- (a) the day after the commencement of the last numbering or renumbering of a provision done under section 306;
- (b) 31 July 2011.

Schedule 1 Dictionary

section 2

Aboriginal land see section 8.

Aboriginal land holding entity register see section 84(1).

Aboriginal people see section 5.

Aboriginal reserve land see section 12.

Aboriginal tradition see section 7.

Aboriginal trust land see section 184.

Aborigine see section 6.

accepted representations see section 253(2).

account, for part 20, division 5, see section 261.

Acquisition Act means the *Acquisition of Land Act 1967*.

ancestor includes an ancestor under Aboriginal tradition.

appropriate register means—

- (a) for freehold land—the freehold land register; or
- (b) for other land—the appropriate register for the land under the Land Act.

approved form means a form approved under section 293.

associated reserve means land—

- (a) dedicated as a reserve under the Land Act for travelling stock requirements or watering-places; or
- (b) reserved and set apart under the *Land Act 1962* for works for obtaining, conserving, distributing or utilising water.

Aurukun Shire lease land see section 13.

available State land means land that is available State land under section 24.

available State land agreement see section 25(1).

Cape York Peninsula Region means the Cape York Peninsula Region under the *Cape York Peninsula Heritage Act 2007*.

CATSI corporation means a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cwlth).

city or town land see section 28.

claimable land see section 22.

Commonwealth Native Title Act means the *Native Title Act 1993* (Cwlth).

constructing authority means a constructing authority under the Acquisition Act.

decision-maker, for part 22, means—

- (a) for a decision mentioned in section 277(1) or (4)—the Minister; or
- (b) for a decision mentioned in section 277(2) or (3) about forfeiture or non-renewal of a lease—the lessor of the lease land.

descendant includes a descendant under Aboriginal tradition.

DOGIT land see section 11.

enactment day means the day on which this Act receives the Royal Assent.

environment Minister means the Minister administering the *Nature Conservation Act 1992*.

excluded land means any of the following—

- (a) land inside the Torres Strait area;
- (b) city or town land or township land;
- (c) a reserve under the Land Act;
- (d) land that is set apart and declared as a State forest or timber reserve under the *Forestry Act 1959*;
- (e) a road;

- (f) a stock route;
- (g) land subject to a special mining Act;
- (h) land that has become unallocated State land, if a person has a right, other than under this Act, against the State to the grant of an interest in that land.

executive committee, of a land trust, means the committee of the land trust—

- (a) primarily responsible for the management of the land trust; and
- (b) consisting of the following—
 - (i) the chairperson of the land trust;
 - (ii) the deputy chairperson and secretary, if any, of the land trust;
 - (iii) the persons holding another executive office of the land trust.

expression of interest see section 35(1).

forest products means all vegetable growth and material of vegetable origin (whether living or dead and whether standing or fallen).

general meeting, of a land trust, means an annual general meeting or special general meeting of the trust.

granted land see section 22.

group includes a community.

group of Aboriginal people includes—

- (a) the descendants of the group; and
- (b) if there is only 1 surviving member of a group of Aboriginal people—that person.

holder, for part 20, division 5, see section 261.

ILUA means an indigenous land use agreement noted in the ILUA register.

ILUA register means the Register of Indigenous Land Use Agreements under the Commonwealth Native Title Act, section 253.

improvements see the Land Act, schedule 6.

indigenous joint management area means an area declared under the *Nature Conservation Act 1992* as an indigenous joint management area.

indigenous management agreement, about the management of land, means an agreement complying with the requirements of section 170 in relation to the land.

information, for part 20, division 4, see section 259.

interest, in relation to land, means—

- (a) a legal or equitable estate or interest in the land; or
- (b) a right, power or privilege over, or in relation to, the land;

and includes—

- (c) a permit or licence issued in relation to the land; and
- (d) a mining interest; and
- (e) a geothermal exploration permit under the *Geothermal Exploration Act 2004*.

interested person, in relation to a claim under this Act for claimable land, means a person whose interests (whether pecuniary or otherwise) could be affected by the grant of the land as Aboriginal land because of the claim.

lake see the *Water Act 2000*, schedule 4.

Land Act means the *Land Act 1994*.

Land Holding Act means the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*.

Land Title Act means the *Land Title Act 1994*.

Land Tribunal means the Land Tribunal established for the purposes of this Act.

land trust means—

- (a) an entity—
 - (i) formed through the incorporation, under the repealed regulation, of persons as a land trust; and
 - (ii) either established under section 304 or in existence immediately before the commencement of the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011*, part 3; or
- (b) an entity taken to be incorporated as a land trust under section 303.

lease—

1 ***Lease***—

- (a) for part 10, division 5, see section 140; or
- (b) for part 14, see section 180.

2 A *lease* does not include a residential tenancy agreement.

lease land, for a provision about a lease or proposed lease, means the land subject to the lease or proposed lease.

lessee, for part 10, division 6, see section 147.

lessor—

- (a) for part 10, division 5, see section 140; or
- (b) for part 10, division 6, see section 147; or
- (c) for part 14, see section 180.

management plan, in relation to a national park, means a statement of specific objectives and policies relating to the planning, use, development and management of the national park.

maximum amount see section 162(2).

member, of a land trust, means each person who, for the time being, is a member of the land trust, including, for example—

- (a) an initial grantee of Aboriginal land held by the land trust; and

-
- (b) another person appointed by the Minister as trustee of the Aboriginal land held by the land trust; and
 - (c) a person appointed by the Minister or the land trust as a member of the land trust.

mineral see the *Mineral Resources Act 1989*, section 6.

mining interest means a lease, claim or other interest in, or a permit, licence or other right in relation to, land that is granted under—

- (a) the *Mineral Resources Act 1989*, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (b) another Act relating to mining for minerals, petroleum or natural gas.

Mornington Shire lease land means land that is Mornington Shire lease land under section 14.

National Native Title Register means the National Native Title Register established and maintained under the Commonwealth Native Title Act, part 8.

national park means an area dedicated under the *Nature Conservation Act 1992* as a national park.

national park (Cape York Peninsula Aboriginal land) means an area dedicated under the *Nature Conservation Act 1992* as a national park (Cape York Peninsula Aboriginal land).

native title holder, in relation to land held, or to be held, by a registered native title body corporate, means—

- (a) if the registered native title body corporate holds the native title in relation to the land, or part of the land, on trust—the persons on whose behalf the registered native title body corporate holds the native title; or
- (b) otherwise—the persons who hold the native title in relation to the land or part of the land.

natural gas see the *Petroleum Act 1923*, section 2.

non-presiding member, in relation to the Land Tribunal, means a member of the tribunal other than the chairperson or a deputy chairperson.

North Stradbroke Island Region see the *North Stradbroke Island Protection and Sustainability Act 2011*, section 5.

petroleum means petroleum under the *Petroleum and Gas (Production and Safety) Act 2004*.

prescribed DOGIT land means land comprised in any of the following deeds of grant in trust held for the benefit of Islander inhabitants—

- (a) deed of grant in trust (title reference 21328057) for Bamaga;
- (b) deed of grant in trust (title reference 21296131) for Hammond Island;
- (c) deed of grant in trust (title reference 21352022) for Seisia.

prescribed reserve land see section 197.

presiding member, in relation to the Land Tribunal, means the chairperson or a deputy chairperson of the tribunal.

previous, for part 25, division 3, see section 302.

proposed action see section 252(3)(a).

public infrastructure means infrastructure that is operated for the general public.

qualified, for a CATSI corporation that holds, or is proposed to hold, Aboriginal land under this Act, means—

- (a) membership of the CATSI corporation is restricted to Aboriginal people particularly concerned with the land;
or
- (b) the CATSI corporation is a trustee of a trust the beneficiaries of which are restricted to Aboriginal people particularly concerned with the land.

quarry material see the *Forestry Act 1959*, schedule 3.

registered means registered under the Land Act or the Land Title Act.

registered native title body corporate means a prescribed body corporate under the Commonwealth Native Title Act whose name and address are registered on the National Native Title Register under section 193(2)(e) or (4) of that Act.

registrar means—

- (a) for freehold land—the registrar of titles; or
- (b) for other land—the chief executive of the department in which the Land Act is administered.

registrar of titles means the registrar of titles under the Land Title Act.

relevant land, for part 2, division 4, see section 15.

repealed regulation means the repealed *Aboriginal Land Regulation 1991*.

required amount see section 162(1).

residential lease see section 147.

residential tenancy means a residential tenancy under the *Residential Tenancies and Rooming Accommodation Act 2008*.

residential tenancy agreement means a residential tenancy agreement under the *Residential Tenancies and Rooming Accommodation Act 2008*.

responsibilities, in relation to land, include—

- (a) responsibilities under Aboriginal tradition for the land, including, for example, responsibilities for areas that are of particular significance under Aboriginal tradition; and
- (b) responsibilities for the land that may affect neighbouring land, including, for example, responsibilities in relation to fire and vermin control.

road means a surveyed or unsurveyed road that is, under an Act, dedicated, notified or declared to be a road for public use.

sea includes waters within the ebb and flow of the tide.

show cause notice see section 252(2).

show cause period see section 252(3)(e).

special mining Act means—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*; or
- (b) *Central Queensland Coal Associates Agreement Act 1968*; or
- (c) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*; or
- (d) *Mount Isa Mines Limited Agreement Act 1985*; or
- (e) *Queensland Nickel Agreement Act 1970*; or
- (f) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*; or
- (g) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

standard lease see section 119(2).

stock route see the Land Act, schedule 6.

tidal land means land that is ordinarily covered and uncovered by the flow and ebb of the tide at spring tides.

Torres Strait area means the Torres Strait area under the *Torres Strait Islander Land Act 1991*.

Torres Strait Islander means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands.

Torres Strait Islander particularly concerned with the land, for land that is or was prescribed DOGIT land, means a Torres Strait Islander who lives on the land.

township land means land declared under section 29 to be township land.

townsite lease see section 119(3).

townsite sublease see section 133(1).

transferable land see section 9.

transferee—

(a) for part 9, division 4, subdivision 1, see section 104(1);
and

(b) for part 9, division 4, subdivision 2, see section 109(1).

transferor—

(a) for part 9, division 4, subdivision 1, see section 104(1);
and

(b) for part 9, division 4, subdivision 2, see section 109(1).

transferred land see section 9.

tribunal means the Land Tribunal.

trustee—

(a) in relation to Aboriginal land—means the land trust or
other entity that holds the land under this Act; and

(b) of Aboriginal trust land—for part 15, see section 184.

trustee (Aboriginal) lease see section 184.

trust money, for part 20, division 5, see section 261.

trust property, in relation to a land trust or a member of a land
trust, includes—

(a) income derived from Aboriginal land held by the land
trust; and

(b) amounts paid to the land trust in relation to—

(i) the grant of an interest in the land; or

(ii) the creation of a mining interest in the land; or

(iii) an agreement entered into in relation to the land;
and

(c) amounts paid by any person or governmental authority,
or any other property, that is received or acquired by the
land trust or for the land trust by a member of the land
trust.

unallocated State land means unallocated State land under
the Land Act.

watercourse means a watercourse under the *Water Act 2000*.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 September 2011. Future amendments of the Aboriginal Land Act 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1992 Act No. 36	2 July 1992	3 July 1992
2	1994 Act No. 81	27 January 1995	24 February 1995
3	1994 Act No. 81	1 July 1995	5 July 1995
3A	1995 Act No. 57	28 November 1995	26 July 1996
3B	1996 Act No. 37	1 December 1996	4 December 1996
3C	1998 Act No. 24	1 December 1996	17 July 1998
4	1998 Act No. 30	30 September 1998	2 October 1998
4A	1999 Act No. 19	30 April 1999	21 May 1999
4B	2000 Act No. 34	13 September 2000	20 September 2000
4C	2001 Act No. 33	7 June 2001	20 June 2001
4D	2001 Act No. 16	28 February 2002	28 February 2002
5	2001 Act No. 71	1 March 2002	1 March 2002

Endnotes

Reprint No.	Amendments included	Effective	Notes
5A	2003 Act No. 8	28 March 2003	
5B	2002 Act No. 74	1 April 2003	
5C	2003 Act No. 20	9 May 2003	
5D	2003 Act No. 77	6 November 2003	
5E	2004 Act No. 4	6 May 2004	
5F	2004 Act No. 5	13 May 2004	
5G	2004 Act No. 25	31 December 2004	
5H	2004 Act No. 37	1 January 2005	
5I	2005 Act No. 8	18 March 2005	
5J	2004 Act No. 12	25 March 2005	R5J withdrawn, see R6
6	—	25 March 2005	
6A	2006 Act No. 9	15 March 2006	
6B	2007 Act No. 36	29 August 2007	
6C	2007 Act No. 48	2 November 2007	
6D	2008 Act No. 29	18 July 2008	R6D withdrawn, see R7
7	—	18 July 2008	
7A	2009 Act No. 3	23 February 2009	
7B	2008 Act No. 73	1 July 2009	
	2009 Act No. 9		
7C	2009 Act No. 25	2 November 2009	
7D	2010 Act No. 12	7 May 2010	
7E	2009 Act No. 17	1 July 2010	
	2010 Act No. 23		
7F	2010 Act No. 39	20 September 2010	
7G	2011 Act No. 8	8 April 2011	
7H	2011 Act No. 11	14 April 2011	
7I	2011 Act No. 26	9 September 2011	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	3
Changed names and titles	3
Corrected minor errors	1, 3
Obsolete and redundant provisions	2, 3
Renumbered provisions	2

6 List of legislation

Aboriginal Land Act 1991 No. 32

date of assent 12 June 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 21 December 1991 (1991 SL No. 221)

amending legislation—

Aboriginal and Torres Strait Islander Land (Consequential Amendments) Act 1991 No. 76 pts 1–2

date of assent 21 November 1991

commenced on date of assent

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 2

date of assent 2 July 1992

commenced on date of assent

Lands Legislation Amendment Act 1992 No. 64 ss 1–3 sch 1

date of assent 7 December 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 1992 (1992 SL No. 448)

Native Title (Queensland) Act 1993 No. 85 ss 1–2(1)–(3), pt 13 div 1 (this Act is amended, see amending legislation below)

date of assent 17 December 1993

ss 1–2(1) and (2) commenced on date of assent

ss 2(3), 162A–162E, 163A and 164–164D commenced 28 November 1994 (1994 SL No. 408)

ss 157–160, 161 and 162 commenced 21 December 1991 (see s 2(1), (3), 1994 SL No. 408 and 1991 SL No. 221)

s 163 never proclaimed into force and om 1998 No. 30 s 20

remaining provisions commenced 5 December 1994 (1994 SL No. 421)

amending legislation—

Native Title Queensland Amendment Act 1994 No. 61 s 2 sch 2 (amends 1993 No. 85 above)

date of assent 24 November 1994

commenced on date of assent

Fisheries Act 1994 No. 37 ss 1–2, 244 sch 2

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1995 SL No. 9)

Transport Infrastructure Amendment Act (No. 2) 1994 No. 49 ss 1–2, 6 sch 2

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 18 November 1994 (1994 SL No. 399)

Land Act 1994 No. 81 ss 1–2, 527 sch 5

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Natural Resources Legislation Amendment Act 1998 No. 24 pts 1–2

date of assent 14 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 1998

Native Title (Queensland) State Provisions Act 1998 No. 30 ss 1–2, 21 sch

date of assent 3 September 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 30 September 1998 (see s 2(1) and 1998 SL No. 266)

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch

date of assent 30 April 1999

commenced on date of assent

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000

ss 1–2, 590 commenced on date of assent (see s 2(1))

remaining provisions commenced 28 February 2002 (2002 SL No. 27)

Water Act 2000 No. 34 ss 1–2, 1145 sch 3

date of assent 13 September 2000

commenced on date of assent (see s 2(2))

Natural Resources Legislation Amendment Act 2001 No. 33 pts 1–2

date of assent 7 June 2001

commenced on date of assent

Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch

date of assent 13 December 2002

ss 1–2 commenced on date of assent

s 90 commenced 31 March 2003 (2003 SL No. 51)

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

Parliament of Queensland Amendment Act 2003 No. 8 ss 1, 17 sch

date of assent 28 March 2003

commenced on date of assent

Land Legislation Amendment Act 2003 No. 20 s 1, pt 2

date of assent 9 May 2003

commenced on date of assent

Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(2), pt 2

date of assent 6 November 2003

commenced on date of assent (see s 2(2))

Natural Resources and Other Legislation Amendment Act 2004 No. 4 ss 1, 57 sch

date of assent 6 May 2004

commenced on date of assent

Aurukun Associates Agreement Repeal Act 2004 No. 5 ss 1, 8 sch

date of assent 13 May 2004

commenced on date of assent

Geothermal Exploration Act 2004 No. 12 ss 1–2, ch 8 pt 1

date of assent 31 May 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 25 March 2005 (2005 SL No. 43)

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), 939–941 (prev ss 879–881)

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Local Government (Community Government Areas) Act 2004 No. 37 ss 1–2, 86 sch 1

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 266)

Mineral Resources and Other Legislation Amendment Act 2005 No. 8 pts 1, 3

date of assent 18 March 2005

commenced on date of assent

Audit Legislation Amendment Act 2006 No. 9 pt 1, s 53 sch

date of assent 15 March 2006

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007

commenced on date of assent

Cape York Peninsula Heritage Act 2007 No. 48 ss 1–2, pt 7 div 1

date of assent 25 October 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2007 (2007 SL No. 270)

Aboriginal and Torres Strait Islander Land Amendment Act 2008 No. 29 pts 1–2, s 3 sch

date of assent 21 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 18 July 2008 (2008 SL No. 233)

Residential Tenancies and Rooming Accommodation Act 2008 No. 73 ss 1–2, 554 sch 1

date of assent 11 December 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 40)

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 1

date of assent 23 February 2009

commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Natural Resources and Other Legislation Amendment Act 2010 No. 12 ss 1, 2(1), pt 3

date of assent 26 March 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 7 May 2010 (2010 SL No. 78)

City of Brisbane Act 2010 No. 23 ss 1–2(1), 352 sch 1

date of assent 17 June 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (see s 2(1))

Geothermal Energy Act 2010 No. 31 ss 1–2(1), ch 10 pt 3 div 1, s 493 sch 2 pt 4

date of assent 1 September 2010

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 2 March 2012 (2011 SL No. 156 s 2))

Land Valuation Act 2010 No. 39 s 1, ch 11 pt 1

date of assent 20 September 2010
commenced on date of assent

Revenue and Other Legislation Amendment Act 2011 No. 8 s 1, pt 2

date of assent 8 April 2011
commenced on date of assent

North Stradbroke Island Protection and Sustainability Act 2011 No. 11 s 1, pt 4 div 1

date of assent 14 April 2011
commenced on date of assent

Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2011 No. 26 pts 1, 3, s 189 sch

date of assent 29 August 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 9 September 2011 (2011 SL No. 173)

7 List of annotations

This reprint has been renumbered—see tables of renumbered provisions in endnote 8.

Definitions

s 2 prev s 2 om R3 (see RA s 37)
pres s 2 amd 2008 No. 29 s 4(1), (11)
Note—s 2 contained definitions for this Act. Definitions are now located in sch 1 (Dictionary). Annotations for definitions contained in s 2 are located in annotations for sch 1.

Act binds all persons

s 4 sub 2008 No. 29 s 6

Meaning of “native title interests”

s 5 prev s 5 ins 1993 No. 85 s 159 (retro)
om 2008 No. 29 s 5

Meaning of Aboriginal land

s 8 amd 1993 No. 85 s 160 (amd 1994 No. 61 s 2 sch 2) (retro); 2008 No. 29 s 7;
2011 No. 26 s 13

Meaning of transferable and transferred land

s 9 amd 1993 No. 85 s 160A (amd 1994 No. 61 s 2 sch 2); 2008 No. 29 s 8

Lands that are transferable lands

s 10 amd 1993 No. 85 s 160B (amd 1994 No. 61 s 2 sch 2); 2007 No. 48 s 32; 2008 No. 29 s 9; 2011 No. 8 s 4; 2011 No. 11 s 24

DOGIT land

s 11 amd 1993 No. 85 s 160C (amd 1994 No. 61 s 2 sch 2); 2008 No. 29 s 10; 2010 No. 39 s 304; 2011 No. 26 s 14

Aboriginal reserve land

s 12 amd 1993 No. 85 s 160D (amd 1994 No. 61 s 2 sch 2); 2008 No. 29 s 3 sch;
2011 No. 26 s 15

Aurukun Shire lease land

s 13 amd 1993 No. 85 s 160C (amd 1994 No. 61 s 2 sch 2); 2008 No. 29 s 11; 2011
No. 26 s 16

Mornington Shire lease land

prov hdg amd 2008 No. 29 s 12(1)

s 14 amd 1993 No. 85 s 160C (amd 1994 No. 61 s 2 sch 2); 2008 No. 29 s 12; 2011
No. 26 s 17

Division 4—Declarations about particular transferable land

div hdg ins 2008 No. 29 s 13

Definition for div 4

s 15 ins 2008 No. 29 s 13

Particular land may be declared to be not transferable land

s 16 ins 2008 No. 29 s 13
amd 2011 No. 26 s 18

Appeal against particular decision

s 16E ins 2008 No. 29 s 13
om 2011 No. 26 s 21

Powers of Land Court on appeal

s 16F ins 2008 No. 29 s 13
om 2011 No. 26 s 21

Notice of intention to make declaration

s 17 ins 2008 No. 29 s 13
amd 2011 No. 26 s 19

Minister to consider representations and give notice of decision

s 18 ins 2008 No. 29 s 13
amd 2011 No. 26 s 20

Notice about declarations—trustee

s 19 ins 2008 No. 29 s 13

Notice about declarations—registrar

s 20 ins 2008 No. 29 s 13

Requirements about plans of subdivision for declarations

prov hdg amd 2011 No. 26 s 22

s 21 ins 2008 No. 29 s 13

Meaning of claimable and granted land

s 22 amd 1993 No. 85 s 160E (amd 1994 No. 61 s 2 sch 2); 2011 No. 26 s 23

Land that is claimable land

- prov hdg** sub 2011 No. 26 s 24(1)
s 23 amd 1991 No. 76 s 4
sub 1993 No. 85 s 160F (amd 1994 No. 61 s 2 sch 2)
amd 2008 No. 29 s 3 sch; 2011 No. 26 s 24(2)

Division 6—Available State land

- div hdg** (prev div 4A hdg) ins 2008 No. 29 s 3 sch
renum 2008 No. 29 s 3 sch

Land that is available State land—general

- prov hdg** amd 2008 No. 29 s 14(1)
s 24 amd 1991 No. 76 s 5; 1993 No. 85 s 160G (amd 1994 No. 61 s 2 sch 2); 1995
No. 57 s 4 sch 1; 2008 No. 29 s 14(2)–(7)
sub 2011 No. 26 s 25

Agreement about particular land

- s 25** ins 2011 No. 26 s 25

Watercourses and lakes

- prov hdg** amd 2010 No. 12 s 6(1)
s 26 amd 2008 No. 29 s 3 sch; 2010 No. 12 s 6(2)

Tidal land

- s 27** amd 1993 No. 85 s 160H (amd 1994 No. 61 s 2 sch 2); 1994 No. 49 s 6 sch 2;
1994 No. 81 s 527 sch 5; 2008 No. 29 s 3 sch

Meaning of city or town land

- s 28** amd 1993 No. 85 s 160I (amd 1994 No. 61 s 2 sch 2); 2009 No. 17 s 331
sch 1; 2010 No. 23 s 352 sch 1; 2011 No. 26 s 26

Application of Trusts Act 1973

- s 28B** ins 2008 No. 29 s 19
om 2011 No. 26 s 32

Meaning of township land

- s 29** sub 1993 No. 85 s 160J (amd 1994 No. 61 s 2 sch 2)

National Parks

- s 30** amd 2008 No. 29 s 3 sch

Land that is not available State land

- prov hdg** amd 2008 No. 29 s 3 sch
s 31 prev s 31 ins 1993 No. 85 s 160M (amd 1994 No. 61 s 2 sch 2)
amd 2008 No. 29 s 21
om 2011 No. 26 s 34
pres s 31 amd 1994 No. 81 s 527 sch 5; 2008 No. 29 s 3 sch
sub 2011 No. 26 s 27

Division 7—Application of laws to Aboriginal land

- div hdg** (prev div 5 hdg) renum 2008 No. 29 s 3 sch

Application of laws

- s 32** amd 1994 No. 37 s 244 sch 2; 2004 No. 5 s 8 sch

PART 3—FORMAL EXPRESSION OF INTEREST ABOUT LAND

pt hdg ins 2008 No. 29 s 15

Purpose of pt 3

s 33 ins 2008 No. 29 s 15

Land to which pt 3 applies

s 34 ins 2008 No. 29 s 15

Expression of interest in having land made transferable land

s 35 ins 2008 No. 29 s 15

Chief executive to consider expression of interest

s 36 ins 2008 No. 29 s 15

Consideration of expression of interest does not impose obligation on State

s 37 prev s 37 om 2011 No. 26 s 38
pres s 37 ins 2008 No. 29 s 15

PART 4—GRANT OF TRANSFERABLE LAND AS ABORIGINAL LAND

Deeds of grant to be prepared

s 38 amd 2008 No. 29 s 16; 2010 No. 39 s 305; 2011 No. 26 s 28

Appointment of registered native title body corporate as grantee to hold land for native title holders

prov hdg amd 2010 No. 39 s 306(1)

s 39 ins 2008 No. 29 s 17
amd 2010 No. 39 s 306(2)–(4); 2011 No. 26 s 29

Appointment of grantee to hold land for benefit of Aboriginal people

prov hdg amd 2008 No. 29 s 18(1)

s 40 amd 1991 No. 76 s 6; 1993 No. 85 s 160K (amd 1994 No. 61 s 2 sch 2); 2007 No. 48 s 33; 2008 No. 29 s 18(2)–(4); 2010 No. 39 s 307
sub 2011 No. 26 s 30

Subdivision 1—General

sdiv 1 (ss 40A–40B) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 2—Sale or mortgage prohibited

sdiv 2 (s 40C) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 3—Grant of leases

sdiv 3 (ss 40D–40N) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 4—Forfeiture of particular leases

sdiv 4 (ss 40O–40Y) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 5—Grant of licences

sdiv 5 (ss 40Z–40ZA) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 6—Transfer of land held by land trust

sdiv 6 (ss 40ZB–40ZF) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 7—Transfer of land held by registered native title body corporate

sdiv 7 (s 40ZG) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 8—Land in Cape York Peninsula Region

sdiv 8 (s 40ZH) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Subdivision 9—Other matters

sdiv 9 (ss 40ZI–40ZJ) ins 2008 No. 29 s 24 (prev located in orig pt 3 div 2)
om 2011 No. 26 s 40

Procedure for appointing particular grantee

prov hdg amd 2011 No. 26 s 31(1)
s 41 ins 2008 No. 29 s 19
amd 2011 No. 26 s 31(2)–(4)

Minister to act as soon as possible

s 42 amd 1993 No. 85 s 160L (amd 1994 No. 61 s 2 sch 2); 2008 No. 29 s 20; 2011
No. 26 s 33

Authority to grant fee simple in transferable land

s 43 amd 2008 No. 29 s 3 sch

Deed of grant takes effect on delivery

s 44 amd 2011 No. 26 s 35

Existing interests

s 45 amd 1991 No. 76 s 7; 1993 No. 85 s 161 (retro); 1994 No. 81 s 527 sch 5;
2008 No. 29 s 22; 2011 No. 26 s 36

Interests to be endorsed on deed

s 46 amd 1992 No. 64 s 3 sch 1; 1993 No. 85 s 161A (amd 1994 No. 61 s 2 sch 2)
(retro); 2008 No. 29 s 3 sch; 2011 No. 26 s 37

Cancellation of deed of grant in trust

s 47 ins 1991 No. 76 s 8
amd 2004 No. 37 s 86 sch 1; 2008 No. 29 s 23; 2009 No. 17 s 331 sch 1

Cancellation of leases over Aurukun and Mornington Shire lease lands

prov hdg amd 2008 No. 29 s 3 sch
s 48 amd 2008 No. 29 s 3 sch; 2011 No. 26 s 189 sch

Land Court may resolve difficulties

s 49 amd 2011 No. 26 s 39

Division 2—Approvals to change how land is held

div hdg sub 2011 No. 26 s 40

Application to hold Aboriginal land for native title holders

s 50 amd 2002 No. 74 s 90 sch; 2005 No. 8 s 47; 2007 No. 48 s 34
sub 2008 No. 29 s 24; 2011 No. 26 s 40

Decision on application

s 51 sub 2008 No. 29 s 24; 2011 No. 26 s 40

Notices about decision

prov hdg amd 2008 No. 29 s 25(1)

s 52 amd 2008 No. 29 s 25(2)–(5); 2009 No. 3 s 438
sub 2011 No. 26 s 40

Effect of gazette notice

s 53 ins 2011 No. 26 s 40

Reservations of minerals and petroleum

s 54 amd 2008 No. 29 s 3 sch

Reservations of forest products and quarry material etc.

s 55 prev s 55 om 2011 No. 26 s 45
pres s 55 amd 1991 No. 76 s 9; 1993 No. 85 s 161B (amd 1994 No. 61 s 2
sch 2); 2008 No. 29 s 26; 2011 No. 26 s 189 sch

Duly made claims

s 56 amd 2004 No. 4 s 57 sch

Grounds on which claim may be made

s 58 amd 2008 No. 29 s 3 sch; 2011 No. 26 s 41

How claim is to be made

s 59 amd 2011 No. 26 s 42

Time limit for making of claims

s 60 amd 2008 No. 29 s 27

Deciding whether claim duly made

prov hdg amd 2011 No. 26 s 43(1)

s 61 amd 1993 No. 85 s 161C (amd 1994 No. 61 s 2 sch 2); 2011 No. 26
s 43(2)–(4)

Joint hearing of claims

s 63 amd 1993 No. 85 s 161D (amd 1994 No. 61 s 2 sch 2)

Repeat claims

s 64 prev s 64 amd 2008 No. 29 s 29
om 2011 No. 26 s 49
pres s 64 ins 1993 No. 85 s 161E (amd 1994 No. 61 s 2 sch 2)
amd 2011 No. 26 s 44

Inclusion of additional areas in deed of grant

s 67 prev s 67 ins 1993 No. 85 s 161G (amd 1994 No. 61 s 2 sch 2)
om 2011 No. 26 s 52

Signing of lease etc.

s 68 prev s 68 om 2011 No. 26 s 52

Time at which it is to be decided whether land is claimable land**prov hdg** amd 2011 No. 26 s 46(1)**s 69** amd 2011 No. 26 s 46**Lease commences on delivery****s 70** prev s 70 om 2011 No. 26 s 54**Recommendation to Minister****s 71** amd 2003 No. 77 s 4; 2008 No. 29 s 3 sch; 2011 No. 26 s 47**Resolution of conflicting claims****s 72** prev s 72 amd 1992 No. 36 s 1 sch 2

om 2008 No. 29 s 31

pres s 72 amd 1993 No. 85 s 161F (amd 1994 No. 61 s 2 sch 2); 2003 No. 77 s 5; 2008 No. 29 s 3 sch; 2011 No. 26 s 48

Notification of parties**s 73** amd 2003 No. 77 s 6; 2008 No. 29 s 3 sch**PART 6—GRANT OF CLAIMABLE LAND AS ABORIGINAL LAND****Deeds of grant to be prepared****s 74** prev s 74 om 2011 No. 26 s 56

pres s 74 amd 2008 No. 29 s 28

Appointment of grantee**s 75** amd 2007 No. 48 s 35

sub 2011 No. 26 s 50

Authority to grant fee simple in claimable land**prov hdg** amd 2011 No. 26 s 51(1)**s 76** prev s 76 amd 2002 No. 74 s 90 sch; 2007 No. 48 s 36

sub 2008 No. 29 s 33

om 2011 No. 26 s 58

pres s 76 amd 2008 No. 29 s 3 sch; 2011 No. 26 s 51(2)

Deed of grant takes effect on delivery**s 77** prev s 77 sub 2008 No. 29 s 33

om 2011 No. 26 s 58

pres s 77 amd 2011 No. 26 s 53

Division 2—Dealing with granted land**div hdg** om 2011 No. 26 s 58 (prev located in orig pt 5)**Subdivision 1—General****sdiv 1 (ss 77A–77B)** ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)

om 2011 No. 26 s 58

Subdivision 2—Sale or mortgage prohibited**sdiv 2 (s 77C)** ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)

om 2011 No. 26 s 58

Subdivision 3—Grant of leases**sdiv 3 (ss 77D–77N)** ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)

om 2011 No. 26 s 58

Subdivision 4—Forfeiture of particular leases

sdiv 4 (ss 77O–77Y) ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)
om 2011 No. 26 s 58

Subdivision 5—Grant of licences

sdiv 5 (ss 77Z–77ZA) ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)
om 2011 No. 26 s 58

Subdivision 6—Transfer of land

sdiv 6 (ss 77ZB–77ZE) ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)
om 2011 No. 26 s 58

Subdivision 7—Land in Cape York Peninsula Region

sdiv 7 (s 77ZF) ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)
om 2011 No. 26 s 58

Subdivision 8—Other matters

sdiv 8 (ss 77ZG–77ZH) ins 2008 No. 29 s 33 (prev located in orig pt 5 div 2)
om 2011 No. 26 s 58

Existing interests

prov hdg prev prov hdg amd 2008 No. 29 s 34(1)
s 78 prev s 78 amd 2008 No. 29 s 34(2)–(5); 2009 No. 3 s 439
om 2011 No. 26 s 58
pres s 78 amd 1993 No. 85 s 162 (retro); 2008 No. 29 s 30

Cancellation of existing deed of grant

s 79 prev s 79 amd 2008 No. 29 s 35
om 2011 No. 26 s 58
pres s 79 amd 2008 No. 29 s 31; 2011 No. 26 s 55

Land Court may resolve difficulties

s 80 amd 2011 No. 26 s 57

Reservations of minerals and petroleum

s 81 amd 2008 No. 29 s 3 sch; 2011 No. 26 s 59

Reservations of forest products and quarry material etc.

s 82 amd 1991 No. 76 s 10; 1993 No. 85 s 162A (amd 1994 No. 61 s 2 sch 2); 2008
No. 29 s 36; 2011 No. 26 s 60

Rights of access preserved

s 83 amd 2008 No. 29 s 37

Division 5—National parks

div hdg sub 1992 No. 20 s 159 sch 2 (prev located in orig pt 5)
om 2008 No. 29 s 3 sch

Minister may establish land trust before grant of land

s 83A ins 2007 No. 48 s 38
om 2011 No. 26 s 61

Purpose of establishing land trust

s 83B ins 2007 No. 48 s 38
om 2011 No. 26 s 61

Application of particular provisions

s 83C ins 2007 No. 48 s 38
om 2011 No. 26 s 61

Notice about land trust

s 83D ins 2007 No. 48 s 38
om 2011 No. 26 s 61

Dissolution of land trust

s 83E (prev s 83F) ins 2007 No. 48 s 38
renum 2008 No. 29 s 3 sch
om 2011 No. 26 s 61

PART 7—REGISTER OF ENTITIES HOLDING ABORIGINAL LAND

pt 7 (ss 84–86) ins 2011 No. 26 s 61

PART 8—TRANSFER OF ABORIGINAL LAND BY MINISTER

pt hdg ins 2011 No. 26 s 61

Division 1—Preliminary

div 1 (ss 87–88) ins 2011 No. 26 s 61

Division 2—Vesting and transfer of land

div 2 (ss 89–95) ins 2011 No. 26 s 61

Division 3—Notices to registrar

div 3 (s 96) ins 2011 No. 26 s 61

PART 9—GENERAL PROVISIONS FOR DEALING WITH ABORIGINAL LAND

pt hdg ins 2007 No. 48 s 38
sub 2011 No. 26 s 61

Division 1—Trustee's power to deal with Aboriginal land and Ministerial consent

div 1 (ss 97–99) ins 2011 No. 26 s 61

Division 2—Sale or mortgage prohibited

div 2 (s 100) ins 2011 No. 26 s 61

Division 3—Grant of licences

div 3 (ss 101–102) ins 2011 No. 26 s 61

Division 4—Transfer of Aboriginal land by trustee

div hdg ins 2011 No. 26 s 61

Subdivision 1—Land held other than by CATSI corporation

sdiv 1 (ss 103–107) ins 2011 No. 26 s 61

Subdivision 2—Land held by CATSI corporation

sdiv 2 (ss 108–112) ins 2011 No. 26 s 61

Subdivision 3—Exemption from fees and charges

sdiv 3 (s 113) ins 2011 No. 26 s 61

Division 5—Land in Cape York Peninsula Region

div 5 (s 114) ins 2011 No. 26 s 61

Division 6—Other matters

div 6 (ss 115–118) ins 2011 No. 26 s 61

PART 10—LEASING OF ABORIGINAL LAND

pt hdg ins 2011 No. 26 s 61

Division 1—Grant of leases for Aboriginal land

div 1 (s 119) ins 2011 No. 26 s 61

Division 2—Standard leases

div hdg ins 2011 No. 26 s 61

Subdivision 1—Restrictions on grant of standard leases

sdiv 1 (ss 120–122) ins 2011 No. 26 s 61

Subdivision 2—Requirements for Minister’s consent

sdiv 2 (ss 123–125) ins 2011 No. 26 s 61

Division 3—Townsite leases

div hdg ins 2011 No. 26 s 61

Subdivision 1—Restriction on grant of townsite leases

sdiv 1 (s 126) ins 2011 No. 26 s 61

Subdivision 2—Requirements for Minister’s consent

sdiv 2 (s 127) ins 2011 No. 26 s 61

Subdivision 3—Provisions about dealing with townsite leases

sdiv 3 (ss 128–131) ins 2011 No. 26 s 61

Subdivision 4—Effect of townsite lease on existing interests

sdiv 4 (s 132) ins 2011 No. 26 s 61

Division 4—Townsite subleases

div hdg ins 2011 No. 26 s 61

Subdivision 1—Grant of subleases under townsite lease

sdiv 1 (s 133) ins 2011 No. 26 s 61

Subdivision 2—Requirements about grants of subleases under townsite leases

sdiv hdg ins 2011 No. 26 s 61

Restrictions on grant of townsite sublease to an Aborigine

s 134 ins 2011 No. 26 s 61

Restrictions on grant of townsite sublease to State

s 135 prev s 135 om 2011 No. 26 s 83

pres s 135 ins 2011 No. 26 s 61

Restrictions on grant of townsite sublease to another person

s 136 ins 2011 No. 26 s 61

Subdivision 3—Requirements for Minister’s consent

sdiv 3 (ss 137–139) ins 2011 No. 26 s 61

Division 5—Common provisions for standard leases and townsite subleases

div hdg ins 2011 No. 26 s 61

Subdivision 1—Preliminary

sdiv 1 (s 140) ins 2011 No. 26 s 61

Subdivision 2—Conditions of leases

sdiv 2 (ss 141–144) ins 2011 No. 26 s 61

Subdivision 3—Provisions about transfer, amendment or surrender of leases

sdiv 3 (ss 145–146) ins 2011 No. 26 s 61

Division 6—Forfeiture and renewal of residential leases

div hdg ins 2011 No. 26 s 61

Subdivision 1—Preliminary

sdiv 1 (ss 147–148) ins 2011 No. 26 s 61

Subdivision 2—Forfeiture

sdiv 2 (ss 149–153) ins 2011 No. 26 s 61

Subdivision 3—Renewal

sdiv 3 (ss 154–160) ins 2011 No. 26 s 61

Subdivision 4—General matters about forfeiture or non-renewal of residential leases

sdiv 4 (ss 161–165) ins 2011 No. 26 s 61

Division 7—Miscellaneous

div 7 (ss 166–168) ins 2011 No. 26 s 61

PART 11—INDIGENOUS MANAGEMENT AGREEMENTS AND LAND IN CAPE YORK PENINSULA REGION AND NORTH STRADBROKE ISLAND REGIONpt hdg ins 2007 No. 48 s 38
amd 2011 No. 11 s 25**Division 1—Indigenous management agreements**

div hdg ins 2007 No. 48 s 38

Entering into indigenous management agreementprov hdg amd 2008 No. 29 s 39(1)
s 169 (prev s 83FA (orig s 83E)) ins 2007 No. 48 s 38
amd 2008 No. 29 s 39(2)
renum and reloc 2008 No. 29 s 39(3)
renum 2008 No. 29 s 3 sch
amd 2011 No. 11 s 26; 2011 No. 26 s 62

Requirements for indigenous management agreement

s 170 ins 2007 No. 48 s 38
amd 2008 No. 29 s 40; 2011 No. 11 s 27; 2011 No. 26 s 63

Amending indigenous management agreement

s 171 ins 2007 No. 48 s 38
amd 2008 No. 29 s 41

Recording of indigenous management agreement

s 172 ins 2007 No. 48 s 38
amd 2008 No. 29 s 42; 2011 No. 26 s 64

Division 2—National parks in Cape York Peninsula Region

div hdg ins 2007 No. 48 s 38

Requirements about grant of national parks in Cape York Peninsula Region

s 173 ins 2007 No. 48 s 38
amd 2008 No. 29 s 43; 2011 No. 26 s 189 sch

Particular national parks taken to be transferable land

s 174 ins 2007 No. 48 s 38

Division 3—Protected areas in North Stradbroke Island Region

div 3 (s 175) ins 2011 No. 11 s 28

PART 12—PROVISION ABOUT PARTICULAR CLAIMABLE LAND

pt hdg ins 2007 No. 48 s 38

Particular claimable land taken to be transferable land

s 176 ins 2007 No. 48 s 38

Claimable land recommended for grant taken to be transferable land

s 177 ins 2011 No. 8 s 5

PART 13—DECISION-MAKING PROCESS

pt hdg ins 2008 No. 29 s 44
amd 2011 No. 26 s 189 sch

When agreement of Aboriginal people is given

s 178 ins 2008 No. 29 s 44

Decision-making by trustee

prov hdg amd 2011 No. 26 s 65(1)
s 179 ins 2008 No. 29 s 44
amd 2011 No. 26 s 65(2)

**PART 14—PROVISIONS ABOUT MORTGAGES OF LEASES OVER
ABORIGINAL LAND**

pt hdg ins 2008 No. 29 s 44
sub 2011 No. 26 s 66

Division 1—Preliminary

div hdg ins 2011 No. 26 s 66

Definitions for pt 14

s 180 ins 2011 No. 26 s 66

Application of pt 14

s 181 ins 2008 No. 29 s 44
sub 2011 No. 26 s 66

Division 2—Mortgages of leases over Aboriginal land

div hdg ins 2011 No. 26 s 66

Provision about entering into possession of, and selling, lease

prov hdg amd 2011 No. 26 s 189 sch
s 182 ins 2008 No. 29 s 44
sub 2011 No. 26 s 66

How lessor deals with proceeds of sale

s 183 ins 2008 No. 29 s 44
sub 2011 No. 26 s 66

PART 15—PROVISION ABOUT PARTICULAR CLAIMABLE LAND

pt hdg ins 2008 No. 29 s 44

Division 1—Preliminary

div hdg ins 2008 No. 29 s 44

Definitions for pt 15

s 184 ins 2008 No. 29 s 44
def “**Aboriginal trust land**” amd 2011 No. 26 s 67(1)
def “**trustee (Aboriginal) lease**” amd 2011 No. 26 s 67(2)

Relationship with Land Act

s 185 ins 2008 No. 29 s 44

Division 2—Leases

div hdg ins 2008 No. 29 s 44

Trustee (Aboriginal) leases

s 186 ins 2008 No. 29 s 44
amd 2011 No. 26 s 68

Amending trustee (Aboriginal) lease

s 187 ins 2008 No. 29 s 44
amd 2011 No. 26 s 69

Mortgage of trustee (Aboriginal) lease

s 188 ins 2008 No. 29 s 44

Surrender of trustee (Aboriginal) lease

s 189 ins 2008 No. 29 s 44

Division 3—Other matters

div 3 (ss 190–191) ins 2008 No. 29 s 44

**PART 16—SPECIAL PROVISIONS ABOUT PRESCRIBED DOGIT LAND AND
PRESCRIBED RESERVE LAND**

pt hdg ins 2011 No. 26 s 70

Division 1—Prescribed DOGIT land

div 1 (ss 192–196) ins 2011 No. 26 s 70

Division 2—Prescribed reserve land

div 2 (ss 197–198) ins 2011 No. 26 s 70

**PART 17—OCCUPATION AND USE OF ABORIGINAL LAND BY THE STATE
OR COMMONWEALTH**

pt hdg sub 2008 No. 29 s 3 sch

Use of Aboriginal land preserved

prov hdg amd 2008 No. 29 s 45(1)

s 199 amd 2008 No. 29 s 45(2)–(6); 2011 No. 26 s 71

No rent payable

prov hdg amd 2008 No. 29 s 46(1)

s 200 amd 2008 No. 29 s 46(2); 2011 No. 26 s 72

Access to land

prov hdg amd 2008 No. 29 s 47(1)

s 201 amd 2008 No. 29 s 47(2)–(8); 2011 No. 26 s 73

Application of Mineral Resources Act

s 202 amd 2008 No. 29 s 48; 2011 No. 26 s 74

Royalties in relation to mining on Aboriginal land

s 203 amd 2004 No. 25 s 941; 2008 No. 29 s 49; 2011 No. 26 s 75

Appointment of members

s 205 amd 1991 No. 76 s 11; 1996 No. 37 s 147 sch 2; 2001 No. 33 s 3; 2009 No. 25 s 83 sch

Termination of appointment

s 213 amd 1992 No. 36 s 2 sch 2; 1993 No. 85 s 162C (amd 1994 No. 61 s 2 sch 2); 2000 No. 16 s 590 sch 1 pt 2

Arrangement of business

s 215 amd 1992 No. 36 s 3 sch 2

Procedure of tribunal

s 223 amd 1993 No. 85 s 162D (amd 1994 No. 61 s 2 sch 2)

Conferences

s 224 amd 2003 No. 77 s 7; 2008 No. 29 s 3 sch; 2011 No. 26 s 76

Particular powers of tribunal

s 227 amd 1993 No. 85 s 162E (amd 1994 No. 61 s 2 sch 2)

Tribunal may order that particular claimable land is transferable land

s 230 ins 2008 No. 29 s 50

Reasons to be given by tribunal

s 232 amd 2003 No. 77 s 8; 2008 No. 29 s 3 sch; 2011 No. 26 s 77

Appeals to Land Appeal Court from decisions of tribunal

s 233 amd 1993 No. 85 s 163A (amd 1994 No. 61 s 2 sch 2); 2003 No. 77 s 9; 2008 No. 29 s 3 sch

Evidence and other findings in other proceedings

s 235 ins 1993 No. 85 s 164 (amd 1994 No. 61 s 2 sch 2)
amd 1998 No. 30 s 21 sch; 1999 No. 19 s 3 sch

Continuing authority of member

s 237 ins 1993 No. 85 s 164A (amd 1994 No. 61 s 2 sch 2)

Staff of tribunal employed under Public Service Act

s 243 sub 1996 No. 37 s 147 sch 2
amd 2009 No. 25 s 83 sch

Annual report

s 245 amd 2003 No. 8 s 17 sch

PART 20—PROVISIONS ABOUT LAND TRUSTS

pt hdg ins 2011 No. 26 s 78

Division 1—Preliminary

div 1 (ss 247–249) ins 2011 No. 26 s 78

Division 2—Minister’s power to appoint, remove or suspend members of land trusts

div hdg ins 2011 No. 26 s 78

Subdivision 1—Appointment of members

sdiv 1 (s 250) ins 2011 No. 26 s 78

Subdivision 2—Removal or suspension of members

sdiv 2 (ss 251–256) ins 2011 No. 26 s 78

Subdivision 3—Other matters

sdiv 3 (s 257) ins 2011 No. 26 s 78

Division 3—Recording information about compliance with Act

div 3 (s 258) ins 2011 No. 26 s 78

Division 4—Land trusts to give information to chief executive

div 4 (ss 259–260) ins 2011 No. 26 s 78

Division 5—Freezing accounts of land trusts

div 5 (ss 261–264) ins 2011 No. 26 s 78

Division 6—Miscellaneous

div 6 (ss 265–266) ins 2011 No. 26 s 78

PART 21—APPLICATION OF TRUSTS ACT 1973

pt hdg ins 2011 No. 26 s 78

Division 1—Preliminary

div 1 (ss 267–268) ins 2011 No. 26 s 78

Division 2—Powers of Supreme Court

div 2 (ss 269–276) ins 2011 No. 26 s 78

PART 22—APPEALS

pt 22 (ss 277–281) ins 2011 No. 26 s 78

Creation of interests in transferable and claimable land

s 282 amd 2004 No. 12 s 142; 2008 No. 29 s 51; 2011 No. 26 s 79

Rights of access to interests preserved

s 283 amd 2008 No. 29 s 52; 2011 No. 26 s 80

National park subject to lease to State etc.

s 284 (prev s 83) sub 1992 No. 20 s 159 sch 2
amd 1993 No. 85 s 162B (amd 1994 No. 61 s 2 sch 2); 1995 No. 57 s 4 sch 1;
2007 No. 48 s 37; 2008 No. 29 s 38(1)–(6)
renum and reloc 2008 No. 29 s 38(7)
amd 2011 No. 26 ss 81, 189 sch

Persons and bodies representing State and Commonwealth

prov hdg amd 2008 No. 29 s 3 sch

s 285 amd 2008 No. 29 s 3 sch

Delegation by Minister

s 286 amd 2008 No. 29 s 53; 2011 No. 26 s 82

Amendment of description of land

s 287 amd 2008 No. 29 s 54; 2011 No. 26 s 84

Dealing with particular trust property

s 288 ins 2008 No. 29 s 55

sub 2011 No. 26 s 85

Application of Residential Tenancies and Rooming Accommodation Act 2008

prov hdg amd 2008 No. 73 s 554 sch 1

s 289 ins 2008 No. 29 s 55

amd 2008 No. 73 s 554 sch 1

Survey costs etc. to be paid by State

s 290 amd 2001 No. 71 s 551 sch 1; 2008 No. 29 s 3 sch; 2011 No. 26 s 86

Application of Financial Accountability Act 2009

prov hdg amd 2009 No. 9 s 136 sch 1

s 291 ins 1998 No. 24 s 5

amd 2008 No. 29 s 56; 2009 No. 9 s 136 sch 1

Confirmation of status of particular land

s 292 ins 2003 No. 20 s 4

Approval of forms

s 293 ins 1998 No. 24 s 5

Regulation-making power

prov hdg sub 2004 No. 4 s 57 sch
s 294 amd 1993 No. 85 s 164C (amd 1994 No. 61 s 2 sch 2); 1998 No. 24 s 6; 2008 No. 29 s 57; 2011 No. 26 s 87

PART 24—VALIDATION PROVISIONS

pt hdg ins 2005 No. 8 s 48
 amd 2008 No. 29 s 3 sch

Existing conservation agreements

s 295 ins 2005 No. 8 s 48
 amd 2008 No. 29 s 3 sch

Existing interest in transferable land

s 296 ins 2008 No. 29 s 58

Retrospective validation of dealings with trustee (Aboriginal) lease

s 297 ins 2011 No. 26 s 88

PART 25—TRANSITIONAL PROVISIONS

pt hdg ins 2006 No. 9 s 53 sch
 amd 2008 No. 29 s 3 sch

Division 1—Transitional provision for Audit Legislation Amendment Act 2006

div hdg ins 2008 No. 29 s 3 sch

Further amendment, or repeal, of Aboriginal land Regulation 1991

s 298 ins 2006 No. 9 s 53 sch

Division 2—Transitional provisions for Aboriginal and Torres Strait Islander Land Amendment Act 2008

div 2 (ss 299–301) ins 2008 No. 29 s 59

Division 3—Transitional provisions for Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2010

div 3 (ss 302–305) ins 2011 No. 26 s 89

PART 26—RENUMBERING OF ACTS

pt 26 (ss 306–307) ins 2011 No. 26 s 90
 exp 10 September 2011 (see s 307)

Park remains national park

s 5.21 om 1992 No. 20 s 159 sch 2

Delegation by Registrar of Titles

s 9.05 om 1993 No. 85 s 164B (amd 1994 No. 61 s 2 sch 2)

Orders in council to be tabled and disallowable

s 9.09 om 1993 No. 85 s 164B (amd 1994 No. 61 s 2 sch 2)

Numbering and renumbering of Act

s 9.11 ins 1993 No. 85 s 164D (amd 1994 No. 61 s 2 sch 2)
 om R2 (see RA s 37)

SCHEDULE 1—DICTIONARY

- Note—definitions for this Act were originally located in s 2.
ins 2008 No. 29 s 3 sch
- sch hdg**
- def “**Aboriginal council**” om from s 3 2004 No. 37 s 86 sch 1
def “**Aboriginal land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**Aboriginal land claim association**” ins 1998 No. 24 s 4
reloc 2008 No. 29 s 4(11)
om 2011 No. 26 s 91(1)
- def “**Aboriginal land holding entity register**” ins 2011 No. 26 s 91(2)
def “**Aboriginal lease**” reloc 2008 No. 29 s 4(11)
om 2011 No. 26 s 91(1)
- def “**Aboriginal (non-transferred land) lease**” reloc 2008 No. 29 s 4(11)
om 2011 No. 26 s 91(1)
- def “**Aboriginal people**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**Aboriginal reserve land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**Aboriginal tradition**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**Aboriginal (transferred land) lease**” reloc 2008 No. 29 s 4(11)
om 2011 No. 26 s 91(1)
- def “**Aboriginal trust land**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**Aborigine**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**accepted representations**” ins 2011 No. 26 s 91(2)
def “**account**” ins 2011 No. 26 s 91(2)
- def “**Acquisition Act**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**ancestor**” reloc 2008 No. 29 s 4(11)
- def “**appropriate register**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**approved form**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**associated reserve**” sub 1995 No. 57 s 4 sch 1
amd 2008 No. 29 s 4(4)
reloc 2008 No. 29 s 4(11)
- def “**Aurukun Shire lease land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**available Crown land**” om from s 3 2008 No. 29 s 4(2)
- def “**available State land**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
amd 2011 No. 26 s 91(3)
- def “**available State land agreement**” ins 2011 No. 26 s 91(2)
- def “**bed and banks**” amd 2000 No. 34 s 1145 sch 3; 2008 No. 29 s 4(5)
reloc 2008 No. 29 s 4(11)
om 2010 No. 12 s 7

-
- def “**Cape York Peninsula Region**” ins 2007 No. 48 s 31(2)
reloc 2008 No. 29 s 4(11)
- def “**CATSI corporation**” ins 2011 No. 26 s 91(2)
- def “**city or town land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**claimable land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**coast**” om from s 3 2008 No. 29 s 4(2)
- def “**Commonwealth Native Title Act**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**constructing authority**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**Crown**” om from s 3 2008 No. 29 s 4(2)
- def “**decision-maker**” ins 2011 No. 26 s 91(2)
- def “**descendant**” reloc 2008 No. 29 s 4(11)
- def “**director**” om from s 3 R3 (see RA s 39)
- def “**DOGIT land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**enactment day**” reloc 2008 No. 29 s 4(11)
- def “**environment Minister**” ins 2007 No. 48 s 31(2)
reloc 2008 No. 29 s 4(11)
- def “**excluded land**” ins 2011 No. 26 s 91(2)
- def “**executive committee**” ins 2011 No. 26 s 91(2)
- def “**expression of interest**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**forest products**” reloc 2008 No. 29 s 4(11)
- def “**general meeting**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**granted land**” amd 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**group**” reloc 2008 No. 29 s 4(11)
- def “**group of Aboriginal people**” reloc 2008 No. 29 s 4(11)
- def “**holder**” ins 2011 No. 26 s 91(2)
- def “**ILUA**” ins 2011 No. 26 s 91(2)
- def “**ILUA register**” ins 2011 No. 26 s 91(2)
- def “**improvements**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**indigenous joint management area**” ins 2011 No. 11 s 29
- def “**indigenous management agreement**” ins 2007 No. 48 s 31(2)
reloc 2008 No. 29 s 4(11)
- def “**information**” ins 2011 No. 26 s 91(2)
- def “**interest**” amd 2004 No. 12 s 141
reloc 2008 No. 29 s 4(11)
- def “**interested person**” reloc 2008 No. 29 s 4(11)
- def “**lake**” amd 2000 No. 34 s 1145 sch 3; 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**land**” om from s 3 R2 (see RA s 39)

- def “**Land Act**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**land claims registrar**” reloc 2008 No. 29 s 4(11)
om 2011 No. 26 s 91(1)
- def “**Land Holding Act**” ins 2011 No. 26 s 91(2)
- def “**Land Title Act**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**Land Tribunal**” reloc 2008 No. 29 s 4(11)
- def “**land trust**” ins 1998 No. 24 s 4
sub 2007 No. 48 s 31(1)–(2)
reloc 2008 No. 29 s 4(11)
sub 2011 No. 26 s 91(1)–(2)
- def “**lease**” ins 2008 No. 29 s 4(3)
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sub 2011 No. 26 s 91(1)–(2)
- def “**lease land**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**lessee**” ins 2011 No. 26 s 91(2)
- def “**lessor**” ins 2011 No. 26 s 91(2)
- def “**management plan**” reloc 2008 No. 29 s 4(11)
- def “**maximum amount**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
sub 2011 No. 26 s 91(1)–(2)
- def “**member**” ins 2011 No. 26 s 91(2)
- def “**mineral**” amd 2007 No. 36 s 2 sch; 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**mining interest**” amd 2004 No. 25 s 940(2)
reloc 2008 No. 29 s 4(11)
- def “**Mornington Island Shire lease land**” om from s 3 2008 No. 29 s 4(2)
- def “**Mornington Shire lease land**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**National Native Title Register**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**national park**” amd 1992 No. 20 s 159 sch 2
reloc 2008 No. 29 s 4(11)
- def “**national park (Cape York Peninsula Aboriginal land)**” ins 2007 No. 48 s 31(2)
reloc 2008 No. 29 s 4(11)
- def “**native title holder**” ins 2008 No. 29 s 4(3)
reloc 2008 No. 29 s 4(11)
- def “**native title interests**” ins 1993 No. 85 s 158 (retro)
om from s 3 2008 No. 29 s 4(2)
- def “**natural gas**” amd 2007 No. 36 s 2 sch; 2008 No. 29 s 4(10)
reloc 2008 No. 29 s 4(11)
- def “**non-presiding member**” reloc 2008 No. 29 s 4(11)
- def “**North Stradbroke Island Region**” ins 2011 No. 11 s 29
- def “**petroleum**” sub 2004 No. 25 s 940(1)
reloc 2008 No. 29 s 4(11)

-
- def “**prescribed DOGIT land**” ins 2011 No. 26 s 91(2)
def “**prescribed reserve land**” ins 2011 No. 26 s 91(2)
def “**presiding member**” reloc 2008 No. 29 s 4(11)
def “**previous**” ins 2011 No. 26 s 91(2)
def “**proposed action**” ins 2011 No. 26 s 91(2)
def “**public infrastructure**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
def “**qualified**” ins 2011 No. 26 s 91(2)
def “**quarry material**” sub 2008 No. 29 s 4(2)–(3)
 reloc 2008 No. 29 s 4(11)
def “**registered**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
def “**registered native title body corporate**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
def “**registrar**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
 amd 2011 No. 26 s 91(4)
def “**registrar of titles**” ins 1994 No. 81 s 527 sch 5
 amd 2008 No. 29 s 4(6)
 reloc 2008 No. 29 s 4(11)
 sub 2011 No. 26 s 91(1)–(2)
def “**relevant land**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
def “**repealed regulation**” ins 2011 No. 26 s 91(2)
def “**required amount**” ins 2011 No. 26 s 91(2)
def “**residential lease**” ins 2011 No. 26 s 91(2)
def “**residential tenancy**” ins 2011 No. 26 s 91(2)
def “**residential tenancy agreement**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
 sub 2008 No. 73 s 554 sch 1
def “**responsibilities**” reloc 2008 No. 29 s 4(11)
def “**road**” reloc 2008 No. 29 s 4(11)
def “**sea**” reloc 2008 No. 29 s 4(11)
def “**show cause notice**” ins 2011 No. 26 s 91(2)
def “**show cause period**” ins 2011 No. 26 s 91(2)
def “**special mining Act**” amd 2008 No. 29 s 4(7)–(8)
 reloc 2008 No. 29 s 4(11)
def “**standard lease**” ins 2011 No. 26 s 91(2)
def “**stock route**” sub 1995 No. 57 s 4 sch 1; 2008 No. 29 s 4(2)–(3)
 reloc 2008 No. 29 s 4(11)
def “**tidal land**” reloc 2008 No. 29 s 4(11)
def “**Torres Strait area**” amd 2008 No. 29 s 4(9)
 reloc 2008 No. 29 s 4(11)
def “**Torres Strait Islander**” ins 2008 No. 29 s 4(3)
 reloc 2008 No. 29 s 4(11)
 sub 2011 No. 26 s 91(1)–(2)
def “**Torres Strait Islander particularly concerned with the land**” ins 2011
 No. 26 s 91(2)

Endnotes

- def “**Torres Strait Islanders**” om from s 3 2008 No. 29 s 4(2)
- def “**township land**” sub 2008 No. 29 s 4(2)–(3)
 - reloc 2008 No. 29 s 4(11)
- def “**townsite lease**” ins 2011 No. 26 s 91(2)
- def “**townsite sublease**” ins 2011 No. 26 s 91(2)
- def “**transferable land**” amd 2008 No. 29 s 4(10)
 - reloc 2008 No. 29 s 4(11)
- def “**transferee**” ins 2008 No. 29 s 4(3)
 - reloc 2008 No. 29 s 4(11)
 - sub 2011 No. 26 s 91(1)–(2)
- def “**transferor**” ins 2008 No. 29 s 4(3)
 - reloc 2008 No. 29 s 4(11)
 - sub 2011 No. 26 s 91(1)–(2)
- def “**transferred land**” amd 2008 No. 29 s 4(10)
 - reloc 2008 No. 29 s 4(11)
- def “**tribunal**” reloc 2008 No. 29 s 4(11)
- def “**trustee**” ins 2008 No. 29 s 4(3)
 - reloc 2008 No. 29 s 4(11)
 - amd 2011 No. 26 s 91(5)
- def “**trustee (Aboriginal) lease**” ins 2008 No. 29 s 4(3)
 - reloc 2008 No. 29 s 4(11)
 - sub 2011 No. 26 s 91(1)–(2)
- def “**trust money**” ins 2011 No. 26 s 91(2)
- def “**trust property**” ins 2011 No. 26 s 91(2)
- def “**unallocated State land**” ins 2008 No. 29 s 4(3)
 - reloc 2008 No. 29 s 4(11)
- def “**watercourse**” amd 2000 No. 34 s 1145 sch 3
 - sub 2008 No. 29 s 4(2)–(3)
 - reloc 2008 No. 29 s 4(11)

8 Tables of renumbered provisions

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82AAA84
82AAB.....	.85
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83K	174
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83LA	177
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130S277
130T278
130U279
130V280
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131282
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132A284
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137290
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under the Reprints Act 1992 s 43 as required by the Aboriginal Land Act 1991 s 9.11
[Reprint No. 2]

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9 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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