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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION
AMENDMENT BILL (No.1) 1999

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Aboriginal and Torres Strait Islander Affairs,
Senator the Hon John Herron)

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OUTLINE

The Bill amends the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act).

The Aboriginal and Torres Strait Islander Commission (ATSIC) has a representative arm consisting of 35 Regional Councils on the mainland and Tasmania, and the Torres Strait Regional Authority. Regional Council elections are held every three years, and the elected Regional Councillors in each zone (currently 17) elect one of their number to represent the zone on the ATSIC Board.

Under section 27 of the ATSIC Act the Minister appoints the 17 elected zone representatives and two other members, one of whom is the Chairperson. Under amendments to the ATSIC Act passed in 1996 which will come into force after the next zone elections, the Commission will consist of elected representatives only. The Commissioners will elect one of their number as Chairperson.

This Bill provides that when a person elected to be the Commissioner to represent a zone is subsequently elected as Commission Chairperson, the person ceases to hold office as the Commissioner representing the zone and as a Regional Councillor. The Bill changes the wording of section 27 to remove the reference to the 17 members and to clarify that the Minister must appoint as members of the Commission the persons elected to represent the several zones. After the election of the Chairperson and the subsequent election to fill the Chairperson's previous Commissioner's position the Commission will consist of 18 members.

The vacant offices of Commissioner and Regional Councillor will be filled through casual vacancy electoral processes under the Zone Election Rules and the Regional Council Election Rules made under the Act. In the case of the vacant position of Regional Councillor these procedures will require a simple recount and not a full election by the Aboriginal people in the Region. In the case of the vacant position of zone Commissioner the Regional Councillors will elect a new Commissioner in a by election.

The Bill also provides that a Commission Chairperson who resigns is taken to have also resigned as a member of the Commission.

The Bill will commence when Commissioners take office after the Zone elections in approximately December 1999.

FINANCIAL IMPACT STATEMENT

There are no financial implications arising from this Bill except that the person who fills the vacant offices of Commissioner and Regional Councillor will be entitled to salary and allowances.

NOTES ON CLAUSES

Clause 1 - Short Title

This clause provides that the Act when passed may be cited as the *Aboriginal and Torres Strait Islander Commission Amendment Act (No. 1) 1999*.

Clause 2 – Commencement

Subclause 2(1) provides that subject to subclause (2), the Bill commences on the day on which it receives the Royal Assent.

Subclause 2(2) provides that if Schedule 2 to the *Aboriginal and Torres Strait Islander Commission Amendment Act 1996* commences on or after the day on which the Bill receives the Royal Assent, then the amendments made by Schedule 1 to the Bill commence immediately after the commencement of Schedule 2 to the *Aboriginal and Torres Strait Islander Commission Amendment Act 1996*.

Clause 3 - Schedule

Clause 3 provides that subject to section 2, each Act that is specified in a Schedule to the Bill is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Bill has effect according to its terms.

Schedule 1 – Item 1

Item 1 would repeal section 27 and insert a new section 27 in its stead. The new section 27 would provide that the Commission consists of the members appointed by the Minister under section 27 and that the Minister must appoint as members of the Commission the persons elected under Division 7 of Part 3 to represent the several zones. The “full” Commission will consist of 18 members that is, the Chairperson and 17 zone representatives (including one who fills the zone representative vacancy created by the election of the Chairperson).

Schedule 1 – Item 2

Item 2 would insert a new subsection (3) at the end of section 31A. The new subsection would provide that a Commissioner who is elected as the Commission Chairperson ceases to hold office as a person elected to represent a Zone and ceases to hold office as a Regional Councillor.

Schedule 1 – Item 3

Item 3 would insert a new subsection (1AA) after subsection 39(1A). The new subsection would provide that a Commission Chairperson who resigns is taken to have also resigned as a member of the Commission.