

Australian Capital Territory

Aboriginal and Torres Strait Islander Elected Body Regulation 2017

Subordinate law SL2017–34

made under the

Aboriginal and Torres Strait Islander Elected Body Act 2008, Section 36 (Regulation-Making Power)

EXPLANATORY STATEMENT

Presented by
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EXPLANATORY STATEMENT

This explanatory statement relates to the Aboriginal and Torres Strait Islander Elected Body Regulation 2017 (the Regulation). It has been prepared in order to assist the reader of the Regulation and to help inform debate. It does not form part of the Regulation and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the Regulation. It is not, and is not meant to be, a comprehensive description of the Regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

The role of the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) is to receive, and pass on to the Minister, the views of Aboriginal and Torres Strait Islander people living in the ACT on issues of concern to them. Further, when asked by the Minister, provide information or advice about the views of Aboriginal and Torres Strait Islander people.

Members of ATSIEB are elected by the Aboriginal and Torres Strait Islander People of the ACT to represent them and to act as an advocate on systemic or whole-of-government issues affecting their interests.

The *Aboriginal and Torres Strait Islander Elected Body Act 2008* (the Act) was amended and the amendment came into effect on 15 July 2017. Under the amended Act, section 36 allows for the Executive to make regulations for the Act including a prescribed code of conduct referred to in Section 19.

Section 36 (1) of the Act allows for the Executive to make a regulation.

Section 36 (2) defines that a regulation can be made to make provision for an ATSIEB code of conduct, the roles and responsibilities of the ATSIEB chair and ATSIEB deputy chair and other ATSIEB governance matters.

While **Section 36 (3)** identifies that the Executive should consult with ATSIEB before making a regulation.

Overview

The new Regulation under the *Aboriginal and Torres Strait Islander Elected Body Act 2008* provides clarity on how ATSIEB members should declare their pecuniary and personal interests; defines the role of the chair and deputy chair and institutes a prescribed code of conduct referred to in section 19.

The Code of conduct for ATSIEB members in Schedule 1 covering:

- i. Honesty and fairness
- ii. Care and diligence
- iii. Conflict of interest
- iv. Respect for privacy and reputation

- v. Confidential information
- vi. Accountability and transparency
- vii. Mutual respect
- viii. Accessibility
- ix. ATSIEB chair

Regulatory impact statement

A regulatory impact statement is not required for the Amending Regulation as it does not impose any appreciable costs on the community, or a part of the community.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference requires consideration of human rights, among other matters. In this case, no human rights are impacted.

Outline of Provisions

Clause 1 Name of regulation

This clause names the regulation.

Clause 2 Commencement

This clause provides for the commencement of the regulation.

Clause 3 Dictionary

This clause states that the dictionary at the end of the regulation is part of the regulation.

Clause 4 Notes

This clause identifies that the notes within the regulation are explanatory only.

Clause 5 Code of conduct for ATSIEB members

This clause states that the Code of Conduct that members must comply with is in Schedule One (1) of the Regulation. It also outlines that the code of conduct does not displace any duty or liability that an ATSIEB member has under any law within Australia.

Clause 6 Pecuniary and personal interests declaration

This clause requires an ATSIEB member to table a declaration of pecuniary and personal interests, outlines the information it must contain and that ATSIEB as a body must maintain a record of pecuniary and personal interests declarations and make the record available to the Minister.

Transitional provisions in subsection four (4) require current members must table a declaration of pecuniary and personal interests within six (6) months after the regulation commences and the section will expire after 12 months.

Clause 7 Role of ATSIEB chair

This clause outlines the role of the chair of ATSIEB.

Clause 8 Role of ATSIEB deputy chair

This clause outlines the role of the deputy chair of ATSIEB.

Schedule 1 Code of conduct for ATSIEB members

1.1 Honesty and fairness

The clause requires an ATSIEB member must act honestly and fairly.

1.2 Care and diligence

The clause requires an ATSIEB member must exercise reasonable care and diligence.

1.3 Conflict of interest

The clause requires an ATSIEB member to take all reasonable steps to avoid any actual or perceived conflict of interest.

1.4 Respect for privacy and reputation

The clause requires an ATSIEB member to respect the dignity and privacy of an individual and must consider the rights and reputation of a person before making a statement.

1.5 Confidential information

The clause requires an ATSIEB member to not take improper advantage of information or improperly disclose confidential information they may receive.

1.6 Accountability and transparency

The clause requires an ATSIEB member to not improperly use a territory resource and use public resources in an open and accountable way.

1.7 Mutual respect

The clause requires an ATSIEB member in their interactions with others to be professional and act with respect; and not bully, harass or intimidate anyone.

1.8 Accessibility

The clause requires ATSIEB members to be reasonably accessible to their constituents.

1.9 ATSIEB chair

The clause outlines how the chair performs their functions under the Act.