

# INQUIRY INTO THE NATIVE TITLE AMENDMENT (TECHNICAL AMENDMENTS) BILL 2007

---

Senate Legal and Constitutional Affairs Committee  
Completed 9 May 2007

---

On 29 March 2007 the Senate referred the provisions of the above Bill to the Senate Legal and Constitutional Affairs Committee for inquiry and report by 8 May 2007. The Bill amends provisions of the *Native Title Act 1993* (Cth) ('NTA') relating to:

- future acts;
- Indigenous land use agreements;
- the scope of alternative state or territory regimes to the right to negotiate established under section 43 of the NTA;
- the making and resolution of native title applicants;
- the obligations of the Registrar of the Native Title Tribunal in relation to the registration of native title applications;
- native title representative bodies; and
- prescribed bodies corporate.

The amendments in the Bill will not change the nature of native title, but aim to improve the procedures for making and resolving native title claims. The Bill provides for minor and technical amendments to the NTA to improve the workability of native title law, and is one of a package of recent reforms to the NTA, along with the Bill recently passed as the *Native Title (Amendment) Act 2007* (Cth).

Most submissions and evidence received by the Senate committee expressed in-principle support for the general scope of the Bill. Concerns were raised (Chapter 3 of the Senate Committee Report), by the National Native Title Council, Human Rights and Equal Opportunity Commission (HREOC), the Minerals Council of Australia and the Department of Families, Community Services and Indigenous Affairs (FaCSIA) in some areas, including:

- internal review of registration decisions (proposed sections 190E and 190F);
- amendments relating to Prescribed Body Corporates (Schedule 3);
- defects in authorisation processes;
- determinations for part of an area (section 87A); and
- alternative state regimes.

The committee recommended: that proposed section 87A should require consent from parties with an interest in relation to land and waters, where the Court is satisfied that the party's interest is likely to be affected by the proposed agreement; that proposed section 190F be amended to state that an applicant may not apply to the Federal Court for review of a Native Title Registrar's decision at the same time as the NNTT is reconsidering the claim under section 190E; that the proposed section 190E be amended to provide that a Member of the Native Title Tribunal, not the Registrar, should carry out a reconsideration of the Registrar's decision not to accept a claim; and that the Government consider amending the Bill to provide a separate simplified process for the removal of an applicant who consents, is deceased or incapacitated. Subject to these recommendations the committee recommended that the Senate pass the Bill.

***The full text of this inquiry is available at the Parliament of Australia's Senate website: <<http://www.aph.gov.au/Senate>>.***