2004-2005

The Parliament of the Commonwealth of Australia

THE SENATE

Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005]

(Amendments to be moved by Senator Ridgeway on behalf of the Australian Democrats in committee of the whole)

(1) Clause 1, page 1 (line 7), after “Amendment”, insert “(Unfair Dismissal)”. [short title]

(2) Schedule 1, page 3 (line 2) to page 57 (line 21), TO BE OPPOSED. [abolition of ATSIC]

(3) Schedule 1, page 16 (after line 5), after subsection 151(1), insert:
   (1A) The Minister’s power to give directions in accordance with subsection (1) is limited to giving directions in relation to the new functions transferred from ATSIC. [ministerial directions limited to performing new functions]

(4) Schedule 1, page 17 (after line 17), after item 118, insert:

118A After section 154

Insert:

154A Review by Administrative Appeals Tribunal

   (1) An application may be made to the Administrative Appeals Tribunal for review of:
       (a) a decision made by Indigenous Business Australia to refuse a housing loan from the New Housing Fund to an individual; or
       (b) a decision made by Indigenous Business Australia to refuse a loan to an individual, a body corporate or an unincorporated body to enable the individual or body to engage in a business enterprise; or
(c) a decision made by Indigenous Business Australia to refuse to give a guarantee in respect of a housing loan from the New Housing Fund made or to be made to an individual; or

(d) a decision made by Indigenous Business Australia to refuse to give a guarantee in respect of a loan made or to be made to an individual, a body corporate or an unincorporated body, where the purpose of the loan is to enable the individual or body to engage in a business enterprise.

(2) Where Indigenous Business Australia notifies a person of a decision of a kind referred to in subsection (1), the notice shall include a statement to the effect that, subject to the Administrative Appeals Tribunal Act 1975, application may be made to the Administrative Appeals Tribunal for review of the decision by or on behalf of a person whose interests are affected by the decision.

(3) A failure to comply with subsection (2) in relation to a decision does not affect the validity of the decision.

(4) In this section:

*decision made by Indigenous Business Australia* means:

(a) a decision made by Indigenous Business Australia itself; or

(b) a decision made by a delegate of Indigenous Business Australia upon a reconsideration of a decision made by another delegate of Indigenous Business Australia.

(5) Schedule 2, item 1, page 61 (after line 34), after section 193Y, insert:

**193YA All evaluations to apply test of no disadvantage to Indigenous programs**

(1) Where the Office conducts programs of evaluation and audit in accordance with section 193Y, the Office must assess whether the funding of the program meets a no disadvantage test in relation to program administration arising from the transfer of ATSIC and ATSIS functions.

(2) For the purposes of this section, a no disadvantage test means that the program will not receive less funding as a result of the administrative changes arising from this transfer of functions mentioned in subsection (1) for a period of one year commencing on 1 July 2005.

(6) Schedule 4, item 23, page 83 (lines 4 and 5), omit the item, substitute:

**23 Subsection 74(1A)**

Repeal the subsection, substitute:

**1A Inviting comments from Indigenous Advisory Committee and Indigenous expert on the Heritage Council**

(1A) As soon as practicable after receiving a referral of a proposal to take an action, the Environment Minister must:

(a) inform the Indigenous Advisory Committee and the Indigenous expert on the Heritage Council; and
(b) invite the committee and Indigenous expert mentioned in paragraph (a) to give the Minister comments within 10 business days (measured in Canberra) on whether the proposed action is a controlled action; if the Minister thinks that section 15B, 15C, 23, 24A, 26, 27A, 27B, 27C or 28 could be a controlling provision for the action because of the Indigenous heritage value of a National Heritage place or Commonwealth Heritage place.

Note 1: The Indigenous Advisory Committee is established by section 505A of the Environment Protection and Biodiversity Conservation Act 1999.

Note 2: The Indigenous expert on the Heritage Council is provided for by the Australian Heritage Council Act 2003.

Note 3: Subsections 15B(4), 15C(7) and (8) protect the National Heritage values of National Heritage places, to the extent that those values are Indigenous heritage values.

Note 4: Sections 23, 24A, 26, 27A, 27B, 27C and 28 protect the environment, which includes the heritage values of places. See the definition of environment in section 528.

[notifying Indigenous heritage or environmental matters etc]

(7) Schedule 4, item 34, page 85 (lines 4 to 7), omit subsection 203C(2), substitute:

(2) The Indigenous Land Corporation may, on behalf of the Commonwealth, provide funds to a representative body, by making a grant to the representative body or in any other way the Indigenous Land Corporation considers appropriate, from money appropriated by the Parliament.

[ILC supervises, loans etc.]