

Attachment C: Transitionals supporting the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 (CATSI Bill)

ORAC is currently finalising drafting instructions for a second Bill which contains the transitional arrangements. This is the *Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill*. This second Bill will provide the machinery for the CATSI Bill to operate and most importantly the arrangements for the existing corporations to transition to the new legislation. At this stage the second Bill is set down for introduction this year; however this will depend on progress with drafting over the next month or so.

The policy for the second Bill is still being finalised however the aim is to achieve as smooth a transition for existing corporations as possible, noting that the CATSI Bill is inevitably bringing significant changes given the ACA Act is 30 years old and very out of date. The transitionals are likely to:

- Repeal the *Aboriginal Councils and Associations Act 1976* (ACA Act).
- On commencement of the CATSI Bill transfer all existing corporations registered under the ACA Act to so that they will not have to re-register under the new act.
- Deem the rules of existing corporations to be constitutions registered under CATSI.
- Allow rules of existing associations to continue to operate for a period of time to the extent that they are not inconsistent with key provisions of the CATSI Bill such as director's duties.
- Allow the first reports under the CATSI Bill to be submitted for later financial years and therefore not be due until over a year from commencement date.
- Provide for exemptions and determinations that can be used to effectively delay the application of some elements of the Bill for existing corporations. This will give existing corporations time to bring their constitutions into line with CATSI Bill requirements.

It should be noted that proposed section 60-1 already includes one transitional element. This section provides that the replaceable rules in the CATSI Bill do not apply to associations registered under the ACA Act unless the corporation repeals its constitution after commencement. This means that rules of existing corporations that are inconsistent with replaceable rules in the CATSI Bill when it commences will remain in place. The replaceable rules are listed at proposed section 60-25.

To support implementation ORAC will continue to target corporations transitioning to the CATSI Bill for relevant education, support and capacity building. As part of this service, tools will be developed to provide useful pathways for existing corporations to migrate their constitutions into the new internal governance framework over time. The migration of existing constitutions will be assisted by the fact that most existing corporations have used one of the model constitutions provided by ORAC in the past. ORAC is putting into place a transitional model constitution to assist corporations that incorporate during 2005-06 to more easily migrate their constitutions into the new act.