

## Chapter 4

### The Aboriginal and Torres Strait Islander Land Fund Annual Report 2003-2004

4.1 The Aboriginal and Torres Strait Islander Land Fund was established under Part 4A Division 10 of the *Aboriginal and Torres Strait Islander Commission Act 1989* (the ATSIC Act).<sup>1</sup>

4.2 Section 193I of the ATSIC Act requires the preparation and submission of an annual report on the Land Fund's activities. The report is required to include particulars of amounts credited to, and paid out of, the Land Fund during the financial year, together with:

- particulars of investments of the Land Fund;
- the realised real return on investments of the Land Fund for the financial year; and
- such other information (if any) as is specified in the regulations.

4.3 In the past, the Land Fund Report has been included as an appendix to the Annual Report of the Indigenous Land Corporation. However, this year, the report was not available in time for the submission of the Corporation's Annual Report. The delay was due to a qualified Audit Report for two of the ATSIC Accounts: the Land Fund and the Aboriginals Benefit Account (not related to the Land Fund or the ILC).

4.4 The Land Fund Accounts are audited as part of the ATSIC Financial Statements. During the reporting period, the ANAO undertook an audit of Special Appropriations. This disclosed that since its inception, the amounts drawn down to the Land Fund from the Official Public Account were in excess of those authorised. The reason for this is contained in Note 13 to the Land Fund Account Financial Statements which appear as part of Appendix 10 to the Aboriginal and Torres Strait Islander Commission Annual Report. The note says:

The audit identified a discrepancy in the indexation rate applied that has resulted in excess appropriations being transferred to the Land Fund within the Consolidated Revenue Fund, and on-paid to the Indigenous Land Corporation under s192A... Aboriginal and Torres Strait Islander Commission Act 1989...<sup>2</sup>

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1 *The Aboriginal and Torres Strait Islander Commission Act 1989* was replaced by the *Aboriginal and Torres Strait Islander Act 2005* on 24 March 2005. This change does not affect the period under examination.

2 Annual Report of the Aboriginal and Torres Strait Islander Commission 2003-2004, p. 165.

The accounts were also qualified because the type of investments made by the Land Fund did not fit the definition of allowed 'Deposits with Banks'; they were 'medium term notes' which the ANAO concluded were not deposits but debts with banks.<sup>3</sup>

### ***Implications for the ILC***

4.5 The ILC's Annual Report notes the ANAO review, and the discrepancy in the amounts paid to the ILC. At the public hearing the ILC told the Committee:

There is an amount of \$6.2 million. This audit undertaken by ANAO – there were a number of similar audits – identified that an incorrect indexation figure was used to calculate the annual appropriation of funds to the ILC from the land fund; therefore, the draw-down was incorrect.<sup>4</sup>

4.6 The ILC advised the Committee that after discussions with the ANAO and the Department of Finance, the funds were repaid in January of this year.

4.7 The matter of the investment strategy for the Land Fund will in future be regulated under s.193G of the *Aboriginal and Torres Strait Islander Act 2005*. It was formerly regulated under s.193G of the *ATSIC Act*.

### ***Legislation***

4.8 For the past two reporting periods, the Committee noted proposed amendments to the *Financial Management and Accountability Act 1997*, which were part of the draft financial framework legislation being considered by the Joint Parliamentary Committee on Public Accounts and Audit. The relevant amendment would alter the title of the Indigenous Land Fund to the Indigenous Land Account.

4.9 That Committee reported in August 2003 and the *Financial Framework Legislation Amendment Act 2005* commenced on 22 February 2005. Accordingly, the Aboriginal and Torres Strait Islander Land Fund is now known as the Aboriginal and Torres Strait Islander Land Account from that date. This will be reflected in the next Annual Report of the ILC.

**Senator David Johnston**  
Committee Chair

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3 The Aboriginal and Torres Strait Islander Commission Annual Report 2003-2004, pp 6–7.

4 *Committee Hansard*, 16 March 2005, p. 11.