



# **Native Title (Indigenous Land Use Agreements) Regulations 1999**

**Select Legislative Instrument 1999 No. 335 as amended**

made under the

*Native Title Act 1993*

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**1 Name of Regulations** [see Note 1]

These Regulations are the *Native Title (Indigenous Land Use Agreements) Regulations 1999*.

**2 Commencement** [see Note 1]

These Regulations commence on gazettal.

**3 *Native Title (Indigenous Land Use Agreements) Regulations 1998* — repeal**

Statutory Rules 1998 No. 286 is repealed.

**4 Transitional**

Despite the repeal of the *Native Title (Indigenous Land Use Agreements) Regulations 1998*, those Regulations continue to apply in relation to any application for registration of an indigenous land use agreement made before the commencement of these Regulations.

**5 Definitions**

In these Regulations:

*Act* means the *Native Title Act 1993*.

***agreement area***, in relation to an indigenous land use agreement, means the area of land or water to which the agreement applies.

***alternative procedure agreement*** means an indigenous land use agreement of the kind mentioned in section 24DA of the Act.

***area agreement*** means an indigenous land use agreement of the kind mentioned in section 24CA of the Act.

***body corporate agreement*** means an indigenous land use agreement of the kind mentioned in section 24BA of the Act.

***complete description***, in relation to an area, means:

- (a) a written description of that area that enables identification of the boundaries of:
  - (i) the area; and
  - (ii) any areas within those boundaries that are not included in the area; and
- (b) a map of the area that shows geographic coordinates.

***native title decision*** has the meaning given in subregulation 8 (1) of the PBC Regulations.

***PBC Regulations*** means the *Native Title (Prescribed Bodies Corporate) Regulations 1999*.

## **6 Application for registration of body corporate agreements (Act s 24BG)**

- (1) For subsection 24BG (2) of the Act, an application to register a body corporate agreement must be accompanied by the documents and information mentioned in this regulation.
  - (2) The following documents must accompany an application:
    - (a) a copy of each determination of native title for the agreement area for each party to the agreement that is a registered native title body corporate;
    - (b) a statement by each party to the agreement, signed by or for the party, that the party agrees to the application being made;
    - (c) a complete description of the agreement area;
    - (d) if the agreement provides for the surrender of native title that is intended to extinguish native title rights and interests in an area, a complete description of that area;
    - (e) if:
      - (i) the agreement gives effect to a native title decision in an area (the ***affected area***); and
      - (ii) for any part of the affected area, there is a representative body that is not a party to the agreement, or no representative body;
- a document mentioned in subregulation 9 (2) of the PBC Regulations that relates to the decision.

*Note 1* The PBC Regulations apply to a body that holds native title rights and interests, or acts as an agent or representative of the common law holders, as the result of a Federal Court determination under s 56 or 57 of the Act.

*Note 2* Regulation 8 of those Regulations provides that a prescribed body corporate, before making a decision that will affect native title, must consult the common law holders.

*Note 3* Regulation 9 of those Regulations sets out the requirements for the document that will provide evidence of consultation about, and consent to, the decision.

- (3) The following information, which must be in writing, must accompany the application:

- (a) the name of each party to the agreement and the address at which the party can be contacted;

*Note* The name of each party to the agreement and the address at which the party can be contacted will be notified to the public by the Registrar: see s 24BH of the Act.

- (b) information that identifies any party that is a representative body;
- (c) whether the Commonwealth, or a State or Territory, or a Commonwealth, State or Territory authority, is a party;
- (d) if the agreement specifies the period during which the agreement will operate, a statement of that period.

- (4) If:

- (a) there are any representative bodies for any part of the area covered by the agreement; and

- (b) none of them is a party to the agreement;

a party that is a registered native title body corporate must state whether any party that is a registered native title body corporate has informed at least 1 of the representative bodies of its intention to enter into the agreement.

- (5) If the body corporate agreement contains 1 or more of the following statements, the application for registration of the agreement must be accompanied by information in writing giving the location of each statement in the agreement:

- (a) a statement of a kind mentioned in paragraph 24EB (1) (b) of the Act that relates to the consent by the parties to the doing of a future act or class of acts;

- (b) a statement of a kind mentioned in paragraph 24EB (1) (c) of the Act to the effect that Subdivision P of Division 3 of Part 2 of the Act (which deals with the right to negotiate) is not intended to apply to a future act or class of acts;
- (c) a statement of a kind mentioned in paragraph 24EB (1) (d) of the Act to the effect that the surrender of native title under the agreement is intended to extinguish native title rights and interests;
- (d) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (i) of the Act to the effect that the parties agree to the validating of a future act that is not an intermediate period act, or of such acts included in classes;
- (e) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (ii) of the Act to the effect that the parties agree to the validating, subject to conditions, of a future act that is not an intermediate period act, or of such acts included in classes;
- (f) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (iii) of the Act that relates to the agreement by the parties to change the effects provided by section 22B of the Act, or by a State or Territory law that has the same effect, of an intermediate period act or of such acts included in classes;
- (g) a statement of a kind mentioned in paragraph 24EBA (4) (b) of the Act to the effect that the surrender of native title under the agreement is intended to have extinguished the native title rights and interests.

*Note* An application must also be accompanied by a copy of the agreement, see subs 24BG (2) of the Act.

## **7 Application for registration of area agreements (Act s 24CG)**

- (1) For subsection 24CG (2) of the Act, an application to register an area agreement must be accompanied by the documents and information mentioned in this regulation.
- (2) The following documents must accompany an application:

- (a) a copy of each determination of native title for the agreement area for any party to the agreement that is a registered native title body corporate;
- (b) a statement by each party to the agreement, signed by or for the party, that the party agrees to the application being made;
- (c) a copy of an extract from the Register of Native Title Claims giving details of each party that is a registered native title claimant;
- (d) a complete description of the agreement area;
- (e) if the agreement provides for the surrender of native title that is intended to extinguish native title rights and interests in an area, a complete description of that area;
- (f) a copy of any certification, mentioned in paragraph 24CG (3) (a) of the Act, that relates to the agreement;

*Note* Subsection 24CG (3) of the Act provides that an application for registration of an area agreement must:

- (a) have been certified by all representative bodies for the area; or
- (b) include both a statement that the requirements of para 24CG (3) (b) have been met, and a statement setting out the grounds on which the Registrar should be satisfied that those requirements have been met.
- (g) if:
  - (i) a registered body corporate is a party to the agreement; and
  - (ii) the agreement gives effect to a native title decision in an area (the *affected area*); and
  - (iii) for any part of the affected area, there is a representative body that is not a party to the agreement, or no representative body;

a document mentioned in subregulation 9 (2) of the PBC Regulations that relates to the decision.

*Note 1* The PBC Regulations apply to a body that holds native title rights and interests, or acts as an agent or representative of the common law holders, as the result of a Federal Court determination under s 56 or 57 of the Act.

*Note 2* Regulation 8 of those Regulations provides that a prescribed body corporate, before making a decision that will affect native title, must consult the common law holders.

## Regulation 7

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*Note 3* Regulation 9 of those Regulations sets out the requirements for the document that will provide evidence of consultation about, and consent to, the decision.

- (3) The following information, which must be in writing, must accompany the application:

- (a) the name of each party to the agreement and the address at which the party can be contacted;

*Note* The name of each party to the agreement and the address at which the party can be contacted will be notified to the public by the Registrar: see s 24CH of the Act.

- (b) information that identifies any party that is a representative body;
- (c) whether the Commonwealth, or a State or Territory, or a Commonwealth, State or Territory authority, is a party;
- (d) if the agreement specifies the period during which the agreement will operate, a statement of that period.

- (4) If:

- (a) there are any representative bodies for any part of the area covered by the agreement; and

- (b) none of them is a party to the agreement;

a party that is a member of the native title group, within the meaning in section 24CD of the Act, must state whether it has informed at least 1 of the representative bodies of its intention to enter into the agreement.

- (5) If the area agreement contains 1 or more of the following statements, the application for registration of the agreement must be accompanied by information in writing giving the location of each statement in the agreement:

- (a) a statement of a kind mentioned in paragraph 24EB (1) (b) of the Act that relates to the consent by the parties to the doing of a future act or class of acts;
- (b) a statement of a kind mentioned in paragraph 24EB (1) (c) of the Act to the effect that Subdivision P of Division 3 of Part 2 of the Act (which deals with the right to negotiate) is not intended to apply to a future act or class of acts;
- (c) a statement of a kind mentioned in paragraph 24EB (1) (d) of the Act to the effect that the surrender of native title



under the agreement is intended to extinguish native title rights and interests;

- (d) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (i) of the Act to the effect that the parties agree to the validating of a future act that is not an intermediate period act, or of such acts included in classes;
- (e) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (ii) of the Act to the effect that the parties agree to the validating, subject to conditions, of a future act that is not an intermediate period act, or of such acts included in classes;
- (f) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (iii) of the Act that relates to the agreement by the parties to change the effects provided by section 22B of the Act, or by a State or Territory law that has the same effect, of an intermediate period act or of such acts included in classes;
- (g) a statement of a kind mentioned in paragraph 24EBA (4) (b) of the Act to the effect that the surrender of native title under the agreement is intended to have extinguished the native title rights and interests.

*Note* An application must also be accompanied by a copy of the agreement, see subs 24CG (2) of the Act.

## **8 Application for registration of alternative procedure agreements (Act s 24DH)**

- (1) For subsection 24DH (2) of the Act, an application to register an alternative procedure agreement must be accompanied by the documents and information mentioned in this regulation.
- (2) The following documents must accompany an application:
  - (a) a copy of each determination of native title for the agreement area for any party to the agreement that is a registered native title body corporate;
  - (b) a statement by each party to the agreement, signed by or for the party, that the party agrees to the application being made;

- (c) a copy of an extract from the Register of Native Title Claims giving details of each party that is a registered native title claimant;
- (d) a complete description of the agreement area;
- (e) if:
  - (i) a registered body corporate is a party to the agreement; and
  - (ii) the agreement gives effect to a native title decision in an area (the *affected area*); and
  - (iii) for any part of the affected area, there is no representative body;a document mentioned in subregulation 9 (2) of the PBC Regulations that relates to the decision.

*Note 1* The PBC Regulations apply to a body that holds native title rights and interests, or acts as an agent or representative of the common law holders, as the result of a Federal Court determination under s 56 or 57 of the Act.

*Note 2* Regulation 8 of those Regulations provides that a prescribed body corporate, before making a decision that will affect native title, must consult the common law holders.

*Note 3* Regulation 9 of those Regulations sets out the requirements for the document that will provide evidence of consultation about, and consent to, the decision.

- (3) The following information, which must be in writing, must accompany the application:
  - (a) the name of each party to the agreement and the address at which the party can be contacted;

*Note* The name of each party to the agreement and the address at which the party can be contacted will be notified to the public by the Registrar: see s 24DI of the Act.

- (b) information that identifies any party that is a representative body;
- (c) whether the Commonwealth, or a State or Territory, or a Commonwealth, State or Territory authority, is a party;
- (d) if the agreement specifies the period during which the agreement will operate, a statement of that period.

- (4) If the alternative procedure agreement contains 1 or more of the following statements, the application for registration of the agreement must be accompanied by information in writing that gives the location of that statement, or those statements, in the agreement:
- (a) a statement of a kind mentioned in paragraph 24EB (1) (b) of the Act that relates to the consent by the parties to the doing of a future act or class of acts;
  - (b) a statement of a kind mentioned in paragraph 24EB (1) (c) of the Act to the effect that Subdivision P of Division 3 of Part 2 of the Act (which deals with the right to negotiate) is not intended to apply to a future act or class of acts;
  - (c) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (i) of the Act to the effect that the parties agree to the validating of a future act that is not an intermediate period act, or of such acts included in classes;
  - (d) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (ii) of the Act to the effect that the parties agree to the validating, subject to conditions, of a future act that is not an intermediate period act, or of such acts included in classes;
  - (e) a statement of a kind mentioned in subparagraph 24EBA (1) (a) (iii) of the Act that relates to the agreement by the parties to change the effects provided by section 22B of the Act, or by a State or Territory law that has the same effect, of an intermediate period act or of such acts included in classes.

*Note* An application must also be accompanied by a copy of the agreement, see subs 24DH (2) of the Act.

## **9 Application objecting against registration of alternative procedure agreement — prescribed form (Act ss 24DJ and 77A)**

For paragraph 77A (a) of the Act, Form 1 in Schedule 1 is prescribed.

## **Schedule 1      Forms**

(regulation 9)

### **Form 1      Application objecting against registration of alternative procedure agreement**

(regulation 9)

*Native Title Act 1993*

#### **APPLICATION OBJECTING AGAINST REGISTRATION OF ALTERNATIVE PROCEDURE AGREEMENT**

To:     Native Title Registrar  
         National Native Title Tribunal

1.       \*I/\*We, [*name(s) of applicant(s), including any Aboriginal or Torres Strait Islander name(s)*], object to the registration of [*name of alternative procedure agreement and NNTT file number (if known)*] (the agreement).

\*I/\*We make this application as \*a person/\*persons claiming to hold native title in relation to \*all/\*part of the land or waters in the area covered by the agreement.

\*Omit if not applicable.

The following information is provided for the purposes of the application.

2.       *Address of the applicant(s).*

3.       *Address for service of the applicant(s), including a telephone number and facsimile number (if any).*

4.       *Name and address of the representative of the applicant(s) (if any), including a telephone number and facsimile number (if any).*

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5. *The notification day for the agreement (specified in the notice of the agreement given by the Registrar under section 24DI of the Act).*

6. *A statement of reasons why it would not be fair and reasonable to register the agreement.*

7. *Any other relevant information.*

*[Signature of applicant(s)]*

Date:

*Note* The information mentioned in item 6 is required by paragraph 77A (c) of the Act.

## Table of Instruments

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# Notes to the *Native Title (Indigenous Land Use Agreements) Regulations 1999*

## Note 1

The *Native Title (Indigenous Land Use Agreements) Regulations 1999* (in force under the *Native Title Act 1993*) as shown in this compilation comprise Select Legislative Instrument 1999 No. 335 amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

## Table of Instruments

Year and Number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
1999 No. 335	22 Dec 1999	22 Dec 1999	
2006 No. 49	22 Mar 2006 (see F2006L00845)	23 Mar 2006	—

**Table of Amendments**

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**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 5 .....	am. 2006 No. 49
R. 9 .....	ad. 2006 No. 49
<b>Schedule 1</b>	
Schedule 1 .....	ad. 2006 No. 49