

## **Statement of Expectations—Registrar of Indigenous Corporations**

This Statement outlines the Government's expectations about:

- the role and responsibilities of the Registrar of Indigenous Corporations (the Registrar) and the Office of the Registrar of Indigenous Corporations (ORIC);
- the Registrar's relationship with the Minister for Indigenous Affairs;
- the Registrar's relationship with the Department of the Prime Minister and Cabinet;
- strategic directions for ORIC to contribute to key priorities in Indigenous Affairs;
- cooperation with other regulators and funding bodies;
- governance, accountability and transparency; and
- operational issues.

### **Role and responsibilities of the Registrar and ORIC**

The Registrar is an independent statutory office holder who administers the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). The Registrar's office, ORIC, supports and regulates approximately 2900 Aboriginal and Torres Strait Islander organisations incorporated under the CATSI Act by training directors, members and key staff in good governance; ensuring compliance with the law; and intervening when needed.

While the Registrar is an independent statutory officer, the Government expects the Registrar to uphold high standards of corporate accountability in Aboriginal and Torres Strait Islander corporations. In doing so, the Registrar must take into account the Government's policy framework for Indigenous Affairs in performing his or her functions.

Confidence in ORIC as a regulator requires the entity to be independent, risk based in its approach, intelligence-led, consistent in its decision-making, and proportionate in its response to non-compliance.

The Registrar, in performing functions and exercising powers under the CATSI Act must aim to:

- facilitate and improve the effectiveness, efficiency, sustainability and accountability of Aboriginal and Torres Strait Islander corporations;
- provide certainty for the members, officers and employees of an Aboriginal and Torres Strait Islander corporation in their dealings with the corporation and with each other;
- provide certainty for people outside Aboriginal and Torres Strait Islander corporations in their dealings with those corporations;
- have regard for Aboriginal and Torres Strait Islander tradition and circumstances;
- administer the laws of the Commonwealth that confer functions and powers on the Registrar effectively and with a minimum of procedural requirements; and
- ensure that information is available as soon as practicable for access by the public.

## **Relationship between the Registrar and Minister for Indigenous Affairs**

The Government recognises and respects the statutory independence of the Registrar, and that ORIC's operations contribute to the better governance and financial management of Aboriginal and Torres Strait Islander corporations, and ultimately improved outcomes for Aboriginal and Torres Strait Islander Australians. It is important for public confidence that the Registrar is, and is seen to be, exercising independent judgment about the application of the CATSI Act and the Corporations (Aboriginal and Torres Strait Islander) Regulations 2007 (CATSI Regulations).

It is also important that the Registrar provides the Minister for Indigenous Affairs with accurate and timely information on significant issues so that the Minister is kept fully informed. This may include matters that the Government is likely to be accountable for in the Parliament, important operational issues, key policy proposals, and legislative change.

## **Relationship with the Department of the Prime Minister and Cabinet**

The Department of the Prime Minister and Cabinet supports and advises the Minister for Indigenous Affairs on a wide range of Indigenous issues. The Government expects the Registrar and ORIC to support this role by maintaining a sound working relationship with the Department of the Prime Minister and Cabinet (and other Government agencies that fund Aboriginal and Torres Strait Islander corporations) to facilitate the exchange of information on both operational and strategic issues, and help inform policy development. This includes providing the Department with timely information on the operation of the CATSI Act and how this can contribute to the Government's broader objectives in Indigenous affairs.

The Registrar will advise the Department about changes to legislation that in his or her opinion would assist in improving the CATSI Act and the effectiveness, efficiency, sustainability and accountability of Aboriginal and Torres Strait Islander corporations. The Department takes into account the views and experience of the Registrar and ORIC when considering and advising on changes to policy and legislation relevant to the CATSI Act and Aboriginal and Torres Strait Islander corporations to facilitate consistency between the objectives of the CATSI Act and its practical implementation.

The Department will provide corporate support to ORIC. The Department will consult with the Registrar on departmental matters affecting ORIC and will also involve the Registrar and ORIC staff in corporate activities and events, staff forums, and leadership meetings where relevant.

## **Strategic directions for ORIC to contribute to key priorities in Indigenous Affairs**

A review of ORIC and operation of the CATSI Act was completed in December 2016. While the review concluded that ORIC is doing a good job in a challenging regulatory environment, it also identified opportunities to enhance ORIC's contribution to the better governance of Aboriginal and Torres Strait Islander corporations in the future as ORIC becomes a more modern, intelligence led risk-based regulator. The Government expects that ORIC will work with the Government to implement the supported review recommendations.

In July 2017, the Government announced an additional funding of \$4 million over four years. This funding is provided to enable OIRC to provide expanded support services to Aboriginal and Torres Strait Islander corporations. Additionally the Government expects this funding will result in additional corporate governance training, special administrations and examinations by ORIC. In regulating Aboriginal and Torres Strait Islander corporations ORIC should:

- consistently and transparently administer the CATSI Act and CATSI Regulations;
- communicate information about the CATSI Act, CATSI Regulations and expectations to Aboriginal and Torres Strait Islander corporations and stakeholders in an accessible format;
- aim to minimise the burden on regulated entities and assist regulated entities to comply;
- adopt a risk-based approach in relation to compliance obligations and enforcement responses, specifically targeting ‘higher risk’ corporations where the consequences of non-compliance are likely to be significant; and
- apply a diverse range of interventions and graduated responses which are proportionate to the risk of non-compliance and regulated corporations’ behaviour.

Within the scope of its statutory mandate, the Government expects ORIC to contribute to the Government’s key priorities in Indigenous affairs. In particular, the Government expects ORIC to consider how its policies and practices will affect, and can maximise opportunities for, children going to school, adults to work and safer communities.

The Government also expects ORIC to comply with broader Commonwealth Government policy, and in particular, the Regulator Performance Framework, Commonwealth Government Investigation Standards, Prosecution Policy of the Commonwealth and the *Legal Services Directions 2017*.

### **Regulatory Co-operation**

ORIC plays an essential role in the regulation of Aboriginal and Torres Strait Islander corporations. The Government expects ORIC to work co-operatively with funding entities and other Commonwealth Government, State and Territory regulators, where appropriate, to ensure a well-targeted, proportionate and risk-based approach is used in addressing existing and emerging risks in Aboriginal and Torres Strait Islander corporations, and the sector more broadly. To support this ORIC should communicate its regulatory approach to key funding agencies, other regulators and Aboriginal and Torres Strait Islander corporations. Further, the Government encourages ORIC to work closely with the Australian Securities and Investments Commission, Australian Charities and Not-for-Profit Commission, Australian Taxation Office, and other regulators—to identify opportunities for increased collaboration, information sharing, and the implementation of co-regulatory responses and approaches.

## **Governance, Accountability and Reporting**

ORIC was established as a body to support the Registrar in administering the CATSI Act. ORIC is part of, and largely funded through departmental funding allocated to, the Department of the Prime Minister and Cabinet. The Government expects organisations that it funds to have high standards of corporate governance and to be accountable to the Parliament, and ultimately to the public. The Registrar, as an independent statutory office holder, and ORIC, as a Commonwealth Government entity, are accountable to the Parliament.

To support its regulatory activities ORIC should adopt a policy of openness and make all relevant information publicly available unless there is a compelling reason not to. This includes publishing a statement about its regulatory approach, a strategic risk management framework, a three-year strategic plan, and a corporate plan. These key documents should then be reviewed on an annual basis or as otherwise required.

In fulfilling its role as a regulator, the Government expects ORIC to ensure decisions and actions have a sound legislative basis, and are made or taken, in a manner consistent with broader Government legislative and policy requirements.

The Government expects that ORIC will develop a performance framework that aligns with the regulatory outcomes it seeks to achieve. Following the conclusion of each financial year, ORIC will provide to the Department of the Prime Minister and Cabinet a report on its performance for inclusion in the Department's annual report. This will be in addition to existing publications such as the ORIC Year Books and Top 500 Report.

The Government also expects ORIC will keep the Minister and the Department of the Prime Minister and Cabinet informed by providing:

- timely and accurate advice on emerging risks and issues; and
- six monthly reports on ORIC's operations and actions taken to address the expectations set out in this document.

## **Operational Issues**

ORIC's staff are employed by the Department of the Prime Minister and Cabinet under the *Public Service Act 1999* and are made available to assist the Registrar under section 673-1 of the CATSI Act. Under the *Public Service Act 1999* agencies are required to uphold and promote Australian Public Service (APS) values. Further, all APS employees are required to adhere to the APS Code of Conduct. The Registrar should ensure that ORIC and the staff of ORIC meet the requirements of the APS values and Code of Conduct. ORIC is also bound by the *Public Governance, Performance and Accountability Act 2013* through its administrative arrangements with the Department of the Prime Minister and Cabinet.

It is Government policy that all departments and portfolio bodies should continue efforts to secure improved efficiency in their operations and demonstrate value for money for the services that they deliver. ORIC is strongly encouraged to apply the Government's

Indigenous Procurement Policy to increase the number of contracts to Aboriginal and Torres Strait Islander businesses and work to increase its Aboriginal and Torres Strait Islander workforce.