



Legislative Assembly of the Northern Territory

Legal and Constitutional Affairs Committee

Agency Stewardship of Historical Regulations in the Northern Territory

August 2026



Agency Stewardship of Historical Regulations in the Northern Territory



Legislative Assembly of the Northern Territory

Parliament House

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Chair's Preface

It is a pleasure to present this report of the Legal and Constitutional Affairs Committee on the agency stewardship of historical regulations in the Northern Territory.

This Inquiry was referred to the Committee by the Attorney-General, Hon Marie-Clare Boothby MLA, on 7 January 2025, with an initial reporting date of 7 January 2026, subsequently extended to 25 August 2026. The Committee was asked to examine the adequacy of the existing framework for reviewing historical subordinate legislation in the Northern Territory, and to consider options for encouraging proactive management by agencies without the need for additional resourcing and staffing.

The Committee's work has focused on two interrelated objectives. First, to assess the mechanisms that support agencies in their ongoing stewardship of regulations, including agency review processes, the role of the Office of the Parliamentary Counsel, and parliamentary oversight arrangements. Second, to review the 36 historical regulations made prior to 1990 that were in force at the commencement of the Inquiry, and to make recommendations for their repeal, remaking or amendment where appropriate.

The evidence received during the inquiry confirms that regulations are a vital part of the Territory's legislative framework. While most historical regulations have been reviewed by their administering agencies within the last decade and remain fit for purpose, the Committee identified a number of recurring issues, including outdated drafting practices, incorporation by reference of external documents, long standing fees, exemptions from primary legislation, and provisions affecting personal rights and liberties. In several instances, the inquiry itself prompted agencies and Ministers to undertake reviews and to commit to repealing, remaking or amending specific regulations.

The Committee's recommendations are designed to strengthen existing stewardship arrangements in a practical and resource sensitive way. They seek to improve guidance for agencies, enhance transparency, and promote a more systematic culture of regulatory review across government, while recognising the constraints faced by agencies in the Northern Territory.

The Committee thanks all those who contributed to the inquiry, including the ministers and agencies that provided information and correspondence, the individuals and organisations that made written submissions, and the witnesses who gave evidence at the public hearing. The Committee also thanks the Office of the Parliamentary Counsel for its assistance throughout the Inquiry, and the Committee's independent legal counsel, Professor Ned Aughterson.



Mrs Laurie Zio MLA

Chair

Committee Members

Chair:	Mrs Laurie Zio MLA Member for Fannie Bay
Deputy Chair:	Mr Matthew Kerle MLA Member for Blain
Members:	Mrs Oly Carlson MLA Member for Wanguri Mr Chansey Paech MLA Member for Gwoja

On 30 October 2025, the Member for Fong Lim, Dr Tanzil Rahman MLA was discharged from the Committee, and the Member for Fannie Bay, Mrs Laurie Zio MLA was appointed to the Committee. On 9 February 2026, the Member for Nightcliff, Mx Kat McNamara MLA, was discharged from the Committee.

Committee Secretariat

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Acknowledgments

The Committee acknowledges all those that provided written submissions or oral evidence at public hearings. The Committee thanks Ministers, agencies and the Office of the Parliamentary Counsel for their assistance, and the Committee's independent legal counsel, Professor Ned Aughterson.

Acronyms and Abbreviations

AAO	Administrative Arrangements Order
ACT	Australian Capital Territory
AGD	Attorney-General's Department
AS	Australian Standards
AS/NZS	Australian/New Zealand Standards
CEO	Chief Executive Officer
Committee	Legal and Constitutional Affairs Committee
DHLGCD	Department of Housing, Local Government and Community Development
DLPE	Department of Lands, Planning and Environment
DME	Department of Mining and Energy
DTF	Department of Treasury and Finance
DTH	Department of Tourism and Hospitality
Interpretation Act	<i>Interpretation Act 1978</i>
LSC	Legislative Scrutiny Committee
MAC Amendment Regulations	Motor Accidents (Compensation) Amendment Regulations 2014
MAC Act	<i>Motor Accidents (Compensation) Act 1979</i>
NSW	New South Wales
NT	Northern Territory
NZ	New Zealand
NZ PCO	New Zealand Parliamentary Counsel Office
OPC	Office of the Parliamentary Counsel
PRIS	Preliminary regulatory impact statement
QSLC	Queensland Scrutiny of Legislation Committee
RIC	Regulatory Impact Committee
RIS	Regulatory impact statement
RMF	Regulation Making Framework
WA	Western Australia
WA Committee	Western Australian Uniform Legislation and Statutes Review Committee

Terms of Reference

On 7 January 2025, the Committee received the following referral from the Attorney-General, the Hon Marie-Claire Boothby MLA for report by 7 January 2026. On 28 October 2025, the Attorney-General extended the reporting date until 25 August 2026.



ATTORNEY-GENERAL

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Dr Tanzil Rahman
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Via email: electorate.fonglim@nt.gov.au

Dear Dr Rahman

Tanzil

I am writing to you in your capacity as the Chair of the Legal and Constitutional Affairs Committee (LCAC). It is requested that the LCAC undertake a review of Northern Territory Regulations (the Regulations) made prior to the year 1990, with the aim of encouraging proactive management by agencies while minimising the need for additional resource or staffing.

The review should be conducted on the following terms:

- Inquire into and report on historical Regulations in force in the Northern Territory, made before 1990. Including making recommendations for the repeal of redundant Regulations and remaking of outdated legislation and recommendations for improving agency stewardship of their historical Regulations
- Report back to me within 12 months.

I look forward to receiving your review.

Yours sincerely

Marie-Claire Boothby

MARIE-CLARE BOOTHBY

- 7 JAN 2025



Executive Summary

This Report examines the review of historical regulations in the Northern Territory (NT). In line with the Terms of Reference, Part 1 of the Report (including Chapters 3 to 6) examines a range of stewardship mechanisms aimed at encouraging proactive management of historical regulations by agencies while minimising the need for additional resource and staffing. Part 2 of the Report (including Chapter 7) reviews 36 historical regulations made prior to 1990 and makes recommendations for the repeal or remaking of outdated or redundant regulations.

Chapter 2 - Background

Chapter 2 provides background context to the Committee's Inquiry, explaining the legal and policy framework for making subordinate legislation in the NT, including regulations. The Chapter outlines the processes and actors involved throughout the lifecycle of regulations, including government agencies, Ministers, the Office of the Parliamentary Counsel (OPC) and the Legislative Assembly. It outlines the principles underpinning regulatory stewardship and notes that agencies' stewardship of historical regulations is supported by other interrelated actors and mechanisms.

Chapter 3 – Agency Stewardship

Chapter 3 examines the role of NT agencies as stewards of the historical regulations they administer. It finds that current review processes are informal and vary across portfolios, with most reviews undertaken on an ad hoc basis. While this flexibility allows agencies to respond to emerging issues, the Committee identified opportunities to strengthen stewardship through improved guidance, greater transparency and more structured review practices.

The Chapter highlights the importance of regulatory impact assessment, stakeholder consultation, and interagency and cross-jurisdictional cooperation in ensuring regulations remain fit for purpose, effective and responsive to community needs. To support proactive management of historical regulations, the Committee recommends consideration of making the *Legislation Handbook* and regulatory impact statements more publicly accessible, and greater use of stakeholder engagement and information sharing. Drawing on the experiences of other jurisdictions, the Chapter also considers the potential benefits of recognising regulatory stewardship as an explicit public service principle to promote a culture of continuous legislative review and improvement across government.

Chapter 4 – The Role of the Office of the Parliamentary Counsel (OPC)

Chapter 4 examines the role of OPC in supporting regulatory stewardship in the NT. Although agencies are primarily responsible for reviewing and maintaining the historical regulations they administer, the Committee found that OPC makes an important contribution through its drafting role, ongoing identification of outdated legislation, informal notification functions, and coordination of Statute Law Revision Bills. The Committee notes that some other jurisdictions have formalised stewardship functions for parliamentary counsel offices and recommends that Government consider whether

similar functions should be conferred on NT's OPC. The Chapter also recommends consideration of whether OPC's existing stewardship practices should be incorporated into guidance materials for agencies.

Chapter 5 – The Role of the Legislative Assembly

Chapter 5 examines how the Legislative Assembly supports agency stewardship of historical regulations through parliamentary oversight mechanisms, including tabling, disallowance and committee scrutiny. The Committee found that parliamentary processes provide important external oversight by promoting transparency, accountability and the ongoing examination of amendments made to historical regulations. Tabling, scrutiny and related reporting on amendments to historical regulations can identify issues requiring review, amendment or repeal, while explanatory materials and access to incorporated documents can assist agencies to maintain clear and accessible legislative frameworks over time. To strengthen these stewardship outcomes, the Committee recommends that Government consider requiring explanatory statements for regulations and improving public access to documents incorporated by reference.

Chapter 6 – Legislative Triggers for Review

Chapter 6 examines legislative mechanisms that can support agency stewardship of historical regulations by creating formal triggers for review, considering sunseting regimes, review provisions and self-repeal provisions as tools to promote the ongoing maintenance and currency of regulations. While a mandatory sunseting regime could encourage regular and transparent reviews, the Committee found that current resourcing constraints make such a model impractical in the NT context.

However, the Committee concluded that targeted review provisions and greater use of self-repeal provisions can strengthen agency stewardship by prompting periodic reassessment of regulations and ensuring that significant or time-limited regulatory measures remain subject to ongoing review and parliamentary oversight. The Chapter also identifies opportunities to clarify the legislative framework governing the repeal and disallowance of amending regulations.

Chapter 7 – The Committee's Assessment of Historical Regulations

Chapter 7 sets out the outcome of the Committee's assessment of the 36 historical regulations identified during the Inquiry. The Committee found that most historical regulations had been reviewed within the last decade and many remained fit for purpose. However, the assessment identified some recurring issues including outdated drafting practices, documents incorporated by reference, and long-standing exemptions from primary legislation.

The Chapter notes the assessment of these historical regulations has demonstrated the value of systematic oversight as a complement to agency stewardship, with the Committee's examination prompting reviews and resulting in ministerial undertakings to repeal, remake or amend a number of historical regulations. The Committee concludes that ongoing agency stewardship is critical to maintaining a contemporary, accessible and effective body of subordinate legislation.

Findings

Finding 1

Current agency review processes are informal and vary between agencies in form, process and content.

Finding 2

Agency reviews of historical regulations are generally ad hoc, informed by evolving Government policy, ongoing consultation with stakeholders, the specific nature and circumstances of the regulations in question or issues identified via internal tracking mechanisms.

Finding 3

Changes to the Administrative Arrangements Order can impact the capacity of agencies to regularly and effectively review regulations as agencies can be faced with the challenge of understanding regulations that have been newly assigned to them.

Finding 4

The disallowance procedure is rarely used in the Northern Territory.

Finding 5

Agencies are not adequately resourced to support a mandatory sunseting regime in the NT.

Finding 6

The majority of historical regulations in force in the Northern Territory have been reviewed by their administering agencies within the last 10 years.

Finding 7

Some historical regulations incorporate external documents by reference as in force from time to time, enabling their substantive content to evolve despite the regulation itself remaining unamended.

Finding 8

Some historical regulations impose fees which have not been updated for significant periods of time.

Finding 9

Some historical regulations exempt persons and entities from the operation of primary legislation. Such exemptions are not time-limited and continue in force for significant periods of time.

Finding 10

Some historical regulations contain matters that impact on personal rights and liberties.

Recommendations

Recommendation 1

The Committee recommends that the Office of the Parliamentary Counsel develop guidance, in collaboration with relevant agencies, on the regulatory monitoring and review process with the aim of assisting agencies to undertake structured, regular and comprehensive regulatory reviews.

Recommendation 2

The Committee recommends that the Government review the *Legislation Handbook* to assess its adequacy in relation to regulatory monitoring and review.

Recommendation 3

The Committee recommends that the Government consider whether the *Legislation Handbook* should be publicly available.

Recommendation 4

The Committee recommends that, as part of its ongoing review of the *Regulation Making Framework*, the Department of Treasury and Finance consider the appropriateness and feasibility of publishing regulatory impact statements.

Recommendation 5

The Committee recommends, subject to the Government's adoption of recommendation 1, that the guidance material developed by the Office of the Parliamentary Counsel include guidance on how to leverage routine stakeholder engagement to identify outdated or redundant legislation.

Recommendation 6

The Committee recommends that the Government consider how to promote cross-jurisdictional information sharing on proactive management of historical regulations.

Recommendation 7

The Committee recommends that the Government consider the merits of embedding regulatory stewardship as a public service principle.

Recommendation 8

The Committee recommends the Office of the Parliamentary Counsel review its existing practices for identifying and raising issues relating to outdated legislation, with a view to incorporating those practices into future guidance for agencies on the review of regulations.

Recommendation 9

The Committee recommends that the Government consider tasking the Office of the Parliamentary Counsel with regulatory stewardship functions via legislation.

Recommendation 10

The Committee recommends that, in conjunction with the Office of the Parliamentary Counsel, the Government consider the appropriateness and feasibility of requiring explanatory statements to be prepared, tabled and published on the legislation website for all regulations.

Recommendation 11

The Committee recommends that, in conjunction with the Office of the Parliamentary Counsel, the Government consider the appropriateness and feasibility of publishing external documents that are incorporated by reference on the legislation website to ensure there is ongoing oversight and transparency of historical regulations that incorporate external documents.

Recommendation 12

The Committee recommends that review provisions are increasingly used to ensure structured and timed reviews of regulations where appropriate.

Recommendation 13

The Committee recommends that the Government make greater use of self-repeal provisions in non-amending regulations, particularly to time-limit regulations with significant impact on personal rights and liberties or regulations which provide for modification to, or exemptions from, the operation of primary legislation.

Recommendation 14

The Committee recommends that the Government introduce a Bill to amend the *Interpretation Act 1978* to explicitly state that the repeal of amending regulations does not affect any amendment made by those regulations.

Recommendation 15

The Committee recommends that the Office of the Parliamentary Counsel review its drafting practices in relation to self-repeal provisions for amending regulations to consider whether self-repeal should occur after the end of the disallowance period.

Recommendation 16

The Committee recommends that a review of the *Interpretation Act 1978* be conducted to consider:

- whether it should be amended to provide for the automatic repeal of regulations that only repeal or amend regulations the day after the end of the disallowance period (i.e., adopting the approach set out in section 48A of the *Legislation Act 2003* (Cth)); and
- the currency and adequacy of the *Interpretation Act 1978* in ensuring effective oversight of subordinate legislation.

Recommendation 17

The Committee recommends that, subject to the outcomes of reviews by the administering agencies, the following historical regulations be repealed:

- Absconding Debtors Regulations 1980
- Return to Work Regulations 1986
- Soccer Football Pools Regulations 1985.

Recommendation 18

The Committee recommends that the Inquiries (Witnesses' Expenses) Regulations 1967 be repealed and remade.

Recommendation 19

The Committee recommends that, subject to the outcome of review by the Department of Housing, Local Government and Community Development, the Crown Lands (Recreation Reserve) Regulations 1938 be remade.

1 Introduction

- 1.1 Regulations can include significant policy matters which may limit individual rights or impact on the broader community. In this regard, it is important to ensure regulations remain fit for purpose, easy to understand, and aligned with community needs. In the Northern Territory (NT), responsibility for the administration of regulations is divided amongst Government Ministers, assisted in their day-to-day administration of subordinate legislation by government agencies. Agencies monitor and review regulations in their Ministers' portfolios to ensure the regulations remain suitable and responsive long after they have been made.

Inquiry Referral

- 1.2 Pursuant to clause (1)(a) of its Terms of Reference, on 7 January 2025 the Legal and Constitutional Affairs Committee (the Committee) received an inquiry referral from the Attorney-General, the Hon Marie-Claire Boothby MLA.¹ The Attorney-General requested that the Committee undertake a review of NT regulations made prior to the year 1990, with the aim of encouraging proactive management by agencies while minimising the need for additional resources or staffing.²
- 1.3 The Attorney-General initially requested the Committee report back by 7 January 2026. However, in October 2025 the Attorney-General extended the reporting date until 25 August 2026.

Conduct of the Inquiry

Correspondence

- 1.4 In February 2025, the Office of the Parliamentary Counsel (OPC) provided the Committee with a list of 36 historical regulations which were in force in the NT. To inform recommendations for the repeal and remaking of these regulations, in February 2026, the Committee wrote to the following Ministers seeking further information about the historical regulations in their portfolios:
- Attorney-General
 - Chief Minister
 - Minister for Corrections
 - Minister for Housing, Local Government and Community Development
 - Minister for Lands, Planning and Environment

¹ See Legal and Constitutional Affairs Committee, *Terms of Reference*, https://parliament.nt.gov.au/_data/assets/pdf_file/0004/1453594/LCAC-Terms-of-Reference-16-October-2024.pdf

² See Legal and Constitutional Affairs Committee, *Review of Historical Regulations - Inquiry Referral*, https://parliament.nt.gov.au/_data/assets/pdf_file/0007/1480480/Inquiry-Referral-Review-of-Historical-Regulations.pdf

- Minister for Logistics and Infrastructure
- Minister for Mining and Energy
- Minister for Police
- Minister for Racing
- Minister for Trade, Business and Asian Relations
- Treasurer.

1.5 Additionally, in March 2025, the Committee wrote to the Chief Executive Officers of all agencies to request information about their processes for reviewing historical regulations. Between April and December 2025, the Committee received 18 responses to its request.³ The Committee thanks the Ministers and agencies for their assistance with these matters.

Call for Submissions

1.6 On 4 February 2026, the Committee opened the call for submissions. The Committee sought submissions by 27 March 2026. The call for submissions was advertised via the Legislative Assembly website, Facebook and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations.

1.7 The Committee sought submissions in response to the terms of reference, in particular:

- The adequacy of the existing framework for reviewing historical subordinate legislation in the NT, including:
 - agency review processes;
 - the role of the OPC; and
 - parliamentary oversight mechanisms.
- How the existing framework could be amended to improve agency stewardship, including:
 - the effectiveness of existing review mechanisms in other Australasian jurisdictions and their applicability to the NT; and
 - options for encouraging proactive management by agencies without the need for additional resourcing and staffing.

1.8 The Committee received 11 written submissions.⁴ The Committee thanks all those who made submissions to the Inquiry.

³ See Appendix 4: Summary of Committee Correspondence for details of agency and ministerial correspondence.

⁴ See Appendix 1: Submission Received for a full list of submissions.

Private Briefing

- 1.9 On 9 March 2026, the Committee held a private briefing with Jessica Black, Acting Chief Parliamentary Counsel from the OPC. The Committee thanks the Acting Chief Parliamentary Counsel for her assistance.

Public Hearing

- 1.10 On 28 April 2026, the Committee held a public hearing. The Committee heard from the following individuals and organisations:

- Professor Lorne Neudorf
- Stephen Argument
- Department of Treasury and Finance
- Attorney-General's Department
- Office of Parliamentary Counsel.⁵

Report Structure

- Chapter 2 – Background
- Chapter 3 – Agency Stewardship
- Chapter 4 – The Role of the Office of the Parliamentary Counsel
- Chapter 5 – The Role of the Legislative Assembly
- Chapter 6 – Legislative Triggers for Review
- Chapter 7 – The Committee's Assessment of Historical Regulations

⁵ See Appendix 2: Public Hearings for details of witnesses.

2 Background

Overview

- 2.1 This Chapter sets out background context about regulation review in the Northern Territory (NT), including:
- the legal and policy framework for making subordinate legislation, including regulations
 - the processes and actors involved throughout the lifecycle of regulations
 - the principles underpinning regulatory stewardship.

Subordinate Legislation in the Northern Territory

- 2.2 The power to make laws is a fundamental function of the Legislative Assembly.⁶ However, legislative power may be delegated to other persons or bodies in the Executive.⁷ This allows the law to be quickly changed, ensures lawmakers have appropriate expertise, and prevents the Legislative Assembly from being overburdened.⁸
- 2.3 Executive-made laws are referred to as ‘subordinate legislation’. This broad term refers to a law made by a person or body other than the Legislative Assembly. Whilst Acts are intended to deal with significant matters of policy, subordinate legislation generally sets out functional or administrative details.⁹
- 2.4 In the NT, government Ministers have executive authority.¹⁰ Under the Administrative Arrangements Order, responsibility for the administration of subordinate legislation is divided amongst the Ministers.¹¹ Ministers are assisted in their day-to-day administration of subordinate legislation by government agencies.

Framework for Making Subordinate Legislation

- 2.5 The *Interpretation Act 1978* (Interpretation Act) sets out the framework for making subordinate legislation in the NT. General authority to make subordinate legislation is set out in section 65 of the Interpretation Act:
- (1) If an Act authorises or requires the making of subordinate legislation under the Act, the power enables subordinate legislation to be made with respect to any matter that:
- (a) is required or permitted to be prescribed by the Act; or

⁶ *Northern Territory (Self-Government) Act 1978* (Cth), s 6.

⁷ *Victorian Stevedoring and General Contracting v Dignan* [1931] 46 CLR 73 (HCA).

⁸ Lord Hewart of Bury, *New Despotism*, (London: Greenwood Press, 1929); The Donoughmore Committee, *Report of the Committee on Ministers' Powers*, (London: 1936).

⁹ Department of Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 22.

¹⁰ *Northern Territory (Self Government) Act 1978* (Cth), s 35.

¹¹ Administrative Arrangements Order 2026, Schedule 2.

- (b) is necessary or convenient to be prescribed for carrying out or giving effect to the Act.
- (2) Subsection (1) applies even though the Act also authorises the making of subordinate legislation for a particular purpose.
- (3) Power conferred by the Act to make subordinate legislation for a particular purpose is in addition to, and does not limit the effect of, power conferred by the Act to make subordinate legislation under the Act unless the Act expressly provides otherwise.
- 2.6 Additional policy guidance on making subordinate legislation is set out in the *Legislation Handbook* and the *Regulation-Making Framework*. This guidance is discussed in greater detail in Chapter 3 – Agency Stewardship.

Types and Volume of Subordinate Legislation

- 2.7 Subordinate legislation is any instrument of a legislative character made under the authority of an Act of the Legislative Assembly. It may include regulations, by-laws, rules and ministerial declarations.¹² Section 17 of the Interpretation Act defines subordinate legislation to include:
- regulations, rules and by-laws to which section 63 or 63A applies; or
 - a statutory instrument that, under an Act, is an instrument to which section 63 or 63A applies.¹³
- 2.8 There are over 300 pieces of subordinate legislation currently in force in the NT.¹⁴ The most common type of subordinate legislation made in the NT are regulations made by the Administrator on the advice of the Executive Council.¹⁵
- 2.9 There are over 200 regulations currently in force in the NT, covering diverse subject matter across different ministerial portfolios. The number of regulations made each year fluctuates. Unlike some other Australian jurisdictions,¹⁶ the number of regulations made each year has decreased in the NT in recent years. Figure 1 below outlines the number of regulations made per year from 1978 to 2025.

¹² Department of Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 22.

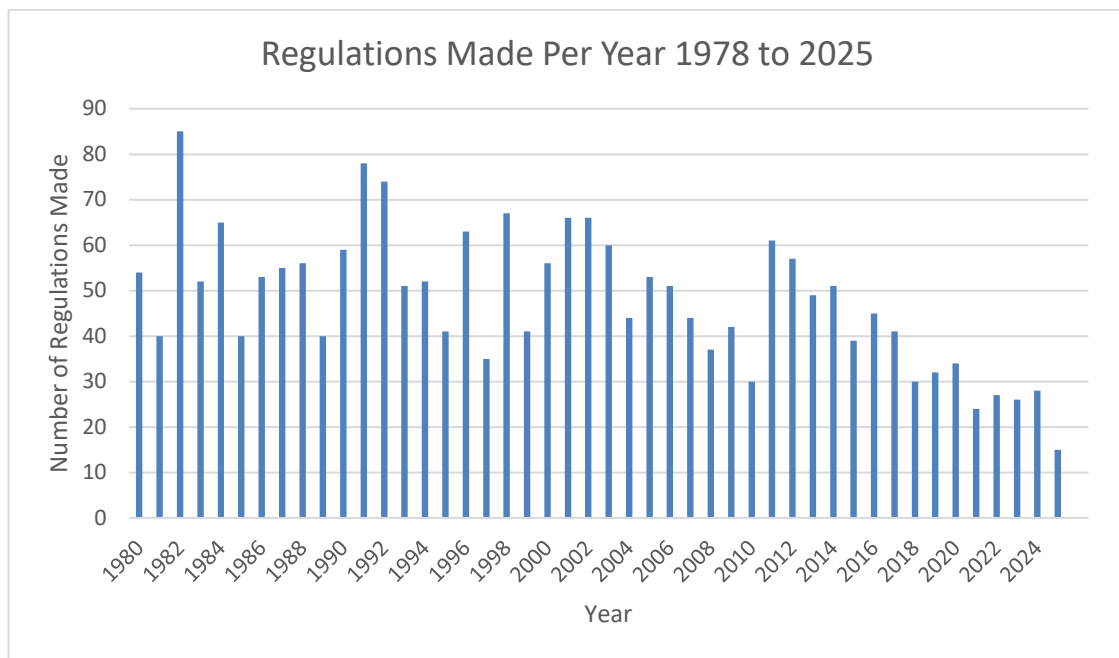
¹³ Section 63 and 63A of the *Interpretation Act 1978* require that, if there is a power for an Act to make regulations, rules or by-laws, those regulations, rules and by-laws must be published on the legislation website, notified in the Gazette and tabled in the Legislative Assembly within 6 sitting days after being made.

¹⁴ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 18.

¹⁵ Northern Territory Government, *Subordinate Legislation – By Type* (2026), <https://legislation.nt.gov.au/LegislationPortal/Subordinate-Legislation/By-Type>.

¹⁶ See, for example, Senate Standing Committee for the Scrutiny of Delegated Legislation, *Parliamentary oversight of delegated legislation* (2019), p. 6.

Figure 1: Number of Regulations Made Per Year 1978 to 2025



Defining ‘Historical Regulations’

- 2.10 Prior to 1990, references to ‘regulations’ were defined more broadly to include other types of subordinate legislation.¹⁷ In the context of this Report, however, the Committee interprets ‘historical regulations’ to include NT regulations made by the Administrator on the advice of the Executive Council on, or before, 31 December 1989.
- 2.11 At the commencement of the Committee’s Inquiry there were 36 historical regulations in force.¹⁸ This accounted for approximately 15% of all NT regulations.¹⁹ As per the Terms of Reference, the Committee’s consideration of these historical regulations is set out in Chapter 7 – The Committee’s Assessment of Historical Regulations.

Lifecycle of Regulations

- 2.12 Regulations pass through a number of stages throughout their lifecycle, with different actors performing distinct functions at each stage. The *Legislation Handbook* provides guidance to agencies on the process.²⁰ This section describes the current processes and actors involved in the lifecycle of regulations.

¹⁷ Prior to 2006 the Interpretation Act defined ‘regulations’ to include regulations, rules or by-laws made under an Act. The *Justice Legislation Amendment Act 2006* removed this definition and inserted references to ‘subordinate legislation’.

¹⁸ See Appendix 3: Historical Regulations Considered by the Committee for a full list of historical regulations.

¹⁹ Of the 236 regulations in force, 36 were made on or before 31 December 1989.

²⁰ Department of the Premier and Cabinet, *Legislation Handbook* (2024), pp. 23-26.

Development and Preparation

- 2.13 The regulation-making process commences with the administering agency identifying a need for new regulations to be made under an enabling Act. The agency is responsible for developing the policy proposal and the drafting instructions.
- 2.14 The agency obtains the responsible Minister's approval for drafting the regulations and a preliminary regulatory impact statement (PRIS) is submitted to Economic Group in the Department of Treasury and Finance (DTF). If required, the agency may prepare a more detailed regulatory impact statement (RIS). Guidance on preparing these documents is set out in the *Regulation Making Framework*.²¹ Stakeholder consultation may occur in the policy development phase to determine the regulatory impact of the proposed regulations.²² Consultation may also occur with other agencies and entities.²³
- 2.15 The agency discusses the drafting timeline and proposed drafting instructions with the Office of the Parliamentary Counsel (OPC) and OPC drafts the regulations. The role of OPC is discussed in detail in Chapter 4 – The Role of the Office of the Parliamentary Counsel.

Approval and Making

- 2.16 When drafting is complete, the agency requests OPC prepare a settled version of the regulations and prepares an Executive Council submission. The submission, regulations and relevant RIS/PRIS are signed by the responsible Minister and lodged with the Executive Council Secretariat in the Department of the Chief Minister and Cabinet. The Executive Council considers and endorses the submission, and the regulations are formally made by the Administrator at the Executive Council meeting.²⁴

Commencement and Publication

- 2.17 Generally, regulations commence the day after they are made.²⁵ It is the policy of OPC that all subordinate legislation includes a commencement provision.²⁶ As soon as practicable after regulations are made, they must be published on the legislation website and notified in the Government Gazette.²⁷ Gazettal and publication are arranged by the Executive Council Secretariat and completed by OPC.²⁸

²¹ Department of Treasury and Finance, *Regulation-Making Framework* (2024), pp. 7-8.

²² Department of Treasury and Finance, *Regulation-Making Framework* (2024), p. 20.

²³ Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 11.

²⁴ Department of the Premier and Cabinet, *Legislation Handbook* (2024), p. 23.

²⁵ *Interpretation Act 1978*, s 63B(5).

²⁶ Department of the Premier and Cabinet, *Legislation Handbook* (2024), p. 23.

²⁷ *Interpretation Act 1978*, s 63(a).

²⁸ Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 23.

Parliamentary Oversight

- 2.18 Regulations must be tabled in the Legislative Assembly within 6 sitting days of being made.²⁹ The regulations are accompanied by a tabling note prepared by the agency. Tabling the regulations enables other parliamentary oversight mechanisms to occur within the next 12 sittings days, including disallowance by the Legislative Assembly,³⁰ and scrutiny by the Committee.³¹ The role of parliamentary oversight mechanisms in supporting agency stewardship is discussed in detail in Chapter 6 – The Role of the Legislative Assembly.

Administration and Review

- 2.19 After commencement, the agency is responsible for the day-to-day administration and monitoring of regulations. Following a period of operation, the agency may undertake a review of the regulations to consider whether they are fit for purpose and aligned with current government policy. This process may involve additional stakeholder engagement. The current process for agency review is discussed in detail in Chapter 3 – Agency Stewardship.

Retention, Amendment or Repeal

- 2.20 Depending on a review's outcome, the regulations may be retained, amended, remade, consolidated or repealed. Where the regulations require substantive change, the agency may develop amending regulations and follow the same process outlined above.³² Alternatively, amendments (or repeal) may be included in an Omnibus Bill or a Statute Law Revision Bill.³³
- 2.21 Figure 2 below provides a simplified outline of the lifecycle of regulations and the actors involved.

²⁹ *Interpretation Act 1978*, s 63(b).

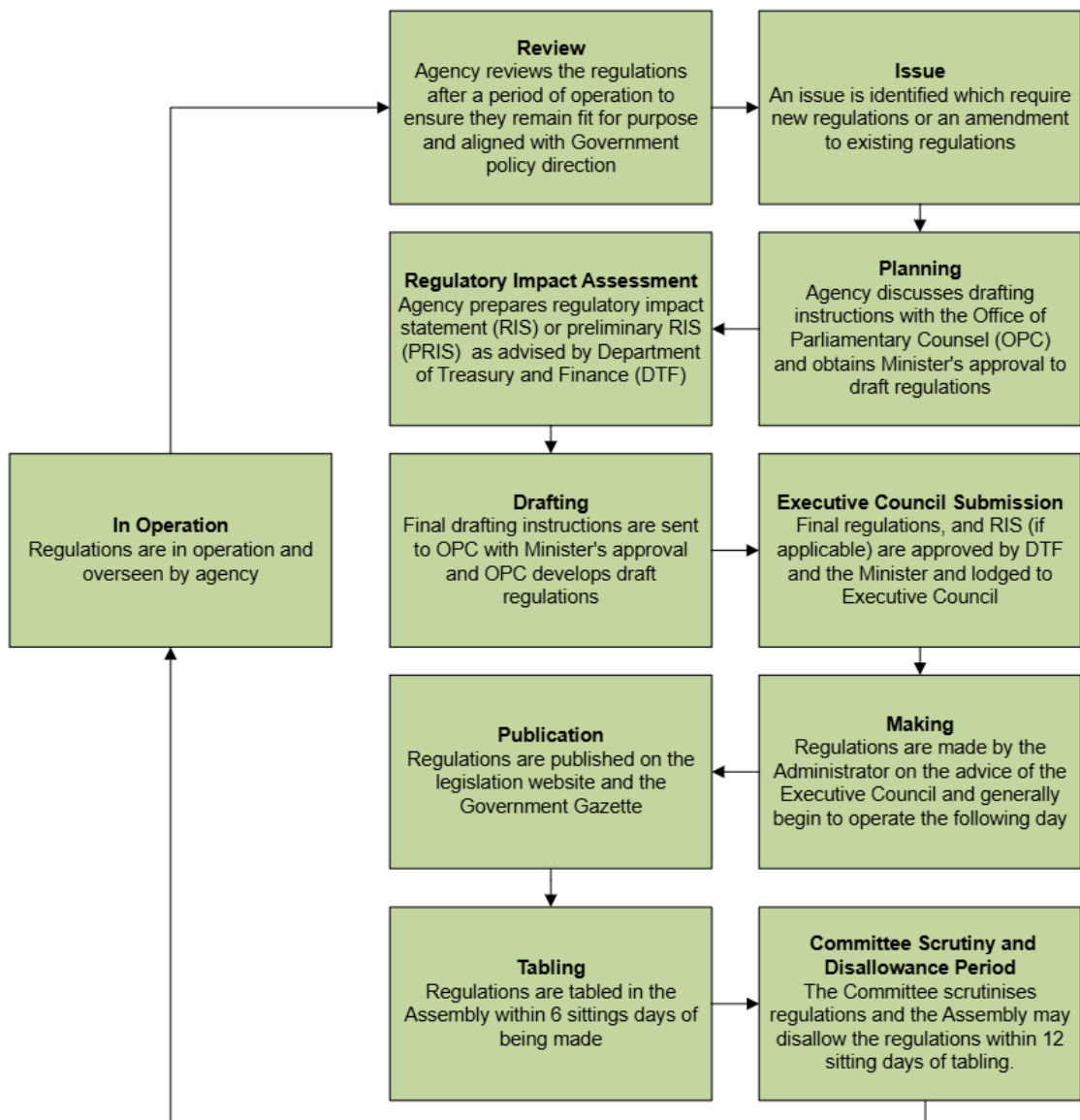
³⁰ *Interpretation Act 1978*, s 63C.

³¹ Legislative Assembly of the Northern Territory, *Standing Orders 5th Edition – July 2026*, Standing Order 176(3).

³² See Chapter 5 – Legislative Triggers for Review for more detail about amending regulations.

³³ See Chapter 4 – Agency Stewardship for discussions of Omnibus Bills.

Figure 2: Lifecycle of Regulations in the Northern Territory



Regulatory Stewardship

2.22 Regulatory stewardship is a model of governance that treats regulations as an asset that requires continuous care throughout their lifecycle. In this regard, stewardship extends beyond making regulations to encompass their ongoing monitoring, review and improvement, with responsible agencies accountable for ensuring legislation remains fit for purpose over time.

Defining 'Stewardship'

2.23 Stewardship is a public administration principle that recognises that governments have ongoing responsibilities to care for public assets, institutions and systems entrusted to them. The Australian Public Service Commission defines stewardship as:

...a practice of caring for something that we have been trusted to look after.
Being a good steward means accepting responsibility for that care, and

working to ensure the long-term integrity and sustainability of what has been entrusted to us.³⁴

Proactive Management of the Statute Book

2.24 There are a number of risks associated with retaining outdated, redundant or poorly functioning regulations. These include, but are not limited to:

- cluttered statute books that make it difficult to navigate or locate the law
- outdated terminology that may be difficult to interpret and understand
- duplicated or conflicting requirements resulting in over-regulation, complexity or administrative inefficiency
- redundant or out-of-date requirements that do not align with modern contexts or changing needs of the community
- unforeseen cumulative regulatory burdens on particular sectors of the community.³⁵

2.25 In the regulatory context, 'regulatory stewardship' focuses on the ongoing management of regulatory systems and legislation to ensure they remain fit for purpose and 'managing the stock' of existing legislation to improve its quality and safeguard against risks.³⁶

2.26 The concept of regulatory stewardship reflects a shift from viewing regulatory frameworks and legislation as static 'set and forget' products to a dynamic system that requires continuous management.³⁷ This promotes a 'whole-of-lifecycle approach' that ensures that systems are 'fit-for-purpose, risk based and contemporary' to meet the needs of the community.³⁸ In the 2019 report, *Our Public Service, Our Future – Independent Review of the Australian Public Service*, the Australian Government noted this may include:

...looking ahead when making decisions; maintaining and drawing on a repository of wisdom and experience; sustaining core expertise; building and nurturing genuine partnerships; investing in capability and continuity of services; and remaining steadfast to the public interest.³⁹

³⁴ Australian Public Service Commission, *Stewardship guidance* (2024), <https://www.apsc.gov.au/aps-values/scope-and-application-values/stewardship-guidance>.

³⁵ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 3; South Australian Productivity Commission, *Inquiry into reform in South Australia's Regulatory Framework* (2021), p. 99.

³⁶ Australian Government Productivity Commission, *Identifying and Evaluating Regulation Reforms* (2011), p. 6; Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 27.

³⁷ NSW Regulatory Policy Framework Review Panel, *NSW Regulatory Policy Framework* (2017), p. 2; New Zealand Ministry for Regulation, *Regulatory stewardship* (2026), <https://www.regulation.govt.nz/for-agencies/regulatory-stewardship/>.

³⁸ Australian Government, *Whole of Government Regulatory Reform* (2026), <https://www.finance.gov.au/government/regulatory-reform>.

³⁹ Independent Panel of the Australian Public Service Review, *Our Public Service, Our Future – Independent Review of the Australian Public Service* (2019).

2.27 In their submission, the Queensland Governance, Energy and Finance Committee and the Primary Industries and Resources Committee highlighted the importance of regulatory stewardship in the context of historical regulations:

The establishment of this Inquiry aligns with modern governance thinking, which recognises subordinate legislation as a long-standing public asset requiring regular care to remain accurate, effective and administratively efficient. Rather than relying on periodic or reactive reviews, contemporary public sector practice emphasises systematic regulatory stewardship, that is the ongoing, deliberate oversight of the regulatory stock to ensure its continued fitness for purpose. This approach is reflected in the Australian Government's *Regulatory Policy, Practice and Performance Framework* which promotes routine reassessment and system-wide continuous improvement of existing regulations as core components of regulatory integrity and accountability.

In this context, this Inquiry represents a timely opportunity for the Northern Territory to strengthen visibility of older regulations, identify instruments that may no longer be necessary, and consider approaches that embed regulatory care into business-as-usual practices rather than relying on one-off review projects.⁴⁰

Actors with Regulatory Stewardship Responsibilities

2.28 Primarily, government agencies have a stewardship role for the legislation and regulatory frameworks they are responsible for administering.⁴¹ In its *Regulatory Policy, Practice and Performance Framework*, the Australian Government notes that government agencies serve two key roles as both 'policy makers' and 'regulators' in designing, administering, monitoring and enforcing compliance with regulations.⁴² Agencies may be tasked with:

- developing policy proposals
- proactively monitoring and evaluating the effectiveness of regulations to ensure they are fit for purpose
- setting review timeframes and engagement plans.⁴³

2.29 The New South Wales (NSW) Regulatory Policy Framework Review Panel explains the benefits of tasking agencies with regulatory stewardship responsibilities:

Under a stewardship approach, regulations and the regulatory framework in which they operate become subject to proactive monitoring by the responsible departments and agencies to ensure they remain fit for purpose, with any review timeframes and engagement plans clearly set out in advance. This is considered beneficial by regulated parties, with business

⁴⁰ Queensland Governance, Energy and Finance Committee and the Primary Industries and Resources Committee, Submission No. 8, p. 1.

⁴¹ Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 27.

⁴² Australian Government, Department of Finance, *Regulatory Policy, Practice & Performance Framework* (2024), p. 5.

⁴³ Australian Government, Department of Finance, *Regulatory Policy, Practice & Performance Framework* (2024), p. 5; NSW Regulatory Policy Framework Review Panel, *NSW Regulatory Policy Framework* (2017), p. 26.

representatives consistently advising the Panel of a preference for a level of predictability in regulatory settings.⁴⁴

- 2.30 Regulatory stewardship is a shared responsibility across government and is not limited to agencies administering subordinate legislation. The New Zealand Government emphasises the importance of all government agencies contributing to regulatory stewardship:

Regulatory stewardship responsibilities are not limited to agencies that administer legislation. Consistent with the Government's expectations for regulatory stewardship by government agencies, any government agency that exercises a substantive role in a regulatory system also shares some responsibility for the stewardship of that system. This includes any agency involved in the monitoring, evaluation, reporting, policy development, operational design, implementation, administration, assurance or enforcement of a regulatory system. Since regulatory stewardship is a shared responsibility, it requires active collaboration between the different agencies involved.⁴⁵

- 2.31 Although regulatory stewardship is primarily an executive responsibility, agencies are assisted in fulfilling their stewardship functions by other actors, including the Legislative Assembly and the Office of the Parliamentary Counsel.⁴⁶ Chapters 3 to 5 discuss the stewardship roles of these actors in overseeing historical regulations.

⁴⁴ New South Wales Regulatory Policy Framework Review Panel, *NSW Regulatory Policy Framework* (2017), p. 26.

⁴⁵ New Zealand Government, *Starting out with regulatory stewardship: A resource* (2022), p. 3.

⁴⁶ OECD, *Improving Regulatory Government: Trends, Practices and the Way Forward* (2017), p. 3.

3 Agency Stewardship

Overview

- 3.1 As outlined in Chapter 2, government agencies have primary responsibility for regulatory stewardship, with each agency setting ‘clear processes, accountability and responsibility to help manage and maintain statutory frameworks within which it operates and for which it is responsible’.⁴⁷
- 3.2 Drawing on the experiences of other jurisdictions, this Chapter examines the framework for agencies’ review and ongoing monitoring of regulations and makes recommendations with an aim of encouraging proactive management of historical regulations. It explores:
- the current manner, form and content of agency reviews
 - how public consultation, and interagency and interjurisdictional cooperation support agency stewardship
 - regulatory impact assessment
 - regulatory stewardship as a public service principle.

Agency Review Processes

- 3.3 Regulatory review is an important mechanism to ensuring that legislation is fit for purpose.⁴⁸ The responsibility for review ‘rests primarily with portfolio agencies as part of their ordinary policy and legislative management functions’.⁴⁹ In this regard, reviews of legislation are a key mechanism through which agencies exercise stewardship responsibilities.⁵⁰ Types of reviews may vary and can include statutory reviews, themed reviews, regulatory system reviews or process and implementation reviews.⁵¹
- 3.4 In the Northern Territory (NT), all agencies are responsible for reviewing regulations. Some agencies have specialised teams who are tasked with facilitating regulatory reviews and driving the department’s legislative reform agenda,⁵² while others confer this responsibility on the individual work units that are responsible for administering the legislation.⁵³

⁴⁷ Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 29.

⁴⁸ Australian Government, Attorney-General’s Department, *Reducing the complexity of legislation* (2026), <https://www.ag.gov.au/legal-system/access-justice/reducing-complexity-legislation>.

⁴⁹ Queensland Governance, Energy and Finance Committee and Primary Industries and Resources Committee, Submission No. 8, p. 2.

⁵⁰ New Zealand Government, Department of Regulation, *Regulatory Stewardship* (2026), <https://www.regulation.govt.nz/for-agencies/regulatory-stewardship/>.

⁵¹ New Zealand Government, Ministry for Regulations, *Plans for reviews of existing legislation – Guidance for agencies* (2024), p. 10.

⁵² Agency Responses from Northern Territory Police Force, Department of Trade, Business and Asian Relations, and Department of Corrections.

⁵³ Department of Mining and Energy, Submission No. 7, p. 1.

Form and Content of Reviews

- 3.5 In the NT, agency reviews are informal with no requirement to follow a formal, systematic or system-wide review process.⁵⁴ Some agencies advised they have existing internal review procedures,⁵⁵ whilst others told the Committee of their intention to develop procedures in the future.⁵⁶
- 3.6 As noted in Chapter 2, the *Legislation Handbook* is the primary source of guidance on subordinate legislation for agencies. The Department of the Chief Minister and Cabinet and the Office of the Parliamentary Counsel (OPC) are jointly responsible for producing this guidance material.
- 3.7 Although the *Legislation Handbook* provides some guidance to agencies on making regulations, there is no existing guidance on monitoring or reviewing them.⁵⁷ The Committee also notes that the *Legislation Handbook* is not publicly available online, unlike equivalent documents in other jurisdictions.⁵⁸ Unlike the NT, some other jurisdictions' agency review processes are formal with explicit requirements regarding their form and content, as well as published guidance for agencies.⁵⁹
- 3.8 Stakeholders to the Inquiry were supportive of the creation of policy guidance of review processes.⁶⁰ With regard to the publication of guidance for agency review processes, the Acting Chief Parliamentary Counsel stated:
- ...it would be useful for some materials to be developed for agencies to guide them in reviewing regulations—subordinate legislation—possibly some templates and checklists with things to look for and considerations to be made through the review process. If you have not done that sort of work a lot, it is always hard to know where to start. Yes, if there were some guidance materials prepared and made available I think that would be really useful, and a low impact way without necessarily requiring more resources, because it would make the review process a bit easier.⁶¹
- 3.9 The Department of Treasury and Finance (DTF) echoed this support, stating that providing guidance of review processes and principles:
- ...would be useful in terms of undertaking the processes that we need to do in being stewards of our regulation...The more material that agencies have that provides them with information or guidance on how to undertake tasks, that is a useful thing.⁶²

⁵⁴ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 4.

⁵⁵ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 14.

⁵⁶ Department of the Chief Minister and Cabinet, Agency Response, p. 1.

⁵⁷ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 5.

⁵⁸ See, for example, Australian Government, Department of the Prime Minister and Cabinet, *Legislation Handbook* (2025).

⁵⁹ For example, New Zealand requires agencies to review existing subordinate legislation against principles of responsible regulation set out in the *Regulatory Standards Act 2025* (NZ). See New Zealand Government, Ministry for Regulations, *Plans for reviews of existing legislation – Guidance for agencies* (2024).

⁶⁰ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 13; Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 16.

⁶¹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 5.

⁶² Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 13.

3.10 Whilst noting guidance could potentially have limited benefit to them, the Attorney-General's Department (AGD) stated that guidance 'would certainly be beneficial' for other agencies.⁶³ However, AGD highlighted the need for flexibility and cautioned against the guidance materials being too prescriptive.⁶⁴

3.11 Agencies advised that OPC could be well placed to issue this guidance.⁶⁵ The Acting Chief Parliamentary Counsel agreed OPC could have capacity to develop guidance materials, advising:

In the short term we would need to do some work to undertake some research and develop some materials. Yes, over the long term I think it actually could assist us and agencies in having review processes for subordinate legislation (regulations) proceed in a hopefully more efficient and more timely manner. Long term I think it would actually be a significant benefit to us.⁶⁶

Committee Comments

3.12 Current review processes are informal and vary between agencies in form, process and content. Whilst acknowledging the need for flexibility in determining how a review may be undertaken, the Committee considers additional guidance materials to support agencies would be beneficial. The Committee notes agencies' and OPC's support for developing these new materials. At present, the *Legislation Handbook* lacks information about agencies' ongoing monitoring or review responsibilities.

3.13 Further, the Committee notes that the *Legislation Handbook* is not presently publicly accessible online. The Committee considers the *Legislation Handbook* provides an important source of information for agencies on the making of regulations. The Committee notes other jurisdictions publish documents equivalent to the *Legislation Handbook* to ensure transparency and oversight to the public with regard to the regulation-making and administration process.

Finding 1

Current agency review processes are informal and vary between agencies in form, process and content.

Recommendation 1

The Committee recommends that the Office of the Parliamentary Counsel develop guidance, in collaboration with relevant agencies, on the regulatory monitoring and review process with the aim of assisting agencies to undertake structured, regular and comprehensive regulatory reviews.

⁶³ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 16.

⁶⁴ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 16.

⁶⁵ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 13.

⁶⁶ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 18.

Recommendation 2

The Committee recommends that the Government review the *Legislation Handbook* to assess its adequacy in relation to regulatory monitoring and review.

Recommendation 3

The Committee recommends that the Government consider whether the *Legislation Handbook* should be publicly available.

Scheduling Reviews

- 3.14 Unlike some other jurisdictions which have strict statutory timeframes for the review of regulations, scheduling reviews is subject to the discretion of agencies in the NT.⁶⁷ Broadly, in the NT reviews can be grouped into categories: ad hoc reviews and annual reviews.

Ad Hoc Reviews

- 3.15 Reviews may be undertaken on an ad hoc basis, informed by evolving Government policy, ongoing consultation with stakeholders, the specific nature and circumstances of the regulations in question or issues identified via internal tracking mechanisms.⁶⁸ Twelve agencies advised they undertake ad hoc reviews of regulations within their portfolios. The Committee notes these agencies are responsible for the largest portfolios with the majority of regulations.⁶⁹
- 3.16 The Committee heard that ad hoc review processes support stewardship objectives. In their submission to the inquiry, the Department of Lands, Planning and Environment (DLPE) outlined the 'business-as-usual' approach taken by the DLPE:

Ensuring DLPE regularly reviews its legislation is a key factor in delivering a contemporary regulatory regime that supports the sustainable economic development of the Territory and is therefore undertaken as a business-as-usual process. Agencies should be encouraged to take an active role in reviewing their legislation on a regular basis through adopting a business-as-usual approach to ensure their legislation remains contemporary and fit for purpose. DLPE has reviewed all subordinate legislation in the last 5 years resulting in either legislation being remade or identified for revocation where required.⁷⁰

⁶⁷ In other jurisdictions, agencies are required to undertake 'sunset reviews' prior to the relevant instrument sunset. See Chapter 6 – Legislative Triggers for Review for more information.

⁶⁸ Agency Responses from Attorney-General's Department, Department of Agriculture, Department of Health, Department of Housing, Local Government and Community Development, Department of Lands, Planning and Environment, Department of Logistics and Infrastructure, Department of Mining and Energy, Department of the Chief Minister and Cabinet, Department of Trade, Business and Asian Relations, Department of Treasury and Finance, Northern Territory Fire and Emergency Service, and Northern Territory Police Force.

⁶⁹ In total, at the time of reporting, these 12 agencies are responsible for 163 regulations (approximately 70% of all regulations in force). For example, the Attorney-General's Department is responsible for 62 regulations, and the Department of Logistics and Infrastructure is responsible for 23 regulations.

⁷⁰ Department of Lands Planning and Environment, Submission No. 1, p. 1.

3.17 Agencies advised that Omnibus Bills provide an opportunity to make minor updates to regulations.⁷¹ Statute Law Revision Bills may be used to review old or inactive regulations and tidy up the statute book.⁷² OPC keep a list of potential issues and amendments on an ongoing basis to inform Omnibus Bills and Statute Law Revision Bills.⁷³ The DTF stated that the combination of ‘operational reviews’ and ‘tidy-ups and fix up[s] as we go’ is used to maintain a current statute book.⁷⁴

3.18 The Committee was advised of some internal agencies procedures for prompting ad hoc reviews. The Department of Mining and Energy (DME) outlined some internal processes that support review scheduling:

In relation to the adequacy of existing frameworks for reviewing historical subordinate legislation, work groups within DME that are responsible for administering legislation have registers in place that detail issues or concerns with legislation, including regulations that may require consideration for future amendment. This register identifies matters that can relate to policy, impractical application of regulations, areas for review due to technology and technical advancements and age of regulations that may need reform.⁷⁵

3.19 The Committee heard that changes to the Administrative Arrangements Order (AAO) have impacted on some agencies’ capacity to schedule reviews and develop review procedures. The Department of Housing, Local Government and Community Development (DHLGCD) advised:

[DHLGCD] is one of the six agencies created as a result of the Machinery of Government in August 2024. [DHLGCD] is in the process of determining its processes for scheduling reviews of historical regulations and does not currently have formal scheduled review timeframes in place.⁷⁶

3.20 Stakeholders noted that shifting portfolio responsibilities stemming from changes to the AAO may impact on government agencies’ capacity to undertake reviews.⁷⁷ At the public hearing, DTF stated:

Machinery-of-government changes that move regulations between agencies or newly created agencies have the potential to provide those agencies with the challenge of coming up to speed or becoming aware of what the regulations are. Generally speaking, if it is a result of a machinery-of-government change, normally the personnel with the requisite knowledge would move between those agencies. That is not to say it is the case always, but it is not as though agencies will pick these things up completely without understanding. I would suggest that, nonetheless, amongst many of the challenges that arise from machinery of government changes that is just one

⁷¹ Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 8; Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 14; Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

⁷² Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 14; Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19; Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 8.

⁷³ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

⁷⁴ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 15.

⁷⁵ Department of Mining and Energy, Submission No. 7, p. 1.

⁷⁶ Department of Housing, Local Government and Community Development, Agency Response, p. 1.

⁷⁷ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 5; Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

of the things that need to be kept on agencies' radar when they inherit new legislation.⁷⁸

Annual Reviews

- 3.21 At present, 5 agencies undertake annual reviews of their regulations. These reviews are undertaken in collaboration with the OPC as part of their 'annual legislation program'.⁷⁹ During this review process, informal discussions may occur between the Chief Executive Officer (CEO) and the Chief Parliamentary Counsel and possible reforms may be considered in consultation with the Minister.⁸⁰
- 3.22 The Committee observes that the 5 agencies that undertake annual reviews have a relatively small numbers of regulations within their portfolios, with responsibility for between one and 4 regulations. Collectively, these agencies are responsible for only 2 historical regulations.⁸¹
- 3.23 Some agencies informed the Committee that annual reviews provide an opportunity for structured consideration of whether regulations are fit for purpose. Some agencies advised they use both ad hoc and annual reviews of their regulations, whilst others noted that regulations are reviewed as part of broader policy reviews.⁸²
- 3.24 The Department of Tourism and Hospitality (DTH) stated that their annual review, which involves discussions between DTH and OPC, helps to 'inform the development of [DTH's] legislative program and provide a structured opportunity to evaluate the fitness and effectiveness of existing regulatory instruments'.⁸³ DTH noted their annual review is undertaken in combination with routine reviews throughout the year and regular stakeholder feedback processes.⁸⁴

Committee Comments

- 3.25 The Committee notes that responsibility for scheduling reviews of regulations rests with individual agencies. Most agencies undertake reviews on an ad hoc basis with review activity informed by policy priorities, stakeholder consultation, operational requirements and resources. The Committee considers ad hoc reviews provide agencies with flexibility to respond to emerging issues and help to ensure regulations remain fit for purpose. This is consistent with agencies' stewardship responsibilities.

⁷⁸ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

⁷⁹ Agency Responses from the Department of Tourism and Hospitality, the Department for People, Sport and Culture, the Department of Education and Training, the Department of Corrections, and the Department of Children and Families.

⁸⁰ Agency responses from the Department of Chief Minister and Cabinet, the Department of People, Sport and Culture, and the Department of Tourism and Hospitality.

⁸¹ For a breakdown of historical regulations by portfolio see Chapter 7 – Committee's Assessment of Historical Regulations.

⁸² Department of Health, Agency Response, p. 1.

⁸³ Department of Tourism and Hospitality, Agency Response, p. 1.

⁸⁴ Department of Tourism and Hospitality, Agency Response, p. 1.

- 3.26 The Committee notes that ad hoc review may be complemented by annual review with the assistance of OPC. The Committee further notes that agencies undertaking annual reviews generally administer small portfolios and that machinery of government changes may impact on agencies' capacity to establish and maintain review schedules. The Committee does not make a specific recommendation with regard to the scheduling of reviews, noting agencies are best placed to determine appropriate review arrangements. The Committee notes that guidance materials may help assist agencies with establishing their review schedules.

Finding 2

Agency reviews of historical regulations are generally ad hoc informed by evolving Government policy, ongoing consultation with stakeholders, the specific nature and circumstances of the regulations in question or issues identified via internal tracking mechanisms.

Finding 3

Changes to the Administrative Arrangements Order can impact the capacity of agencies to regularly and effectively review regulations as agencies can be faced with the challenge of understanding regulations that have been newly assigned to them.

Reporting on Review Progress and Outcomes

- 3.27 In some other Australasian jurisdictions, agencies are required to develop plans for reviewing legislation and report on performance in carrying out those plans. For example, New Zealand agencies are required to develop, publish and report against plans for regularly reviewing their legislation for consistency with the principles of responsible regulation set out in *Regulatory Standards Act 2025*.⁸⁵
- 3.28 In the NT, agencies' CEOs are required to report annually to their Minister on the operations of the agency during a financial year.⁸⁶ Generally, this must occur within 3 months after the end of the financial year. The Minister must table the report in the Legislative Assembly within 6 sitting days.⁸⁷
- 3.29 Whilst the agency's annual report must contain information about the legislation administered by the agency,⁸⁸ there is no requirement to specifically report against plans for reviews of their legislation. The Committee sought advice from the AGD on whether agency annual reports could provide an opportunity to publish information about the outcomes of reviews. AGD advised that the annual reporting requirement does not provide a trigger for structured review of regulations.⁸⁹

⁸⁵ *Regulatory Standards Act 2025* (NZ), s 17.

⁸⁶ *Public Sector Employment and Management Act 1993*, s 28.

⁸⁷ *Public Sector Employment and Management Act 1993*, s 28(4).

⁸⁸ *Public Sector Employment and Management Act 1993*, s 28(2)(b).

⁸⁹ Attorney-General's Department, Answer to Question Taken on Notice, 7 May 2026, p. 1.

Committee Comments

- 3.30 The Committee notes that other jurisdictions, such as New Zealand, require agencies to develop and report against legislative review plans, which can enhance transparency and accountability. However, the Committee acknowledges that introducing a similar framework in the NT may create additional administrative and resourcing pressures. The Committee notes AGD's advice that existing annual reporting arrangements are not designed to support structured reporting on legislative reviews.
- 3.31 Whilst recognising the importance of transparency in regulatory stewardship, the Committee does not make a specific recommendation on reporting requirements and considers agencies are best placed to determine appropriate reporting arrangements for their review activities.

Regulatory Impact Assessment

- 3.32 Regulatory impact assessment is a process by which agencies assess the costs, benefits and potential consequences of proposed policy before it is implemented. Many Australian jurisdictions require this assessment is undertaken and included in a regulatory impact statement (RIS) prepared to accompany regulations when they are made.⁹⁰ In this regard, each time historical regulations are amended, an assessment of the regulatory impact of the amendments is undertaken.
- 3.33 As noted in Chapter 2, the *Regulation Making Framework* (RMF) sets out requirements for conducting regulatory impact assessments in the NT, including requirements for the preparation of RISs and preliminary RISs (PRISs). Under the responsibility of DTF, the purpose of the RMF is to 'assist officers in undertaking thorough analysis of regulatory proposals that impact on business or the community'.⁹¹ The Committee notes that 'regulation' for the purposes of the RMF refers to:
- any 'rule' endorsed by the Territory Government where there is an expectation of compliance. It includes primary (that is, Acts) and subordinate legislation, including regulations, rules, codes and plans of management.⁹²
- 3.34 At the public hearing, DTF outlined how the RMF functions and the role of DTF in guiding agencies to be good regulatory stewards under the RMF. In particular, they explained that regulatory proposals are assessed by the Regulatory Impact Committee (RIC), chaired by DTF:

I suppose the principles really are to make sure that agencies who are looking to either introduce regulation, new legislation or amend legislation spend some time thinking about the problem they want to address, what the options are to address that particular problem—it might be that a non regulatory response might be best—and essentially what is the minimum level of effort or imposition, looking at the relative costs and benefits of introducing new regulation and always looking at and making sure that whatever the costs of that regulation are that they are outweighed by the net

⁹⁰ See, for example, *Subordinate Legislation Act 1994* (Vic), s 7.

⁹¹ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 5

⁹² Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 5

benefit to the public and consumers. You are always looking at balancing the costs and benefits of any particular regulation and wanting to ensure there is a net positive benefit.

The framework in the Northern Territory at the moment involves the central agencies, so Treasury chairs the regulatory impact committee. There is a committee with Treasury; Attorney General and Justice; Chief Minister and Cabinet; and Department of Trade, Business and Asian Relations. There is a committee with the four agencies represented. When regulatory proposals are received through new policy development and proposals from agencies, they have to go through a review process. Treasury is the Chair of that committee and manages that review process.

The proposals are distributed to the committee for assessment, and each agency will provide their comments on what the regulation is seeking to achieve and what the costs and benefits of that proposal are, so there is a preliminary impact assessment and then a full impact assessment. There will be a certificate issued that will be attached to the Cabinet submission so that when a proposal goes to Cabinet, whether it is new legislation, amendment to legislation or regulations, Cabinet can be assured that it has been reviewed.

There are some proposals that are exempt—for example, tax legislation is generally exempt. I think that is the main exemption to the process.⁹³

- 3.35 Development of a PRIS and RIS are some of the first steps of the regulation-making processes. They are developed by the responsible agency when making new regulations or amending existing regulations.⁹⁴ A PRIS 'is used to establish whether the proposal is likely to impact significantly on business or the community and therefore whether a full RIS is warranted'.⁹⁵ The purpose of a PRIS is:

to improve the quality of regulation by ensuring the decision maker understands the problem to be addressed, has considered a number of options to address the problem and is fully informed of the potential impacts, costs and benefits of the proposal across business, consumers, the community and governments.⁹⁶

- 3.36 The purpose of the RIS is to provide more detailed analysis than a PRIS where the RIC finds that the PRIS does not show the RMF requirements have been met or does not demonstrate that the intervention is necessary with non-significant impact and clear public interest.

- 3.37 The RMF outlines that a RIS requires description of monitoring and review arrangements. The RMF provides the following limited guidance on regulatory review processes:

Agencies are also responsible for continually reviewing the legislation they administer and to amend or repeal legislation where appropriate. Therefore, it is essential agencies develop performance indicators based on the objectives of regulations. Outcome-based performance indicators should be developed and reported alongside the more traditional process-based indicators. Agencies should routinely monitor the performance of regulation by collating and analysing queries by stakeholders. Measures for ongoing

⁹³ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, pp. 10-11.

⁹⁴ Department of Treasury and Finance, *Regulation Making Framework* (2024), p 9.

⁹⁵ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 7.

⁹⁶ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 7.

review may also include provision of a complaints handling or feedback mechanism, or consultation with affected stakeholders.

- When undertaking a review, the following should be considered:
- Does the original problem still exist?
- Is there evidence of the objectives being met?
- Has the regulation had the expected impacts, and are there any unanticipated effects?

As part of this process, consideration should also be given as to whether any compliance strategies need to be reviewed.⁹⁷

3.38 The Committee notes that the publication of RISs ‘provides the community with an understanding of the evidence base used to inform a policy decision’.⁹⁸ Some submitters noted that RISs are not made public in the NT,⁹⁹ unlike all other Australian jurisdictions.¹⁰⁰ In the public hearing, DTF noted the benefits to public transparency that publication of an RIS can provide:

I think in all cases there are always benefits to government transparency in decision-making processes. Those jurisdictions that do publish them do provide for normal sensitivities of government decision-making processes, the ability to provide extracts or redact commercially sensitive material that may be in there, particularly if it has been through a stakeholder engagement process. Generally, that would be the way we would frame it and say there are certainly benefits to government transparency in decision-making and it would inform debate on legislation and regulation-making.¹⁰¹

3.39 DTF advised there is an ongoing review being undertaken of the RMF. DTF stated that it can look at publication of RISs as part of this review.¹⁰²

Committee Comments

3.40 The Committee considers that good stewardship requires agencies to assess and monitor the regulatory impacts of regulations over time. The RMF supports this objective by requiring consideration of regulatory impact when regulations are developed or amended.

3.41 The Committee notes that RISs are an important tool for transparency and accountability, providing insight into evidence underpinning government

⁹⁷ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 26.

⁹⁸ Australian Government, Department of the Prime Minister and Cabinet, *Australian Government Impact Analysis Framework* (2026), p. 17.

⁹⁹ Professor Lorne Neudorf, Submission No. 5, pp. 3-4.

¹⁰⁰ Australian Government, Department of the Prime Minister and Cabinet, *Australian Government Impact Analysis Framework* (2026), p. 17; Victorian Government, Better Regulation Victoria, *Published Regulatory Impact Statements* (2026), <https://www.vic.gov.au/regulatory-impact-statements>; Queensland Government, Department of Justice, *Impact Analysis Statements* (2026), <https://www.justice.qld.gov.au/publications-policies/reports/impact-analysis-statements>; Western Australian Government, *Better Regulation – Decision Regulatory Impact Statements* (2026), <https://www.wa.gov.au/government/document-collections/better-regulation-decision-regulatory-impact-statements>; Government of South Australia, Department of the Premier and Cabinet, *Better Regulation Handbook* (2022), p. 11; New South Wales Government, NSW Treasury, *NSW Government Guide to Better Regulation* (2025), p. 20; *Subordinate Legislation Act 1992* (Tas), s 5(2)(a)(ii); Australian Capital Territory Government, Chief Minister, Treasury and Economic Development Directorate, *Best Practice Guide for Preparing Regulatory Impact Assessments* (2024), p. 4.

¹⁰¹ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 11.

¹⁰² Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 11.

decisions. This is particularly significant in enabling public oversight of amendments that are made to historical regulations. The Committee further notes that the NT is an outlier as the only Australian jurisdiction that does not publish RISs. Given the potential benefits, the Committee supports further consideration of this issue as part of the current review of the RMF.

Recommendation 4

The Committee recommends that, as part of its ongoing review of the *Regulation Making Framework*, the Department of Treasury and Finance consider the appropriateness and feasibility of publishing regulatory impact statements.

Consultation and Public Engagement

- 3.42 Consultation forms an important component to ensuring that legislation is appropriate and responsive to community needs. Professor Lorne Neudorf highlighted the benefits of regularly and systematically reviewing regulations, including the capacity for fresh consultation to occur:

Over time regulations can become outdated or misaligned with current policy settings. A periodic review creates a structured opportunity to revisit those instruments and assess whether they continue to serve their intended function. Importantly, when an instrument is remade, this process can be informed by fresh public consultation, enabling those who are affected by the law to identify deficiencies, unintended consequences or areas for improvement. In that way periodic review not only tests the continuing need for that regulation but can also strengthen its quality and effectiveness through engagement with the community.¹⁰³

- 3.43 At present in the NT, the RMF requires, as part of the PRIS/RIS process, an assessment of who will be impacted by proposed regulations, including amending regulations.¹⁰⁴ It provides guidance on what constitutes best practice stakeholder consultation.¹⁰⁵
- 3.44 The RIC assess a PRIS/RIS based on a number of criteria, including whether there is a statement of consultation, whether the views of those consulted been articulated, including substantial disagreements, whether there is an explanation of how stakeholders' views have been addressed and, if no consultation was undertaken, whether an explanation was provided.¹⁰⁶ If the RIC determines that consultation undertaken by agencies is not considered effective and appropriate, the RIC will work with agencies to address the issue. Where the issue could not be resolved, the proposal will be assessed as inadequate, and agencies will be

¹⁰³ Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026, p. 2.

¹⁰⁴ Some proposals may be exempt from the RMF process. Agencies must self-assess whether their proposal falls within these categories. See Department of Treasury and Finance, *Regulation Making Framework* (2024), pp. 9-10.

¹⁰⁵ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 20.

¹⁰⁶ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 9.

advised through a PRIS or RIS certificate stating the agency has not met the RMF requirements.¹⁰⁷

- 3.45 Several agencies noted their reviews of regulations are informed by consultation with external stakeholders.¹⁰⁸ The Committee notes that this consultation is subject to the discretion of agencies and there is no guidance for ongoing consultation on regulations after they have been made. DTF noted at the public hearing that there may be circumstances where stakeholder engagement and consultation may not be appropriate as part of the regulation making process.¹⁰⁹
- 3.46 Outside of the RMF framework, there is no requirement for regular stakeholder consultation or public engagement on the making or amending of regulations.¹¹⁰ Despite the lack of a formal requirement, a number of agencies outlined how they incorporate stakeholder feedback into their regulatory review processes.¹¹¹ For example, at public hearing, one representative from AGD outlined how public consultation informs their department's reviews:

There are a number of different ways that we progress public consultation. It again depends on the nature of the review, but this can be through discussion papers. It may also be through working groups with stakeholders involved. Other processes may involve getting feedback from stakeholders where they identify particular issues and we undertake to have a look at those issues.¹¹²

- 3.47 Another AGD representative further added that:

It is also worth noting, particularly in the small jurisdiction that we are, stakeholders are not shy about coming forward, reaching out to us and expressing if they have issues with things as well. There is that feedback with us.¹¹³

- 3.48 DME raised in their submission to the inquiry that 'leveraging routine stakeholder engagement to identify outdated or redundant provisions' can encourage 'more proactive management of historical regulations, without additional resourcing'.¹¹⁴
- 3.49 Exposure drafts may be used as a consultation mechanism for 'matters of major significance'.¹¹⁵ AGD noted that guidelines on exposure draft use could be helpful:

It would be more about having guidelines around when exposure drafts may be useful. I think that is really an assessment on the necessity to engage on the regulations. Usually when you are dealing with an exposure draft it is not to consult on policy, generally speaking; it is about implementation of rulemaking, ensuring there are no unforeseen circumstances, minimising impacts on the stakeholders that are impacted and ensuring they are well

¹⁰⁷ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 11.

¹⁰⁸ Agency Responses from the Department of Housing, Local Government and Community Development, the Department of Trade, Business and Asian Relations, and NT Fire and Emergency Services.

¹⁰⁹ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

¹¹⁰ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 11.

¹¹¹ Agency Responses from the Department of Housing, Local Government and Community Development, the Department of Trade, Business and Asian Relations, and NT Fire and Emergency Services.

¹¹² Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 17.

¹¹³ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 17.

¹¹⁴ Department of Mining and Energy, Submission No. 7, p. 1.

¹¹⁵ Department of Treasury and Finance, *Regulation Making Framework* (2024), p. 20.

understood, as opposed to being a method for debating policy decisions of government.¹¹⁶

Committee Comments

- 3.50 The Committee considers that public consultation and engagement are important elements of effective regulatory stewardship. Regular engagement with stakeholders can assist agencies to identify outdated, ineffective and unintended consequences of provisions and ensure regulations are responsive to community needs. The Committee considers guidance material developed by OPC should assist agencies to identify ways to leverage stakeholder to engagement to assist with identifying outdated or redundant historical regulations.

Recommendation 5

The Committee recommends, subject to the Government's adoption of recommendation 1, that the guidance material developed by the Office of the Parliamentary Counsel include guidance on how to leverage routine stakeholder engagement to identify outdated or redundant legislation.

Interagency and Interjurisdictional Cooperation

- 3.51 Some agencies highlighted that inter-agency cooperation was important in their regulation making and review processes, emphasising the role of AGD and DTF in providing guidance and support.¹¹⁷
- 3.52 Agencies work with AGD to ensure regulations align with current legal standards, drafting practices and national best practice.¹¹⁸ Agencies also seek advice on legislative reform and on legally contentious issues or offence provisions.¹¹⁹ Further, AGD 'progresses regulatory amendments through Omnibus Bills'.¹²⁰
- 3.53 Where regulations impose fees, agencies consult with DTF.¹²¹ DTF is responsible for the *Revenue Units Act 2009* which outlines matters related to legislated fees and charges expressed as revenue units, and publishes the NT Government Pricing Framework, which sets the principles by which agencies should consider the manner in which they set fees.¹²²
- 3.54 Some stakeholders also stated that engagement with other jurisdictions would assist with identifying needed regulatory reforms.¹²³ DME in their submission to the Committee recommended that the NT promotes 'cross-jurisdictional

¹¹⁶ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 11.

¹¹⁷ For example, Department of Tourism and Hospitality, Agency Response, p. 1.

¹¹⁸ Department of Tourism and Hospitality, Agency Response, p. 1; Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 19; Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 17.

¹¹⁹ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 17.

¹²⁰ Department of Tourism and Hospitality, Agency Response, p. 1.

¹²¹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 4.

¹²² Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 11.

¹²³ Department of Mining and Energy, Submission No. 7; Department of Tourism and Hospitality, Agency Response, p. 1.

information sharing to reduce duplication of effort'.¹²⁴ AGD also raised in the public hearing that the Territory should reference other jurisdictions' legislative reform practices and adopt such practices where appropriate.¹²⁵

Committee Comments

- 3.55 The Committee notes that interagency and cross jurisdictional cooperation support regulation review. The Committee considers that further consideration should be given to how information sharing on proactive management of historical regulations can be encouraged.

Recommendation 6

The Committee recommends that the Government consider how to promote cross-jurisdictional information sharing on proactive management of historical regulations.

Regulatory Stewardship as a Public Service Principle

- 3.56 Public service values or principles 'articulate parliament's expectations of public servants in terms of performance and standards of behaviour'.¹²⁶ In its 2019 report, the Panel of the Independent Review of the Australian Public Service stated:

Legislated principles should give merit and stewardship broader meaning than their current application... Legislating the obligation of stewardship as a principle would give it broader application to guide the APS's institutional role, beyond the individual stewardship responsibilities of Secretaries Board. As a legislated guiding principles for the APS, stewardship could encompass building a service that is committed to the public interest, a service that is a repository of wisdom and experience and maintains the capability and core expertise to serve successive governments, and a service that is self-critical and builds and sustains genuine partnerships...there is an opportunity for the APS to look ahead to the medium and long term and act as stewards of Australia, working for the benefit of all Australians, now and for the future.¹²⁷

- 3.57 Some Australasian jurisdictions have enshrined regulatory stewardship as a public service value or principle in legislation.¹²⁸ For example, the *Public Service Act 2020* (NZ) provides that proactive stewardship of the legislation administered by agencies is a public service principle.¹²⁹ Stewardship is defined as 'active planning and management of medium and long-term interests, along with associated advice'.¹³⁰ The New Zealand (NZ) Ministry for Regulation states:

all government agencies have stewardship responsibilities for the legislation they administer. This is supplemented by Cabinet-mandated expectations

¹²⁴ Department of Mining and Energy, Submission No. 7.

¹²⁵ Attorney-General's Department, Committee Transcript, Public Hearing, 28 April 2026, p. 17.

¹²⁶ Australian Government, *APS Values – Scope and application of the values* (2024), <https://www.apsc.gov.au/aps-values/scope-and-application-values>.

¹²⁷ Independent Panel of the Australian Public Service Review, *Our Public Service, Our Future - Independent Review of the Australian Public Service* (2019), pp. 91-92.

¹²⁸ *Public Service Act* (1999) (Cth), s 10; *Public Service Act 2020* (NZ), s 12(1)(e)(v).

¹²⁹ *Public Service Act 2020* (NZ), s 12(1)(e)(v).

¹³⁰ *Public Service Act 2020* (NZ), s 2.

that require agencies to govern, monitor, and care for the regulatory systems they have responsibility for.

To fulfil their regulatory stewardship responsibilities, agencies need to consider the whole regulatory system, and proactively work with others to take care of the parts of the system they're responsible for. This includes:

- monitoring, reviewing, and reporting on existing regulatory systems
- robust analysis and implementation support for any changes to regulatory systems
- ensuring good regulatory practice is followed.¹³¹

3.58 In evidence to Committee, the NZ Parliamentary Counsel Office stated:

Agencies are primarily responsible for stewardship of the regulatory systems they administer under the *Public Service Act 2020*. This Act promotes regulatory stewardship as a core principle, requiring public service agencies to actively monitor, maintain, and improve the regulatory systems they administer. It places statutory responsibility on chief executives to ensure their agencies act as stewards of legislation (both primary and secondary), focusing on long-term fitness-for-purpose, system sustainability, and managing risks.

The recently passed *Regulatory Standards Act 2025* brings this responsibility into sharper focus, with new requirements that formalise the responsibility of government agencies to monitor, review and report on regulatory systems. It also introduces principles for good law-making which proposals for new legislation need to be assessed against.¹³²

3.59 In order to provide 'confidence that the public service is actively delivering on its regulatory stewardship responsibilities', the NZ government publishes policy guidance.¹³³ The Committee notes NZ's approach was subsequently adopted by the Commonwealth Government through an amendment to the *Public Service Act 1999* (Cth) in 2024.¹³⁴

3.60 In the NT context, the *Public Sector Employment and Management Act 1993* has set out public sector principles since 2011.¹³⁵ Whilst there is currently no explicit stewardship principle, the principles include the 'administration management principle' which requires administration and management of the public sector to be directed towards (amongst other matters):

- providing effective, efficient and appropriate services to the community and the government
- ensuring the effective, efficient and appropriate use of public resources
- ensuring that in carrying out their functions, agencies are responsive to the changing needs of the community and the government.¹³⁶

¹³¹ New Zealand Government, Ministry for Regulations, *Regulatory Stewardship* (2026), <https://www.regulation.govt.nz/our-work/regulatory-stewardship/>.

¹³² Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 2.

¹³³ New Zealand Government, Ministry for Regulations, *Regulatory Stewardship* (2026), <https://www.regulation.govt.nz/our-work/regulatory-stewardship/>.

¹³⁴ *Public Services Amendment Act 2024* (Cth), Schedule 1.

¹³⁵ *Public Sector Employment and Management Act 1993*, s 5A.

¹³⁶ *Public Sector Employment and management Act 1993*, ss 5B(a), (b) and (d)(i).

- 3.61 The Committee sought advice from some agencies in relation to legislating stewardship as a public service principle. DTF stated they are ‘agnostic’ as to whether stewardship should explicitly be included as a legislative principle, finding that ‘it is more about ensuring that the practice is enshrined, rather than the methodology by which that would happen’.¹³⁷

Committee Comments

- 3.62 The Committee notes that regulatory stewardship has been adopted as a public service principle in other jurisdictions. The evidence received suggests that such principles can reinforce agencies’ responsibility to actively monitor, review and improve the legislation they administer.
- 3.63 The Committee acknowledges that existing public service principles in the NT already promote effective, responsive and efficient administration. However, the Committee considers that there may be merit in explicitly recognising regulatory stewardship as a public service principle to strengthen a culture of ongoing legislative review and continuous improvement.

Recommendation 7

The Committee recommends that the Government consider the merits of embedding regulatory stewardship as a public service principle.

¹³⁷ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

4 The Role of the Office of the Parliamentary Counsel

Overview

- 4.1 As ‘the caretakers of the statute books’, the Office of the Parliamentary Counsel (OPC) perform a range of functions that assist agencies in overseeing regulations throughout their lifecycle.¹³⁸ This Chapter outlines the powers and functions of OPC, and its role in supporting agency stewardship of historical regulations.

Administrative Functions

- 4.2 In the Northern Territory (NT), OPC is not established by statute. Instead, OPC is assigned its functions as an administrative office under the Department of Chief Minister and Cabinet.¹³⁹ This is consistent with some other jurisdictions, including Victoria.¹⁴⁰ This section examines the existing administrative functions of the OPC.

Drafting Regulations

- 4.3 In all Australasian jurisdictions, legislation is drafted by parliamentary counsel. Supported by 7 legislative drafters, the NT’s OPC is responsible for drafting regulations.¹⁴¹ Drafting is an ‘iterative process’ between OPC and the agency,¹⁴² which generally take a minimum of 8 weeks.¹⁴³ Generally, this involves collaborative work between an ‘agency instructing officer’ and an OPC drafter.¹⁴⁴ Instructing officers must:

- have detailed knowledge about the subject matter and an understanding of what the proposed legislation is intended to achieve
- be capable of explaining the policy issue and proposed intention of the legislation
- promptly consider the drafts prepared by the OPC drafter.¹⁴⁵

- 4.4 In evidence to the Committee, the Acting Chief Parliamentary Counsel highlighted the symbiotic relationship between OPC drafters and agencies:

¹³⁸ Attorney-General’s Department, Agency Response, p. 1.

¹³⁹ Administrative Arrangements Order 2026, Schedule 2; Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁴⁰ Victorian Government, *About the Office of the Chief Parliamentary Counsel* (2026), <https://www.vic.gov.au/about-office-chief-parliamentary-counsel>

¹⁴¹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁴² Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁴³ Department of the Premier and Cabinet, *Legislation Handbook* (2024), p. 23.

¹⁴⁴ Department of the Premier and Cabinet, *Legislation Handbook* (2024), p. 32.

¹⁴⁵ Department of the Premier and Cabinet, *Legislation Handbook* (2024), p. 11; Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

[Drafting] is very much a team effort between the drafters in my office and the instructing officers in the agencies. We cannot do the work without them and they cannot do the work without us.¹⁴⁶

- 4.5 The Attorney-General's Department (AGD) stressed the 'close working relationship' it has with OPC throughout the drafting process.¹⁴⁷ At the public hearing, AGD stated:

It is also often through interaction with the Office of the Parliamentary Counsel, through drafting processes, that opportunities arrive. By way of example, recent amendments to consumer affairs and fair trading regulations provided an opportunity to remove references to repeal provisions and to tidy up as part of progressing government's reform priorities. We have quite a close working relationship with the Office of the Parliamentary Counsel through the drafting process, and this also assists in identifying areas for review and provides opportunities to make amendments while we progress government reform priorities.¹⁴⁸

- 4.6 The role of OPC commences in the early stages of the drafting process. The Acting Chief Parliamentary Officer highlighted OPC's input into the drafting process, including the informal functions it may fulfil in advising agencies about outdated legislation:

...when agencies are preparing their proposals for regulations, before they get it approved by the minister they are required to consult with us. We give them some advice about things like timeframes, scope and whether their instructions are sufficient to enable the drafting. As part of that consideration, we will look at what the regulations or the subordinate legislation is that they are trying to amend. If it is really old and outdated and we think it is appropriate to do so, we will suggest that instead of amending it, that we replace it with a brand-new set.

That is not always possible; the reason being that it is a time and resource-intensive process. If you are going to remake something, it is more than just updating the old language; it requires consideration of every provision in the regulations that you are seeking to replace. There is quite a lot of policy work involved in that. There can also be a need to carry out consultation with stakeholders as part of that, particularly if it is of high impact to the public or specific groups in the community. There can also be a need to get specialist advice from other areas of government—perhaps Treasury and Finance in relation to fees and other revenue measures, also from the [AGD] in relation to offences, penalties and those kind of provisions.¹⁴⁹

- 4.7 AGD highlighted the benefits of informal conversations between agencies and OPC which commence prior to drafting:

Presently, things like the *Legislation Handbook* sort of directs agencies on the processes to reach out to us, as well as OPC, to have those initially informal conversations that will then turn into more formal things and provides that avenue of awareness for OPC as to what might be coming through the pipeline and to help guide that along the way, as opposed to something that is a more formative framework that an agency will conduct on its own without that input—especially for our busy legislative program and the limited size of resources that we have—might create some issues along

¹⁴⁶ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁴⁷ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing 28 April 2026, p. 14.

¹⁴⁸ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing 28 April 2026, p. 14.

¹⁴⁹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

the way there, as opposed to having that informal relationship where we can guide things along and get that process happening.¹⁵⁰

- 4.8 The Northern Territory Police Force noted that ‘current standard OPC policy requires the drafting of Bills to take priority over the drafting of regulations’.¹⁵¹ The Committee notes that regulations are often ‘less carefully drafted and less keenly scrutinised, than primary legislation’.¹⁵² However, the Committee considers regulations are drafted to a high-quality in the NT.

Review Assistance to Agencies

- 4.9 In the NT, OPC does not have a formal role in reviewing regulations.¹⁵³ However, OPC employs a number of informal processes that assist with identifying and prompting reviews of outdated regulations by agencies.¹⁵⁴ These processes including:

- maintaining a database of outdated legislation and potential amendments
- alerting agencies on an ad hoc basis about required updates if they are ‘of significance’
- meeting annually with agency Chief Executive Officers (CEO) and advising whether legislation should be repealed or replaced.¹⁵⁵

- 4.10 The Acting Chief Parliamentary Counsel advised that ‘some action has arisen over the past couple of years’ from these informal processes. However, agencies’ responsiveness to OPC’s advice is subject to ‘what other priorities the agency has at the time’.¹⁵⁶

- 4.11 Agencies told the Committee that regular meetings between their Chief Executive Officer (CEO) and OPC assist the agency to perform its stewardship role. The Department of Lands Planning and Environment (DLPE) submitted that OPC ‘has always been accommodating in providing advice to DLPE on approaches to the remaking and revocation of regulations’ through six-monthly scheduled meetings with the CEO.¹⁵⁷

- 4.12 In some other jurisdictions, the parliamentary counsels are more formally tasked with reviewing legislation. In evidence to the Committee, the New Zealand Parliamentary Counsel Office (NZ PCO) highlighted that, ‘while agencies remain responsible for the care and maintenance of their legislation, in some circumstances [NZ PCO] exercise our stewardship role by actively reviewing and/or repealing legislation’.¹⁵⁸ NZ PCO drew the Committee’s attention to an ongoing project to review outdated legislation:

¹⁵⁰ Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 16.

¹⁵¹ Northern Territory Police Force, Agency Response, p. 1.

¹⁵² *Day v Harness Racing New South Wales* [2014] NSWCA 423; (2014) 88 NSWLR 594; 324 ALR 611.

¹⁵³ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁵⁴ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁵⁵ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁵⁶ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 2.

¹⁵⁷ Department of Lands, Planning and Environment, Submission No. 1, p. 1.

¹⁵⁸ Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 2.

[NZ] PCO is leading work to review and, where appropriate repeal, historic primary legislation, with consequential impacts on secondary legislation.

The [NZ] PCO has recently initiated a project which aims to review around 900 public, private, local, and provincial Acts dating from 1840 through to the 1960s. This project involves review and assessment of the ongoing relevance of each Act, with a view to repeal any that are redundant, spent, or otherwise no longer required.

The purpose of repealing outdated legislation includes keeping New Zealand's legislation as a whole up-to-date. It improves the ability for users to find, use, and understand legislation that is relevant to them.

Through this review, there is potential where some Acts identified as spent are likely to include associated secondary legislation - which may also be proposed for revocation.¹⁵⁹

Statute Law Revision Bills

4.13 Statute Law Revision Bills make technical amendments to a number of Acts. Such Bills only deal with 'tidying up, correction of errors, updating (including modernisation of style) and repeal of spent provisions' and do not involve changes to policy.¹⁶⁰ In the NT, Statute Law Revision Bills are made approximately every two years. However, there is no set period for making them, and they are developed subject to Government priorities.¹⁶¹

4.14 OPC is responsible for developing Statute Law Revision Bills periodically, in conjunction with AGD.¹⁶² As noted in the *Legislation Handbook*:

OPC prepares a Statute Law Revision Bill when required, and has the authority to include routine amendments. However, the responsible Minister should be made aware of any amendments being proposed to legislation for which he or she is responsible, and approval must be sought for the amendment. This is the responsibility of the relevant agency.¹⁶³

4.15 The Acting Chief Parliamentary Counsel further explained OPC's internal processes that support the development of Statute Law Revision Bills:

OPC keeps a list of things that require amendment, and we are updating that all the time. We have an officer in our team who is the steward of that list and is responsible for keeping an eye on it. We look at opportunities to implement those minor changes outside of a statute law revision Bill. For example, a small error is identified in a piece of legislation. We put it on the list and if in the future there is an opportunity to fix that problem through another Act or another set of amending regulations, we will try to incorporate that in there. We are always looking at that list to see what we can tidy up as we go along with our ordinary business.

When it comes to statute law revision Bills, the Attorney-General's Department instructs us on that project. We bring to it those items that we have identified and then AGD work with agencies across government in an

¹⁵⁹ Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, pp. 3-4.

¹⁶⁰ Australian Government, Department of Prime Minister and Cabinet, *Legislation Handbook* (2025), p. 28.

¹⁶¹ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

¹⁶² Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

¹⁶³ Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 19.

effort to—they want to ask them to identify anything that needs to be fixed up, and then the instructions are provided to us.¹⁶⁴

- 4.16 AGD noted that Statute Law Revision Bills development may itself prompt an agency review process:

Where something has not been used for quite a long time that is generally a trigger to say, 'Let us have a look at it'. Something we do when we do the statutory law revision Bills in conjunction with OPC is those things that have not been activated for a while or have been introduced an awfully long time ago, that automatically triggers those reviews to see whether they are still pertinent.¹⁶⁵

- 4.17 The Committee sought advice from OPC regarding whether a Statute Law Revision Bill would be an appropriate mechanism to assist with tidying up historical regulations that are in need for repeal. The Acting Chief Parliamentary Counsel advised:

To answer the second part of your question, that is a legislative vehicle that could be used to tidy up historic legislations that are out of date. It is a slightly unusual practice we have here in the Northern Territory where we use an Act to amend regulations, but we do it fairly regularly. Yes, that could be used to, for example, repeal regulations that are no longer needed. It could also be used to make minor amendments to things that need to be updated.

It could not be used to make amendments that are more significant. Those things would need to be done in a different way by a set of amending regulations to make significant changes to regulations or just a set of regulations that repeals an old set and replaces them.¹⁶⁶

Publication of Regulations

- 4.18 OPC is responsible for the notification of making regulations in the Government Gazette and their publication on the legislation website.¹⁶⁷ The Government Gazette is published at least once a week, and 'provides official notification of government decisions, actions and information'.¹⁶⁸

- 4.19 The legislation website 'contains Acts and subordinate legislation as in force today and an archive of those in force on past dates; Bills introduced to the Legislative Assembly; Acts enacted from these Bills and subordinate legislation as made'.¹⁶⁹ The Committee notes the legislation website also includes explanatory statements for Bills. The *Legislation Handbook* explains:

OPC maintains the Northern Territory Government Legislation website. The site contains all the current consolidated Acts and numbered subordinate legislation of the Northern Territory and some historical consolidations. It also includes each Bill introduced in the Legislative Assembly, Acts resulting from these Bills and new and amending numbered subordinate legislation. It also contains passage and Assembly amendment details for Bills, and

¹⁶⁴ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

¹⁶⁵ Attorney-General's Department, Committee Transcript, Public Health, 28 April 2026, p. 15.

¹⁶⁶ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

¹⁶⁷ Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 24.

¹⁶⁸ Northern Territory Government, *Government Gazettes* (2026), <https://nt.gov.au/about-government/gazettes>.

¹⁶⁹ Northern Territory Government, *Northern Territory Legislation* (2026), <https://legislation.nt.gov.au/en>.

assent and commencement dates for Acts. Current and historical copies of Administrative Arrangements Orders are also available.¹⁷⁰

- 4.20 Professor Lorne Neudorf highlighted the importance of a centralised website for the publication of subordinate legislation:

...all instruments of a legislative character should be published in a single, authoritative and publicly accessible online repository...A centralised publication model would provide a clear point of access for Parliament, the courts, regulated entities and the public. Ensuring that all delegated legislation of legislative character is published in a consistent and easily accessible manner would greatly strengthen the accessibility of the largest source of new law.¹⁷¹

- 4.21 Stakeholders to the Inquiry highlighted the experiences in their jurisdictions of decentralised publication of legislation. Regarding an ongoing project to centralise publication of legislation in New Zealand, the NZ PCO stated the previous decentralised system had a number of limitations:

These fragmented arrangements create challenges in accessing the secondary legislation, making it harder for businesses and individuals to understand their obligations. It also increases compliance costs, works against the goal of a modern, digital government, and undermines effective parliamentary oversight.¹⁷²

- 4.22 The NZ PCO noted the centralisation project has required agencies to review and take stock of subordinate legislation.¹⁷³

Committee Comments

- 4.23 The Committee notes that, although OPC does not have a formal responsibility for reviewing regulations, it already performs a number of important stewardship-support functions. Through its drafting role, maintenance of amendment registers, periodic engagement with agencies and involvement in Statute Law Revision Bills, OPC assists agencies to identify outdated legislation and opportunities for reform.
- 4.24 The Committee also considers that OPC's existing practices and expertise could be more systematically incorporated into guidance provided to agencies on the review of regulations. This would assist agencies to identify opportunities for amendment, repeal and remaking while maintaining agency responsibility for the legislation they administer. Accordingly, the Committee recommends that the Government consider the role of OPC in supporting regulatory stewardship and that OPC consider how its existing practices may be reflected in future guidance materials.

Recommendation 8

The Committee recommends the Office of the Parliamentary Counsel review its existing practices for identifying and raising issues relating to outdated

¹⁷⁰ Department of the Chief Minister and Cabinet, *Legislation Handbook* (2024), p. 26.

¹⁷¹ Professor Lorne Neudorf, Submission No. 5, Attachment, p. 14.

¹⁷² Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 3.

¹⁷³ Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 3.

legislation, with a view to incorporating those practices into future guidance for agencies on the review of regulations.

Statutory Objectives, Powers and Functions

- 4.25 Unlike the NT, some other Australasian jurisdictions establish their parliamentary counsel as independent statutory offices via legislation, and task them with formal stewardship-focused statutory objectives, powers and functions.¹⁷⁴

Stewardship Objectives

- 4.26 Stakeholders to the Inquiry drew the Committee's attention to other jurisdictions in which the parliamentary counsel has an explicit responsibility to exercise stewardship in promoting high-quality legislation. For example, in New Zealand, the objective of the NZ PCO is to promote high-quality legislation that is easy to find, use and understand and, to that end, exercised stewardship of New Zealand's legislation as a whole.¹⁷⁵

Notification Functions

- 4.27 Some submitters highlighted the functions that could be assigned to OPC to complement other stewardship mechanisms, such as sunseting.¹⁷⁶ In Queensland, the Office of the Queensland Parliamentary Counsel must notify administering agencies of when sunseting subordinate legislation will expire at least one year prior to the expiry.¹⁷⁷ Failure to give notice of expiry does not affect the expiry.¹⁷⁸
- 4.28 The Queensland Governance, Energy and Finance Committee and the Primary Industries and Resources Committee told the Committee this model is intended to 'assist agencies in forward planning' by enabling the planning and scheduling of reviews'.¹⁷⁹ They stated that 'this model combines agency stewardship of policy content with centralised legislative expertise'.¹⁸⁰

Repeal Recommendation Powers

- 4.29 In some other jurisdictions, parliamentary counsel has the power to recommend to the Attorney-General that outdated regulations are revoked. These regulations may be revoked in consultation with the administering agency. For example, in New Zealand, the Governor-General, through an Order in Council and on the recommendation of the Attorney-General, may revoke any subordinate legislation or other instrument. Before making a recommendation, the Attorney-

¹⁷⁴ See, for example, *Parliamentary Counsel Act 1970* (Cth), s 2; *Legislative Standards Act 1992* (Qld), s 5; *Legislation Act 2019* (NZ), ss 135 and 136.

¹⁷⁵ *Legislation Act 2019* (NZ), s 129.

¹⁷⁶ For more information on sunseting regimes, see Chapter 4 – Legislative triggers for review.

¹⁷⁷ *Statutory Instruments Act 1992* (Qld), ss 55(1) and (2).

¹⁷⁸ *Statutory Instruments Act 1992* (Qld), s 55(3).

¹⁷⁹ Queensland Governance, Energy and Finance Committee and Primary Industries and Resources Committee, Submission No. 8, p. 2.

¹⁸⁰ Queensland Governance, Energy and Finance Committee and Primary Industries and Resources Committee, Submission No. 8, p. 2.

General must be satisfied that the subordinate legislation or other instrument is redundant, spent or otherwise has ceased to have effect.¹⁸¹ The NZ PCO highlighted their involvement in the exercise of this power:

In 2025, the [NZ] PCO supported the making of the Legislation (Revocations) Order 2025 which revoked 15 pieces of secondary legislation that had ceased to have effect, were no longer required, or both. The Order was made under section 82 of the Legislation Act. The revoked secondary legislation was identified during the [NZ] PCO's work to link secondary legislation to its relevant empowering Act on the NZ Legislation Website.

The Order was made following consultation with the relevant administering agencies who confirmed their agreement that the instruments were spent and should be revoked. The consultation process involves an assessment by the [NZ] PCO of secondary legislation against section 82 of the Legislation Act, to determine whether the secondary legislation has ceased to have effect or is no longer required.¹⁸²

- 4.30 The Committee sought advice from OPC regarding the possibility of formally tasking OPC with stewardship objectives, powers and functions. OPC stated that they could possibly undertake these functions but noted that the NT's OPC is not established by statute and their systems are manual, so this would represent a lot of work without new systems. OPC noted they may not be better positioned to do this function than the relevant agency. The Acting Chief Parliamentary Counsel advised:

The situation in the Northern Territory is a bit different from a number of other jurisdictions. In several Australian jurisdictions, the OPC equivalent is established by statute and, accordingly, they have specific statutory functions and powers that include things such as notifying agencies of regulations that are, for sunseting regimes, scheduled for expiry. As I mentioned at the beginning, we have no statutory basis, so we do not currently perform those functions. I suppose there is a possibility for us to do that work. The thing that I would point out, though, is that we work in an almost completely manual system, so we do not have any way of automating a process for notification or similar to agencies like some other jurisdictions do. There would be a fair bit of work without some new systems being developed and made available—quite a bit of work involved in doing that. In one sense we may not be better positioned to do that than an agency would be to look after their own legislation for which they are responsible.¹⁸³

Committee Comments

- 4.31 The Committee observes that some other Australasian jurisdictions have formalised stewardship-related objectives, powers and functions for their parliamentary counsel offices. While recognising that the NT's OPC is not established by statute and that additional stewardship functions may have resource implications, the Committee considers there is merit in examining whether aspects of these interstate and international models could strengthen the NT's approach to regulatory stewardship.

¹⁸¹ *Legislation Act 2019* (NZ), s 82.

¹⁸² Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 3.

¹⁸³ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 18.

Recommendation 9

The Committee recommends that the Government consider tasking the Office of the Parliamentary Counsel with regulatory stewardship functions via legislation.

5 The Role of the Legislative Assembly

Overview

- 5.1 Parliaments ‘play a key role in designing policies and regulations as well as overseeing their implementation, including by holding the executive accountable for results’.¹⁸⁴ In this regard, parliamentary review mechanisms may work in tandem to support ongoing agency stewardship of historical regulations. This Chapter outlines key parliamentary mechanisms, including tabling, disallowance and committee scrutiny of regulations, and intersecting issues including parliamentary oversight of explanatory materials and documents incorporated by reference.

Tabling

- 5.2 Tabling is the formal process by which regulations are presented to the Legislative Assembly. If an Act contains a power to make regulations, regulations made under that power must be tabled in the Legislative Assembly within 6 sittings days after they have been made.¹⁸⁵ A failure to table regulations does not affect the validity of the regulations, but they may be the subject of a referral by the Assembly to the Committee (or another committee).¹⁸⁶

- 5.3 Some stakeholders to the Inquiry highlighted the importance of tabling to parliamentary oversight, including its role in ensuring transparency and accountability. In a submission to a New South Wales Inquiry, Professor Lorne Neudorf explained the interaction between tabling and other parliamentary mechanisms:

Tabling is the mechanism by which [subordinate] legislation is brought formally before Parliament and made available for scrutiny, including consideration by parliamentary committees and, where applicable, disallowance. Without clear and enforceable tabling requirements, the ability of Parliament to supervise executive lawmaking is weakened.¹⁸⁷

- 5.4 In *Delegated Legislation in Australia*, Stephen Argument and Dennis Pearce further explain this interaction:

The usual means of parliamentary oversight is a requirement that [subordinate] legislation be tabled in the parliament. This allows the parliament to see what use is made of the delegation power. It also allows the parliament to bring the relevant minister to account if it has any concerns about or disapproves of the use of that power. It also generally allows the parliament to disallow the [subordinate] legislation in question.¹⁸⁸

- 5.5 In its 2019 report, *Parliamentary scrutiny of delegated legislation*, the Senate Standing Committee for the Scrutiny of Delegated Legislation highlighted the

¹⁸⁴ OECD, *Improving Regulatory Government: Trends, Practices and the Way Forward* (2017), p. 3.

¹⁸⁵ *Interpretation Act 1978*, s 63(b).

¹⁸⁶ *Interpretation Act 1978*, s 63C(1).

¹⁸⁷ Professor Lorne Neudorf, Submission No. 5, Attachment, p. 17.

¹⁸⁸ D. C. Pearce and S. Argument, *Delegated Legislation in Australia* 5th Edition (2017), p. 58.

important notification function tabling performs in ensuring parliamentarians are aware of subordinate legislation:

While instruments are available as registered on the [federal legislation website], tabling is an important scrutiny mechanism as it serves to formally and procedurally bring an instrument to the attention of the Parliament. While parliamentarians may be aware of instruments as they become registered on the [federal legislation website], it is important that tabling occurs as close to (if not before) an instrument commences to ensure that all parliamentarians have knowledge as to the law as in force.¹⁸⁹

- 5.6 In the context of historical regulations, the Committee notes that tabling notifies the Legislative Assembly to amendments made to historical regulations by new amending regulations. Such a process provides the Assembly the opportunity to retain oversight over amendments to historical regulations.

Explanatory Materials

- 5.7 Explanatory materials play an important role in informing parliaments about the purpose of legislation and assist with scrutinising the Executive. They may also be used as extrinsic material by a court to assist with interpretation.¹⁹⁰
- 5.8 In some other Australian jurisdictions, the responsible Minister is required to table an explanatory statement to accompany regulations.¹⁹¹ Such documents may include information about the regulations' purpose and scope, the legal effect of each provision, the anticipated regulatory impact, any limitations on personal rights and liberties, and details of any consultation.¹⁹²
- 5.9 Guidance on preparing explanatory materials is set out in the *Legislation Handbook*. There is no statutory requirement in the NT to make, publish or table an explanatory statement for regulations. However, when regulations are tabled in the Legislative Assembly, the *Legislation Handbook* states they must be accompanied by a tabling note which includes:
- a brief explanation of purpose of the regulations
 - a brief description of the key elements of the subordinate legislation in bullet point form (generally drawn from the Cabinet Submission)
 - the section and name of the Act containing the power for making the regulations.¹⁹³
- 5.10 Unlike explanatory statements prepared to accompany Bills, tabling notes do not require a provision-by-provision explanation of the intended effect of the regulations.¹⁹⁴ In this regard, the Committee observes tabling notes often do not explain the full effect of the regulations they are accompanying. The Committee

¹⁸⁹ Senate Standing Committee for the Scrutiny of Delegated Legislation, *Exemption of delegated legislation from parliamentary oversight – Interim Report* (2021), p. 99.

¹⁹⁰ *Interpretation Act 1978*, s 62B(2)(e).

¹⁹¹ See, for example, *Legislative Standards Act 1992* (Qld), s 22.

¹⁹² See, for example, *Legislation Act 2003* (Cth), s 15J.

¹⁹³ Northern Territory Government, *Tabling note for subordinate legislation template* (2025).

¹⁹⁴ Department of the Chief Minister and Cabinet, *Legislation Handbook*, pp. 14-15.

further notes that tabling notes are not published with regulations on the legislation website.¹⁹⁵ The *Legislation Handbook* explains:

Each item of subordinate legislation tabled in the Legislative Assembly is to be accompanied by a Tabling Note. A Tabling Note provides a summary explanation of the regulation, by-law or rule and is prepared by the responsible agency. Its purpose is to provide Members of the Legislative Assembly with an overview of the purpose and content of the legislation. A template for a Tabling Note is available on the Cabinet Toolbox.

The Tabling Note for each item of subordinate legislation is to be provided to Cabinet Office and Secretariat Services, usually via the responsible agency's ministerial liaison/secretariat, no later than one week prior to the sittings in which the subordinate legislation is scheduled to be tabled.¹⁹⁶

- 5.11 In the course of the Inquiry, some stakeholders discussed the possibility of making, publishing and tabling explanatory statements for regulations. Professor Lorne Neudorf advocated for all legislation to be accompanied by an explanatory statement, noting the impact they can have on access to the law:

The reason for that is it explains in plain language what the impact of that law is; how it actually works. It is much more digestible to, let us say, the average user of the law who is going to come in and it is hard to understand technical text, but written in plain language it is useful.

...is it provides an explanation and a rationale around that law. Law...seems a bit haphazard if you are just browsing the statute book, whereas an explanatory statement explains why that law is coming into effect; why it was thought necessary; what kind of consultation; maybe it arose out of consultation with the community... It gives you a lot more detail and understanding of the purpose of that particular instrument...¹⁹⁷

- 5.12 Professor Neudorf further highlighted the role explanatory statements play in informing parliamentary committees and creating a 'culture of justification':

The other thing it does is it shows the scrutiny committee—which this committee is exercising that function, of regulations—that consultation was carried out or sometimes not adequately in relation to that instrument. It provides an opportunity then for a public record where the committee can go back and interrogate and query...

If you look at the Commonwealth committee for instance, often where the committee raises concerns those concerns end up being resolved through changes to the explanatory statement not just to the law—and sometimes not to the law at all—but it provides further justification, 'Okay, we may be impairing rights and liberties in these ways, but here is the extraordinary reason that we are doing it'. It creates a culture of justification, which is important in relation to explanatory statements. They have a lot of benefits. If you are just dealing with statutes and legislation, it is very technical and hard to understand for most people. Explanatory statements bring it to a wider audience and enhance the clarity and accessibility of law and provide that justification for the law, so I think it is really important.¹⁹⁸

¹⁹⁵ Whilst they are not published on the legislation website, tabling notes are published on Territory Stories alongside the regulations as part of the record of all tabled papers. See Legislative Assembly of the Northern Territory, *Tabled Papers* (2026), <https://parliament.nt.gov.au/business/taled-papers>.

¹⁹⁶ Department of the Chief Minister and Cabinet, *Legislation Handbook*, p. 25.

¹⁹⁷ Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026, pp. 5-6.

¹⁹⁸ Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026, pp. 5-6.

- 5.13 Whilst some stakeholders supported the publication and tabling of explanatory statements, the Committee heard this may place additional administrative burdens on agencies. At the public hearing, the Acting Chief Parliamentary Counsel discussed the issue with respect to the impact on the Office of the Parliamentary Counsel (OPC):

I should start by saying that OPC does not prepare explanatory statements, so it would not have a significant impact on us at all. Our involvement with explanatory statements for Bills is that we review those documents prepared by agencies. It is a really useful process for us and the agency to make sure at that final stage in the preparation of a piece of legislation that everyone is on the same page about what it does. It is very valuable for us. There is no particular impact on us, but I think as a general point there may be some benefit in having those for subordinate legislation, the primary reason being that extrinsic materials, including explanatory statements, are often used to interpret the meaning of legislation where there is some kind of ambiguity or similar. That might be useful in terms of access to law and the public being able to understand what the law does. There may be some benefit for it.¹⁹⁹

- 5.14 Professor Neudorf discussed some potential solutions to additional administrative costs, including suggesting that technology could be harnessed, alongside human quality control measures.²⁰⁰

- 5.15 The Committee further notes that the publication of explanatory statements for subordinate legislation has previously been considered and implemented in other jurisdictions. In 2010, the Queensland Scrutiny of Legislation Committee (QSLC) recommended the publication of explanatory statements. The QSLC highlighted this is unlikely to impose a significant burden on agencies, noting much of the work is already done in preparing the Cabinet Submission:

The committee suggests that a requirement that all subordinate legislation be accompanied by at least an explanatory statement would not impose an additional administrative burden on departments. This information is prepared, in any event, for consideration by Executive Council. It is equivalent roughly to explanatory notes without an explanation of the purpose and intended operation of each provision of the subordinate legislation.

Importantly, an explanatory statement would include information about the consistency of the legislation with fundamental legislative principles (section 24(1)(i)). In the current circumstances when it is rare for this information to be provided to the Parliament in respect of subordinate legislation, it may be difficult for the Parliament to determine whether legislation has sufficient regard to rights and liberties of individuals and the institution of Parliament. If provision of such information became commonplace, the rule of law, including the role of the Parliament, would be strengthened.²⁰¹

¹⁹⁹ Jessica Black, Acting Chief Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 20.

²⁰⁰ Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026, pp. 5-6.

²⁰¹ Queensland Scrutiny of Legislation Committee, *Review of Part 7 of the Statutory Instruments Act – Final Report* (2010), p. 34.

Committee Comments

- 5.16 The Committee considers that tabling is a fundamental mechanism of parliamentary oversight. It ensures regulations are formally brought before the Legislative Assembly and provides Members with an opportunity to scrutinise the exercise of delegated legislative power.
- 5.17 The Committee notes the substantial evidence received regarding the benefits of explanatory statements. Such statements can improve transparency, assist parliamentary scrutiny, support interpretation of legislation and enhance public understanding of the law.
- 5.18 The Committee also considers that preparing explanatory statements may support agencies in the stewardship of subordinate legislation. Requiring agencies to articulate the purpose, operation, consultation history and ongoing need for regulations encourages greater ownership of the regulatory framework and creates a readily accessible record to inform future reviews, amendments and remaking decisions. This may be particularly valuable where responsibility for administering legislation changes over time or where regulations remain in force for extended periods.
- 5.19 The Committee notes that, unlike explanatory statements used in other jurisdictions, NT tabling notes provide only a brief overview of regulations and do not generally include detailed information about the effect of all provisions.
- 5.20 While the Committee acknowledges that requiring explanatory statements may impose additional administrative burdens, it considers there is merit in examining whether the benefits of greater transparency and accountability outweigh those costs. The Committee also considers that explanatory material is most useful when it can be readily located alongside the legislation it relates to. Publishing explanatory statements on the legislation website may improve access to the law for both parliamentarians and the public.

Recommendation 10

The Committee recommends that, in conjunction with the Office of the Parliamentary Counsel, the Government consider the appropriateness and feasibility of requiring explanatory statements to be prepared, tabled and published on the legislation website for all regulations.

Disallowance

- 5.21 Disallowance is a form of repeal of subordinate legislation initiated by the Legislative Assembly.²⁰² The Assembly may only pass a resolution to disallow regulations, in whole or in part, within 12 sitting days after they have been tabled.²⁰³ If regulations are disallowed, regulations that have the same effect cannot be remade within 6 months, unless the Assembly rescinds its

²⁰² *Interpretation Act 1978*, ss 63C(4).

²⁰³ *Interpretation Act 1978*, ss 63C(2) and (3).

resolution.²⁰⁴ Subordinate legislation made in contravention of this provision is of no effect.²⁰⁵

- 5.22 In the NT, disallowance is the primary mechanism through which the Legislative Assembly exercises oversight over subordinate legislation. Whilst the Assembly cannot disallow historical regulations, it may disallow amendments made to the historical regulations set out in new amending regulations.
- 5.23 The Committee notes that the disallowance procedure is rarely used in the NT, with notice of a disallowance motion being given only 14 times since the 1st Legislative Assembly.²⁰⁶ Only 2 pieces of subordinate legislation have been disallowed by the Assembly. Table 1 below sets out the outcome of all disallowance motions.

Table 1: Outcome of Disallowance Motions 1st to 15th Legislative Assembly

Outcome of disallowance motion	Number
Disallowed	2
Motion negated	6
Motion withdrawn	6
Total	14

- 5.24 Submitters highlighted the importance of disallowance as it intersects with sunset regimes in ensuring regulations are subjected to parliamentary oversight every 5 or 10 years when they are remade and tabled anew. This issue is discussed in Chapter 6 – Legislative Triggers for Review.

Committee Comments

- 5.25 The Committee notes that disallowance is the primary mechanism through which the Legislative Assembly may exercise oversight of amendments to historical regulations. However, it is rarely used.²⁰⁷

²⁰⁴ *Interpretation Act 1978*, s 64.

²⁰⁵ *Interpretation Act 1978*, s 64(3).

²⁰⁶ Notice of disallowance motions were given for: By-law 14 of Chapter 4A Car Parks of the By-laws of the Municipality of Darwin; No. 53 of 1978 – Town Planning Regulations 1978; No. 50 of 1982 – Small Claims Regulations 1982; No. 4 of 1988 – Amendments of the Education (School Councils) Regulations 1988; No. 63 of 1991 – Registration Regulations; No. 57 of 1991 – Amendment of the Planning Regulations; No. 11 of 1996 – Amendments of the Work Health Regulations; No. 29 of 2011 – Fire and Emergency Services Amendment Regulations 2011; No. 2 of 2010 – Information Amendment Regulations 2010; No. 15 of 2010 – Darwin Waterfront By-Laws; No. 19 of 2014 – Motor Accidents (Compensation) Amendment Regulations 2014; No. 41 of 2014 – Gaming Machine Amendment (Aggregate Number of Gaming Machines) Regulations 2014; No. 42 of 2014 – Gaming Machine Amendment (Maximum Number of Gaming Machines) Regulations 2014; No. 13 of 2015 – Ports Management Regulations.

²⁰⁷ For example, the Committee notes that, of 119 regulations tabled in the 14th Parliament, no disallowance motions were moved. Of the 200 regulations tabled in the 12th Parliament, 4 disallowance notices were given (with 2 negated and 2 withdrawn).

Finding 4

The disallowance procedure is rarely used in the Northern Territory.

Review by Parliamentary Committees

5.26 Some stakeholders to the Inquiry highlighted the role of scrutiny committees in ensuring regulations remain fit for purpose.²⁰⁸ In the NT, consideration of historical regulations is constrained to the following circumstances:

- consideration of amendments to historical regulations via new amending regulations
- consideration of amendments to historical regulations by Bills
- policy inquiries that require examination of historical regulations in a broader policy context.

Scrutiny of Regulations

5.27 All Australian jurisdictions have legislative scrutiny committees. Some of these committees examine only subordinate legislation, whilst others examine both subordinate legislation and Bills. In the NT, the Committee is tasked with scrutinising subordinate legislation, including regulations.²⁰⁹ Under Standing Order 176, the Committee considers all regulations against its technical scrutiny principles.²¹⁰ The Committee's scrutiny commences when the regulations are tabled and must occur during the period in which the regulations are subject to disallowance by the Legislative Assembly (i.e., within 12 sitting days). In this regard, the Committee's scrutiny of historical regulations is constrained to considering amendments made by amending regulations.

5.28 As part of its scrutiny, the Committee obtains advice from its independent legal counsel and writes to responsible Ministers regarding any questions or concerns the Committee has with regulations. Ministers reply with clarification about the intended operation of the regulations or undertakings to correct any errors. The Committee reports annually to the Legislative Assembly, including details of ministerial correspondence. If the Committee is unable to resolve the issue within the disallowance period, the Chair may give the Assembly a notice of motion to

²⁰⁸ Submissions 3, 4, 5, 8, 9, 10 and 11.

²⁰⁹ Standing Order 176 assigns duties to the Subordinate Legislation and Publications Committee. However, due to the operation of Sessional Order 4, the duties of the Subordinate Legislation and Publications Committee are assigned to the Legal and Constitutional Affairs Committee.

²¹⁰ These principles include: (a) whether the instrument is in accordance with the general objects of the law pursuant to which it is made; (b) whether the instrument trespasses unduly on personal rights or liberties; (c) whether the instrument unduly makes rights and liberties of citizens dependent upon administrative and not upon judicial decisions; (d) whether the instrument contains matter which in the opinion of the Committee should properly be dealt with in an Act; (e) whether the instrument appears to make some unusual or unexpected use of the powers conferred by the statute under which it is made; (f) whether there appears to have been unjustifiable delay in the publication or laying of the instrument before the Assembly; and (g) whether for any special reason the form or purport of the instrument calls for elucidation.

disallow the regulations in order to extend the disallowance period (known as a 'protective disallowance notice').

- 5.29 In the NT context, the Committee heard the legislative scrutiny process 'has matured and developed' in the last 5 years.²¹¹ Stakeholders to the Inquiry highlighted the important role the Committee plays in supporting the system of regulatory stewardship. A key theme rising from the evidence was the role the Committee can play in supporting transparency and accountability. With regard to the Committee's role, Professor Neudorf submitted:

Such a committee performs a dual role. First, it helps to uphold minimum standards expected of all legislation in a democratic society founded on the rule of law. Second, it monitors the use of delegated legislative powers by the Executive Government and informs the legislature about how those powers are being exercised. In this way, the committee operates as the eyes and ears of the legislature, enabling it to remain aware of how its delegated powers are used and to determine whether any action may be required in relation to the relevant enabling legislation. This function is an important element of democratic accountability and transparency, achieved through the committee's regular reporting to the legislature.²¹²

- 5.30 The Acting Chief Parliamentary Counsel commented on the impact of the Committee's reporting and ministerial correspondence:

[OPC] always see [the Committee's ministerial correspondence] eventually because when the annual report comes out we look at it very carefully. When your committee writes to agencies they will often come to us and say, 'What do you think? Do we need to consider updating this, or changing this?', or similar. We will always work with agencies to do that, if it is thought necessary.

On a more general level when we see that annual report and we review it carefully, we use that to inform our practices going forward. An example that comes to mind is the professor gave some advice in relation to some local government council by laws. After we saw that, for our future projects we have considered all of those issues and suggested some adjustments to the way we do things going forward.²¹³

- 5.31 The Committee heard that the NT's scrutiny of subordinate legislation could be strengthened by policy scrutiny by a parliamentary committee.²¹⁴ The Queensland Government, Energy and Finance Committee and the Primary Industries and Resources Committee highlighted the dual technical and policy scrutiny processes within the Queensland committee system, noting 'together, these arrangements support a system in which subordinate legislation remains current, coherent and accountable.'²¹⁵

²¹¹ Stephen Argument, Committee Transcript, Public Hearing, 28 April 2026, p. 9.

²¹² Professor Lorne Neudorf, Submission No. 5, pp. 1-2.

²¹³ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 3.

²¹⁴ Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026; Stephen Argument, Submission No. 11, p. 6.

²¹⁵ Queensland Governance, Energy and Finance Committee and Primary Industries and Resources Committee, Submission No. 8, p. 3.

Case Study: Motor Accidents (Compensation) Amendment Regulations 2014

- 5.32 The Motor Accidents (Compensation) Amendment Regulations 2014 (MAC Amendment Regulations) amended historical regulations, Motor Accidents (Compensation) Regulations 1984, to support the operation of the National Injury Insurance Scheme within the NT's compulsory Motor Accidents Compensation Scheme.
- 5.33 The MAC Amendment Regulations were tabled in the Legislative Assembly on 20 August 2014 and subsequently scrutinised by the Committee. The Committee considered the MAC Amendment Regulations and advice from its independent legal counsel, Professor Ned Aughterson, at its meeting of 22 October 2014. The Committee noted that one provision of the MAC Amendment Regulations arguably exceeded the regulation-making power in the *Motor Accidents (Compensation) Act 1979* (the MAC Act).
- 5.34 The Committee forwarded Professor Aughterson's advice to the Treasurer. The Department of Treasury and Finance, the Territory Insurance Office and OPC considered the issue in the context of the historical regulations and the enabling provision in the MAC Act. The Treasurer responded to the Committee, agreeing that the provision went beyond the scope of the enabling provision and undertook to repeal it.
- 5.35 The Committee reported this issue to the Assembly on 17 November 2014.²¹⁶ Despite the Treasurer's undertaking to repeal the provision, the Committee also resolved to give notice of a motion to disallow the relevant provision, to be moved on 17 February 2015, so that the Assembly's power to disallow would not expire before the promised repeal took effect. The Committee requested the Treasurer to confirm once the repeal had occurred, and the provision was repealed on 17 December 2014 by the Motor Accidents (Compensation) Amendment Regulations (No. 2) 2014.
- 5.36 This case demonstrates how parliamentary scrutiny can complement agency stewardship of historical regulations. Where an older regulation is amended, scrutiny of the amending regulation provides an opportunity to test the regulation against contemporary legal and scrutiny standards and may identify issues requiring further review or amendment by the responsible agency. It illustrates how committee scrutiny can provide an external trigger for agency review and maintenance of regulations, supplementing agencies' own ongoing stewardship processes.

²¹⁶ Legal and Constitutional Affairs Committee performing the functions of the Subordinate Legislation and Publications Committee, *Report on the Motor Accidents (Compensation) Amendment Regulations 2014 – November 2014*.

Scrutiny of Bills

- 5.37 Scrutiny of amending Bills may also play a role in parliamentary oversight of historical regulations, via scrutinising amendments to historical regulations. The Committee heard the NT has a ‘slightly unusual practice’ of amending regulations via Bills. The Acting Chief Parliamentary Counsel advised:

It is a slightly unusual practice we have here in the Northern Territory where we use an Act to amend regulations, but we do it fairly regularly... that could be used to, for example, repeal regulations that are no longer needed. It could also be used to make minor amendments to things that need to be updated. It could not be used to make amendments that are more significant. Those things would need to be done in a different way by a set of amending regulations to make significant changes to regulations or just a set of regulations that repeals an old set and replaces them.²¹⁷

- 5.38 In the 15th Assembly, the Legislative Scrutiny Committee (LSC) performs both technical and policy scrutiny of Bills.²¹⁸ The Committee notes LSC has previously commented on amendments to regulations made by Bills.²¹⁹

Review of the Statute Book

- 5.39 The NT does not currently have a committee specifically tasked with reviewing the statute book. Whilst this type of committee is uncommon, Western Australian is a notable outlier. The Western Australian Uniform Legislation and Statutes Review Committee (WA Committee) is tasked with reviewing ‘the form and content of the statute book’.²²⁰ The WA Committee has undertaken own-motion inquiries into the form and content of the statute book over successive parliaments.²²¹

Committee Comments

- 5.40 The Committee considers that parliamentary scrutiny plays an important role in supporting the stewardship of subordinate legislation. Through its examination of regulations and amendments, the Committee provides an additional mechanism for identifying issues that may require review, amendment or repeal.
- 5.41 Evidence received during the Inquiry demonstrates that scrutiny processes can complement agency stewardship by promoting accountability, transparency and the ongoing maintenance of the statute book. The Committee notes that scrutiny of amending regulations may also provide an opportunity to identify issues within historical regulations that warrant further consideration.

²¹⁷ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

²¹⁸ Legislative Assembly of the Northern Territory, *Fifteenth Assembly – Sessional Orders As revised on 11 March 2026, and effective from 21 July 2026*, Sessional Order 7.

²¹⁹ See, for example, Legislative Scrutiny Committee, *Inquiry into the Animal Protection and Related Legislation Amendment Bill 2025*, August 2025.

²²⁰ Western Australian Legislative Council Standing Orders, Schedule 1.

²²¹ See, for example, Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019).

Incorporation of Documents by Reference

5.42 Incorporation by reference refers to ‘the legal practice of including external documents or provisions into [legislation] without reproducing their full text within the [legislation] itself. Instead, the legislation refers to another document, making its content legally binding as if it were written directly in the legislation’.²²² The Australian Government explains:

The types of documents incorporated can include Acts, legislative instruments, treaties, standards, or other written documents. The incorporation can refer to the document, as it exists at the time of the legislation’s commencement, as it existed at a specified earlier date, or as it is updated from time to time (dynamic incorporation).²²³

5.43 Section 66 of the *Interpretation Act 1978* (Interpretation Act) enables regulations to incorporate external documents by reference. However, time-to-time or dynamic incorporation must be authorised by the enabling Act.

5.44 A concern identified during the Inquiry was public access to documents incorporated by reference. The principle of accessibility requires that persons affected by the law can ascertain their rights and obligations, including by having access to the content of documents that form part of the law. The incorporation of Australian Standards by reference is an ongoing issue in various Australian jurisdictions.²²⁴ In *Delegated Legislation in Australia*, Dennis Pearce and Stephen Argument explain:

In various jurisdictions, legislation routinely relies on (and incorporates by reference) Australian Standards (AS) and joint Australian/New Zealand Standards (AS/NZS). Access to such documents can be a significant issue, as such documents may only be available for payment of a significant fee.²²⁵

5.45 To address these concerns, some jurisdictions require incorporated documents to be made available for public inspection, often during ordinary business hours at a specified government office or other nominated premises.

5.46 The Committee heard evidence regarding the approach adopted in the Australian Capital Territory (ACT). In the ACT, all time-to-time incorporated documents must be published on the legislation website as ‘notifiable instruments’.²²⁶ Stephen Argument explained the advantages of this approach:

The value of it in terms of oversight is that if you have a piece of either primary or delegated legislation that relies on another document, not to give effect to it. The best example I can give you is that in the ACT there is a lot

²²² Australian Government, *Incorporated by Reference* (2026), <https://www.legislation.gov.au/help-and-resources/understanding-legislation/incorporated-by-reference>.

²²³ Australian Government, *Incorporated by Reference* (2026), <https://www.legislation.gov.au/help-and-resources/understanding-legislation/incorporated-by-reference>.

²²⁴ See, for example, Senate Standing Committee for the Scrutiny of Delegated Legislation, *Principle (f): Access and use*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Committee_guidelines/Principle_f; ACT Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Access to Australian Standards adopted in legislation – Correspondence*, https://www.parliament.act.gov.au/_data/assets/pdf_file/0003/1609068/Access-to-Australian-Standards-adopted-in-legislationCorrespondencePaper.pdf.

²²⁵ D. C. Pearce and S. Argument, *Delegated Legislation in Australia* 5th Edition (2017), p. 183.

²²⁶ *Legislation Act 2001* (ACT), s 47(6).

of primary and delegated legislation that refers to Australian and New Zealand standards for content. One of the things about that is in order to work out what your obligations are under the legislation, you have to go to these Australian and New Zealand standards to work out what the requirements and rules are. will end up contradicting myself in a second. People who use legislation are being forced to go to Australian and New Zealand standards, which you have to pay for, in order to work out what their obligations are.

[The *Legation Act 2001* (ACT)] attempts to force agencies that are relying on extrinsic material to publish extrinsic material on the website so that people have free access to the information they need in order to work out the contents of the legislation.²²⁷

Despite these advantages, Stephen Argument noted this requirement is ‘routinely disapplied’.²²⁸

- 5.47 The Committee also heard evidence that the most appropriate point for parliamentary scrutiny of incorporation by reference is when the enabling Bill is before the Legislative Assembly. At that stage, the Assembly can consider whether it is appropriate to permit the incorporation of external documents, particularly on a dynamic basis. The Acting Chief Parliamentary Counsel stated:

Once an Act provides for the incorporation of a document as in force from time to time, as far as I know—other than I suppose when it has been done by subordinate legislation, like regulations. The adoption of such a document as in force from time to time would be considered by your committee, I suppose, as part of their normal scrutiny process. After that, there is no mechanism to look again at the document that has been incorporated. The Interpretation Act, as the general starting point, allows for external documents to be incorporated with a static reference, so as in force on a particular date or the date when the subordinate legislation is made. If there needs to be an ability to incorporate a document as in force from time to time, the Act needs to specifically say so. That is the point at which the scrutiny of that policy decision, I suppose, needs to be had by the Assembly when they are considering the Bill—whether they consider that is appropriate.²²⁹

- 5.48 The Committee notes that the LSC may already possesses powers that may encompass consideration of incorporation by reference and the extent to which such arrangements provide appropriate oversight of delegated legislative powers. Under Sessional Order 7(3)(b)(iv)(B), the LSC may inquire into and report on whether a Bill referred by the Legislative Assembly has sufficient regard to the institution of Parliament, including whether the bill sufficiently subjects the exercise of delegated legislative power to the scrutiny of the Legislative Assembly.

- 5.49 Scrutiny committees in other jurisdictions interpret this to include the incorporation of external materials as existing from time to time. For example, the Senate Standing Committee for the Scrutiny of Bills:

Where provisions in a bill allow the incorporation of legislative provisions by reference to other documents, this raises the prospect of changes being made to the law in the absence of parliamentary scrutiny. Further, the

²²⁷ Stephen Argument, Committee Transcript, Public Hearing, 28 April 2026, pp. 8-9.

²²⁸ Stephen Argument, Submission No. 11, p. 6.

²²⁹ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 19.

incorporation of external material can create uncertainty in the law and, if relevant information is not publicly available, may mean that members of the public are not able to freely and readily access the terms of the law. Where a bill allows the incorporation of external materials as existing from time to time, the committee expects the explanatory memorandum to the bill to address the following matters:

- why it is appropriate to allow the incorporation of external materials as existing from time to time; and
- whether the incorporated material will be made freely available to all persons interested in the terms of the law.²³⁰

Committee Comments

- 5.50 The Committee acknowledges that incorporation by reference can be an efficient legislative drafting mechanism. However, it also raises important issues relating to transparency, accessibility and parliamentary scrutiny, especially where incorporated documents are not readily available to the public.
- 5.51 The Committee considers that improving public access to incorporated documents would enhance transparency, assist affected persons to understand their legal obligations, and support the ongoing oversight of both current and historical regulations.
- 5.52 The Committee considers the Legislative Assembly must carefully consider the appropriateness of enabling dynamic incorporation in regulations. Such consideration should occur when a Bill creating these powers is before the Assembly. The Committee further notes that LSC may draw the Assembly's attention to inappropriate incorporation.

Recommendation 11

The Committee recommends that, in conjunction with the Office of the Parliamentary Counsel, the Government consider the appropriateness and feasibility of publishing external documents that are incorporated by reference on the legislation website to ensure there is ongoing oversight and transparency of historical regulations that incorporate external documents.

²³⁰ Senate Standing Committee for the Scrutiny of Bills, *Principle (v): Insufficient parliamentary scrutiny*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Bills/Committee_guidelines/Principle_v

6 Legislative Triggers for Review

Overview

6.1 There are several triggers that can be embedded in legislation to prompt agencies to review historical regulations. This Chapter examines such legislative triggers and assesses their utility in the context of the Northern Territory (NT). The Chapter considers:

- staged repeal, including mandatory sunseting regimes
- review provisions
- self-repeal provisions.

Sunseting Regimes

6.2 Staged repeal or ‘sunseting’ is a process by which certain types of subordinate legislation are automatically repealed after a specific date, unless further action is taken to extend it.²³¹ Sunseting does not prevent subordinate legislation from being remade in the same form after it is automatically repealed. The intention of sunseting is to ensure subordinate legislation remains fit for purpose over time:

The underlying notion is that the process will remove from the legislation book unnecessary legislation or will at the very least require the continuing need for the legislation to be considered.²³²

6.3 The NT, Western Australia (WA), the Australian Capital Territory and New Zealand do not have sunseting regimes. However, all other Australasian jurisdictions have sunseting regimes for certain categories of subordinate legislation.²³³ In these jurisdictions, sunseting regimes are established by an overarching Act (e.g., a Subordinate Legislation Act) and apply automatically to particular types of subordinate legislation when they are made. For example, it may automatically apply to all regulations or all legislative instruments (unless an exemption applies).

6.4 The procedural requirements relating to sunseting regimes vary across jurisdictions. The Commonwealth, Queensland, Victoria, South Australia, and Tasmania have a 10-year sunseting timeframe, whereas New South Wales (NSW) has a 5-year timeframe. In some jurisdictions, sunseting dates may be extended by 12 or 24 months.²³⁴ Sunseting timeframes have been considered

²³¹ D. C. Pearce and S. Argument, *Delegated Legislation in Australia* 5th Edition (2017), p. 428.

²³² D. C. Pearce and S. Argument, *Delegated Legislation in Australia* 5th Edition (2017), p. 428.

²³³ *Legislation Act 2003* (Cth), Chapter 3, Part 4; *Subordinate Legislation Act 1989* (NSW), Part 3; *Statutory Instruments Act 1992* (Qld), Part 7; *Subordinate Legislation Act 1978* (SA), Part 3A; *Subordinate Legislation Act 1992* (Tas), Part 3; *Subordinate Legislation Act 1994* (Vic), s 5.

²³⁴ See, for example, *Legislation Act 2003* (Cth), s 51; *Subordinate Legislation Act 1992* (Tas), s 11(5).

extensively in other jurisdictions,²³⁵ with general consensus that shorter timeframes are ‘more resource intensive’.²³⁶

6.5 Many stakeholders to the Inquiry supported establishing a mandatory sunset regime in the NT.²³⁷ Stakeholders highlighted the benefits to this proposal, noting sunset:

- triggers regular and structured agency review of subordinate legislation (a ‘sunset review’).²³⁸
- provides transparency and the opportunity for fresh public consultation to ensure older subordinate legislation fits public need.²³⁹
- ensures subordinate legislation reflects modern drafting conventions and language, and reflects legal developments.²⁴⁰
- requires the regulatory impact to be reassessed (i.e., through the preparation of a new regulatory impact statement).²⁴¹
- provides for subordinate legislation to be subject to parliamentary oversight mechanisms when they are remade, including committee scrutiny and disallowance.²⁴²

6.6 NT-based stakeholders did not support mandatory sunset in the NT,²⁴³ with agencies generally considering their ad hoc review mechanisms to be sufficient.²⁴⁴ Whilst noting that sunset may be ‘best practice’,²⁴⁵ other stakeholders drew the Committee’s attention to NT-specific challenges that could stem from implementing sunset. These challenges included:

- resourcing constraints.²⁴⁶
- uncertainty for industry stakeholders.²⁴⁷
- logistical issues associated with aligning sunset dates.²⁴⁸

²³⁵ See, for example, New South Wales Government, NSW Productivity and Equality Commission, *NSW Productivity and Equality Commission White Paper 2021*, pp. 175, 179.

²³⁶ Explanatory Memorandum, Legislative Instruments Bill 2003 (Cth), p. 24.

²³⁷ Submissions 3, 4, 5, 6, 7, 8, 9; Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026; Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026; Stephen Argument, Committee Transcript, Public Hearing, 28 April 2026.

²³⁸ Queensland Governance, Energy and Finance Committee and the Primary Industries and Resources Committee, Submission No. 8, p. 3; Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 15; Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

²³⁹ Professor Lorne Neudorf, Submission No. 5, p. 2.

²⁴⁰ Professor Lorne Neudorf, Submission No. 5, p. 2.

²⁴¹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 7.

²⁴² Scrutiny of Delegated Legislation Committee, Submission No. 6, p. 4.

²⁴³ For example, Attorney-General’s Department, Agency Response, p. 1.

²⁴⁴ See Chapter 3 – Agency Stewardship for detail about ad hoc review processes in the NT.

²⁴⁵ Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 15.

²⁴⁶ Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 15.

²⁴⁷ Attorney-General’s Department, Committee Transcript, Public Hearing, 28 April 2026, p. 15.

²⁴⁸ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

- potential for regulations to be ‘rolled over’ and remade without substantive review.²⁴⁹

6.7 The Committee heard the largest challenge to implementing sunseting is resourcing. With responsibility for the largest portfolio of regulations, the Attorney-General’s Department (AGD) stated that agency resources are better utilised under the existing ad hoc regulatory review processes. At the public hearing the AGD stated:

...the regular review undertaken by Government agencies, and undertaken by the Office of the Parliamentary Counsel ...negates the need for mandated sunset clauses. Rather such clauses are used where appropriate to the circumstances.

Incorporating sunset provisions into regulations or review provisions into legislation may be one way to bring reviews to a head however it would necessitate dedicated resources to the ongoing monitoring of expiry dates, and for the remaking of the same regulations every few years. The experience of the Department is that, the reform priorities of government are generally allocated the available resources for legislative review with broader reviews allocated as resources permit. There are no further resources available to manage a rolling program of legislation that might lapse as a result of to sunset clauses.²⁵⁰

6.8 Whilst acknowledging some benefits to sunseting, the Acting Chief Parliamentary Counsel advised the Committee that implementing a sunseting regime would have significant short-term effects on resourcing:

An additional resourcing drawback that would be faced by the Northern Territory if we did a sunseting regime is that there would need to be a huge surge in resources for that early period, whether that be 10 years or five years, to look at all of the old stuff. I mentioned earlier 300 pieces. That is a huge amount of work for anything that was not made in the last 10 years.²⁵¹

6.9 The Department of Treasury and Finance (DTF) stated it ‘remains open to considering the adopting of formal review mechanisms’ including sunseting.²⁵² However, they similarly echoed resourcing constraints and logistical challenges associated with aligning sunseting dates:

An introduction that then ensured that the entire regulation of government all came within that 10-year period would be problematic for agencies and government to deal with the logistics issue, so there would have to be some need to stagger or deal with existing regulations or look to a grandfathering of existing regulations with review, rather than introduction across the board.²⁵³

6.10 Some stakeholders suggested further consideration of how technology could be harnessed to minimise some of these resourcing constraints. Professor Lorne Neudorf expressed the view that this should be considered as a worthwhile ‘investment’, noting that emerging technologies such as artificial intelligence could reduce the resourcing burden:

²⁴⁹ Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 2;

²⁵⁰ Attorney-General’s Department, Agency Response, p. 1.

²⁵¹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 6.

²⁵² Department of Treasury and Finance, Agency Response, p. 1.

²⁵³ Department of Treasury and Finance, Committee Transcript, Public Hearing, 28 April 2026, p. 12.

There is, of course, a resource implication associated with this work. However, it should be understood as an investment in strengthening the quality and accessibility of the law and in ensuring that the Legislative Assembly preserves its role as lawmaker-in-chief. Technology may also play an important role in assisting this task. In light of recent advances, including in artificial intelligence, the Northern Territory has an opportunity to position itself as a leader in exploring how such tools might assist with the operation of a new sunset setting regime for delegated legislation. Used appropriately as a tool, technology may assist agencies during a transition period to a new sunset setting regime and, once the regime is fully operational, help track instruments approaching their sunset setting date.²⁵⁴

- 6.11 While the use of artificial intelligence may assist with easing OPC's administrative burden, the Acting Chief Parliamentary Counsel highlighted the challenges faced in a small jurisdiction:

[Artificial intelligence] does bring great opportunities, but it is difficult in a small jurisdiction to experiment in these sorts of areas because the development of such systems requires a lot of resourcing in terms of getting the expertise and the time and the money involved to develop those systems, experiment with them and see if they work...it is very difficult for a small jurisdiction.²⁵⁵

Committee Comment

- 6.12 Throughout the course of the Inquiry, the Committee considered whether to recommend the implementation of a mandatory sunset setting regime in the NT. Through its examination, the Committee observes there are number of benefits to implementing sunset setting regimes to support agency stewardship of historical regulations, particularly by prompting structured and transparent agency review.
- 6.13 Despite these benefits, however, a sunset setting regime would impose a significant ongoing administrative burden on agencies. The Committee notes this burden would be particularly acute in the short-term if agencies and OPC were required to review and remake all regulations made more than 10 years ago.
- 6.14 The Committee notes agencies' advice that they are not adequately resourced to support this increased burden. Accordingly, the Committee does not consider it appropriate to recommend sunset setting be implemented in the NT.

Finding 5

Agencies are not adequately resourced to support a mandatory sunset setting regime in the NT.

Review Provisions

- 6.15 Review provisions are provisions in an Act or regulations that require a review to be undertaken. The purpose of review provisions is 'to oblige the responsible Minister or some other identified authority or person to review the operation of legislation after a specified period and to report to Parliament with appropriate

²⁵⁴ Professor Lorne Neudorf, Submission No. 5, p. 3.

²⁵⁵ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, pp. 18-19.

recommendations’.²⁵⁶ Review provisions may include self-review provisions in Acts,²⁵⁷ provisions in Acts that require a review of regulations made under that Act,²⁵⁸ or self-review provisions in regulations.²⁵⁹ A review provision may require regular consideration of whether the legislation:

- is operating effectively to align with government policy
- remains relevant
- contains any outdated or redundant provisions
- has any unintended consequences.²⁶⁰

6.16 Across Australia, review provisions are often used ‘for significant areas of regulation where there are uncertainties about the efficacy or impacts of the legislation (including potential for collateral effects or other unintended consequences), or where the regulatory regime is transitional’.²⁶¹ These reviews may be wide or limited in scope, and the scope may be prescribed in the primary or subordinate legislation or left up to the relevant agency to determine.²⁶² The period by which a review must be conducted and the frequency of the reviews also varies.²⁶³

6.17 The Committee observes that in the NT it is relatively common to include review provisions in Acts.²⁶⁴ The Committee notes there are also some examples of review provisions in Acts that require review of the operation of both the Act and the regulations made under them.²⁶⁵ These reviews may be one-off,²⁶⁶ or create an ongoing review requirement.²⁶⁷

6.18 Generally, review provisions in Acts require the responsible Minister to table a report of the findings of the review in the Legislative Assembly within a specified period. The Committee observes that reviews undertaken pursuant to review

²⁵⁶ Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 16.

²⁵⁷ See, for example, *Social Services Regulation Act 2021* (Vic), s 316A.

²⁵⁸ See, for example, *Sound NSW Advisory Board Act 2025* (NSW), s 10.

²⁵⁹ See, for example, *Electricity Supply Industry (Network Performance Requirements) Regulations 2007* (Tas), reg 8.

²⁶⁰ Australian Government, Department of the Prime Minister and Cabinet, *Legislation Handbook* (2025), p. 33.

²⁶¹ Australian Government, Productivity Commission, *Identifying and Evaluating Regulatory Reforms* (2011), p. 35.

²⁶² Australian Government, Productivity Commission, *Identifying and Evaluating Regulatory Reforms* (2011), p. 72.

²⁶³ Australian Government, Productivity Commission, *Identifying and Evaluating Regulatory Reforms* (2011), p. 37.

²⁶⁴ See, for example, *Carers Recognition Act 2006*, s 9.

²⁶⁵ See, for example, *Health and Community Services Complaints Act 1998*, s 107.

²⁶⁶ For example, section 222 required the Minister to review Part 3.3 of the *Care and Protection of Children Act 2007* within 3 years after commencement of that Part.

²⁶⁷ For example, section 123 of the *Ports Management Act 2015* contains an ongoing requirement to review the operation of Part 11 of that Act and regulations made under Part 11 every 5 years. The Minister must table the report of the review in the Assembly within 7 days of receiving it.

provisions are not recorded in a consistent way but may be included in agencies' annual reports.²⁶⁸

- 6.19 The Committee notes it is very rare to include self-review provisions in regulations in the NT. The Acting Chief Parliamentary Counsel advised that she is unaware of any examples in the NT context.²⁶⁹
- 6.20 Some stakeholders to the Inquiry discussed the use of review provisions to prompt agency reviews of historical regulations. The Department of Mining and Energy noted in their submission to the Committee that embedding review triggers in legislation 'can be effective in promoting regulatory currency'.²⁷⁰
- 6.21 The WA Standing Committee on Uniform Legislation and Statutes Review (WA Committee) drew the Committee's attention to its 2019 report, *Inquiry into the Form and Content of the Statute Book*, which highlighted review provisions as a key mechanism for identifying provisions 'that are obsolete or no longer necessary'. The WA Committee found that the main advantage of review provisions is making 'Government accountable to the Parliament to consider and report on whether an enactment is still required or can be repealed' but noted there are 'no repercussions if statutory reviews are not undertaken when they are due, or at all'.²⁷¹

Committee Comments

- 6.22 While review provisions may not be appropriate in all circumstances, the Committee considers they can be a useful tool for prompting structured and timely reviews of regulations. The Committee notes they may also provide a mechanism for reporting on the operation of regulations to the Legislative Assembly and to the wider community.
- 6.23 Although review provisions are rarely included in regulations, there is strong precedent for their inclusion in NT Acts. The Committee notes that such provisions can enable greater transparency and accountability in relation to the operation of regulations, particularly where the Legislative Assembly has identified a need for ongoing oversight of a regulatory scheme or anticipates that significant matters will be addressed through regulations. Accordingly, the Committee recommends that review provisions be used more frequently where appropriate to support regulatory stewardship and maintain the currency of the statute book.

Recommendation 12

The Committee recommends that review provisions are increasingly used to ensure structured and timed reviews of regulations where appropriate.

²⁶⁸ See, for example, Attorney-General's Department, *Annual Report 2024-25* (2025), p. 28.

²⁶⁹ Office of the Parliamentary Counsel, Committee Transcript, Private Hearing, 9 March 2026, p. 7.

²⁷⁰ Department of Mining and Energy, Submission No. 7, p. 2.

²⁷¹ Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 16.

Self-Repeal Provisions

- 6.24 Self-repeal provisions are provisions in an Act or regulations that provide for the Act or regulations to be repealed on a specified date in the future. Such provisions have the effect of time-limiting the legislation to ensure it stops operating after a specific period. Although also a type of automatic repeal mechanism, self-repeal provisions are distinct from sunset regimes as they apply to *specific* legislation, rather than broadly applying to *all* legislation within a particular category.
- 6.25 Self-repeal provisions may provide a mechanism for prompting agencies to review regulations to assess their continued utility.²⁷² Subject to conditions in the enabling Acts, self-repeal provisions may be amended to extend the life of the regulations.

Self-Repeal of Non-Amending Regulations

- 6.26 Self-repeal provisions in subordinate legislation aid agencies to ‘facilitate the identification and repeal of obsolete legislation’.²⁷³ In the NT, the use of self-repeal provisions is uncommon in non-amending regulations. However, transitional regulations are occasionally made with a self-repeal provision in the regulations,²⁷⁴ or the enabling Act.²⁷⁵
- 6.27 Self-repeal provisions are more routinely used in non-amending regulations in some other jurisdictions.²⁷⁶ Some stakeholders to the Inquiry drew the Committee’s attention to examples in their jurisdictions. For example, New Zealand’s Parliamentary Counsel Office (NZ PCO) noted that self-repeal provisions are routinely included in by-laws to time-limit them to 5 years of operation. NZ PCO noted this prompts regular review of this subordinate legislation but noted there are examples of by-laws lapsing due to ‘lack of awareness of the need to review and remake’.²⁷⁷
- 6.28 Stakeholders to the Inquiry highlighted the importance of ensuring such regulations are subject to regular review and parliamentary oversight. These matters include regulations that:
- restrict personal rights and liberties
 - provide for substantial penalties

²⁷² Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 16.

²⁷³ Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019), p. 16.

²⁷⁴ For example, Petroleum (Transitional) Regulations 2023 included a self-repeal clause that repealed the regulations 2 years after commencement. See Petroleum (Transitional) Regulations 2023, reg 20.

²⁷⁵ For example, section 334 of the *Liquor Act 2019* provided for transitional regulations to be made to facilitate the transition from the *Liquor Act 1978*. Section 334 and transitional regulations made under it expired one year after the commencement the Act.

²⁷⁶ See, for example, Liquor Control (Mingullatharndo Restricted Area) Regulations 2023 (WA), reg 8; Commercial Tenancy Relief Scheme Regulations 2022 (Vic), reg 66; Queensland Community Safety (Postponement) Regulation 2025 (Qld), reg 3.

²⁷⁷ Information provided by the New Zealand Parliamentary Counsel Office in Submission No. 9, p. 2.

- are made pursuant to Henry VIII powers or provide for modification to, or exemptions from, the operation of an Act.²⁷⁸
- 6.29 The Committee notes that some parliamentary committees in other jurisdictions routinely request that Ministers amend subordinate legislation that contain these matters to provide for self-repeal after a specified period.²⁷⁹
- 6.30 In his submission, Professor Lorne Neudorf drew the Committee's attention to evidence he gave to the NSW Legislative Council Delegated Legislation Committee in which he the importance of time-limiting certain matters:

Regulation-making powers that authorise instruments to exempt persons from the application of the law are, in effect, authorising an immunity. While there may be appropriate justification for such exemptions in certain circumstances, they can also challenge basic rule of law principles relating to equal application of the law. Where such an authorising provision includes a time limit, and an instrument made under that provision is repeatedly renewed, it should attract fresh committee scrutiny on each occasion when it is remade.

While the remaking of an instrument may be legally unproblematic, scrutiny committees should examine whether the justification advanced for the renewed instrument continues to hold. Circumstances may have changed, temporary conditions may no longer exist, or what was intended as an exceptional measure may be becoming routine. Applying fresh committee scrutiny on each occasion helps ensure that time-limited powers do not, in effect, become permanent through serial renewal without adequate reconsideration and appropriate and relevant justification.²⁸⁰

Committee Comments

- 6.31 The Committee considers that self-repeal provisions are a useful mechanism for ensuring regulations remain necessary and are subject to periodic review. They are particularly appropriate for regulations that affect personal rights and liberties, impose significant penalties, provide exemptions from primary legislation, or are intended to address temporary circumstances. While self-repeal provisions should not be mandatory for all regulations, agencies should give active consideration to their use where enhanced scrutiny and regular review are warranted.

Recommendation 13

The Committee recommends that the Government make greater use of self-repeal provisions in non-amending regulations, particularly to time-limit regulations with significant impact on personal rights and liberties or regulations which provide for modification to, or exemptions from, the operation of primary legislation.

²⁷⁸ Senate Standing Committee for the Scrutiny of Delegated Legislation, Submission No. 6.

²⁷⁹ See, for example, Senate Standing Committee for the Scrutiny of Delegated Legislation, *Delegated Legislation Monitor 11 of 2021*, p. 3.

²⁸⁰ Professor Lorne Neudorf, Submission No. 5, Attachment, p. 25.

Self-Repeal of Amending Regulations

6.32 It is currently a drafting practice in the NT to include a self-repeal provision in amending regulations which provides that they are repealed the day after they commence.²⁸¹ Such repeals are intended to prevent over-cluttering the statute book.

6.33 The Committee noted that amending regulations are often repealed before they have been tabled, or subject to disallowance by the Legislative Assembly.²⁸² The Acting Chief Parliamentary Counsel advised:

We have a drafting practice of providing for automatic repeal of amending legislation once it is spent, so once it has operated to make the relevant amendments it is repealed. Other jurisdictions do provide for this in different ways. I am not sure of the circumstances in which that practice was adopted here in the Northern Territory.²⁸³

6.34 Some stakeholders to the Inquiry noted this issue may give rise to questions about whether the Legislative Assembly could disallow the amending regulations. Professor Lorne Neudorf stated:

It appears that there is a drafting practice in the Northern Territory to repeal amending regulations on the day following their commencement. This practice could raise questions about the legal effectiveness of disallowance. In my view, in the absence of a legislative framework clarifying that the legal effect of disallowance would be to reverse the relevant changes made by the amending instrument, consideration should be given to repealing such instruments only after the conclusion of the disallowance period. Allowing the instrument to remain in force for the duration of that period ensures that the Legislative Assembly retains a meaningful opportunity to exercise its disallowance power and more appropriately respects its role as lawmaker-in-chief.²⁸⁴

6.35 The Committee sought advice from OPC at the private briefing in relation to this matter. The Acting Chief Parliamentary Counsel confirmed that, in OPC's view, the self-repeal of amending regulations would not restrict the Legislative Assembly's ability to disallow the amending regulations.²⁸⁵

6.36 The Committee also requested advice from its independent legal counsel, Professor Ned Aughterson who advised:

As a preliminary observation, it is noted that it is common in the Australian States and Territories for provision to be made for amending legislation (including regulations) to be repealed immediately or soon after the amendments take effect. The rationale for introducing an amending regulation is to effect change to the existing primary regulation. Once that change comes into effect (at the commencement date indicated in the amending regulation), the purpose of the amending regulation has been achieved. Its immediate repeal not only serves to unclutter the list of legislation currently in force it also removes potential uncertainty as to the

²⁸¹ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 7.

²⁸² Professor Lorne Neudorf, Submission No. 5, p. 3.

²⁸³ Office of the Parliamentary Counsel, Committee Transcript, Public Hearing, 28 April 2026, p. 20.

²⁸⁴ Professor Lorne Neudorf, Submission No. 5, p. 3.

²⁸⁵ Office of the Parliamentary Counsel, Committee Transcript, Private Briefing, 9 March 2026, p. 7.

existing law where a number of amending regulations remain on the list in relation to the same subject matter.

How the amending regulation is repealed differs as between the Commonwealth and the States and Territories. As indicated above, the standard approach in the NT is for the amending regulation to provide, in a final clause, that it is repealed the day after it commences. In some other jurisdictions, automatic repeal is provided for in legislation equivalent to the NT Interpretation Act. For example, s 89 of the ACT Legislation Act provides that an amending law is repealed on the day after all of its provisions have commenced. Section 30C(2) of the NSW amending legislative instrument that is disallowable is repealed on the day after the latest of the specified events has occurred, which events include 'the end of the last day on which the instrument or a provision of the instrument may be disallowed in a House of the Parliament'. In other words, the instrument will not have been repealed prior to the time when it may be disallowed.

Where, as in the NT, the regulation has been repealed before being tabled in the Legislative Assembly, there is a question of what is being disallowed by the Legislative Assembly: the amending regulation itself or the amendments that have been incorporated into the primary regulation as a consequence of the amendment (as discussed below, in my view the amendments have been incorporated into the primary regulations by virtue of their commencement and despite subsequent repeal of the amending regulation)

Section 63 of the NT Interpretation Act requires regulations to be tabled in the Legislative Assembly 6 sitting days after they are made. Section 63C provides for disallowance of regulations by the Legislative Assembly, regardless of when they are tabled or whether they have been tabled at all. Section 63C(1) and (2) provide:

- (1) A failure to table subordinate legislation in the Legislative Assembly does not affect the validity of the subordinate legislation, but may be the subject of a referral by the Assembly to the committee responsible for the examination of instruments of a legislative character or another committee of the Assembly.
- (2) The Legislative Assembly may pass a resolution disallowing subordinate legislation, or specified provisions of it, that is required to be tabled under this Division, whether or not it has been tabled.

It is evident from the terms of s 63 and s 63C that it will be the amending regulation that is to be tabled. The primary regulation that has been amended might have been made at a much earlier time. That it is the amending regulation that may be disallowed is reinforced by the time limits specified at s 63C(3) within which notice of a disallowance resolution must be given. That is also apparent from the terms of s 63C(5), which provides:

If a provision of disallowed subordinate legislation (the **disallowed provision**) amended or repealed a provision of other subordinate legislation, the disallowance revives the other provision from the date of the disallowance as if the disallowed provision had not been made.

Use of the word 'other' in s 63C(5) seems to anticipate that the disallowed regulation will be the amending regulation. Accordingly, it is evident that it will be the amending regulation, which by then may have been repealed, that is being disallowed.

However, despite the conceptual difficulty, in my view s 63C applies to all regulations made, whether repealed or not. It is a question of what was intended by the enactment of s 63C. That section was introduced in 2021 by the *Interpretation Amendment Act 2021*. It is improbable that the legislative intention of s 63C was the creation of a framework for disallowance that,

potentially, would not be applicable in most cases; that is, where the regulation has been repealed before a notice of resolution is given. It is to be imagined that the legislature would have been aware of the practice in Australian States and Territories of repealing regulations the day after they commence, even though no automatic repeal provision was incorporated into the NT *Interpretation Act*: see [5], above. Also, prior to 2021 it was already the practice to include a final clause in NT amending regulations to the effect that the regulations were repealed on the day after they commenced. Presumably, s 63C was drafted with that in mind.

It follows that in my view the Legislative Assembly can disallow an amending regulation that has been repealed prior to its tabling in the Legislative Assembly. The effect of disallowance is as set out at s 63C(5) of the *Interpretation Act*; that is, the amended or repealed provision is revived as if the disallowed provision had not been made. Also, by s 64, subordinate legislation that is the same in substance or has the same effect, cannot be made within 6 months of the disallowance unless the Legislative Assembly rescinds the resolution for disallowance.

There is a separate question which should be mentioned; that is, what is the impact of the repeal of amending regulations on the amendments made to the primary regulations. In most Australian jurisdictions there are specific legislative provisions that explicitly state that the repeal of amending Acts or regulations does not affect any amendments made by those Acts or regulations: see *Legislation Act* (Cth) s 48A(3); *Legislation Act* (ACT) s 86(2); *Acts Interpretation Act* (Qld) s 19(3); *Interpretation Act* (NSW) s 30(2); *Legislation Interpretation Act* (SA) s 32(2)(c); *Interpretation of Legislation Act* (Qld) s 29. There is no equivalent provision in the NT and it appears that there is no equivalent provision in the Tasmanian or Western Australian legislation.

Nevertheless, in my view, any repeal of the amending regulation does not impact the amendments made to the primary regulation. That is because the amendments take effect and are incorporated into the primary regulations on the day of commencement of the amending regulation. The repeal of the amending regulation does not impact that incorporation. It is noted that s 58 of the NT *Interpretation Act* provides:

An Act amending another Act ... shall be construed with that other Act or law of the State and as part thereof.

For present purposes, the term 'Act' includes regulations: see s 4 of the *Interpretation Act*.

Despite those conclusions, it would be worthwhile obtaining the view of Chief Parliamentary Counsel as to whether the NT should incorporate provisions in the *Interpretation Act* analogous to those...above, so as to remove any doubt as the effect of repealing amending regulations. It might also be worthwhile obtaining the view of the Chief Parliamentary Counsel on the present drafting of s 63C of the *Interpretation Act* and as to whether it would be appropriate to introduce a provision equivalent to s 48A of the *Legislation Act* (Cth) as to when a regulation is repealed.²⁸⁶

- 6.37 The Committee forwarded Professor Aughterson's advice to the Acting Chief Parliamentary Counsel for comment on whether the NT should incorporate provisions in the *Interpretation Act 1978* (*Interpretation Act*) analogous to provisions in other jurisdictions to remove any doubt about the effect of repealing amending regulations on amendments made to principal regulations. The Acting

²⁸⁶ Professor Ned Aughterson, *Legal Advice on the capacity of the Legislative Assembly to disallow repealed amending regulations* (unpublished), 18 April 2026, pp. 1-4.

Chief Parliamentary Counsel advised that OPC's view is that existing section 11 of the Interpretation Act is analogous to the provisions of other jurisdictions and, when read for section 4 of the Interpretation Act, applies in relation to regulations.²⁸⁷

- 6.38 The Committee also sought input from OPC on whether a provision similar to section 48A of the *Legislation Act 2003* (Cth) should be incorporated into the Interpretation Act. The Acting Chief Parliamentary Counsel advised this would be a matter for Government to consider.²⁸⁸
- 6.39 Some stakeholders to the Inquiry suggested that a potential solution to avoid doubt about the effect of disallowance could be for OPC to change drafting practices so that instruments are repealed only after the conclusion of their disallowance period.²⁸⁹

Committee Comment

- 6.40 The Committee notes that the NT's practice of repealing amending regulations shortly after commencement differs from approaches in some other jurisdictions. While the Committee accepts the advice that repealed amending regulations remain capable of disallowance under the Interpretation Act, evidence to the Inquiry highlighted that the current framework may give rise to uncertainty about the practical operation and effect of disallowance.
- 6.41 The Committee considers that greater clarity could be achieved by expressly providing in the Interpretation Act that the repeal of an amending regulation does not affect amendments made by that regulation. Such an amendment would align the NT with the approach adopted in a number of other Australian jurisdictions and remove any residual doubt.
- 6.42 The Committee also considers there is merit in reviewing whether amending regulations should self-repeal only after the expiry of the disallowance period. Although the Committee accepts that current law permits disallowance of repealed amending regulations, retaining those regulations in force until the disallowance period has expired may better support parliamentary scrutiny and public understanding of the disallowance process.
- 6.43 More broadly, the evidence received during the Inquiry suggests there may be value in a review of the Interpretation Act to assess whether its provisions governing subordinate legislation remain current and provide an effective framework for parliamentary oversight.

²⁸⁷ Office of the Parliamentary Counsel, Response to Legal Advice (unpublished), 12 June 2026.

²⁸⁸ Office of the Parliamentary Counsel, Response to Legal Advice (unpublished), 12 June 2026.

²⁸⁹ Professor Lorne Neudorf, Committee Transcript, Public Hearing, 28 April 2026, p.

Recommendation 14

The Committee recommends that the Government introduce a Bill to amend the *Interpretation Act 1978* to explicitly state that the repeal of amending regulations does not affect any amendment made by those regulations.

Recommendation 15

The Committee recommends that the Office of the Parliamentary Counsel review its drafting practices in relation to self-repeal provisions for amending regulations to consider whether self-repeal should occur after the end of the disallowance period.

Recommendation 16

The Committee recommends that a review of the *Interpretation Act 1978* be conducted to consider:

- **whether it should be amended to provide for the automatic repeal of regulations that only repeal or amend regulations the day after the end of the disallowance period (i.e., adopting the approach set out in section 48A of the *Legislation Act 2003* (Cth)); and**
- **the currency and adequacy of the *Interpretation Act 1978* in ensuring effective oversight of subordinate legislation.**

7 The Committee's Assessment of Historical Regulations

Overview

7.1 At the commencement of the Inquiry, there were 36 historical regulations in force in the Northern Territory (NT).²⁹⁰ This Chapter provides an overview of the Committee's assessment of these historical regulations, including:

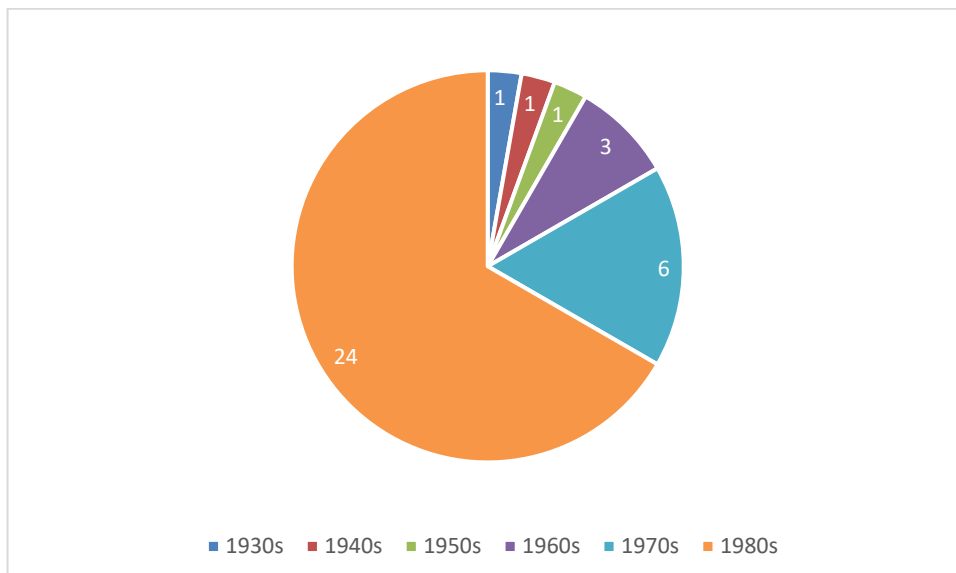
- statistics relating to the historical regulations
- key issues that were raised in historical regulations
- undertakings made by Ministers to review, amend, repeal or remake historical regulations.

Summary of Historical Regulations

7.2 The 36 historical regulations accounted for approximately 15% of the total number of active regulations.²⁹¹ The Committee notes that, since the commencement of the Committee's Inquiry, some of these historical regulations have been repealed and/or remade.

7.3 The historical regulations vary considerably in age. Whilst the majority of historical regulations were made in the 1980s, the oldest historical regulation was made in 1938.²⁹² Figure 3 below demonstrates the distribution of the historical regulations by the decade in which they were made.

Figure 3: Proportion of Historical Regulations by Decade Made



²⁹⁰ See Appendix 3: Historical Regulations Considered by the Committee for a full list of regulations that the Committee considered during the course of its Inquiry.

²⁹¹ Of the 236 regulations in force, 34 were made on or before 31 December 1989.

²⁹² Crown Lands (Recreation Reserve) Regulations 1938.

- 7.4 The historical regulations examined by the Committee were spread across multiple ministerial portfolios and administered by various agencies. As noted in Chapter 3, responsibility for regulations may periodically change through changes to the Administrative Arrangements Order (AAO). In the course of the Inquiry, responsibility for some historical regulations changed due to a change to the AAO.
- 7.5 Table 2 below outlines the historical regulations by responsible agency as set out in the AAO 2026.

Table 2: Responsible Agencies for Historical Regulations

Responsible Agency	Number of Historical Regulations
Attorney-General's Department	13
Department of Logistics and Infrastructure	5
Department of Lands, Planning and Environment	4
Department of Housing, Local Government and Community Development	4
Department of Trade, Business and Asian Relations	3
Department of Treasury and Finance	2
Department of Corrections	1
Department of the Chief Minister and Cabinet	1
Department of Mining and Energy	1
Department of Tourism and Hospitality	1
Northern Territory Police Force	1
Total	36

Key Issues

- 7.6 During the course of its consideration of the historical regulations, the Committee identified a number of common issues. This section outlines the main issues raised in regulations.

Frequency of Amendment and Review

- 7.7 Although most of the historical regulations were amended relatively frequently while they have been in force, the Committee noted that many amendments were minor and administrative. Further, 12 historical regulations had not been amended in the last 10 years and 5 historical regulations had never been amended.²⁹³

²⁹³ At the commencement of the Inquiry, the following regulations had not been amended in the last 10 years: Absconding Debtors Regulations 1980; Architects Regulations 1965; Crown Lands (Commonage) Regulations 1946; Crown Lands (Recreation Reserve) Regulations 1938; Inquiries (Witnesses' Expenses) Regulations 1967; Lands Acquisition Regulations 1979; Marine (Prevention of Collision) Regulations 1982; Marine (Sheltered Waters) Regulations 1986; Nudity Regulations 1976;

- 7.8 Noting the infrequency of amendments, it was unclear to the Committee whether these historical regulations remained fit for purpose and whether they had been reviewed. Accordingly, the Committee sought further information from all Ministers in relation to when historical regulations within their portfolios were last reviewed.
- 7.9 The Committee found that infrequency of amendments did not necessarily indicate that historical regulations had not been subject to review. Of the 17 regulations that had never been amended or had not been amended in the proceedings 10 years, 11 were under review during the course of the Inquiry or had been reviewed in the previous 12 months.²⁹⁴ However, the Committee observes that several of these reviews occurred in response to the Committee's requests for information.²⁹⁵ Table 3 below sets out the most recent reviews as advised by Ministers.

Table 3: Frequency of Review of Historical Regulations

Last reviewed	Number of Historical Regulations
Ongoing or upcoming review	5
Last 12 months	6
Last 5 years	8
Last 10 years	1
More than 10 years ago or never reviewed	2
No response provided	14
Total	36

- 7.10 Whilst the majority of historical regulations had been reviewed and amended within the last 10 years, there were some notable outliers to this trend. The Committee observed that many of these historical regulations contained:

- drafting errors that could affect the meaning, interpretation and clarity of the regulations.²⁹⁶
- outdated drafting practices, such as setting penalties in dollar amounts.²⁹⁷

Petroleum (Submerged Lands) Regulations 1987; Plumbers and Drainers Licensing Regulations 1983; Public Trustee Regulations 1979; Radioactive Ores and Concentrates (Packaging and Transport) Regulations 1980; Real Property (Unit Titles) Regulations 1987; Soccer Football Pools Regulations 1985; Special Purposes Leases Regulations 1955; Valuation of Land Regulations 1981.

²⁹⁴ Absconding Debtors Regulations 1980; Architects Regulations 1965; Crown Lands (Commonage) Regulations 1946; Inquiries (Witnesses' Expenses) Regulations 1967; Marine (Prevention of Collision) Regulations 1982; Marine (Sheltered Waters) Regulations 1986; Petroleum (Submerged Lands) Regulations 1987; Plumbers and Drainers Licensing Regulations 1983; Soccer Football Pools Regulations 1985; Special Purposes Leases Regulations 1955; Valuation of Land Regulations 1981.

²⁹⁵ According to ministerial responses, reviews of the following in-frequently amended historical regulations occurred as a result of the Committee's requests for information: Inquiries (Witnesses' Expenses) Regulations 1967; Marine (Prevention of Collision) Regulations 1982; Marine (Sheltered Waters) Regulations 1986; Soccer Football Pools Regulations 1985.

²⁹⁶ See, for example, Crown Lands (Commonage) Regulations 1946.

²⁹⁷ See, for example, Crown Lands (Recreation Reserve) Regulations 1938.

- outdated terms that were inconsistent with other legislation, including their enabling Acts.²⁹⁸
- references to repealed provisions of other legislation.²⁹⁹

Example: Crown Lands (Recreation Reserve) Regulations 1938

7.11 The Committee noted that the Crown Lands (Recreation Reserve) Regulations 1938 did not appear to have been amended since 1985 and contained outdated drafting conventions, including setting fees and penalties in dollar amounts, rather than revenue units or penalty units.

7.12 On 11 February 2026, the Committee sought advice from the Minister for Housing, Local Government and Community Development in relation to this issue. In a letter dated 27 March 2026, the Minister advised:

The Regulations were last substantively amended in 1985. The Department of Housing, Local Government and Community Development (DHLGCD) has no records of a review having been undertaken since that time. In their current form, the Regulations reflect outdated drafting style, terminology and administrative structures.

As the Committee has identified, penalties are prescribed as fixed monetary amounts, rather than penalty units, and fees are fixed and are not index linked. These features are inconsistent with contemporary drafting practice and require amendment to ensure regulatory currency and flexibility.

The Regulations also require the Administrator's consent for the erection of buildings and improvements on recreation reserves. This approval pathway is disproportionate and inconsistent with contemporary administrative arrangements. Portfolio accountability would be more appropriately achieved by vesting such approval powers to the responsible Minister.

More broadly, the framework governing Boards of Trustees is limited in scope and lacks modern governance safeguards. Boards of Trustees are regulated primarily under section 79 of the *Crown Lands Act 1992* (NT). The Regulations contribute to a gap in the governance framework applicable to those Boards.

In my view, a remake of the Regulations is the most appropriate course of action to ensure clarity, stability and application of efficient governance mechanisms.

DHLGCD is looking to review (and likely remake) the Regulations, with input from the Department of Lands, Planning and Environment (which has some responsibility for Crown land reserves). This is anticipated to occur during the current term of Government.³⁰⁰

7.13 The Committee thanks the Minister and DHLGCD for this comprehensive response and welcomes the undertaking to review, and likely remake, the Regulations. This is discussed below in relation to 'Ministerial Undertakings'.

²⁹⁸ See, for example, Marine (Prevention of Collision) Regulations 1982.

²⁹⁹ See, for example, Lands Acquisition Regulations 1979.

³⁰⁰ Minister for Housing, Local Government and Community Development, Ministerial Response, 6 June 2026.

Incorporation by Reference

- 7.14 As discussed in Chapter 5, the age of regulations does not necessarily reflect the currency of their legal effect. Historical regulations may incorporate external documents by reference on a dynamic basis where authorised by their enabling Act. This enables regulations' substantive operation to continue to evolve despite the regulation itself remaining unamended.
- 7.15 In the course of its Inquiry, the Committee observed 5 historical regulations that require compliance with other documents.³⁰¹ The Committee observed that some of the incorporated documents were industry standards that were updated from time to time. This has the effect of incorporating these documents as the requirements of the regulations are updated each time the external document is updated.
- 7.16 The Committee noted that, in some circumstances, it was unclear whether these documents are freely accessible to enable persons to understand their rights and obligations under the regulations.

Example: Dangerous Goods Regulations 1985 and Return to Work Regulations 1986

- 7.17 In its examination of the Dangerous Goods Regulations 1985 and the Return to Work Regulations 1986, the Committee noted the regulations incorporate external documents by reference, including international and Australian standards. Although time-to-time incorporation is authorised under the enabling Acts, it was unclear whether the incorporated documents were freely accessible to enable a person to understand their rights and obligations under the legislation.
- 7.18 On 2 February 2026, the Committee sought advice from the Attorney-General in relation to this issue. The Attorney-General advised in a letter dated 31 March 2026:

I have been advised that not all standards incorporated in the regulations are available for free and affected users of the Dangerous Goods Scheme must purchase them. Most other jurisdictions take the same approach to the incorporation of Australian Standards.

These standards are generally complex, highly technical and costly to develop. The purchase costs help fund the operation of Standards Australia, being a specialist organisation that provides services to all Australians. This can be regarded as a cost of doing business. The prevailing view is that, where Australian Standards are incorporated into legislation and relate to ensuring the safety of industry (and thus workers and the general public), then it is appropriate that the user should pay.

It should be noted however, that Standards Australia does provide online access to select standards for personal, non-commercial use, limited to three

³⁰¹ Inquiries (Witnesses' Expenses) Regulations 1967; Return to Work Regulations 1986; Dangerous Goods Regulations 1985; Marine (Prevention of Collision) Regulations 1982; Marine (Sheltered Waters) Regulations 1986.

standards per calendar year. Some public and university libraries also offer free access to some standards.

I have also been advised that the Return to Work Regulations 1986 reference the 'International Standards for Neurological Classification of Spinal Cord Injury' published by the American Spinal Injury Association. These standards are specialist standards and apply to medical professionals making clinical assessments, rather than being a direct cost to industry. Making them freely available would not necessarily improve public accessibility or transparency.³⁰²

7.19 The Committee thanks the Attorney-General for her response.

Imposition of Fees

7.20 Fees imposed in regulations must have the authority of the Legislative Assembly.³⁰³ As noted in Chapter 3, the *Regulation-Making Framework* requires fee analysis to be considered prior to making regulations, including considering the impact of fees on affected stakeholders.

7.21 Since 2009, fees have been charged in 'revenue units' rather than dollar amounts in the NT.³⁰⁴ This system is intended to enable 'the automatic annual adjustment of the monetary value of a revenue unit in accordance with the Darwin consumer price index'.³⁰⁵ The Committee notes that progressive Statute Law Revision Bills and amending regulations have updated references to fees to transition to use of revenue units.³⁰⁶

7.22 Twelve historical regulations provide for the imposition of fees. The Committee noted some fees:

- were prescribed in dollar amounts rather than revenue units or inconsistently set in both dollars and revenue units.³⁰⁷
- had not been updated for significant periods of time.³⁰⁸
- were being charged under repealed provisions of enabling Acts.³⁰⁹

7.23 It was unclear to the Committee whether consideration had been given to updating the fee amounts, their ongoing regulatory impact, and the legislative authority to collect the fees.

Example: Petroleum (Submerged Lands) Regulations 1987

7.24 The Petroleum (Submerged Lands) Regulations 1987 were made in 1987 and have not been amended since 2013. The Committee noted that the Regulations

³⁰² Attorney-General, Ministerial Response, 31 March 2026.

³⁰³ *Commonwealth & the Central Wool Committee v Colonial Combing, Spinning & Weaving Co Ltd* [1922] HCA 62.

³⁰⁴ *Revenue Units Act 2009* (NT), s 3.

³⁰⁵ Explanatory Statement, Revenue Units Bill 2009, p. 1.

³⁰⁶ See, for example, Fees and Charges Amendment Regulations 2009.

³⁰⁷ See, for example, Petroleum (Submerged Lands) Regulations 1987.

³⁰⁸ See, for example, Crown Lands (Commonage) Regulations 1946.

³⁰⁹ See, for example, Lands Acquisition Regulations 1979.

contained some outdated or inconsistent drafting conventions, including setting fees in both dollar amounts and revenue units.

- 7.25 On 2 February 2026, the Committee sought advice from the Minister for Mining and Energy regarding the timing and outcome of the most recent review of the Regulations, including whether the fees and their regulatory impact were considered. In a letter dated 4 March 2026, the Minister advised:

I can confirm that the Department of Mining and Energy (DME) undertook a review of the Regulations in 2024-25, which identified that some amendments are required to ensure the Regulations remain fit-for-purpose in the short term.

Drafting of amendments to the Regulations has commenced and will be progressed via Executive Council processes from mid-2026. These amendments will also correct inconsistent drafting conventions and convert fees from dollar amounts to revenue units as required.

As the Committee is aware, DME plans to commence a comprehensive review of the *Petroleum (Submerged Lands) Act 1981* and the *Energy Pipelines Act 1981* by 2028. This will include a full review of fees, charges and securities within those Acts to bring them in line with equivalent fees and charges in other resources legislation.

The review will also require DME to consider the regulatory impacts of any proposed amendments and assess them through the regulation-making framework before seeking approval to update fee amounts or introduce any new fees, charges or securities. Until the full review is completed, fees, charges and securities will not be amended, except to correct the inconsistent drafting conventions within the Regulations.³¹⁰

- 7.26 The Committee thanks the Minister for his response and welcomes the undertaking to amend the Regulations in the short term to correct inconsistent drafting, with a view to reviewing the fee amounts alongside the enabling Act by 2028.

Exemption from the Operation of Primary Legislation

- 7.27 As exemptions from primary legislation may limit parliamentary oversight, the Committee considers it appropriate to examine whether such exemptions should be time-limited or incorporated directly into primary legislation. The Senate Standing Committee for the Scrutiny of Delegated Legislation states:

Provisions in [subordinate] legislation which amend, modify or exempt persons or entities from the operation of primary legislation may limit parliamentary oversight and subvert the appropriate relationship between Parliament and the executive. These concerns are further heightened where the relevant provisions operate on an ongoing basis.³¹¹

- 7.28 Three historical regulations exempt certain persons and/or entities from the operation of primary legislation.³¹² The Committee observed the exemptions

³¹⁰ Minister for Mining and Energy, Ministerial Response, 4 March 2026.

³¹¹ Senate Standing Committee for the Scrutiny of Delegated Legislation, *Principle (I): Modification of primary legislation*, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Committee_guidelines/Principle_I.

³¹² Agents Licensing Regulations 1979; Classification of Publications, Films and Computer Games Regulations 1985; Motor Vehicles Regulations 1977.

have continued in force for significant periods of time without update to their content.

Example: Classification of Publications, Film and Computer Games Regulations 1985

7.29 The Classification of Publications, Film and Computer Games Regulations 1985 prescribe certain matters for the purposes of the *Classification of Publications, Films and Computer Games Act 1985* (CPFCG Act), including exempting certain institutions from the R18+ movie/video game publication restrictions in the CPFCG Act. This has the effect of enabling a person to publish this content to these institutions without being subject to the offence provisions in the CPFCG Act.

7.30 The Committee notes the Regulations had not been amended since 2014. On 2 February 2026, the Committee sought advice from the Attorney-General regarding the outcomes of the last review of the Regulations and whether consideration was given to incorporating the exemptions in primary legislation. On 31 March 2026, the Attorney-General advised:

The power for regulations to prescribe exempt persons/ bodies is not unusual and allows for flexibility while still maintaining a degree of parliamentary oversight. However, in relation to these regulations, the AGD has identified that this current list is out of date and that although other jurisdictions maintain a power to prescribe exemption in their corresponding Acts, none currently provide these exemptions in regulations. AGD advises that further consideration will be given as to whether they are still required and appropriate.³¹³

7.31 The Committee thanks the Attorney-General for this response and notes the Attorney-General's Department will give further consideration to whether the Regulations are still required.

Impact on Personal Rights and Liberties

7.32 As noted in Chapter 6 – Legislative Triggers for Review, the Committee heard that significant matters, including limitations on personal rights and liberties should be time-limited and subject to greater parliamentary oversight (i.e., included in primary legislation).

7.33 The Committee noted that 3 historical regulations raised issues that could impact personal rights and liberties.³¹⁴ The Committee observed that one of these historical regulations had not been amended since 1985.³¹⁵

Example: Bail Regulations 1983

7.34 The Bail Regulations 1983 prescribe various matters relating to bail requirements for the purposes of the *Bail Act 1982*, including requirements for drug and alcohol

³¹³ Attorney-General, Ministerial Response, 31 March 2026.

³¹⁴ Bail Regulations 1983; Crown Lands (Recreation Reserve) Regulations 1938; Marine (Passenger) Regulations 1982.

³¹⁵ Crown Lands (Recreation Reserve) Regulations 1938.

testing, issuing evidentiary certificates, and extending immunity from civil and criminal liability to certain persons. The Committee noted the matters included in the Regulations may affect personal rights and liberties. On 2 February 2026, the Committee wrote to the Attorney-General seeking advice about the appropriateness of including these matters in regulations, rather than the *Bail Act 1982*.

7.35 In a letter dated 31 March 2026, the Attorney-General advised:

The first of these raised in your letter related to the scope of requirements prescribed in the Bail Regulations 1983 and whether they are appropriate for subordinate legislation i.e. the requirements relating to drug and alcohol testing, issuing evidentiary certificates and extending immunity from civil and criminal liability, including whether they are an impost on personal rights.

I have been advised that these matters are procedural in nature and relate to the enforcement and oversight of conduct agreements (which are issued under the *Bail Act 1982*) and are thus suitable for regulations. Additionally, rather than being regarded as an impost on personal rights, the requirements contribute to a safe, fair and balanced process for allowing (in appropriate circumstances) persons charged with offences to be released as an alternative to being held on remand.³¹⁶

7.36 The Committee thanks the Attorney-General for this response.

Committee Comments

7.37 The Committee notes that most historical regulations examined during the Inquiry had been reviewed in recent years, notwithstanding that many had not been amended for extended periods. However, the Inquiry identified recurring issues relating to outdated drafting, incorporation by reference, fees, exemptions from primary legislation and matters affecting personal rights and liberties. The Committee considers these findings reinforce the importance of ongoing agency stewardship and periodic review of historical regulations.

Finding 6

The majority of historical regulations in force in the Northern Territory have been reviewed by their administering agencies within the last 10 years,

Finding 7

Some historical regulations incorporate external documents by reference as in force from time to time, enabling their substantive content to evolve despite the regulation itself remaining unamended.

Finding 8

Some historical regulations impose fees which have not been updated for significant periods of time.

Finding 9

³¹⁶ Attorney-General, Ministerial Response, 31 March 2026.

Some historical regulations exempt persons and entities from the operation of primary legislation. Such exemptions are not time-limited and continue in force for significant periods of time.

Finding 10

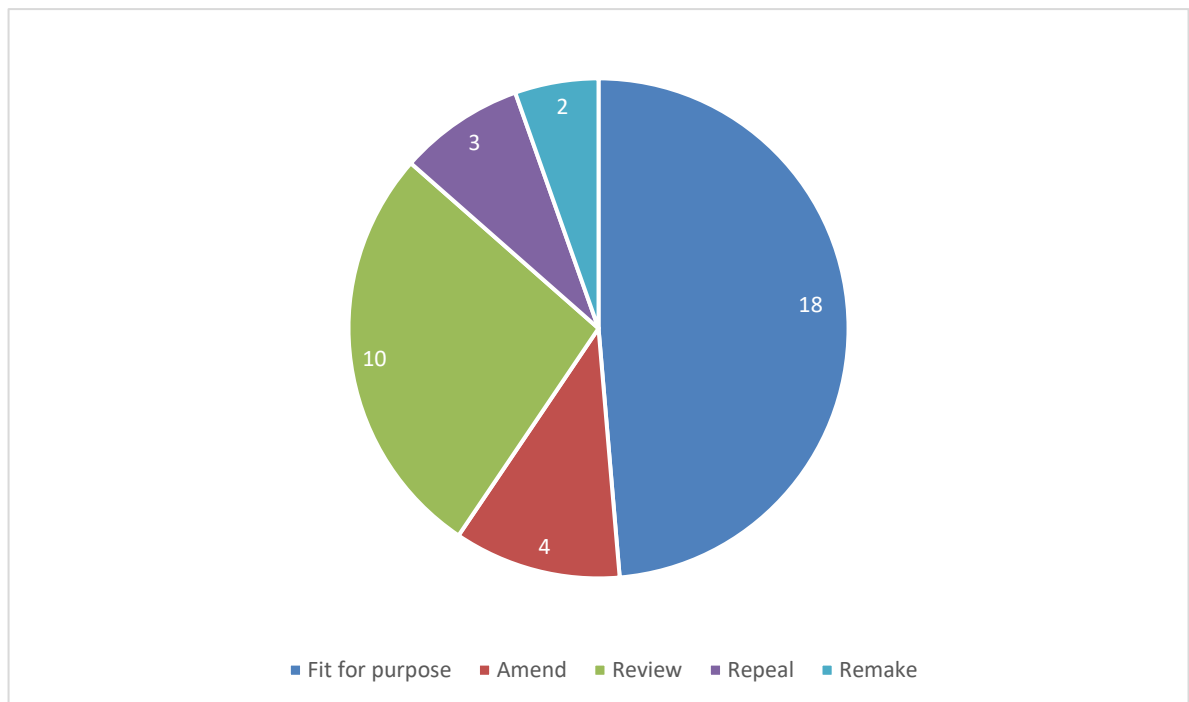
Some historical regulations contain matters that impact on personal rights and liberties.

Ministerial Undertakings

- 7.38 As noted in Chapter 1, the Committee sought advice from Ministers in relation to historical regulations within their portfolios. The Committee was advised that 18 historical regulations remained fit for purpose and did not require amendment, repeal or replacement.³¹⁷
- 7.39 In response to the Committee's requests, some Ministers committed to a number of undertakings, including reviewing, repealing, remaking or amending historical regulations to ensure they remain fit for purpose.

³¹⁷ Administration and Probate Regulations 1983; Bail Regulations 1983; Classification of Publications, Films and Computer Games Regulations 1985; Criminal Investigation (Extra-Territorial Offences) Regulations 1987; Dangerous Goods Regulations 1985; Juries Regulations 1983; Marine (Passenger) Regulations 1982; Motor Accidents (Compensation) Regulations 1984; Motor Vehicles Regulations 1977; Northern Territory Rates Regulations 1971; Nudity Regulations 1976; Powers of Attorney Regulations 1982; Prisoners (Interstate Transfer) Regulations 1984; Public Trustee Regulations 1979; Radioactive Ores and Concentrates (Packaging and Transport) Regulations 1980; Real Property (Unit Titles) Regulations 1987; Sheriff Regulations 1967; Superannuation Regulations 1986.

Figure 4: Ministerial Undertakings



Review

7.40 Ministers undertook to review the operation of 10 historical regulations as part of either individual reviews or broader reviews of enabling Acts. Details of these reviews included:

- Absconding Debtors Regulations 1980: a review will be undertaken with the possibility of repealing the regulations.
- Agents Licensing Regulations 1979: a review will be undertaken with a view to modernising the regulations and consideration will be given to time-limiting exemptions from primary legislation.
- Crown Lands (Recreation Reserve) Regulations 1938: a review will be undertaken with a view to remaking the regulations within the term of the current Government.
- Housing Regulations 1983: a review will be undertaken as part of a broader review of the *Housing Act 1982*.
- Marine (Prevention of Collision) Regulations 1982: a review will be undertaken with a view to amending the regulations to correct drafting errors and unclear terms.
- Marine (Sheltered Waters) Regulations 1986: a review will be undertaken with a view to streamlining the regulations.
- Plumbers and Drainers Licencing Regulations 1983: a review has commenced to consider whether the regulations continue to serve necessary and contemporary regulatory purposes.

- Police Administration (Fees) Regulations 1985: a review will be undertaken and consideration will be given to regulatory impact of the fees prescribed.
- Return to Work Regulations 1986: a review will be undertaken with the possibility of repealing the regulations.
- Soccer Football Pools Regulations 1985: a review will be undertaken of other legislation in the portfolio to be repealed with a view to repealing regulations and the enabling Act.

7.41 In addition, the Committee was advised that 3 historical regulations in the Attorney-General's portfolio are not required for immediate review 'although a review of the Dangerous Goods Scheme in the longer term will be further considered, subject to adequate resourcing'.³¹⁸

Repeal

7.42 Two historical regulations were repealed during the course of the Inquiry. The Minister for Lands, Planning and Environment advised the Lands Acquisition Regulations 1979, and the Crown Lands (Commonage) Regulations 1946 would be repealed through the Statute Law Revision and Repeals Bill 2025. The Committee notes both historical regulations were repealed on 10 February 2026.³¹⁹

7.43 Additionally, as outlined above, the Absconding Debtors Regulations 1980, the Return to Work Regulations 1986, and the Soccer Football Pools Regulations 1985 will be reviewed with a view to repealing them.

Remake

7.44 The Chief Minister advised a preliminary review of the Inquiries (Witnesses' Expenses) Regulations 1967 had been undertaken and there was no evidence the regulations had been used. However, the regulations remain an important statutory framework for witness expenses where compulsory attendance powers are exercised under the *Inquiries Act 1945*. The Chief Minister advised that the preferred approach would be to remake the regulations and this will be progressed within 12 months.

7.45 Additionally, as outlined above, one historical regulation will be reviewed with a view to remaking them. The Committee also notes that the Architects Regulations 1965 (alongside incorporated amendments) were repealed and remade by the Architects Regulations 2025 on 26 September 2025.³²⁰

Amend

7.46 In response to the Committee's Inquiry, Ministers undertook to amend 4 historical regulations. These historical regulations included:

³¹⁸ Attorney-General, Ministerial Response, 31 March 2026.

³¹⁹ *Statute Law Revision and Repeals Act 2026*, ss 36, 68.

³²⁰ Architects Regulations 2025, Schedule 3.

- Motor Vehicle (Hire Car) Regulations 1985: will be amended via an Omnibus Bill scheduled for late 2026.
- Petroleum (Submerged Lands) Regulations 1987: will be amended by amending regulations in mid-2026 to correct inconsistent drafting conventions and fees, and a broader review will be undertaken by 2028 alongside the enabling Act).
- Special Purposes Leases Regulations 1955: were amended by the Lands, Planning and Environment Omnibus Bill 2025 on 13 September 2025.
- Valuation of Land Regulations 1981: were amended by the Lands, Planning and Environment Omnibus Bill 2025 on 13 September 2025.

Committee Comments

- 7.47 The Committee considers the responses provided by Ministers, with the assistance of agencies, have greatly aided the Committee to identify historical regulations that remain fit for purpose and those that warrant further review, amendment, repealing and/or remaking. The Committee thanks Ministers and agencies for their constructive engagement with the Inquiry and welcomes the commitment shown by agencies to maintaining a contemporary and effective body of subordinate legislation.
- 7.48 The Committee is encouraged that a number of historical regulations identified through the Inquiry have already been repealed or are undergoing review. The Committee considers this demonstrates the value of systematic examination of historical regulations and the benefits of proactive regulatory stewardship.
- 7.49 While some historical regulations have been identified as potential candidates for repeal, the Committee considers that any decisions regarding repeal should be informed by appropriate consideration of the legal, policy and regulatory implications.
- 7.50 The Committee looks forward to the outcome of the current reviews and notes that any amendments stemming from them will be considered as part of the Committee's regular scrutiny process under Standing Order 176.

Recommendation 17

The Committee recommends that, subject to the outcomes of reviews by the administering agencies, the following historical regulations be repealed:

- **Absconding Debtors Regulations 1980**
- **Return to Work Regulations 1986**
- **Soccer Football Pools Regulations 1985.**

Recommendation 18

The Committee recommends that the Inquiries (Witnesses' Expenses) Regulations 1967 be repealed and remade.

Recommendation 19

The Committee recommends that, subject to the outcome of review by the Department of Housing, Local Government and Community Development, the Crown Lands (Recreation Reserve) Regulations 1938 be remade.

Appendix 1: Submissions Received

Submissions Received

1. Department of Lands, Planning and Environment
2. Northern Territory Fire and Emergency Services
3. New South Wales Legislative Council Delegated Legislation Committee
4. Western Australia Legislative Council Standing Committee on Uniform Legislation and Statutes Review
5. Professor Lorne Neudorf
6. Senate Scrutiny of Delegated Legislation Committee
7. Department of Mining and Energy
8. Queensland Governance, Energy and Finance Committee and Primary Industries and Resources Committee
9. New Zealand Regulations Review Committee
10. Tasmanian Parliamentary Standing Committee on Subordinate Legislation
11. Stephen Argument

Note: Copies of submissions, are available at:

<https://parliament.nt.gov.au/committees/list/legal-and-constitutional-affairs-committee/review-of-historical-regulations>

Appendix 2: Public Hearings

Public Hearing – Darwin, 28 April 2026

Individual witness

- Professor Lorne Neudorf

Individual witness

- Stephen Argument

Department of Treasury and Finance

- Tim McManus, Under Treasurer
- Mick Butler, Deputy Under Treasurer, Economics and Financial Management
- Sarah Rummery, Deputy Under Treasurer, Revenue and Corporate

Attorney-General's Department

- Hannah Clee, Acting Director Legislation and Legal Policy
- Douglas Burns, Acting Deputy Director Legislation and Legal Policy

Office of the Parliamentary Counsel

- Jessica Black, Acting Chief Parliamentary Counsel

Note: Copies of hearing transcripts are available at:

<https://parliament.nt.gov.au/committees/list/legal-and-constitutional-affairs-committee/review-of-historical-regulations>

Appendix 3: Historical Regulations Considered by the Committee

Attorney-General's Department

Historical regulation	Status	Ministerial undertaking	Issue/s
Absconding Debtors Regulations 1980	In force	Review / Repeal	Never amended
Administration and Probate Regulations 1983	In force	N/A - fit for purpose	Imposition of fees
Bail Regulations 1983	In force	N/A - fit for purpose	Personal rights and liberties
Classification of Publications, Films and Computer Games Regulations 1985	In force	N/A - fit for purpose	Exemptions from the operation of primary legislation
Criminal Investigation (Extra-Territorial Offences) Regulations 1987	In force	N/A - fit for purpose	N/A
Dangerous Goods Regulations 1985	In force	N/A - fit for purpose	Imposition of fees; Incorporation
Juries Regulations 1983	In force	N/A - fit for purpose	N/A
Powers of Attorney Regulations 1982	In force	N/A - fit for purpose	N/A
Public Trustee Regulations 1979	In force	N/A - fit for purpose	Last amended more than 10 years ago
Radioactive Ores and Concentrates (Packaging and Transport) Regulations 1980	In force	N/A - fit for purpose	Imposition of fees; Last amended more than 10 years ago
Real Property (Unit Titles) Regulations 1987	In force	N/A - fit for purpose	Last amended more than 10 years ago
Return to Work Regulations 1986	In force	Review / Repeal	Incorporation
Sheriff Regulations 1967	In force	N/A - fit for purpose	Imposition of fees

Department of Corrections

Historical regulation	Status	Ministerial undertaking	Issue/s
Prisoners (Interstate Transfer) Regulations 1984	In force	N/A - fit for purpose	N/A

Department of the Chief Minister and Cabinet

Historical regulation	Status	Ministerial undertaking	Issue/s
Inquiries (Witnesses' Expenses) Regulations 1967	In force	Remake	Incorporation; Last amended more than 10 years ago

Department of Housing, Local Government and Community Development

Historical regulation	Status	Ministerial undertaking	Issue/s
Crown Lands (Recreation Reserve) Regulations 1938	In force	Review / Remake	Personal rights and liberties; Last amended more than 10 years ago
Housing Regulations 1983	In force	Review	N/A
Northern Territory Rates Regulations 1971	In force	N/A - fit for purpose	N/A
Nudity Regulations 1976	In force	N/A - fit for purpose	Never amended

Department of Logistics and Infrastructure

Historical regulation	Status	Ministerial undertaking	Issue/s
Marine (Passenger) Regulations 1982	In force	N/A - fit for purpose	Personal rights and liberties
Marine (Prevention of Collision) Regulations 1982	In force	Review / Amend	Incorporation; Drafting error; Last amended more than 10 years ago
Marine (Sheltered Waters) Regulations 1986	In force	Review	Incorporation; Drafting error; Never amended
Motor Vehicle (Hire Car) Regulations 1985	In force	Amend	N/A
Motor Vehicles Regulations 1977	In force	N/A - fit for purpose	Exemptions from the operation of primary legislation

Department of Lands, Planning and Environment

Historical regulation	Status	Ministerial undertaking	Issue/s
Crown Lands (Commonage) Regulations 1946	Repealed	Repeal	Imposition of fees; Drafting error; Last amended more than 10 years ago
Lands Acquisition Regulations 1979	Repealed	Repeal	Imposition of fees; Drafting error; Last amended more than 10 years ago
Special Purposes Leases Regulations 1955	In force	Amend	Imposition of fees; Last amended more than 10 years ago
Valuation of Land Regulations 1981	In force	Amend	Imposition of fees; Never amended

Department of Mining and Energy

Historical regulation	Status	Ministerial undertaking	Issue/s
Petroleum (Submerged Lands) Regulations 1987	In force	Review / Amend	Imposition of fees; Last amended more than 10 years ago

Department of Trade, Business and Asian Relations

Historical regulation	Status	Ministerial undertaking	Issue/s
Agents Licensing Regulations 1979	In force	Review	Imposition of fees; Exemptions from the operation of primary legislation
Architects Regulations 1965	Repealed	N/A – repealed	Imposition of fees; Last amended more than 10 years ago
Plumbers and Drainers Licensing Regulations 1983	In force	Review	Imposition of fees; Last amended more than 10 years ago

Department of Treasury and Finance

Historical regulation	Status	Ministerial undertaking	Issue/s
Superannuation Regulations 1986	In force	N/A - fit for purpose	N/A
Motor Accidents (Compensation) Regulations 1984	In force	N/A - fit for purpose	N/A

Department of Tourism and Hospitality

Historical regulation	Status	Ministerial undertaking	Issue/s
Soccer Football Pools Regulations 1985	In force	Review / Repeal	Never amended

Northern Territory Police Force

Historical regulation	Status	Ministerial undertaking	Issue/s
Police Administration (Fees) Regulations 1985	In force	Review	Imposition of fees

Appendix 4: Summary of Committee Correspondence

Correspondence with agencies

Correspondence to	Date of Committee correspondence	Response
Attorney-General's Department	24/03/2025	30/04/2025
Department of Agriculture and Fisheries	24/03/2025	14/04/2025
Department of Children and Families	24/03/2025	07/05/2025
Department of the Chief Minister and Cabinet	24/03/2025	29/04/2025
Department of Corporate and Digital Development	24/03/2025	27/03/2025
Department of Corrections	24/03/2025	09/04/3035
Department of Education and Training	24/03/2025	02/04/2025
Department of Health	24/03/2025	24/04/2025
Department of Housing, Local Government and Community Development	24/03/2025	06/06/2025
Department of Lands, Planning and Environment	24/03/2025	28/04/2025
Department of Logistics and Infrastructure	24/03/2025	30/04/2025
Department of Mining and Energy	24/03/2025	02/05/2025
Department of People, Sport and Culture	24/03/2025	30/04/2025
Department of Tourism and Hospitality	24/03/2025	22/04/2025
Department of Trade, Business and Asian Relations	24/03/2025	02/05/2025

Correspondence to	Date of Committee correspondence	Response
Department of Treasury and Finance	24/03/2025	17/12/2025
Northern Territory Fire and Emergency Services	24/03/2025	16/04/2025
Northern Territory Police Force	24/03/2025	03/04/2025

Correspondence with Ministers

Correspondence to	Date of Committee correspondence	Response
Attorney-General	02/02/2026	31/03/2026
Chief Minister	02/02/2026	09/03/2026
Minister for Corrections	11/02/2026	04/03/2026
Minister for Housing, Local Government and Community Development	02/02/2026 04/02/2026 11/02/2026	06/03/2026 09/03/2026 27/03/2026
Minister for Lands, Planning and Environment	02/02/2026	05/02/2026
Minister for Logistics and Infrastructure	02/02/2026	09/03/3036
Minister for Mining and Energy	02/02/2026	04/03/3036
Minister for Police	09/03/2026	09/03/2026
Minister for Racing	09/02/2026	17/03/2026
Minister for Trade, Business and Asian Relations	02/02/2026	03/03/2026
Treasurer	02/02/2026	27/03/2026

Correspondence with the Office of the Parliamentary Counsel

Correspondence to	Date of Committee correspondence	Response
Acting Chief Parliamentary Counsel	12/05/2026	12/06/2026

Bibliography

ACT Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Access to Australian Standards adopted in legislation – Correspondence*, https://www.parliament.act.gov.au/_data/assets/pdf_file/0003/1609068/Access-to-Australian-Standards-adopted-in-legislationCorrespondencePaper.pdf.

Administrative Arrangements Order 2026

Attorney-General's Department, *Annual Report 2024-25* (2025)

Australian Capital Territory Government, Chief Minister, Treasury and Economic Development Directorate, *Best Practice Guide for Preparing Regulatory Impact Assessments* (2024).

Australian Government Productivity Commission, *Identifying and Evaluating Regulation Reforms* (2011).

Australian Government, *APS Values – Scope and application of the values* (2024), <https://www.apsc.gov.au/aps-values/scope-and-application-values>.

Australian Government, Attorney-General's Department, *Reducing the complexity of legislation* (2026), <https://www.ag.gov.au/legal-system/access-justice/reducing-complexity-legislation>.

Australian Government, Department of Finance, *Regulatory Policy, Practice & Performance Framework* (2024).

Australian Government, Department of the Prime Minister and Cabinet, *Legislation Handbook* (2025), p. 28.

Australian Government, Department of the Prime Minister and Cabinet, *Australian Government Impact Analysis Framework* (2026).

Australian Government, *Incorporated by Reference* (2026), <https://www.legislation.gov.au/help-and-resources/understanding-legislation/incorporated-by-reference>.

Australian Government, Productivity Commission, *Identifying and Evaluating Regulatory Reforms* (2011).

Australian Government, *Whole of Government Regulatory Reform* (2026), <https://www.finance.gov.au/government/regulatory-reform>.

Australian Public Service Commission, *Stewardship guidance* (2024), <https://www.apsc.gov.au/aps-values/scope-and-application-values/stewardship-guidance>.

Commonwealth & the Central Wool Committee v Colonial Combing, Spinning & Weaving Co Ltd [1922] HCA 62.

D. C. Pearce and S. Argument, *Delegated Legislation in Australia* 5th Edition (2017).

Day v Harness Racing New South Wales [2014] NSWCA 423; (2014) 88 NSWLR 594; 324 ALR 611.

Department of Chief Minister and Cabinet, *Legislation Handbook* (2024).

Department of Treasury and Finance, *Regulation Making Framework* (2024).

Explanatory Memorandum, Legislative Instruments Bill 2003 (Cth).

Explanatory Statement, Revenue Units Bill 2009.

Government of South Australia, Department of the Premier and Cabinet, *Better Regulation Handbook* (2022)

Independent Panel of the Australian Public Service Review, *Our Public Service, Our Future - Independent Review of the Australian Public Service* (2019).

Interpretation Act 1978 (NT)

Legal and Constitutional Affairs Committee performing the functions of the Subordinate Legislation and Publications Committee, *Report on the Motor Accidents (Compensation) Amendment Regulations 2014* (2014).

Legislation Act 2001 (ACT)

Legislation Act 2003 (Cth)

Legislation Act 2019 (NZ)

Legislative Assembly of the Northern Territory, *Standing Orders 5th Edition – July 2026*, Standing Order 176(3).

Legislative Assembly of the Northern Territory, *Tabled Papers* (2026), <https://parliament.nt.gov.au/business/taled-papers>.

Legislative Standards Act 1992 (Qld)

Lord Hewart of Bury, *New Despotism*, (London: Greenwood Press, 1929);

New South Wales Government, NSW Productivity and Equality Commission, *NSW Productivity and Equality Commission White Paper 2021*.

New South Wales Government, NSW Treasury, *NSW Government Guide to Better Regulation* (2025).

New Zealand Government, Department of Regulation, *Regulatory Stewardship* (2026), <https://www.regulation.govt.nz/for-agencies/regulatory-stewardship/>

New Zealand Government, Ministry for Regulations, *Plans for reviews of existing legislation – Guidance for agencies* (2024).

New Zealand Government, *Starting out with regulatory stewardship: A resource* (2022).

Northern Territory (Self Government) Act 1978 (Cth)

Northern Territory Government, *Government Gazettes* (2026), <https://nt.gov.au/about-government/gazettes>

Northern Territory Government, *Northern Territory Legislation* (2026), <https://legislation.nt.gov.au/en>.

Northern Territory Government, *Subordinate Legislation – By Type* (2026), <https://legislation.nt.gov.au/LegislationPortal/Subordinate-Legislation/By-Type>.

NSW Regulatory Policy Framework Review Panel, *NSW Regulatory Policy Framework* (2017).

OECD, *Improving Regulatory Government: Trends, Practices and the Way Forward* (2017).

Office of the Parliamentary Counsel, Response to Legal Advice (unpublished), 12 June 2026

Parliamentary Counsel Act 1970 (Cth)

Parliament of Western Australia, Legislative Council Standing Orders (As of 22 May 2025).

Professor Ned Aughterson, Legal Advice on the capacity of the Legislative Assembly to disallow repealed amending regulations (unpublished).

Public Sector Employment and Management Act 1993 (NT)

Public Service Act 1999 (Cth)

Public Service Act 2020 (NZ)

Queensland Government, Department of Justice, *Impact Analysis Statements* (2026), <https://www.justice.qld.gov.au/publications-policies/reports/impact-analysis-statements>

Queensland Scrutiny of Legislation Committee, *Review of Part 7 of the Statutory Instruments Act – Final Report* (2010), p. 34.

Regulatory Standards Act 2025 (NZ)

Revenue Units Act 2009 (NT)

Senate Standing Committee for the Scrutiny of Bills, *Principle (v): Insufficient parliamentary scrutiny*,

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Bills/Committee_guidelines/Principle_v

Senate Standing Committee for the Scrutiny of Delegated Legislation, *Parliamentary oversight of delegated legislation* (2019), p. 6.

Senate Standing Committee for the Scrutiny of Delegated Legislation, *Exemption of delegated legislation from parliamentary oversight – Interim Report* (2021), p. 99.

Senate Standing Committee for the Scrutiny of Delegated Legislation, *Principle (f): Access and use*,

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Committee_guidelines/Principle_f.

Senate Standing Committee for the Scrutiny of Delegated Legislation, *Principle (l): Modification of primary legislation*,

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Committee_guidelines/Principle_l

South Australian Productivity Commission, *Inquiry into reform in South Australia's Regulatory Framework* (2021).

Statute Law Revision and Repeals Act 2026 (NT)

Statutory Instruments Act 1992 (Qld)

Subordinate Legislation Act 1978 (SA)

Subordinate Legislation Act 1989 (NSW)

Subordinate Legislation Act 1992 (Tas)

Subordinate Legislation Act 1994 (Vic)

The Donoughmore Committee, *Report of the Committee on Ministers' Powers*, (London: 1936).

Victorian Government, *About the Office of the Chief Parliamentary Counsel* (2026), <https://www.vic.gov.au/about-office-chief-parliamentary-counsel>

Victorian Government, Better Regulation Victoria, *Published Regulatory Impact Statements* (2026), <https://www.vic.gov.au/regulatory-impact-statements>

Victorian Stevedoring and General Contracting v Dignan [1931] 46 CLR 73 (HCA).

Western Australian Standing Committee on Uniform Legislation and Statutes Review, *Inquiry into the Form and Content of the Statute Book* (2019).

Western Australian Government, *Better Regulation – Decision Regulatory Impact Statements* (2026), <https://www.wa.gov.au/government/document-collections/better-regulation-decision-regulatory-impact-statements>