

2019

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR LOCAL GOVERNMENT, HOUSING AND
COMMUNITY DEVELOPMENT

Local Government Bill 2019

SERIAL NO. 107

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Local Government Bill 2019 is the Bill for the *Local Government Act 2019*.

The *Local Government Act 2019* repeals and replaces the *Local Government Act 2008*.

The underlying principles for the *Local Government Act 2019* are that local government is a distinct and essential sphere of government and that the system of local government needs to be: flexible and adaptable to the diverse interests and needs of the many communities within the Territory. The system of local government also need to be comprehensive, democratic, responsive to community needs, and accountable to both local communities and the public generally.

NOTES ON CLAUSES

Chapter 1 Introduction

Part 1.1 Preliminary matters

Clause 1. Short title

Clause 1 is a formal clause that provides that this Bill, after assent, may be cited as the *Local Government Act 2019*.

Clause 2. Commencement

Clause 2 is a formal clause that provides that the commencement of this Act will occur on a day fixed by the Administrator of the Northern Territory by notice published in the Northern Territory Government Gazette.

Clause 3. Act binds Crown

Clause 3 provides that the Crown is bound by this Act.

Part 1.2 What this Act is about

Clause 4. Principles

Clause 4 sets out the underlying principles of this Act.

Sub-clause (1) provides that local government is a distinct and essential sphere of government and that the system of local government needs to be: flexible and adaptable to the diverse interests and needs of the many communities within the Territory. The system of local government also need to be comprehensive, democratic, responsive to community needs; and accountable to both local communities and the public generally.

Sub-clause (2) provides that anybody performing a function or exercising a power under this Act must uphold the principles.

Sub-clause (3) provides that the principles do not affect any law in force in the Territory.

Clause 5. Rights and interests of Aboriginal traditional owners

Clause 5 provides that the delivery of local government services must be in harmony with the rights and interests of Aboriginal traditional owners as set out in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the *Native Title Act 1983* (Cth).

Clause 6. Overview

Clause 6 states that the Act provides for: the establishment of a democratic system of local government that recognises the Territory's diverse communities; the conferral of powers on councils to act in the best interests of their local communities; the enabling of councils to promote the social, economic, environmental and cultural well-being of their local communities; the imposition of high standards of ethics on council members; councils to have high standards of governance, service delivery, asset management and financial accountability; and councils to promote participation by their local communities in local government.

Part 1.3 Interpretation

Clause 7. Definitions

Clause 7 contains definitions for terms used within this Act. It is worth noting that the *Interpretation Act 1978* contains definitions and other provisions that may be relevant to this Act.

Clause 8. Meaning of *associate*

Clause 8 contains a definition of 'associate'. A person is an 'associate' of another person if: they are in a close family relationship; they are in partnership; one is a company and the other is a director or manager of the company; they are related companies; or one is a private company and the other is a shareholder in the company. In addition to these types of relationship, a person is also an associate of another person if a chain of relationships can be traced between them under the above types of relationships.

Clause 9. Meaning of *prescribed corporation*

Clause 9 contains a definition of 'prescribed corporation', which is the corporate entity prescribed by regulation.

Clause 10. Meaning of *relevant interest rate*

Clause 10 contains a definition of 'relevant interest rate'. A 'relevant interest rate' is a rate of interest prescribed by regulation. If there is no rate of interest prescribed by regulation, then a 'relevant interest rate' is a rate of interest fixed by the council.

Clause 11. Public notice for matters in relation to elections

Clause 11 contains rules regarding public notice in relation to elections.

Sub-clause (1) requires the returning officer to give public notice of a matter by publishing it in a newspaper circulating in the relevant local government area and to direct the relevant council to publish the information on its website.

Sub-clause (2) requires the council to comply with a publication direction under sub-clause (1).

Sub-clause (3) provides that this clause does not prevent notice about the matter being given in another way. The examples given for this sub-clause include a radio or television broadcast.

Sub-clause (4) provides that a required or allowed period of notice for a matter starts when the notice is first published in accordance with sub-clause (1).

Clause 12. Council policies to be consistent with code of conduct

Clause 12 provides that if a council is required under this Act to adopt a policy, the policy must be consistent with its code of conduct.

Part 1.4 Application of Criminal Code

Clause 13. Application of Criminal Code

Clause 13 is a formal clause that provides that Part IIAA of the *Criminal Code Act 1983* applies to offences against this Act. The note for clause 13 clarifies that Part IIAA states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. Part IIAA also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Chapter 2 System of local government

Part 2.1 Local government areas

Clause 14. Local government system

Clause 14 sets out the matters that are had regard to in dividing the Territory into local government areas and provides that a local government council is constituted for each area. These matters are: geography and natural configuration; the nature and density of population; and the viability and appropriateness of each area as a separate unit of local government administration.

Clause 15. Municipalities, regions and shires

Clause 15 provides that local government areas, depending on geographical size, population density and urbanisation, are classified as municipalities, regions or shires.

Part 2.2 Constitutive powers

Clause 16. Power to establish local government etc.

Sub-clause (1) sets out a range of powers that the Administrator may exercise, by publishing a notice in the *Gazette*, to establish or modify the establishment of local government. The Administrator may constitute or abolish a local government area, divide a local government area into two or more areas or merge two or more local government areas. The Administrator may also: classify a local government area as a municipality, region or shire; change a municipality into a shire, or vice versa; change a municipality into a region, or vice versa; and change a region into a shire, or vice versa.

Further powers of the Administrator are to: assign a name to, or change the name of, a local government area; assign a name to, or change the name of, a council for a local government area; define or change the boundaries of a local government area; create or abolish wards within a local government area; define or change the boundaries of a ward; assign a name to, or change the name of, a ward; and determine or change the number of council members for an area or ward. The Administrator can also correct an error or omission in an earlier notice under this clause.

In addition, the Administrator may correct an error or omission in a notice previously issued under this clause.

Sub-clause (2) provides that the Minister can also exercise the above powers by *Gazette* notice, except the power to constitute or abolish a local government area.

Sub-clause (3) provides that if the name of a local government area or a local government council is changed by *Gazette* notice, any reference to the area or council is taken to refer to the area or council changed by the notice.

Sub-clause (4) provides that a local government area can consist of sections that are not contiguous.

Clause 17. Merger of local government areas or division of local government area

Sub-clause (1) provides that this clause applies if under clause 16 the Administrator or Minister merges two or more local government areas or divide a local government area into two or more local government areas.

Sub-clause (2) provides that if as a result of a merger or division, there is no substantial change to the electoral representation for a ward within the area, the Administrator may publish a notice in the *Gazette* declaring that a member or members for that ward continue to hold the office of as the member or members in the new council.

Sub-clause (3) provides that where a principal member is a member of a ward subject to a declaration under sub-clause (2), the member continues to hold the office of member but cease being the principal member.

Sub-clause (4) provides that the Administrator may declare that the new council will have an elected or appointed principal member.

Sub-clause (5) gives the Minister the power to make the declarations under sub-clauses (2) and (4).

Clause 18. Consequential adjustment of rights and liabilities

Sub-clause (1) provides that the Administrator can make any disposition of property, rights or liabilities in relation to a local government council that may be desirable due to a local government area being constituted or abolished, having its boundaries changed, being merged with one or more other local government areas, or being divided into 2 or more local government areas.

Sub-clause (2) provides that the Minister may also exercise the power set out in sub-clause (1).

Sub-clause (3) requires the Registrar-General to make the necessary entries in the land register if an application is made for registration of a disposition of an interest in land made by the Administrator or Minister under this clause.

Clause 19. Prospective council

Sub-clause (1) provides that this clause applies if the Administrator intends to constitute a local government area under clause 16(1)(a) or divide a local government area into two or more local government areas under clause 16(1)(c). This clause also applies if the Minister intends to divide a local government area into two or more local government areas under clause 16(2).

Sub-clause (2) provides that the Administrator or Minister may, by *Gazette* notice, establish a prospective council under the name to be assigned to the council for the local government area before exercising the power mentioned in sub-clause (1).

Sub-clause (3) provides that the prospective council is a body corporate with perpetual succession; has a common seal; and is capable of acquiring, holding and disposing real and personal property and of suing and being sued.

Sub-clause (4) requires courts, judges and persons acting judicially to take judicial notice of the common seal of the prospective council, when the seal is affixed to a document.

Sub-clause (5) provides that the prospective council is constituted by the person appointed under sub-clause (6), until the council is constituted or the prospective council ceases to exist.

Sub-clause (6) provides that the Administrator or Minister may appoint a person to constitute the prospective council.

Sub-clause (7) provides that a prospective council has all the powers of a council for a local government area.

Sub-clause (8) provides that the prospective council becomes the council after the conclusion of the general election for the council for the local government area.

The note for the clause 19 clarifies that the Minister must call a general election for an area if the area is newly constituted under clause 134.

Clause 20. By-laws

Sub-clause (1) provides that this clause applies to council by-laws in force immediately before: a local government area is constituted; local government areas are merged; a local government area boundary is changed; or the classification of a local government area is changed.

Sub-clause (2) provides that the by-laws continue to apply to the geographical area that they applied to before the event referred to in sub-clause (1) occurred, and may be amended or repealed by the council for the area even if the by-laws were not originally made by that council.

Sub-clause (3) provides that despite sub-clause (2), the Administrator or Minister may, gazette a notice determining the by-laws that will apply to the local government area or part of a local government area.

Part 2.3 Role, functions and objectives of councils

Clause 21. Principal role of council

Clause 21 provides that the role of a council is to: be a representative, informed and responsible decision maker in the interests of its constituency; develop a cohesive social life for residents and allocate resources in a fair, socially inclusive and sustainable way; provide services and facilities; develop initiatives for improving quality of life for its constituency; represent its area's interests to the wider community; and exercise the functions and powers given to it under this and other Acts.

Clause 22. Functions of council

Sub-clause (1) sets out the mandatory functions of a council which include: planning for future local government services required in its area; providing services and facilities for the benefit of its area, residents and visitors; making prudent financial decisions; providing for the interest and well-being of individuals and groups in its area; managing the employment of the CEO; carrying out measures to protect its area from natural or other hazards as well as mitigating the effect of such hazards; planning and developing facilities and services sustainably; and planning the use of resources for the benefit of the area. In addition, the council has other functions assigned to it under the Act or another Act.

Sub-clause (2) sets out optional functions that a council may choose to perform. These are promoting its area as a location for appropriate industries, commerce or as an attractive tourist destination, and establishing support programs that benefit the area.

Clause 23. Powers of council

Clause 23 provides that a council may do all things necessary or convenient to enable it to perform its functions.

Clause 24. Objectives of council

Clause 24 sets out the mandatory objectives of a council. These are: providing open, responsive and accountable government at the local level; being responsive to the needs, interests and aspirations of individuals and groups within its area; cooperating with Territory and national governments in the delivery of services for the benefit of its area; and seeking to ensure a proper emphasis on environmentally sustainable development within its area and a proper balance between economic, social, environmental and cultural considerations. Councils are also to place a high value on the importance of service to the council's constituency; seek to ensure that council resources are used fairly, effectively and efficiently; and seek to provide services, facilities and programs that are appropriate to the needs of its area and ensure equitable access to its services, facilities and programs. In addition, councils are to generally act in the best interests of the community as a whole, at all times.

Clause 25. Operations outside area

Sub-clause (1) provides that a council can provide services outside its area but cannot exercise regulatory powers outside its area without agreement of the council for the area where the regulatory powers are to be exercised or, if it is in an area outside of a local government area, with the Minister's consent.

Sub-clause (2) provides that the agreement with another council under sub-clause (1) must be established by resolution of both councils.

Sub-clause (3) provides that a council resolution is required before a council can seek the Minister's consent to exercise regulatory powers in an area outside of a local government area.

Sub-clause (4) provides that a council can exercise regulatory powers outside its area without the agreement of the council for that area, or the consent of the Minister (for an area outside of a local government area) if the reason for exercising the powers arises from circumstance occurring within the council's area. The example given for sub-clause (4) is as follows. A dangerous dog attacks a child in the area of council A and becomes liable to seizure and destruction under the by-laws of that council. The dog is removed to the area of council B. In this case, council A may (without the agreement of council B) have the dog seized and destroyed in the area of council B.

Chapter 3 Planning at local level

Part 3.1 Definition

Clause 26. Definition

Clause 26 contains a definition for Chapter 3 of 'committee'. For Chapter 3, 'committee' means the Local Government Representation Committee established by clause 27.

Part 3.2 Local Government Representation Committee

Clause 27. Local Government Representation Committee

Sub-clause (1) establishes the Local Government Representation Committee.

Sub-clause (2) sets out the membership of the committee – the Electoral Commissioner, the Surveyor General and the CEO of the prescribed corporation.

Sub-clause (3) provides that the CEO of the prescribed corporation is the chair of the committee.

Clause 28. Powers of committee

Sub-clause (1) provides that where a local government area is divided into wards, the committee can determine that ward boundaries or that the area should not be divided into wards. Where a local government area is not divided into wards, the committee can determine if it should or should not be divided into wards.

Sub-clause (2) provides that if the committee determines that a local government area is to be divided into wards or different wards, it must determine the number of wards, the ward boundaries and the number of ordinary council members for each ward.

Sub-clause (3) provides that a determination under must provide the same total number of council members for the local government area that was in place before the determination.

Sub-clause (4) allows the committee to make recommendations for the local government area about matters that it is not empowered to determine. The example given for this sub-clause is that the

committee may make a recommendation in relation to the names of the wards or the external boundaries of the local government area

Clause 29. Procedures

Clause 29 provides that the committee can determine its own procedures, subject to the Act.

Clause 30. Considerations for determination

Sub-clause (1) sets out the high level procedural steps that must be undertaken before the committee makes a determination. The committee must invite written submissions from the council for the local government area and the public no later than 10 months after the polling day of a general election for the council and allow at least 60 days after that invitation for submissions to be received. After receiving the submissions, the committee must consider the submissions; publish a preliminary report on its website proposing its determination or alternate determinations; and invite written submissions from the council and the public on the preliminary report. The committee must then allow at least 60 days after that second invitation, for submissions to be received. After receiving the submission, the committee must consider the submissions and publish a final report with its determination on its website.

Sub-clause (2) enables the committee to request further information from a person who has made a submission or to hold a public hearing.

Sub-clause (3) provides that the committee must give its final report to each council and the Minister at least 18 months before the next periodic general election.

Sub-clause (4) requires the Minister to give effect to the determination of the committee by *Gazette* notice.

Sub-clause (5) provides that the determination takes effect from the council's next general election. However, if the general election for the council takes place 12 months or more after the date of the determination, the determination takes effect at that election.

Clause 31. Assessment criteria for committee to use in determinations

Clause 31 sets out matters that the committee must consider when it makes a determination under clause 28. These are: communities of interest in the local government area including economic, social and regional interests; the types of communication and travel in the area with specific reference to issues arising out of remoteness or distance; population density and changes in the area; and the area's physical features.

Clause 32. Assessment criteria in relation to division of wards

Clause 32 sets out the matters the committee must also consider where a local government area will continue being, or is going to be, divided into wards. These include: number of electors for each ward being as near to equal as practicable at the next election; keeping the area of each ward containing rural and remote areas as small as practicable; keeping the demographic and geographic nature of each ward as uniform as practicable; and including an identifiable community wholly within one ward if practicable.

Part 3.3 Municipal, regional or shire plans

Clause 33. Meaning of *municipal, regional or shire plans*

Sub-clause (1) requires each council to have a plan for its local government area.

Sub-clause (2) provides that municipalities have municipal plans, regions have regional plans and shires have shire plans.

Sub-clause (3) provides that a council's plan must be accessible on its website and at its public office, and available for purchase from its public office.

Clause 34. Contents of municipal, regional or shire plan

Sub-clause (1) provides that a council's plan must include a service delivery plan and budget (or amended budget) for the financial year covered by the plan. It must also include or incorporate by reference any long-term strategic or community plan adopted by the council or a local authority that is relevant to the financial year covered by the plan, and the council's long-term financial plan. The plan must define the key performance indicators for assessing the council's performance for the financial year covered by the plan. If it is a regional plan, it must take into account the projects and priorities for the area identified by the local authority or authorities.

Sub-clause (2) provides that a council plan incorporates by reference a plan or assessment if it includes a link or reference to a webpage where the plan or assessment is accessible.

Clause 35. Municipal, regional or shire plans

Sub-clause (1) provides that each year a council must adopt its plan between 1 March and 30 June.

Sub-clause (2) requires a council to give a copy of the plan to the Agency by 30 June.

Sub-clause (3) sets out consultation steps a council must undertake before it adopts its plan. The council must at a meeting of the council, approve a draft of the plan; make the draft plan accessible on the council's website and make copies available for public inspection at the council's public offices. The council must publish a notice on its website and in a newspaper circulating generally in the area inviting written submissions on the draft plan within a period (at least 21 days) from the date of the notice. Finally, the council must consider the submissions made in response to the invitation and make any revisions to the draft the council considers appropriate in the light of the submissions.

Sub-clause (4) provides that a draft of the plan that is to be considered by council at a meeting prior to seeking public submission on the plan, must be given to the council members six business days before the meeting.

Sub-clause (5) clarifies that although a council's budget forms part of its plan, this clause does not apply to the adoption of the budget or an amended budget.

Sub-clause (6) provides that the adoption of a budget or amended budget by a council, the council's plan to conform to the budget or amended budget.

Clause 36. Core services

Sub-clause (1) enables the Minister to gazette a list of services that the Minister is of the view that a council should prioritise.

Sub-clause (2) requires the council to consider the Minister's list of services gazetted by the Minister when adopting its plan.

Chapter 4 Council and its members

Part 4.1 Council as body corporate

Division 1 Corporate nature, capacity and powers of council

Clause 37. Council as body corporate

Sub-clause (1) provides that a council is a body corporate with perpetual succession; has a common seal; and is capable of acquiring, holding and disposing real and personal property and of suing and being sued.

Sub-clause (2) provides that a court, judge or person acting judicially must take judicial notice of the common seal of a council affixed to a document and are to assume that it was duly fixed.

Sub-clause (3) provides that a council has the name given to it under clause 16(1)(h).

Sub-clause (4) provides that a council has the functions and powers given to it under this or another Act.

Clause 38. How council acts in its corporate capacity

Sub-clause (1) provides that a council acts through: local authorities, council committees, staff, officers and agents to whom it has authorised for it or delegated its powers to act on its behalf; persons authorised by this Act or a by-law to act on its behalf; or under its common seal. The note for sub-clause (1) clarifies that It follows that a contract is to be made by a council under its common seal or by an officer or other agent of the council with authority to act on its behalf.

Sub-clause (2) requires the use of the common seal to be authorised or ratified by council resolution and attested by the signatures of the council CEO and a minimum of one council member.

Clause 39. Formation, ownership or participation in other bodies corporate

Sub-clause (1) prohibits a council from forming, owning (whether in full or in part) or participating in any way in any type of corporation, partnership or other trading body. It is irrelevant what the purpose of the formation, ownership or participation is.

Sub-clause (2) provides an exception to the prohibition in sub-clause (1), where approval may be given by the Minister after the Minister has consulted with the Treasurer about the formation, ownership or participation. The Minister may attach any conditions the Minister thinks fit to such an approval.

Division 2 Delegation

Clause 40. Delegation

Sub-clause (1) provides that the powers and functions of a council may be delegated.

Sub-clause (2) sets out a list of persons or bodies that a council can delegate to. These are a council committee, local authority, local government subsidiary or the Council CEO.

Sub-clause (3) sets out matters that a council cannot delegate. These are the powers to: impose rates and charges; enter into a transaction on conditions that are not arm's length conditions subject to sub-clauses (4) and (5); and make a decision that requires a council resolution subject to sub-clauses (4) and (5). A delegation cannot duplicate or derogate from the CEO's functions including delegated functions. If the power to incur financial liabilities is delegated, the council must, by resolution, fix reasonable limits on the delegate's authority. In addition, if the power to enter into a contract is delegated, the contract must be below the threshold value.

Sub-clause (4) provides that despite sub-clause (3), a council may delegate the power to enter into a transaction that is not on arm's length conditions, or waive a fee for service (wholly or partly), if the transaction or waiver will provide a community benefit. The note for sub-clause (4)(b) clarifies that a decision to waive a fee for service (wholly or partly) under clause 289(4) requires a council resolution.

Sub-clause (5) provides that a delegation under sub-clause (4) must comply with the regulations and any Ministerial guidelines.

Sub-clause (6) provides that within the first six months of a term of council, the council must resolve the contract threshold value applicable to sub-clause (3)(f).

Sub-clause (7) provides that a council may only delegate its powers or functions, as a responsible entity of a public or community cemetery or facility, under the *Burial and Cremation Act 2019* to a local government subsidiary.

Sub-clause (8) contains a definition for this clause of 'arm's length conditions'. In this clause, the 'arm's length conditions' means the conditions that might be expected to operate between commercial entities dealing wholly independently with one another in comparable circumstances.

Clause 41. Review of delegation

Clause 41 provides that a council must review all its delegations in the timeframe prescribed by the regulations.

Part 4.2 Council members

Division 1 Composition of councils

Clause 42. Composition of council

Clause 42 provides that a council consists of its elected or appointed members.

Clause 43. Vacancy etc. in office of member

Clause 43 provides that a decision or act of council is not invalid due to a: vacancy in the office of a council member; defect in the election or appointment of a council member; or council member acting in office while disqualified.

Division 2 Role of members

Clause 44. Role of members

Sub-clause (1) sets out the role of a council member, which is to: represent the interests of all residents and ratepayers of the council area; provide leadership and guidance; facilitate communication between the members of the council's constituency and the council; be properly informed to enable participation in the deliberations of the council and its community activities; ensure, as far as practicable, that the council acts honestly, efficiently and appropriately in carrying out its statutory responsibilities; ensure that council resources are used prudently and solely in the public interest; and actively monitor the financial affairs of the council.

Sub-clause (2) provides that a council member has no power to direct or control council staff, or interfere in the management of council staff.

Sub-clause (3) requires a council member to, at all times, act in what the member genuinely believes to be in the best interests of the constituency of the council.

Clause 45. Professional development of members

Sub-clause (1) provides that the CEO of the Agency may approve training courses for council members.

Sub-clause (2) requires the training courses to relate to council member responsibilities under this Act.

Sub-clause (3) provides that within 12 months after a general election, every council member must complete a training course approved under sub-clause (1).

Sub-clause (4) provides that a member elected or appointed to fill a casual vacancy must complete a training course approved under sub-clause (1) within 12 months after the by-election or appointment. However, if a member is elected or appointed less than 12 months before the next general election, the member does not have to complete an approved training course.

Division 3 Terms and conditions of membership

Subdivision 1 Term of membership and disqualification

Clause 46. Eligibility for membership

Clause 46 provides that a person is eligible to be a council member unless they are disqualified under clause 47.

Clause 47. Disqualification

Sub-clause (1) provides that a person is disqualified from being a council member if the person: holds a judicial office; is bankrupt; is sentenced to a term of imprisonment of 12 months or more for an offence against the law of the Commonwealth or of a State or Territory in the circumstances specified in sub-clause (3); or is a staff member of the council or of a local government subsidiary of which the council is a constituent council of the subsidiary. A person is also disqualified if they: are indebted to the council and fail to discharge the debt within six months after the debt becomes due and payable in accordance with the regulations; are certified mentally unfit to carry out the functions of a council member; are disqualified from managing a corporation under the *Corporations Act 2001* (Cth) or the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth); or are disqualified from being an officer of an incorporated association under section 40 of the *Associations Act 2003*. In addition, a person is disqualified from being a council member if they: are a member of the Commonwealth House of Representatives or Senate; are determined by NTCAT to be unfit to be a council member under clause 133; are incapable of holding a local government office for the period mentioned under section 89(3) of the Criminal Code; cease to be enrolled as an elector in respect of a place of residence within the area; cease to have a principal place of residence in the area; or are absent without permission of the council in accordance with the regulations, from two successive ordinary meetings of council. The note for sub-clause (1) clarifies that a person is not qualified to be a member of a council if the person is a member of the Legislative Assembly (see section 21(1)(a) of the *Northern Territory (Self-Government) Act 1978* (Cth)).

Sub-clause (2) provides that a "judicial office" in sub-clause (1)(a) includes a justice of the High Court, a judge of the Federal Court, a Supreme Court judge, a Local Court judge and a president, deputy president or an ordinary member of NTCAT. However, it does not include a justice of peace.

Sub-clause (3) clarifies that a person is disqualified under sub-clause (1)(c) if they are serving the term of imprisonment of 12 months or more over the period that the person would have otherwise been eligible as a council member or a candidate for election as a council member; or they are sentenced to a term of imprisonment of 12 months or more after the person is elected to be a council member.

Sub-clause (4) clarifies that for a person to be disqualified on the grounds they are mentally unfit to carry out the functions of a council member under sub-clause (1)(g), there has to be certification from two 2 medical practitioners certifying that the person is mentally unfit, and likely to remain unfit for the remainder of the person's term of office, to carry out the functions of a council member.

Clause 48. Basic term of office

Clause 48 provides that a council member is elected or appointed for a term that ends at the conclusion of the next general election for the council. A member that is still eligible for membership may seek re-election for one or more successive terms.

Clause 49. Disclosure requirements

Sub-clause (1) provides that a member must, as soon as practicable, notify the CEO if the member is convicted of any offence.

Sub-clause (2) provides that the CEO must notify the Agency of a member being convicted of an offence within 14 days of being notified by the member.

Sub-clause (3) makes it an offence for a member to fail to notify the CEO if the member is convicted of an offence. The maximum penalty for this offence is 100 penalty units.

Sub-clause (4) provides that the offence at sub-clause (3) is a strict liability offence.

The note for the clause clarifies that if a member is convicted of an offence demonstrating that the member to be unfit to remain in office, NTCAT may determine the member is unfit to be a member under clause 133.

Subdivision 2 Casual vacancies

Clause 50. Casual vacancies

Clause 50 provides that, subject to this Act, a person ceases to be a council member if they resign in writing, die or are disqualified.

Clause 51. Resignation or notification if disqualified

Sub-clause (1) requires a council member to resign in writing to the council CEO if the member believes the member is disqualified, other than where NTCAT determines the member to be unfit for office under clause 133.

Sub-clause (2) provides that such a resignation takes effect when it is given in writing to the CEO and cannot be withdrawn.

Sub-clause (3) requires the CEO to give a copy of the written notice under sub-clause (1) to the Electoral Commissioner, as soon as practicable.

Sub-clause (4) provides that the CEO must, as soon as practicable, notify the Electoral Commissioner if a member has died.

Sub-clause (5) makes it an offence for a person who is disqualified from office as a council member if they are reckless in relation to that circumstance and they fail to resign by written notice to the CEO, as soon as practicable. The maximum penalty for this offence is 100 penalty units.

Sub-clause (6) provides that for the offence in sub-clause (5), strict liability applies to the person failing to resign by written notice to the CEO as soon as practicable.

Clause 52. Electoral Commissioner to confirm if person is not enrolled as an elector

Clause 52 provides that if a person is disqualified from being a council member because the person is not enrolled as an elector in the council area but the person has not resigned, the council CEO must seek written confirmation of this from the Electoral Commissioner. If the Electoral Commissioner confirms that the person is not enrolled in the area, the person is disqualified as from the date of the Commissioner's written confirmation.

Clause 53. Notifying CEO of resignation

Clause 53 provides that if a member resigns by written notice to the council CEO for any other reason other than disqualification, the resignation takes effect on the date the notice is given or on a date specified in the notice, but that date cannot be more than three months later. The notice cannot be withdrawn. The CEO must give a copy of the written notice to the Electoral Commissioner as soon as practicable.

Clause 54. Filling casual vacancy generally

Sub-clause (1) provides that this clause applies to casual vacancies of members other than the principal member.

Sub-clause (2) provides that if a casual vacancy occurs less than 18 months before the next general election, the council may fill the vacancy by appointing a person through a vote of existing members. This is an option and a council may still decide to fill the vacancy by having a by-election. If a vacancy occurs with six months or less until the next general election, the council has three options: it can hold a by-election, appoint a person through a vote of the existing members or leave the position vacant. Where a casual vacancy occurs 18 months or more before the next general election, the council must have a by-election to fill the vacancy.

Sub-clause (3) provides that any filling of a casual vacancy under sub-clause (2) must be in accordance with the council's policy for filling casual vacancies. This policy must be adopted by council resolution.

Clause 55. Reinstatement if member stands as candidate

Sub-clause (1) provides that if a council member resigns to stand as a candidate in a Legislative Assembly, Commonwealth House of Representatives or Senate election, the person is reinstated if: the resignation takes effect no more than 28 days before nominations close for the election; the person is not elected; and the person applies to the CEO for reinstatement within seven days of the election result being known.

Sub-clause (2) provides that a member reinstated under sub-clause (1) is not entitled to any remuneration, allowances, expenses or benefits for the period between the resignation taking effect and reinstatement.

Sub-clause (3) provides that if the reinstated member was the principal member, they are reinstated as the principal member and the vacancy is taken to be a period during which the member was absent from official duties.

Sub-clause (4) provides that if the member reinstated was the deputy principal member and the deputy's term of office did not expire during the period between resignation and reinstatement, they are reinstated as the deputy principal member. If the deputy's term of office expired during the period between resignation and reinstatement, the member is reinstated as an ordinary member.

Sub-clause (5) provides that if a member resigns under sub-clause (1), is not elected and does not apply within seven day of the election result being known to be reinstated as a member, the member ceases to hold office. The member also ceases to hold office if the member is elected.

Subdivision 3 Eligibility for office

Clause 56. Determination of eligibility for office by NTCAT

Clause 56 provides that a person may apply to NTCAT to determine whether a council member is eligible to hold office is the member may be disqualified under clause 47, unless the alleged disqualification is in relation to the member being enrolled as an elector within the council area or disqualification is in relation to a determination by NTCAT on the unfitness of the person to be a council member under clause 133.

The member whose eligibility is to be determined is the respondent to the application. The applicant must serve the application on the respondent and the respondent may, within 7 days after service or a longer period allowed by NTCAT, file in NTCAT a reply to the application. The reply must be served on the applicant.

If NTCAT does determine that a member is ineligible, it may dismiss the member from office. NTCAT must notify the Electoral Commissioner if it dismisses a member.

Subdivision 4 Protection from liability

Clause 57. Protection from liability

Clause 57 provides immunity from liability to a member when that member might have become liable either civilly or criminally in the course of performing an act or making an omission, in good faith, in the exercise of the member's official functions, or in circumstances where the member honestly purports to exercise the member's official function. Instead, any civil liability that the member may have incurred attaches to the council.

Subdivision 5 Principal member

Clause 58. Mayor or President

Clause 58 provides that the principal member of a municipal council is to have the title 'Mayor', except in the case of City of Darwin, where the principal member is to be known as the 'Lord Mayor' and Litchfield Council, where the council may, by resolution, decide that the principal member instead has the title of 'President'. In the case of the councils for regions and shires, the respective councils may, by resolution, decide the principal member is to have the title of 'Mayor' or 'President'.

Clause 59. Role and functions of principal member and deputy or acting principal member

Sub-clause (1) sets out the additional roles of a principal member, which are: chairing council meetings; speaking on behalf of council; liaising with the CEO about the CEO's performance of the CEO's functions and the council's performance of its functions; promoting behaviour among members of council that meets the standards set out in the code of conduct and leading the council's review of the CEO's performance.

Sub-clause (2) requires the deputy principal member to carry out any of the principal member functions delegated to the deputy by the principal member or when the principal member is absent from official duties.

Sub-clause (3) provides that if the principal member is absent from official duties and there is no deputy principal member or the deputy is not available to act in the position, a council may resolve to appoint another member to act in the principal member's position for a specified period or until the principal member resumes official duties.

Clause 60. Election or appointment of principal member

Sub-clause (1) provides that the principal member of a council is to be elected or appointed.

Sub-clause (2) provides that a council is taken to have chosen appointment as the basis of filling the office of principal member, unless the council changes the basis of filling the office under sub-clause (3).

Sub-clause (3) provides that the basis of filling the office of principal member may be changed by a council special resolution.

Sub-clause (4) provides that if a council changes the basis of filling the office of principal member, it must notify the Electoral Commissioner and the CEO of the Agency as soon as practicable.

Sub-clause (5) provides that changing the basis of filling the office of principal member can only be done once in a term of council and must happen at least 12 months before but not more than 18 months before the end of that council's term.

Sub-clause (6) provides that if the basis is changed, it does not take effect until the next general election. If the basis is changed to election, the number of council members increases by one and if the basis is changed to appointment, the number of council members decreases by one.

Sub-clause (7) provides that if the classification of a local government area is changed under clause 16, the basis of filling the office of principal member remains the same unless and until changed under this clause.

Clause 61. Election or appointment of principal member and deputy principal member

Sub-clause (1) provides that where election is the basis of filling the office of principal member, this occurs at each general election.

Sub-clause (2) provides that where appointment is the basis of filling the office of principal member, the appointment must occur at the first meeting after a general election by council appointing one of its members to be the principal member.

Sub-clause (3) provides that a council may appoint another of its members to be the deputy principal member.

Clause 62. Term of office

Sub-clause (1) provides that where a principal member is appointed or elected, their term of office concludes upon the completion of the next general election.

Sub-clause (2) provides that a council may appoint a deputy principal member for a term concluding upon the completion of the next general election, or any lesser term fixed by the council when the deputy is appointed.

Clause 63. Resignation of principal member

Sub-clause (1) provides that if a principal member is appointed, they may resign from the office of principal member and remain as an ordinary member of the council.

Sub-clause (2) provides that a resignation must state that the principal member is resigning from the office of principal member and whether or not they are also resigning as an ordinary member.

Sub-clause (3) provides that if a resignation is silent about whether or not the principal member is also resigning as an ordinary member, they are taken to have resigned from the office of principal member only.

Sub-clause (4) provides that where an elected principal member resigns, they are not entitled to continue as an ordinary member.

The note for the clause clarifies that clause 52 provides that a resignation takes effect on the date the notice is given to the CEO or on a date (not more than 3 months later) specified in the notice.

Clause 64. Resignation of deputy principal member

Sub-clause (1) provides that a deputy principal member may resign as deputy and continue as an ordinary member.

Sub-clause (2) provides that a resignation must state that the deputy principal member is resigning from the office of deputy and whether or not they are also resigning as an ordinary member.

Sub-clause (3) provides that if a resignation is silent about whether or not the deputy principal member is also resigning as an ordinary member, they are taken to have resigned from the office of deputy principal member only.

The note for this clause clarifies that clause 53(1)(b) provides that a resignation takes effect on the date the notice is given to the CEO or on a date (not more than 3 months later) specified in the notice.

Clause 65. Filling casual vacancies – principal member

Sub-clause (1) provides that this clause applies when there is a vacancy in the office of principal member. The note for sub-clause (1) clarifies that clause 54(2) applies to fill the casual vacancy in the office of an ordinary member if appointment was the basis for filling the office of the principal member.

Sub-clause (2) provides that if the principal member was appointed and the vacancy occurs three months or more before the next general election, the council must appoint one of its members to the office of principal member. If the vacancy occurs less than three months before the next general election, the council may appoint one of its members or leave the office of principal member vacant.

Sub-clause (3) provides that if the principal member was elected and the vacancy occurs more than 18 months before the next general election, a by-election to fill the office of principal member must be held. If the vacancy occurs less than 18 months but more than three months before the next general election, the council may decide to appoint a member to fill the vacancy or hold a by-election. If the vacancy occurs three months or less before the next general election, the council may hold a by-election, or appoint one of its members to fill the vacancy, or leave the office of principal member vacant.

Sub-clause (4) provides that if a person is appointed to fill a vacancy in the office of an elected principal member, the person does not automatically become the principal member. The council may appoint this person or any of its members to be the principal member. If a council does not fill the vacancy of an elected principal member, it may appoint any of its existing members to the office of principal member.

Part 4.3 Council office

Clause 66. Council office

Sub-clause (1) requires a council to maintain at least one public office. A council may have more than one public office.

Sub-clause (2) provides that the council's public office or offices must be open to the public at reasonable times as determined by the council.

Sub-clause (3) clarifies that if a council has more than one public office, a document required to be displayed or available for inspection must be displayed or available for inspection at every public office of the council.

Part 4.4 Local government subsidiary

Clause 67. Local government subsidiary

Clause 67 provides that the Minister may approve one or more councils forming a local government subsidiary to carry out functions related to local government on behalf of the council or councils that formed it. The Minister's approval may be conditional and a subsidiary must comply with any conditions set by the Minister and any Ministerial guidelines.

Clause 68. Corporate identity and functions of local government subsidiary

Sub-clause (1) provides that a local government subsidiary comes into existence as a body corporate on a date fixed by the Minister in a *Gazette* notice.

Sub-clause (2) provides that a subsidiary is a body corporate with perpetual succession; has a common seal; and is capable of acquiring, holding and disposing real and personal property and of suing and being sued.

Sub-clause (3) provides that a court, judge or person acting judicially must take judicial notice of the common seal of a local government subsidiary affixed to a document and are to assume that it was duly affixed.

Sub-clause (4) provides that a local government subsidiary has the name assigned in its constitution and has the powers and functions given to it by its constitution.

Sub-clause (5) provides that a subsidiary acts through its appointed officers and agents or under its common seal.

Sub-clause (6) provides that a subsidiary's common seal may only be used in accordance with its constitution.

Sub-clause (7) provides that the constituent council or councils of a subsidiary are jointly and severally liable for its liabilities.

Clause 69. Constitution of local government subsidiary

Sub-clause (1) provides that a local government subsidiary's constitution must be approved by the Minister.

Sub-clause (2) provides that the constitution must state that the constituent council or councils guarantee the subsidiary's liabilities.

Sub-clause (3) provides that a subsidiary's constitution may be amended by the constituent council or councils with the approval of the Minister.

Sub-clause (4) provides that the constituent council or councils and the Agency must have the subsidiary's constitution accessible on their websites.

Clause 70. Reporting obligations

Clause 70 provides that each constituent council for a local government subsidiary is responsible for ensuring proper financial accounts being kept for the subsidiary. Each constituent council must include or incorporate by reference a report on the subsidiary's activities and audited financial statements for the subsidiary in the council's annual report.

Clause 71. Chief executive

Clause 71 provides that a local government subsidiary must appoint an individual to be its chief executive, who is in charge of its day to day operations. If a person is disqualified from managing a corporation under the *Corporations Act 2001* (Cth) or *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) or disqualified from being an officer of an incorporated association under the *Associations Act 2003*, the person may not be the chief executive of a subsidiary. However, a person becomes eligible to be the chief executive if the circumstances that would otherwise have rendered the person ineligible in the past no longer apply to the person.

Clause 72. Delegation by chief executive

Clause 72 provides that a subsidiary chief executive may delegate a power or function to a person or committee but must not delegate to a council committee, audit committee or local authority.

Clause 73. Offences for conflict of interest

Sub-clause (1) provides that if a subsidiary staff member has a personal or financial interest in a matter where they are authorised to act or give advice and do not disclose the interest, they commit an offence. If the staff member is the chief executive, disclosure must be to the local government subsidiary, or for any other staff member disclosure must be to the chief executive. The maximum penalty for this offence is 100 penalty units.

Sub-clause (2) provides that if a subsidiary staff member has a personal or financial interest in a matter where they are authorised to act or give advice and act in a way other than as authorised, they commit an offence. The maximum penalty for this offence is 100 penalty units.

Sub-clause (3) provides that the offences in sub-clauses (1) and (2) are strict liability offences.

Sub-clause (4) provides that a defence to the offences in sub-clauses (1) and (2) is that the defendant was unaware of the personal or financial interest.

Sub-clause (5) provides that the subsidiary may place conditions on any authorisation given to the chief executive and may authorise the chief executive to provide authorisation to another staff member on any conditions considered appropriate by the chief executive.

Sub-clause (6) provides that the authorisation under sub-clause (5) for a subsidiary with one constituent council can only be given by resolution of the council. For a subsidiary with multiple constituent councils, the authorisation can only be given by resolution of the subsidiary.

Sub-clause (7) contains an extended definition of 'staff member' for this clause which includes contractors, delegates and agents and persons working under labour hire arrangements.

Clause 74. Abolition of local government subsidiary

Clause 74 provides that the Minister may abolish a local government subsidiary by notice in the *Gazette*. When abolishing a subsidiary, the Minister may override the constitution of a subsidiary and make directions regarding the transfer or vesting of its property, rights and liabilities.

Chapter 5 Local decision making

Part 5.1 Local authorities

Clause 75. Object

Clause 75 provides that the object of this Part is to achieve effective integration and involvement of local communities in the system of local government as it relates to regions.

Clause 76. Local authorities

Clause 76 provides that the Minister may publish a notice in the *Gazette* that identifies a council that must establish and administer one or more local authorities. Such a council must establish and maintain local authorities in accordance with any Ministerial guidelines. The Minister may abolish a local authority by notice in the *Gazette*.

Clause 77. Constitution of local authority

Sub-clause (1) provides that a local authority must include at least one council member who is appointed by council resolution and other members of the community within the local authority area appointed by the council resolution. The note for sub-clause (1) clarifies that a member of the council's staff is eligible for appointment as a member of a local authority.

Sub-clause (2) requires any council member on a local authority to be a member of the ward in which the local authority's area is located including the principal member of the council.

Sub-clause (3) provides that the appointment of members to a local authority must comply with any Ministerial guidelines.

Clause 78. Functions of local authority

Clause 78 sets out the functions of a local authority. These functions are to: involve local communities more closely in issues related to local government, ensure that local communities are given an opportunity to express their opinions on questions affecting local government; and allow local communities a voice in the formulation of policies for the locality as well as policies for the area and the region. Local authorities are also to take the views of local communities back to the council and act as advocates on their behalf; contribute to the development of the relevant regional plan; and make recommendations to the council in relation to the council's budget and the part of the council's area within which the local authority performs its functions. In addition, a local authority is to: approve the cemetery plan for each public cemetery and community cemetery located within the local authority's area; and perform other functions assigned to the local authority by the Minister, in accordance with any guidelines that the Minister may make.

Clause 79. Limits on functions of local authority

Clause 79 provides that a local authority must comply with any Ministerial guidelines and is subject to control and direction by the council.

Clause 80. Reporting

Clause 80 requires local authorities and councils to provide each other with any reports required under Ministerial guidelines and in accordance with those guidelines.

Clause 81. Council to work with local authority

Clause 81 requires a council for a region that has established a local authority to obtain advice from the local authority regarding the council's budget; expenditure priorities; service delivery; plans; strategic direction; funding; and matters relating to cemeteries within the local authority area. The

council must ensure its strategies and plans are informed by the vision and priorities of the local authority or authorities. The council must work with the local authority to develop good relationships between the council members and people and organisations in the area.

The note for this clause clarifies that: a council's regional plan must take into account the projects and priorities for the area as identified by a local authority under clause 34(1)(c) and the minutes of a meeting of a local authority must form part of the agenda of the next ordinary meeting of the council under clause 101(5). In addition, a council's annual report must provide an assessment of the council's performance of service delivery and projects with reference to the advice and recommendations of a local authority or authorities under clause 291(1)(g).

Part 5.2 Council committees

Clause 82. Council committees

Sub-clause (1) provides that a council may establish one or more committees by resolution.

Sub-clause (2) provides that the committee consists of the persons appointed to it by council resolution.

Sub-clause (3) provides that committee members do not have to be members of the council. The note for this sub-clause clarifies that a member of the council's staff is eligible for appointment as a member of a council committee (even though staff members are disqualified from membership of the council itself).

Sub-clause (4) provides that the council decides that terms and conditions for the office of a council committee member.

Sub-clause (5) provides that a council may abolish a committee by resolution.

Sub-clause (6) provides that the establishment or abolition of a committee must be in accordance with any Ministerial guidelines.

Clause 83. Nature of committee's functions

Clause 83 provides that a committee has the functions given to it by the council, which may be of an executive or advisory nature. The committee carries out, on behalf of the council, functions delegated to it by the council and must have written terms of reference approved by council resolution that set out these functions.

Clause 84. Control and direction by council

Clause 84 provides that a council committee is subject to control and direction by the council.

Clause 85. Procedures

Clause 85 provides that a committee may determine its own procedures but this is subject to any direction by the council.

Part 5.3 Audit committees

Clause 86. Audit committee

Sub-clause (1) provides that a council must establish an audit committee by resolution and is responsible for maintaining the audit committee.

Sub-clause (2) provides that a council is to appoint persons to the audit committee by resolution.

Sub-clause (3) provides that audit committee members do not have to be members of the council. The note for this sub-clause clarifies that a member of the council's staff is eligible for appointment as a member of an audit committee (even though staff members are disqualified from membership of the council itself).

Sub-clause (4) prohibits the chairperson of an audit committee from being a member of the council or staff member of the council.

Sub-clause (5) provides that the council decides the terms and conditions for the office of an audit committee member.

Sub-clause (6) provides that a council may abolish an audit committee by resolution.

Sub-clause (7) provides that the establishment or abolition of an audit committee must be in accordance with any Ministerial guidelines.

Clause 87. Nature of committee's functions

Clause 87 sets out the functions of an audit committee, which are monitoring and reviewing a council's financial management and internal controls, as well as making recommendations to the council about any matters the committee considers require the council's consideration as a result of to the monitoring and reviewing the council's financial management and internal controls.

Clause 88. Control and direction by the council

Clause 88 provides that an audit committee is subject to control and direction by the council.

Clause 89. Procedures

Clause 89 provides that an audit committee may determine its own procedures but this is subject to any direction by the council.

Chapter 6 Meetings

Part 6.1 Council meetings

Clause 90. Nature and timing of council meetings

Sub-clause (1) provides that a council must hold at least one ordinary meeting in every two-month period.

Sub-clause (2) provides that any kind of business may be dealt with at an ordinary meeting, subject to this Act.

Sub-clause (3) provides that after a general election, a council must hold its first ordinary meeting within 21 days after the election's conclusion and at that meeting must determine the ordinary meeting schedule for the entire term of council.

Sub-clause (4) provides that a council may decide to alter the ordinary meeting schedule determined under sub-clause (3) at a subsequent meeting.

Sub-clause (5) provides that a council may hold a special meeting at any time to deal with a particular item of business.

Clause 91. Convening of meetings

Sub-clause (1) provides that the CEO convenes a council's meetings.

Sub-clause (2) provides that the CEO must convene a special meeting to deal with particular business: if requested to do so by the principal member or three or more other members; or if council has resolved that such a meeting is to be convened.

Sub-clause (3) provides that any member of council may convene a special meeting if the CEO fails to do so as required under the Act.

Clause 92. Notice for meeting

Sub-clause (1) provides that a notice convening a council meeting must be written, stating the date, time, place and agenda including confidential business. The notice must contain any business papers including confidential business papers for the meeting and must be given to the members at least three business days prior to the meeting date. For a special meeting, the notice must be given to the members at least four hours prior to scheduled starting time of the meeting.

Sub-clause (2) provides that the notice may be given to a member by post, email, other electronic means, personally or in another way arranged with the member.

Clause 93. Publication of notice

Sub-clause (1) provides that a notice for an ordinary meeting must be published on the council's website and posted on a notice board at the council's public office or offices at least three business days prior to the meeting date. For a special meeting, a notice must be published on the council's website and posted on a notice board at the council's public office or offices at least four hours prior to scheduled starting time of the meeting.

Sub-clause (2) provides that the notice must state if any confidential business is to be considered at a meeting and identify the provision under which each such matter is confidential.

Sub-clause (3) provides that if it is impractical to post the business papers on a notice board in the council's office or offices, the business papers may be excluded from the posted notice so long as the notice sets out where to access the papers on the council's website.

Sub-clause (4) provides that if the business papers a council considers have been amended or are in any way different from those published prior to the meeting, the papers considered during the meeting must be published on the council's website when the meeting minutes are published.

Sub-clause (5) provides that if any other papers or documents are considered at a meeting that were not published and posted for the meeting in accordance with this clause before the meeting, then those papers and documents must be published on the council's website when the meeting minutes are published.

The note for this clause clarifies that information may be suppressed from the material that is made publicly available because the information is confidential (see clause 293) and that the regulations prescribe the information that may be suppressed.

Clause 94. Business to be considered at meeting

Clause 94 provides that business of any kind may be dealt with at an ordinary meeting but only the particular business for which the meeting is being held may be dealt with at a special meeting. Should a council wish to deal with other business at a special meeting, all the council's members must be present at the meeting and there must be a unanimous resolution that the other business be dealt with.

Clause 95. Procedure at meeting

Sub-clause (1) provides that the chair of a meeting is: the principal member; the deputy principal member if the principal member is not in attendance; the acting principal member if the principal member and deputy are not in attendance; or if there is no principal member, deputy principal member or acting principal member in attendance, another member chosen, by resolution of the members present at the meeting.

Sub-clause (2) provides that a quorum at a council meeting is the majority of council members holding office at the time of the meeting. If there is a vacancy in the office of one or more members, a vacant position does not count towards quorum calculations.

Sub-clause (3) provides that a member can be taken to be present at a meeting if: the council has a policy approved by resolution allowing audio or audiovisual attendance; the member's audio or audiovisual attendance is effected for the meeting; and the member has the same or substantially the same opportunities to participate in the meeting as those present in person.

Sub-clause (4) provides that a council decision requires a majority of votes of the members present (or attending under sub-clause (3)) at the meeting.

Sub-clause (5) provides that each member has one vote and must exercise that vote on every matter arising for decision (that is, they cannot abstain from voting). Where the chair has a casting vote and there is an equality of votes, the chair must exercise the casting vote (and cannot abstain from exercising the casting vote).

Sub-clause (6) provides that a policy giving the chair a casting vote must be resolved at the first council meeting after a general election and applies until the next general election. This policy cannot be altered or rescinded during the term of council.

Sub-clause (7) provides that voting is by show of hands unless there is a unanimous decision by council to have a secret ballot.

Sub-clause (8) provides that subject to any by-laws or this Act, a council can decide its own meeting procedures.

Part 6.2 Meetings of audit committees, council committees and local authorities

Clause 96. Timing of meetings of audit committees, council committees and local authorities

Sub-clause (1) provides that council committees and audit committees meet the times they decide, subject to any direction by the council.

Sub-clause (2) provides that local authorities meet at the times they decide, subject to any direction by the council or Ministerial guidelines.

Clause 97. Convening of meetings

Sub-clause (1) provides that the CEO convenes the meetings of audit committees, council committees and local authorities.

Sub-clause (2) provides that if the chair of an audit committee, council committee or local authority requests that the CEO convene a meeting of the audit committee, council committee or local authority respectively, the CEO may do so.

Sub-clause (3) provides that a notice convening a meeting must: be in writing; state the date, time, place and agenda for the meeting; be given to the members of the audit committee, council committee or local authority within the timeframe prescribed by regulation and before the time

appointed for the meeting; be accessible on the council's website within the timeframe prescribed by regulation and before the time appointed for the meeting; and be posted on a notice board at the council's public office or offices within the timeframe prescribed by regulation.

Sub-clause (4) provides that the notice of a meeting may be given to a member by post, email, other electronic means, personally or in another way arranged with the member.

Clause 98. Procedure at meeting

Sub-clause (1) provides that the chair of a council committee or audit committee is a member of the committee appointed by the council as chairperson and the chair of a local authority is a local authority member appointed by the local authority as chairperson.

Sub-clause (2) provides that the quorum for a meeting of an audit committee, council committee or local authority is the majority of its members holding office at the time of the meeting.

Sub-clause (3) provides that a member can be taken to be present at a meeting if: the council has a policy approved by resolution allowing audio or audiovisual attendance; the member's audio or audiovisual attendance is effected for the meeting; and the member has the same or substantially the same opportunities to participate in the meeting as those present in person.

Sub-clause (4) provides that a decision requires a majority of votes of the members present (or attending under sub-clause (3)) at the meeting.

Sub-clause (5) provides that local authorities, council committees and audit committees may determine their own meeting procedures, subject to any direction by the council.

Part 6.3 Provisions of general application to meetings of audit committees, councils, council committees and local authorities

Clause 99. Meetings to be open to public

Sub-clause (1) provides that council, council committee and local authority meetings are to be open to the public.

Sub-clause (2) allows a meeting to be closed to the public while matters prescribed by the regulations as confidential business are being considered.

Sub-clause (3) requires the public agenda for a meeting to identify any confidential business that is to be considered and the type of matter it is.

Sub-clause (4) provides that an audit committee meeting is not required to be open to the public.

Clause 100. Postponement of meeting

Sub-clause (1) sets out how a meeting may be postponed to a time later the same day if a quorum is not present within 30 minutes of the meeting's scheduled start time. This can be done by: the chairperson: the majority of members present if there are two or more members present but the chairperson is not present: or the CEO if neither the chairperson or two or more members are present.

Sub-clause (2) provides that If a meeting is postponed under sub-clause (1), the CEO must, in writing, record the fact that the meeting was postponed and the record must be: published on the council's website; and posted on the notice board at the council's public office or offices.

Sub-clause (3) provides that if it is not practicable for the meeting to be postponed to a time later that day under sub-clause (1), the CEO may postpone it to another time in the following 21 days.

Sub-clause (4) requires the person who postpones a meeting under sub-clause (1) to notify each member of the postponement and the time and place of the re-scheduled meeting.

Sub-clause (5) requires a notice of postponement to be published on the council's website and posted on a notice board at the council's public office within the timeframe prescribed by regulation, for a postponement under sub-clause (3).

Clause 101. Minutes

Sub-clause (1) requires the CEO to ensure that minutes are kept of all audit committee, council committee, council and local authority meetings.

Sub-clause (2) requires the minutes to include: the names of the members present at the meeting; the matters considered or decided at the meeting, including any confidential matters; and any other information required by regulation. The minutes must also include references to any written reports or recommendations considered in the course of the meeting together with information about how to obtain access to the reports or recommendations.

Sub-clause (3) requires the audit committee, council committee, council or local authority to confirm the minutes at its next meeting, including the minutes on any confidential business.

Sub-clause (4) requires the audit committee, council committee and local authority minutes to be tabled at the next council meeting.

Sub-clause (5) requires the minutes from each local authority meeting to be included in the agenda of the next ordinary council meeting.

Sub-clause (6) requires the council to respond to each local authority regarding the local authority's minutes.

Clause 102. Public access to minutes

Sub-clause (1) provides that this clause applies to minutes of a council, council committee or local authority.

Sub-clause (2) requires a copy of the minutes to be available on a council's website and at its public office or offices within 10 business days after the meeting.

Sub-clause (3) provides that if confidential business was considered at a meeting, the minutes must state so and identify the provision under which the matter was classified as confidential. The note for this sub-clause clarifies that information may be suppressed from the material that is made publicly available because the information is confidential (see clause 293) and that the regulations prescribe the information that may be suppressed.

Sub-clause (4) provides that a member of the public can inspect a copy of the minutes free of charge at a council's public office and may, subject to the payment of any fee imposed by the council, obtain a copy of the minutes or a copy of, or extract from, the minutes that has been certified by the CEO.

Sub-clause (5) provides that until the minutes are confirmed as a correct record of the meeting, the publically available minutes are to be marked as unconfirmed and no certified copy or extract can be provided.

Part 6.4 Meetings of electors

Clause 103. Calling meeting of electors

Clause 103 provides that a council may call a meeting of electors for its council area or for a ward within the council area. A local authority may also call a meeting of electors for its local authority area. The meeting of electors is called by giving notice of the time and place of the meeting on the council's website; displaying a notice at the council's public office; and publishing a notice in a newspaper circulating generally in the area.

Clause 104. Procedure at meeting

Sub-clause (1) provides that the meeting chair is nominated by the council, or if the case requires, by the local authority.

Sub-clause (2) provides that the chair determines the meeting procedures, subject to directions by the council or local authority.

Sub-clause (3) provides that for a question for decision at the meeting, each elector is entitled to one vote.

Sub-clause (4) provides that a determination of a person's eligibility to vote may be made by the chair and is conclusive.

Sub-clause (5) provides that a decision of the meeting is made by majority vote.

Clause 105. Effect of resolution passed at meeting of electors

Clause 105 provides that a resolution of a meeting of electors is not binding on the council.

Chapter 7 Rights and obligations of members

Part 7.1 Allowances and expenses

Clause 106. Allowance for members of council

Sub-clause (1) provides that a member is to be paid an ordinary allowance, extra meeting allowance and professional development allowance. The Remuneration Tribunal determines the maximum amounts of these allowances.

Sub-clause (2) requires a council to pay these allowances to its members.

Sub-clause (3) requires the allowances payable by a council to be published on its website.

Sub-clause (4) provides that the Minister is to determine the maximum allowances for a council if there is not a Remuneration Tribunal determination applicable to the council.

Sub-clause (5) provides that an allowance payable under Chapter 7 cannot exceed the maximum amount.

Clause 107. Allowance for members of local authority

Clause 107 provides that local authority members are paid allowances by the council, in accordance with any Ministerial guidelines.

Clause 108. Allowances generally

Sub-clause (1) provides that allowances must be fixed as part of the council's budget each year.

Sub-clause (2) provides that the regulations may prescribe the manner in which allowances are fixed and paid by the council.

Clause 109. Expenses and benefits

Sub-clause (1) sets out the only circumstances where a member of a council, audit committee, council committee or local authority may be entitled to payment or reimbursement of reasonable travel and accommodation expenses. This is subject to any conditions determined by the council. The circumstances are where the travel or accommodation is necessary to attend: a meeting of the council, council committee, audit committee or local authority to which the member belongs; or business of the council where there is a prior resolution of the council that the member will attend.

Sub-clause (2) provides that a council may adopt a policy by resolution that allows council members to have payment or reimbursement of other reasonable expenses and for non-monetary benefits.

Sub-clause (3) requires all expenses and benefits under this clause to be part of the council's budget and the relevant expenditure incurred to be quantified in the council's monthly and annual financial reports.

Part 7.2 Interests

Clause 110. Annual return of interests – members

Sub-clause (1) provides that council members must submit an annual return of the member's interests to the CEO within 60 days after being elected and by 30 September each year for the duration of the council member's term. The annual return of interests must contain the details prescribed by regulation.

Sub-clause (2) provides that the annual return must be submitted in the prescribed form.

Sub-clause (3) provides that if a member has submitted a return after 31 March, they are not required to submit another return before 30 September in that same calendar year.

Sub-clause (4) provides that a member commits an offence if the member engages in conduct which results in a failure to submit the annual return in accordance with this clause. The maximum penalty for this offence is 20 penalty units.

Sub-clause (5) provides that the offence in sub-clause (4) is of strict liability.

Sub-clause (6) provides a defence of reasonable excuse for the offence in sub-clause (4).

Clause 111. Register of annual returns of interests

Clause 111 provides that the CEO must maintain a register of the annual returns submitted by council members.

Clause 112. Relevant gifts and benefits

Clause 112 requires a council to adopt a policy by resolution regarding gifts or benefits received by council members. The policy must differentiate between gifts and benefits given to the council from those given to an individual member and must comply with any Ministerial guidelines. If a council member receives a gift or benefit, the member must notify the CEO as soon as practicable.

Clause 113. Register of declared gifts and benefits

Clause 113 requires the CEO to maintain a register of declared gifts and benefits. The register must: identify the member that received the gift or benefit; provide details of the gift or benefit, in

accordance with the council's policy adopted under clause 112(1); and include any other information required by the regulations.

Clause 114. Conflict of interest

Sub-clause (1) provides that a member of a council, audit committee, council committee or local authority has a conflict of interest if the member has a direct interest, indirect financial interest, indirect interest by close association or indirect interest due to conflicting duties in a matter being considered by council.

Sub-clause (2) sets out exceptions to a conflict of interest for the purposes of this clause. These are: an interest that the member or associate shares in common with the general public or a substantial section of the public; an interest as an elector or ratepayer that the member or associate shares in common with other electors or ratepayers; and an interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

Sub-clause (3) defines 'direct interest', 'indirect financial interest', 'indirect interest by close association' and 'indirect interest due to conflicting duties' for the purposes of this clause.

A 'direct interest' means an interest that occurs when a member is likely to be directly affected if the matter is decided in a particular way. For example, a company controlled by the member is tendering for a contract that is being discussed by the council.

An 'indirect financial interest' means an interest that occurs when a member is likely to receive a benefit or incur a loss because another person has an interest. For example, the member has shares in, or is employed by, a company that is tendering for a contract that is being discussed by the council.

An 'indirect interest by close association' means an interest that occurs when an associate of a member has a direct or indirect interest, or a resident of the member's household has a direct interest. For example, the member's sibling is suing the council and the council is considering whether to settle the matter. Another example is a resident of the member's household is tendering for a contract that is being discussed by the council.

An 'indirect interest due to conflicting duties' means an interest that occurs when a member is a director, partner, agent, trustee, manager, office holder or employee of a person or entity, including a non-profit body or association, that has a direct interest. For example, the member is a director of a non-profit body or association that is seeking a sponsorship or donation being discussed by the council. Another example is the member is an employee of a non-profit body or association that is tendering for a contract being discussed by the council.

Clause 115. Disclosure of interest

Sub-clause (1) provides that a member of a council, audit committee, council committee or local authority must disclose the interest that conflicts with a matter being considered by a council, council committee, audit committee or local authority at the meeting and to the CEO, as soon as practicable after the member becomes aware of it.

Sub-clause (2) prohibits a member from being present at a meeting while a matter the member has a conflict with is being considered; participating in any consideration of the matter; or engaging in any other behaviour that could influence the consideration of or decision on the matter.

Sub-clause (3) allows the Minister to approve a member participating in the consideration of or decision on a matter the member has a conflict in, subject to any conditions imposed by the Minister.

Sub-clause (4) provides that a member commits an offence if the member intentionally engages in conduct which results in a failure to disclose an interest and the member is reckless in relation to that result. The maximum penalty for this offence is 100 penalty units or 6 months imprisonment.

Sub-clause (5) provides that a member commits an offence if the member intentionally engages in conduct which results in a contravention of sub-clause (2) or a condition imposed by the Minister under sub-clause (3) and the member is reckless in relation to that result. The maximum penalty for this offence is 100 penalty units or 6 months imprisonment.

Sub-clause (6) provides that an elector or ratepayer for the area may apply to NTCAT to have a decision of a council, council committee, audit committee or local authority voided, if a member with a conflict of interest participated in the decision.

Clause 116. Register of declared conflicts

Clause 116 requires the CEO to maintain a register of declared conflicts of interest by council members. The register must: identify the member that declared the conflict; set out the nature of the interest; set out the type of matter on which there is a conflict; and include any other information required by the regulations.

Clause 117. Registers to be published

Clause 117 requires the register of annual returns of interests, register of declared conflicts and register of declared gifts and benefits to be published on the council's website.

Part 7.3 Confidential information

Clause 118. Improper use of information

Clause 118 creates an offence for improper use of information. A person commits an offence if they obtain information in their role as a member of a council, council committee, audit committee or local authority, and they intentionally engage in conduct which results in the improper use of the information and they are reckless in relation to that result. The maximum penalty for this offence is 400 penalty units or 2 years imprisonment. Strict liability applies in relation to a person obtaining information in their role as a member of a council, council committee, audit committee or local authority.

A person makes improper use of information if the person uses it to gain some private benefit for the person or another person, or uses it to inflict harm on another person.

Part 7.4 Code of conduct

Division 1 Code of conduct to apply

Clause 119. Code of conduct to apply

Clause 119 provides that the code of conduct in Schedule 1 applies to all members of a council, council committee, audit committee or local authority and must be published on a council's website.

Division 2 Contravention of code of conduct by council members

Subdivision 1 Complaint and review of decision about complaint

Clause 120. Complaints of contravention of code of conduct

Clause 120 provides that a person who believes that a council member has contravened a council's code of conduct may lodge a complaint with the CEO stating the name of the member alleged to have committed the contravention and giving particulars of the alleged contravention. The complaint must: be in the approved form; include a statutory declaration, made by the person, verifying the allegations of fact made against the council member; and be made within 3 months after the date of the alleged contravention.

Clause 121. Policy for contravention of code of conduct

Clause 121 requires a council to adopt by resolution a policy for how it will manage any code of conduct complaint. Management of complaints by a council should not be ad hoc and all members should be treated equally.

Clause 122. Complaint referred to council by CEO

Sub-clause (1) requires the CEO to refer a complaint received to the council as soon as practicable.

Sub-clause (2) provides that a council is to decide the complaint, refer it to a council panel to decide the complaint or refer the complaint to a third party.

Sub-clause (3) provides that a council panel consists of at least three members of the council.

Sub-clause (4) provides that the regulations may prescribe further procedural matters to be undertaken by the CEO or council on receipt of a complaint.

Clause 123. Council or council panel decides complaint

Sub-clause (1) provides that if the council or council panel decide the complaint, the options are to decide: that no action is to be taken; that there was a breach of the code of conduct; or there was not a breach made out.

Sub-clause (2) provides that where no action is to be taken is decided under sub-clause (1), a decision about whether a breach of the code of conduct has occurred is not necessary.

Sub-clause (3) provides that if the council or panel decides that there has been a breach, the options are to: take no action; issue a reprimand to the respondent; or recommend that either party or any other person attend training, mediation or counselling.

Clause 124. Complainant or respondent may request referral to third party or refer to prescribed corporation

Sub-clause (1) provides that the complainant or respondent may request that the council refer the complaint to an independent third party before the council decides its course of action under clause 123.

Sub-clause (2) provides that a council is to consider a request under sub-clause (1) but does not have to adhere to such a request.

Sub-clause (3) provides that the respondent or a complainant that is a member of the council can direct the council to refer the complaint to the prescribed corporation. A complainant that is not a member of the council cannot direct a council to refer the complaint to the prescribed corporation.

Clause 125. Referral to third party

Sub-clause (1) provides that this clause applies if the council has referred the complaint to a third party under clause 122(2)(c); or the complainant or respondent has requested that the complaint be considered by a third party under clause 124(1) and the council has accepted the request.

Sub-clause (2) requires the third party to consider the complaint and refer it back to the council.

Sub-clause (3) provides that the third party may give advice in relation to the complaint to the council.

Sub-clause (4) requires the council to consider any advice given to it by the third party regarding the complaint and then decide the complaint.

Clause 126. Notice of decision – council or council panel

Clause 126 requires a council or panel that has decided a complaint to provide the parties with a decision notice within 90 days of the complaint being received by the CEO. A complainant or respondent may, within 28 days of receiving the decision notice, apply to the prescribed corporation for consideration of the complaint.

Clause 127. Referral or application for consideration to prescribed corporation

Sub-clause (1) provides that this clause applies if a referral under clause 124(3) or an appeal of a decision under clause 126(3) has been made.

Sub-clause (2) requires the prescribed corporation to form a panel with two nominees of the corporation and one nominee of the Agency to consider a complaint referred to it under this clause.

Sub-clause (3) provides that the options for the panel are to decide: that no action is to be taken; that there was a breach of the code of conduct; or there was not a breach made out.

Sub-clause (4) provides that where no action is to be taken is decided under sub-clause (3), a decision about whether a breach of the code of conduct has occurred is not necessary.

Sub-clause (5) provides that if the panel decides that there has been a breach, the options are to: take no action; issue a reprimand to the respondent; recommend that either party or any other person attend training, mediation or counselling; or any other recommendation the panel considers appropriate.

Clause 128. Procedure of prescribed corporation panel

Sub-clause (1) provides that the prescribed corporation panel may summarily reject a frivolous or vexatious complaint, a complaint that is lacking in substance or a complaint that would appear to contain the subject matter of a criminal charge.

Sub-clause (2) requires the panel to give a decision notice of a summary rejection under sub-clause (1) on the grounds that the complaint is frivolous, vexatious or lacking in substance.

Sub-clause (3) requires the panel to give the parties an opportunity to make representations to the panel, if the panel proceeds to review the decision.

Sub-clause (4) provides that the panel must decide an application made under clause 126(3) as if the council or the council panel had not made a decision in relation to the complaint.

Sub-clause (5) provides that the panel may obtain information in any way it considers appropriate and is not bound by the rules of evidence. However, the rules of natural justice would still apply.

Sub-clause (6) provides that proceeding of the panel are to be held in a public place unless the panel considers that it is not in the public interest to do so.

Clause 129. Notice of decision – prescribed corporation panel

Clause 129 provides that the prescribed corporation panel must give a decision notice to the parties to the complaint within 90 days of receiving an application.

Clause 130. Failure to comply with prescribed corporation panel recommendation

Sub-clause (1) provides that if a person does not comply with a prescribed corporation panel recommendation, a party to the complaint may apply to NTCAT to deal with the non-compliance.

Sub-clause (2) provides that NTCAT may: order a party to the complaint or another person to attend training, mediation or counselling; order the respondent to not contravene the code of conduct in future; or make any other order NTCAT considers appropriate.

Subdivision 2 No decision by council, council panel or prescribed corporation panel

Clause 131. No decision by council or council panel

Sub-clause (1) provides that if the council or council panel does not give a decision notice within 90 days, either party may refer the complaint to the prescribed corporation.

Sub-clause (2) requires a complaint referred under sub-clause (1) to be considered in accordance with clauses 127-129.

Clause 132. No decision by prescribed corporation panel

Sub-clause (1) provides that if the prescribed corporation panel does not give a decision notice within 90 days, either party may refer the complaint to NTCAT.

Sub-clause (2) requires a complaint referred under sub-clause (1) to be considered in accordance with clauses 127 to 130, as though NTCAT were the prescribed corporation panel.

Sub-clause (3) provides that in addition to the powers set out in clause 127, NTCAT may: order a party to the complaint or another person to attend training, mediation or counselling; order the respondent to not contravene the code of conduct in future; or make any other order.

Part 7.5 Removal from office by NTCAT

Clause 133. Removal of member from office

Sub-clause (1) provides that if a council member is convicted of an offence, a person may apply to NTCAT to determine if the member is unfit to remain in office.

Sub-clause (2) requires the applicant to reside in and be an elector for the local government area the member represents.

Sub-clause (3) sets out the factors that NTCAT must consider in determining if the member is unfit for office. These are: whether the nature and details of the offence makes the member unfit to remain in office; the member's role as a community representative; the member's position of influence and trust; and the member's responsibility for managing public funds.

Sub-clause (4) gives NTCAT the power to dismiss the member if it determines the member to have been convicted of an offence that demonstrates the member to be unfit for office.

Sub-clause (5) provides that where NTCAT dismisses a member under sub-clause (4), it may also disqualify the person from being a council member of any Northern Territory local government council for a period of up to five years.

Sub-clause (6) requires NTCAT to notify the Electoral Commissioner if NTCAT dismisses a member under sub-clause (4) or disqualifies a person from holding office under sub-clause (5).

Chapter 8 Elections and polls

Part 8.1 General elections

Clause 134. Minister's power to call general election

Sub-clause (1) states that the Minister may call a general election for an area of a local government council for any of the following reasons: the area is newly constituted; a substantial change is made affecting the electoral representation of the area, subject to sub-clause (3); or a general election fails for any reason.

Examples of a substantial change affecting the electoral representation for a local government council area include if the area is divided into separate wards, if there is a substantial change to the boundaries of the local government council area, or if there is a substantial change to the boundaries of the wards within a local government council area.

Sub-clause (2) clarifies that a general election is called by *Gazette* notice, which fixes a date for the election.

Sub-clause (3) allows the Minister to call a by-election for the relevant ward or wards, instead of calling a general election for the entire local government area, if the substantial change affecting the electoral representation of the area is because the area is divided into wards or there is a change in the boundaries of the wards within the area.

Clause 135. Periodic general elections

Sub-clause (1) clarifies that a periodic general election is to be held on Saturday, 28 August 2021. After this, the periodic general election is to be held on the fourth Saturday in the month of August in the fourth year after the most recent previous periodic general election.

Sub-clause (2) states that the Northern Territory Electoral Commissioner (Electoral Commissioner) may provide that a periodic general election is to be held on a date other than referred to in sub-clause (1) for two reasons. First, if the date for a Federal election mentioned in section 394 of the *Commonwealth Electoral Act 1918* (Cth) is the same as the nominal date. Second, if the date for a Territory election under the *Electoral Act 2004* is the same as the nominal date.

Sub-clause (3) restricts the new date for the periodic general election under sub-clause (2) applies. The new date for the periodic general election must not be earlier than two months before or later than two months after the nominal date.

Sub-clause (4) clarifies that if a general election for an area is called by the Minister under clauses 134, 319(1) or 139(2) and that election is held less than one year before the date for a periodic general election, then a further periodic general election for the area must not be held on the later date and instead must be held on the date on which it is scheduled to be held in accordance with sub-clause (1)(b). In other words, the fourth Saturday in the month of August in the fourth year after the periodic general election would have been held but for the application of the one-year rule in this sub-clause.

Sub-clause (5) restricts the calling of a general election for a local government area. A general election must not be called less than three months before a periodic general election.

Part 8.2 By-elections

Clause 136. By-elections

Sub-clause (1) clarifies that this clause applies if a by-election must be held under clauses 54(2)(c), 65(3), 134(3) or otherwise as prescribed by regulation.

Sub-clause (2) provides that if a council member whose seat has become vacant represented a ward, the by-election is confined to the relevant ward.

Sub-clause (3) provides that the returning officer is to fix the date for the by-election.

Sub-clause (4) requires, in relation to a by-election held under clause 54(2)(c), that the date for the by-election must fall within four months after the Electoral Commissioner is notified of the casual vacancy or confirms the casual vacancy under clause 52(2).

Sub-clause (5) clarifies that if the by-election mentioned in sub-clause (4) is because a council member has resigned, the nomination date for the by-election must be after the date that the council member's resignation takes effect.

Sub-clause (6) clarifies that unless a person is appointed to be a returning officer under sub-clause (7), the by-election processes, including nomination and other related processes, is to be conducted in accordance with what is decided by the Electoral Commissioner. The note for sub-clause (6) clarifies that clause 141 provides that regulations may provide for the conduct of elections, including by-elections, for which the returning officer is appointed under sub-clause (7). Those by-elections must be conducted in accordance with the regulations.

Sub-clause (7) provides that the relevant local government council may appoint the chief executive officer of the council or another person (not the Electoral Commissioner) to be the returning officer for the by-election. In order to do this, the local government council must do the following within two months after the Electoral Commissioner is notified of the casual vacancy or confirms a casual vacancy under clause 52(2): pass a council resolution appointing the returning officer; and, if the person is not the chief executive officer of the council, enter into a contract with the person for the performance of the functions of the returning officer.

Sub-clause (8) requires the local government council to notify the Electoral Commissioner of the identity of the returning officer as soon as practicable after the council appoints the person to be the returning officer. This clause clarifies that this cannot be later than five days after the appointment.

Sub-clause (9) clarifies that a failure to notify the Electoral Commissioner of the appointment of the returning officer does not affect the validity of the local government council's appointment.

Sub-clause (10) provides that 'returning officer' in relation to a by-election under this clause means the person appointed by the local government council's resolution or otherwise appointed by the Electoral Commissioner.

Clause 137. Resolution for mandatory postal vote election

Sub-clause (1) allows a municipal council to decide that the only way to vote in a by-election is by postal vote. This is referred to as a 'mandatory postal vote election'.

Sub-clause (2) requires the municipal council, if the council decides that there is to be a mandatory postal vote election for a by-election, to pass a resolution that declares the by-election to be a mandatory postal vote election within two months of the Electoral Commissioner being notified of the casual vacancy or confirming a casual vacancy under clause 52(2).

Sub-clause (3) requires the municipal council to notify the following persons that the resolution under sub-clause (2) has been passed: the Electoral Commissioner and the returning officer (if the

returning officer is not the Electoral Commissioner). This must be done as soon as practicable and no later than five days after the resolution is passed.

Sub-clause (4) clarifies that a failure to notify a person as required by sub-clause (3) does not affect the validity of the resolution passed by the municipal council.

Part 8.3 Electors and electoral rolls

Clause 138. Entitlement to vote

Clause 138 provides that a person is entitled to vote at an election for a local government council if enrolled as an elector for the area or ward in which the election is held. A person is considered an elector for the purposes of such an election if they are an elector on the date the electoral roll closes for the relevant election.

Clause 139. Electoral rolls

Sub-clause (1) requires the Electoral Commission to prepare a new electoral roll for an area or ward, whenever necessary, to allow for the conduct of an election.

Sub-clause (2) clarifies that the electoral roll must contain the same information about each elector required for a roll prepared under the *Electoral Act 2004*. The note for this sub-clause clarifies that section 11 of the *Electoral Act 2004* specifies the information required of a roll prepared under that Act.

Sub-clause (3) clarifies that if the address of an elector is suppressed from a roll prepared under the *Electoral Act 2004*, it must also be suppressed from the electoral roll prepared under sub-clause (1).

Sub-clause (4) provides that the electoral roll closes for an election on a date determined in accordance with the regulations.

Sub-clause (5) requires the electoral roll to be available for public inspection at the Electoral Commission's public offices, between the close of the roll until the conclusion of the election.

Sub-clause (6) requires the Electoral Commissioner to give a copy of the electoral roll to the returning officer as soon as practicable after the roll closes for a by-election. This sub-clause does not apply if the returning officer is the Electoral Commissioner.

Sub-clause (7) provides that access to the electoral roll for the local government area or ward is to be permitted on the same basis as access to a roll under the *Electoral Act 2004*.

Clause 140. Use of electoral roll for by-election

Sub-clause (1) makes it an offence for a returning officer for a by-election who has been given a copy of an electoral roll under clause 139(6) to intentionally engage in conduct that results in the information from the electoral roll being used improperly, with the returning officer reckless in relation to the result. Strict liability applies to the returning officer is given a copy of the electoral roll. This offence carries a maximum penalty of 80 penalty units.

Sub-clause (2) provides that if the returning officer for a by-election is given a copy of an electoral roll, it is an offence for any other person apart from the returning officer for a by-election to intentionally engage in conduct that results in the information obtained from the electoral roll being used improperly, with the person being reckless in relation to the result. Strict liability applies to the returning officer is given a copy of the electoral roll. This offence carries a maximum penalty of 50 penalty units.

Sub-clause (3) provides that strict liability applies to the returning officer being given a copy of an electoral roll under clause 139(6).

Sub-clause (4) provides that the meaning of 'improper' in relation to the use of the copy of the electoral roll, means that the copy of the roll is used other than for a proper purpose connected with the by-election.

Part 8.4 Conduct of elections

Clause 141. Conduct of elections and polls

Sub-clause (1) provides that a local government election must be conducted in accordance with the regulations. This clause is subject to clause 136(5), which relates to the by-election if a council member resigns.

Sub-clause (2) provides that if a periodic general election is held on the polling day for the election under the *Constitutional Convention (Election) Act 2001*, the regulations may provide for any of the following: additional provisions to facilitate the holding of the election under the *Constitutional Convention (Election) Act 2001* and the periodic general election on that day; modifications of specified provisions in Chapter 8 of this Act and the regulations to facilitate the holding of both elections on the same day; a matter arising because of the holding of both elections on the same day.

Clause 142. Voting

Sub-clause (1) provides that voting in all local government elections is compulsory.

Sub-clause (2) allows, subject to the regulations and whether there is a resolution passed by a municipal council for a mandatory postal vote election, an elector to vote by any of the following voting methods: by returning a postal vote; if the Minister approves – by voting electronically in a manner approved by the Minister; by attending and voting at a voting centre; or in any other way authorised by regulation.

Sub-clause (3) makes it an offence for an elector to fail to vote at a local government election. It is a defence to a prosecution for this offence if the defendant has a reasonable excuse. This is an offence of strict liability and carries a maximum penalty of one penalty unit.

Part 8.5 Electoral disputes

Clause 143. Disputing validity of election or poll

Sub-clause (1) allows the returning officer or any person with a proper interest in the result of an election to dispute the election result by application to NTCAT.

Sub-clause (2) clarifies that a person has a proper interest in an election result if they were a candidate for election for the relevant area, a prospective candidate for election for the relevant area whose nomination was rejected, or an elector for the relevant area.

Sub-clause (3) provides that an application to NTCAT to dispute an election result must state the grounds on which the applicant seeks relief and the nature of the remedy sought by the applicant.

Sub-clause (4) requires that the application to NTCAT to dispute an election result be filed with the Registrar of NTCAT within 21 days after the conclusion of the relevant election.

Sub-clause (5) provides that the 21 day period in sub-clause (4) cannot be extended.

Clause 144. Service of application

Sub-clause (1) requires that an application that is disputing the result of a local government council election to be served on: the returning officer; any member or candidate for election whose position could be affected by the result of the application; and any other person whom NTCAT directs service.

Sub-clause (2) clarifies that any person on whom an application is served is a respondent to the application.

Sub-clause (3) allows a respondent under sub-clause (2) to file a reply to the application within seven days after service of the application. However, a longer period to file a reply may be allowed by NTCAT.

Sub-clause (4) requires that a reply under sub-clause (3) to be served on the applicant and any other respondents.

Clause 145. Powers of NTCAT

Sub-clause (1) provides that NTCAT has the following powers: to declare the election void and order another election; to declare a person who should have been declared elected to have been duly elected; to declare a respondent not to have been duly elected; to order that the votes for an ineligible candidate be distributed to the next candidate in relation to the voter's preferences on the ballot paper.

Sub-clause (2) limits the exercise of powers by NTCAT under sub-clause (1). NTCAT must not disturb the result of a local government election on the ground of an error affecting the conduct of the election, unless satisfied that the error is material and is likely to have affected the election result.

Sub-clause (3) requires the Registrar of NTCAT – if, in the course of inquiry under Part 8.5, finds that a person has committed an offence – to report the finding to the Minister as soon as practicable.

Sub-clause (4) provides that NTCAT cannot inquire into the correctness of an electoral roll and must take the roll to be conclusive evidence that the persons enrolled were, at the close of the roll, entitled to be enrolled.

Sub-clause (5) clarifies that section 140 of the *Northern Territory Civil and Administrative Tribunal Act 2014* does not apply to a decision of NTCAT in relation to disputing the results of a local government council election. In other words, a person cannot seek an internal review by NTCAT of an original decision made by NTCAT under this clause.

Clause 146. Exclusive method of challenge

Clause 146 clarifies that the validity of an election result cannot be challenged except by proceedings in accordance with Part 8.5.

Part 8.6 Donation disclosure

Clause 147. Definitions

Clause 147 provides for the definitions of 'campaign donation return', 'details', 'disclosure period' and 'donation' for the purposes of Part 8.6.

'Campaign donation return' means the return required to be completed by all candidates and provided to the Electoral Commission in accordance with clause 148.

The meaning of 'Details' depends on the context. For a donation or loan made on behalf of the members of an unincorporated association, other than a registered industrial organisation, 'details' means the name of the association; and the names and addresses of the members of the executive committee (however described) of the association. For a donation or loan made out of a trust fund or the funds of a foundation, 'details' mean the names and addresses of the trustees of the fund or

foundation; and the name, title or description of the trust fund or foundation. For another type of donation or loan, 'details' means the name and address of the person or entity that made the donation or loan.

'Disclosure period' means the period for disclosure mentioned in clause 149.

'Donation' means gifts totalling \$200 or more to the same candidate, by the same donor, for the relevant disclosure period. However, this excludes a gift made in a private capacity to a candidate for the candidate's personal use and that gift has not used (or will not use), by the candidate, solely or substantially for a purpose related to the relevant election.

Clause 148. Campaign donation return

Sub-clause (1) requires every local government candidate for a periodic general election, general election or by-election to provide a campaign donation return for the disclosure period to the Electoral Commission. The return must be provided within 40 days after the expiry of the disclosure period.

Sub-clause (2) requires that the campaign donation return to be in the form approved by the Electoral Commission.

Clause 149. Period for disclosure

Sub-clause (1) provides for the disclosure period in relation to a campaign donation return. The disclosure period for a candidate who was an elected member of the council immediately prior to the election begins on the day that the results of the previous election were declared. The disclosure period for a candidate who was an appointed member of the council immediately prior to the election begins on the day when the member was appointed. The disclosure period for any other candidate begins on the earlier of either the day that candidate publicly announced their candidacy or the day the candidate was nominated.

Sub-clause (2) provides that the disclosure period in relation to the campaign donation return ends on the day the results of the relevant election are declared.

Clause 150. Candidate to know details for donation or loan

Clause 150 provides that a candidate must not accept a donation or loan from a person during the relevant disclosure period unless the candidate knows the details for the campaign donation return for the donation or loan (refer to clause 151(1)).

Clause 151. Contents of return

Sub-clause (1) provides that the contents of the campaign donation return must set out the: amounts or values of each donation made to the candidate (directly or indirectly); dates each donation was made; donor details; amounts and terms of any loan to the candidate; and lender details in relation to any loans.

Sub-clause (2) requires a candidate to provide a nil campaign donation return if the candidate did not receive any donations or loans during the relevant disclosure period.

Sub-clause (3) requires the Electoral Commissioner to make a copy of the all campaign donation returns publicly available for inspection within 30 days after the candidate was required to provide the return. It must be available for four years, starting from the date the return is required to be publicly available for inspection under this sub-clause.

Sub-clause (4) requires the candidate to keep and maintain records relevant to the donations or loans specified in the campaign donation return for a period of four years.

Clause 152. Incomplete return

Clause 152 allows a candidate – if the candidate cannot complete a campaign donation return – the ability to prepare the return to the extent possible and give the Electoral Commission a notice that states the following: the return is incomplete; the particulars the candidate cannot obtain; the reasons why the candidate cannot obtain the particulars; and the name and address of a person if the candidate reasonably believes that the person mentioned can provide the necessary particulars.

Clause 153. Permission to amend return

Clause 153 allows a candidate to request permission from the Electoral Commission to personally amend a campaign donation return to correct an omission or error; or for the Electoral Commission to otherwise amend a return to correct an omission or error.

Clause 154. Offences

Sub-clause (1) makes it an offence for a candidate to engage in conduct that results in a failure to give the Electoral Commission a campaign donation return in the timeframe that is required. This offence carries a maximum penalty of 100 penalty units.

Sub-clause (2), makes it an offence for a candidate to engage in conduct that results in the candidate providing an incomplete return to the Electoral Commission. This offence does not apply if the candidate complies with the preparing of an incomplete return in accordance with clause 152. This offence carries a maximum penalty of 100 penalty units.

Sub-clause (3) provides that strict liability applies to the offences in sub-clauses (1) and (2).

Sub-clause (4) provides that it is a defence to a prosecution for an offence in sub-clauses (1) and (2) if the defendant has a reasonable excuse.

Clause 155. Time limit for starting prosecutions

Clause 155 provides that a prosecution of an offence against clause 154(1) or (2) can be started within four years after the offence, despite section 52 of the *Local Court (Criminal Procedure) Act 1928* and clause 329(4).

Clause 156. Investigation by Electoral Commission

Clause 156 clarifies that sections 216 to 219 of the *Electoral Act 2004* apply to Part 8.6.

Part 8.7 Miscellaneous matters

Division 1 Interpretation

Clause 157. Definitions

Clause 157 signposts the definitions of ‘campaign material’ (which is in sub-clause 158) and ‘electoral matter’ (which is in sub-clause 159) for Part 8.7.

Clause 158. Meaning of *campaign material*

Sub-clause (1) provides that ‘campaign material’ means an advertisement, document or any other thing that is intended to promote the electoral prospect of a particular candidate (or group of candidates) for an election.

Sub-clause (2) provides, without limiting the interpretation of sub-clause (1), a list of examples of campaign material. Campaign material includes any of the following: an electoral advertisement; a printed document containing an electoral matter; a message containing an electoral matter that is

sent by telephone or otherwise broadcast electronically; and published material containing an electoral matter.

Sub-clause (3) allows the returning officer for an election to declare a thing mentioned in sub-clause (1) or (2) to not be considered campaign material. This declaration must be in writing.

Sub-clause (4) provides that the returning officer for an election may only declare a thing to not be campaign material under sub-clause (3) if the returning officer is satisfied that the declaration is warranted. In deciding whether the declaration is warranted, the returning officer must have regard for the following matters: any information contained in the thing and the presentation of the information; the person for whom the thing is created; and the way in which the thing is intended to be used or otherwise distributed. The returning officer also has the discretion to take into account any other matters that the returning officer considers appropriate to be satisfied that the declaration under sub-clause (3) is warranted.

Clause 159. Meaning of electoral matter

Sub-clause (1) provides that 'electoral matter' means matter that is intended or likely to affect voting at an election (whether in printed or electronic form).

Sub-clause (2) provides, without limiting the interpretation of sub-clause (1), further details in relation to what is taken to be intended or likely to affect voting an election in relation to the meaning and interpretation of electoral matter. Electoral matter is taken to be intended or likely to affect voting at an election if it contains an express or implicit reference to or comment on any of the following: the election; or a candidate for the election; or the performance of a member, or former member, of a council; or an issue submitted to, or otherwise before, the electors in relation to the election.

Division 2 Miscellaneous matters

Clause 160. Minister's powers in relation to election

Clause 160 allows the Minister to extend the time for holding an election (or for taking any step in relation to the holding of an election) before or after the expiration of a relevant time limit.

Clause 161. Caretaker policy during general election

Sub-clause (1) requires a local government council to adopt, by council resolution, a caretaker policy governing the conduct of the council and council staff from the commencement of the nomination day for a general election as prescribed by regulation until the result of the general election is declared in accordance with the regulations.

Sub-clause (2) requires the caretaker policy to be published on the local government council's website.

Clause 162. Interference with proper conduct of election or poll

Sub-clause (1) makes it an offence for a person to intentionally engage in conduct that results in the obstruction or interference with the proper conduct of an election, with the person reckless in relation to that result. This offence carries a maximum penalty of 400 penalty units or two years imprisonment.

Sub-clause (2) makes it an offence for a person to intentionally engage in conduct that constitutes violence or intimidation and results in the influence of the vote of an elector at an election, with the person is reckless in relation to the result. Strict liability applies to the conduct constituting violence or intimidation. This offence carries a maximum penalty of 400 penalty units or two years imprisonment.

Clause 163. Secrecy of vote

Sub-clause (1) makes it an offence for a person acting in an official capacity in relation to an election or assisting a person to vote to find out how a voter voted and intentionally engages in conduct that results in the disclosure of the voter's vote, with the person being reckless in relation to the result. Strict liability applies to the person is acting in an official capacity or assisting a person to vote and the person finding out how the voter voted. This offence carries a maximum penalty of 200 penalty units or 12 months imprisonment.

Clause 164. Offences relating to campaign material

Sub-clause (1) makes it an offence for a person to intentionally engage in conduct that results in the publication or distribution of campaign material, where the person is reckless in relation to that result. However, this offence does not apply in circumstances where the publication is an announcement by advertisement in a newspaper of the holding of a meeting. Additionally, this offence does not apply if the campaign material does all of the following: clearly states the name and address of the person authorising the publication or distribution; the source of the funding for that material; and includes the name and address of the printer who printed the document (if it is a printed document). If the campaign material is intended to be viewed from two sides, the name and address of person authorising the publication or distribution, the source of the funding for that material and the name and address of the printer who printed the document (if it is a printed document). This offence carries a maximum penalty of 100 penalty units.

Sub-clause (3) makes it an offence for a person to intentionally engage in conduct that results in the publication or distribution of campaign material that is likely to do any of the following: mislead an elector casting a vote; deceive an elector casting a vote; or improperly interfere with an elector casting a vote. Additionally, campaign material that contains an untrue or incorrect statement is captured by this offence provision. The person must also have knowledge of the circumstance where the campaign material contains an untrue or incorrect statement or is otherwise likely to mislead, deceive, or improperly interfere with an elector casting a vote. In relation to the publication or distribution of the campaign material in question, the person must be reckless in relation to that result. This offence carries a maximum penalty of 100 penalty units.

Chapter 9 Council staff

Part 9.1 Council's CEO

Clause 165. CEO

Sub-clause (1) requires a local government council to appoint an individual to be the chief executive officer of the council.

Sub-clause (2) allows the chief executive officer of the council to appoint a deputy chief executive officer for the period specified in the appointment. The specified period cannot exceed two years. This appointment must be in writing. The deputy chief executive officer is eligible for reappointment at the conclusion of the specified period.

Sub-clause (3) clarifies what happens in circumstances where the chief executive officer of the council is on leave. If there is a deputy chief executive officer, the deputy chief executive officer acts as the chief executive officer. If there is no deputy chief executive officer, or the deputy chief executive officer is absent or otherwise unavailable to act – a person who is nominated by the chief executive officer to act in such a situation acts as chief executive officer.

Sub-clause (4) requires the chief executive officer of the council to notify the principal member of the council of a nomination made by the chief executive officer under sub-clause (3)(b).

Sub-clause (5) provides that the CEO must notify all members of the council if the CEO will be on leave.

Sub-clause (6) provides that appointments to the office of chief executive officer of the council are to be made (as required) by the council in accordance with any the requirements prescribed by regulation and any relevant guidelines made by the Minister.

Clause 166. Eligibility for CEO and Deputy CEO

Sub-clause (1) provides that the following persons are not eligible to be the chief executive or deputy chief executive officer of the council: a person disqualified from managing a corporation under the *Corporations Act 2001* (Cth) or the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth); a person disqualified from being an officer of an incorporated association under section 40 of the *Associations Act 2003*; or a person that is bankrupt.

Sub-clause (2) clarifies that a person mentioned in sub-clause (1) becomes eligible to be the chief executive or deputy chief executive officer of the council if the circumstances mentioned in that sub-clause no longer apply to the person.

Clause 167. Role and functions of CEO

Clause 167 provides for the following responsibilities of a chief executive officer of a council: to ensure that the council's policies, plans and lawful decisions are implemented; to ensure council reviews council's policies, plans and decisions in a timely manner; to undertake the day-to-day management of the council's operations, including the management of council staff; to ensure that the appointment of council staff is properly managed within the budget allocated to staffing expenditure approved by the council; to ensure that the management of the council's operations are properly managed within the budget allocated to non-staffing expenditure approved by the council; to provide or obtain for the council the information and advice the council reasonably requires for effectively carrying out its functions; to ensure that the council's constituency is kept properly informed about council policies, programs and decisions; to ensure that appropriate and prompt responses are given to specific requests for information; to ensure that the council's assets and resources are properly managed and maintained; to ensure that proper standards of financial management are maintained, including proper controls over revenue and expenditure; to ensure that financial and other records are properly made and maintained; to appoint, manage and, if necessary, terminate the appointment of council staff (however, this does not include the appointment, management or termination of the chief executive officer of the council); to ensure that the council's policies on human resource management comply with clause 172; and to carry out other functions delegated to the CEO by the council or assigned to the CEO under this Act or another Act.

Clause 168. Delegation by CEO

Clause 168 allows the chief executive officer of a council to delegate a power or function under this Act or another Act to a person or committee, except the power to authorise a staff member in relation to a conflict of interest under clause 179(6). The chief executive officer of the council must not delegate a power or function to any of the following: an audit committee; a council committee; a local authority; or a local government subsidiary. Additionally, the chief executive officer of the council may only delegate a power or function under the *Burial and Cremation Act 2019* to an individual.

Clause 169. Vacancy

Clause 169 requires the local government council to advertise if there is a vacancy in the office of the chief executive officer of the council within six weeks of the vacancy occurring. Additionally, the council must advertise the vacancy in accordance with the requirements prescribed by regulation.

Part 9.2 Other staff

Clause 170. Other staff of council

Clause 170 clarifies that the chief executive officer of the council is responsible for the appointment of council staff in accordance with the budget allocated to staffing expenditure that is approved by the local government council.

Clause 171. CEO to notify council of change in staff

Clause 171 requires the chief executive officer of the council to notify each council member if any of the following occurs: if the chief executive officer appoints a person to be a council senior staff member; if a council senior staff member resigns; if a council senior staff member's appointment is terminated; and if a council senior staff member's contract expires and is not renewed.

Part 9.3 Principles and policies

Clause 172. Principles of human resource management

Clause 172 requires a council to adopt human resource management policies and ensure that those policies give effect to the following principles: that selection processes for appointment or promotion must be based on merit and must be fair and equitable; that council staff must have reasonable access to training and development and opportunities for advancement and promotion; that council staff must be treated fairly and consistently and must not be subjected to arbitrary or capricious decisions; that there must be suitable processes for dealing with employment-related grievances; that working conditions must be safe and healthy; that there must be no unlawful discrimination against any member of council staff (or potential member of council staff) on the ground of sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment, age or any other ground; and that there is no other form of unreasonable or otherwise unjustifiable discrimination against a member or potential member of council staff.

Clause 173. Employment policies

Sub-clause (1) requires the chief executive officer of the council to maintain up-to-date employment policies.

Sub-clause (2) clarifies that the council's employment policies must cover the following topics: recruitment; probation and performance assessment; opportunities for advancement that are based on merit and are fair and equitable; access to training and development; access to employment-related benefits; resolution of employment-related grievances; and may cover other employment-related subjects.

Sub-clause (3) requires that the council's employment policies to be consistent with the principles of human resource management that are specified in clause 172.

Clause 174. Allowances and other benefits policy

Sub-clause (1) requires a local government council to adopt, by council resolution, a policy that addresses allowances and any other benefits for the chief executive officer.

Sub-clause (2) requires the chief executive officer to determine a policy on allowances and any other benefits for other council staff.

Sub-clause (3) requires that the allowances and other benefits policies for the chief executive officer and other council staff must cover the following topics: allowances; vehicles; and accommodation. Additionally, they may cover other subjects related to allowances and other benefits.

Clause 175. Code of conduct for CEO and staff

Sub-clause (1) requires a local government council to adopt, by council resolution, a code of conduct for the chief executive officer.

Sub-clause (2) requires the chief executive officer of the council to determine the code of conduct for council staff.

Part 9.4 Local government subsidiary

Clause 176. Application to local government subsidiary

Sub-clause (1) provides that this Chapter applies to a local government subsidiary as if the subsidiary were a council and as if the subsidiary chief executive were a council CEO, except for Parts 9.1 and 9.7.

Sub-clause (2) provides that to comply with Part 9.3, a subsidiary may create its own policies and code of conduct or adopt the policies and code of its constituent council or one of its constituent council.

Sub-clause (3) provides that the subsidiary's policies and code must be approved by its constituent council or councils.

Part 9.5 Staff obligations

Clause 177. Standards to be observed by council's staff and local government subsidiary's staff

Clause 177 requires council staff including the CEO and local government subsidiary staff including the chief executive to maintain proper standards of integrity, diligence and concern for public interests when carrying out their functions. They must also be honest and conduct themselves with integrity. They must maintain diligence and concern for the public interest.

Clause 178. Annual return of interests – staff

Sub-clause (1) requires a CEO and council senior staff members to submit an annual return of interests to the council.

Sub-clause (2) requires the chief executive and senior staff of a local government subsidiary to submit an annual return of interests to the constituent council or councils of the subsidiary.

Sub-clause (3) provides that the returns must be submitted within 14 days of being employed and by 30 September each year.

Sub-clause (4) provides that where a person has submitted a return after 31 March in a year, the person does not have to submit another return before 30 September that year.

Sub-clause (5) provides that the council or constituent council or councils must maintain a register of the returns.

Sub-clause (6) provides that if a person is required to submit a return under this clause and fails to do so, the person commits an offence. The maximum penalty for this offence is 20 penalty units.

Sub-clause (7) provides that the offence in sub-clause (6) is of strict liability.

Sub-clause (8) provides that a defence of reasonable excuse is available to the offence under sub-clause (6).

Sub-clause (9) contains a definition for this clause of 'local government subsidiary senior staff member'. 'Local government subsidiary senior staff member' means a member of staff of the local government subsidiary employed in a position in the management level immediately beneath the chief executive of the local government subsidiary in the local government subsidiary's organisational structure; and directly reporting to the chief executive of the local government subsidiary. Of note, 'council senior staff member' is defined in clause 7.

Clause 179. Offences for conflict of interest

Sub-clause (1) provides that if a staff member has a personal or financial interest in a matter they are required to act or give advice on does not disclose a conflict of interest to the person they are required to under this sub-clause (if the staff member is the CEO then to the council, otherwise, then to the CEO), the staff member commits an offence. The maximum penalty for this offence is 100 penalty units.

Sub-clause (2) provides that if a staff member has a personal or financial interest in a matter they are required to act or give advice on and acts in a way other than what had been authorised, the staff member commits an offence. The maximum penalty for this offence is 100 penalty units.

Sub-clause (3) provides that the offences in sub-clauses (1) and (2) are of strict liability.

Sub-clause (4) provides a defence of being unaware of the interest for the offences in sub-clauses (1) and (2).

Sub-clause (5) requires any authorisation for a CEO to act in a matter in which the CEO has a conflict of interest to be by council resolution.

Sub-clause (6) requires any authorisation for a staff member other than the CEO to act in a matter in which the staff member has a conflict to be in writing by the CEO.

Sub-clause (7) provides that an authorisation to act in a matter in which a CEO or staff member has a conflict of interest to be for a specified instance in which a conflict arises. There cannot be blanket or ongoing authorisation to act in unspecified matters.

Sub-clause (8) contains an extended definition for this clause of 'staff member' which includes contractors, delegates and agents (other than a member of the council, a council committee or local authority) and persons working under labour hire arrangements.

Part 9.6 Rights and immunities of staff

Clause 180. Portability of long service leave rights

Clause 180 provides that if a staff member leaves an employer (called the 'former employer') and within three months joins another employer (called the 'later employer') they can transfer to their new job all long service leave rights. The staff member can do so by giving a notice to the later employer that they are electing to transfer all accrued and accruing rights to the new employment. To facilitate the transfer the clause makes it incumbent on the former employer to tell the later employer of the staff member's accrued and accruing rights. The information to be conveyed is the information that appears on the former staff member's records of employment held by the former employer. Not only must the former employer tell the later employer of the content of the records, it must also pay over to the later employer the sums accrued by the staff member by way of long service leave.

This clause only applies if both the former employer and the later employer are one of the following: a local government council for an area within the Territory; a local government subsidiary whose formation was approved by the Minister; or the prescribed corporation.

Clause 181. Resignation to contest election – staff members

Sub-clause (1) identifies the staff of councils and local government subsidiaries that this clause applies to if such a staff member resigns to contest a council, Legislative Assembly or Federal House of Representatives or Senate election.

Sub-clause (2) provides that this clause does not apply where a staff member resigns to contest a council election for a council that is not the staff member's employer or in the case of a staff member of a local government subsidiary, a council which is not a constituent council of the staff member's employer.

Sub-clause (3) sets out who a staff member must advise in writing of their resignation and that they wish to claim the benefit of this clause. If the staff member is the council CEO, then they must give written notice to the principal member of the council and if the staff member is the subsidiary chief executive, then they must give written notice to the constituent council or councils of the local government subsidiary. If the person resigning to contest an election is a staff member of a council or of a local government subsidiary, then the staff member must give written notice to the council CEO of the subsidiary chief executive for the local government subsidiary, respectively.

Sub-clause (4) provides that the resignation must not take effect more than 28 days before the close of nominations for the election.

Sub-clause (5) provides that if the staff member is not elected and wants to be reinstated, they must apply in writing within seven days after the election result is declared.

Sub-clause (6) provides that a reinstated staff member is to be taken to have been on unpaid leave between resignation taking effect and reinstatement.

Clause 182. Protection from liability

Clause 182 provides that if a council staff member performs an act or makes an omission in good faith while carrying out the functions given to them by the council and the act or omission incurs any civil or criminal liability, then that staff member is not personally legally responsible for that act. Any civil liability which would attach to that staff member instead attaches to the council.

Part 9.7 Authorised persons

Division 1 Appointment of authorised persons

Clause 183. Appointment of authorised persons

Clause 183 provides for persons to become authorised persons by appointment by the council. A council member may not be appointed as an authorised person. The council may, by written notice to the authorised person: add to or vary any limitations or conditions of appointment; or revoke the appointment.

Clause 184. Powers of authorised persons

Clause 184 provides that an authorised person can exercise all the powers given to an authorised person under the Act, subject to any limitations and conditions of appointment.

Clause 185. Identity card

Sub-clause (1) provides that the council must give an authorised person an identity card with the person's name and a statement that the person is an authorised person.

Sub-clause (2) requires the identity card to display a recent photograph of the authorised person, state the card's date of issue and expiry, and be signed by the authorised person.

Sub-clause (3) clarifies that this clause does not prevent the issue of a single identity card to a person for this and another Act.

Clause 186. Return of identity card

Clause 186 makes it an offence for a person who ceases to be an authorised officer not to return the person's identity card within 21 days of no longer being an authorised person. Strict liability applies to the offence and it has a maximum penalty of 20 penalty units. It is a defence to a prosecution for this offence if the defendant has a reasonable excuse.

Division 2 General powers of authorised person

Clause 187. Power to require statement of name and address

Sub-clause (1) provides that an authorised person can ask a person to provide their name and address or provide further evidence of a specified kind of identity, if the authorised person suspects the person of having committed an offence against this Act or the council's by-laws.

Sub-clause (2) provides that if a person does not comply with a requirement under sub-clause (1), the person commits an offence. The maximum penalty for this offence is 30 penalty units.

Sub-clause (3) provides that an offence under sub-clause (2) is of strict liability.

Sub-clause (4) provides that reasonable excuse is a defence against the offence in sub-clause (2).

Clause 188. Power to enter land or premises

Sub-clause (1) provides that an authorised person can, with the necessary authority, enter and remain on land or premises for an authorised purpose.

Sub-clause (2) provides that the necessary authority required for sub-clause (1) can be: the occupier's consent; a warrant issued by a justice of the peace; or the CEO's authorisation in an emergency.

Sub-clause (3) provides that a justice of the peace may issue a warrant to an authorised person if the justice of the peace is satisfied that there are reasonable grounds for the authorised person to enter the land or premises. The justice of the peace may only be satisfied for the purposes of this clause if there is information verified by oath supporting such a conclusion.

Sub-clause (4) provides that the authorised purposes for this clause are: investigating a suspected offence against the Act or a by-law; taking necessary action in an emergency to protect the health of, or to protect injury to a person or animal; taking necessary action in an emergency to relieve the suffering of an animal; and taking necessary action in an emergency to seize or destroy an animal. It is also an authorised purpose to destroy a dog that has attacked and injured a person in a public place within the preceding 24 hours. In addition, exercising a power conferred on an authorised person by the Act or a by-law is an authorised purpose.

Clause 189. Assistance of police

Clause 189 provides that an authorised person may request assistance from a police officer to exercise any of the authorised officer's powers.

Division 3 Obstruction of authorised person

Clause 190. Obstruction of authorised person

Clause 190 provides that if a person intentionally obstructs an authorised officer acting in their official capacity, the person commits an offence. Strict liability applies to the fact that it is an authorised

officer. The maximum penalty for this offence is 100 penalty units or 6 months imprisonment. For this clause, the expression 'obstruct' includes, without limitation, the concepts of 'hinder' and 'resist'.

Chapter 10 Financial management

Part 10.1 Receipt and expenditure of money

Clause 191. Definition

Clause 191 contains a definition for this Part of 'authorised deposit account', which means an account with an ADI (that is, an authorised deposit-taking institution).

Clause 192. Authorised deposit accounts

Clause 192 allows a council or local government subsidiary to establish authorised deposit accounts for proper financial administration. Any money received, or expenditure made, by a council or subsidiary must be into or from such an account, respectively.

Clause 193. Segregation of certain money

Sub-clause (1) requires trust money to be kept in a separate authorised deposit account to the general funds of a council or local government subsidiary. However, money from different trusts may be kept together in one account.

Sub-clause (2) requires funds received for a particular purpose to only be used for that purpose unless authorisation to do otherwise comes from the provider of the funds.

The note for this clause clarifies that if money is given on trust, this provision is not intended to limit the power of the Supreme Court to vary the terms of trust (see clause 266).

Part 10.2 Investment

Clause 194. Investment

Sub-clause (1) allows a council or local government subsidiary to invest funds not immediately required.

Sub-clause (2) provides that investment guidelines may be issued by the Minister after consulting with the Treasurer.

Sub-clause (3) allows a council to adopt a policy for investing money by resolution consistent with the Act and any Ministerial guidelines on investing money.

Sub-clause (4) allows a subsidiary to adopt a policy for investing money, approved by the constituent council or councils, that is consistent with the Act and any Ministerial guidelines on investing money.

Sub-clause (5) requires any investment by a council or subsidiary to be consistent with its policy.

Sub-clause (6) provides that a council or subsidiary cannot make investments, other than keeping funds in an interest bearing authorised deposit account, if it does not have a policy for investing money.

Part 10.3 Council or local government subsidiary borrowing

Clause 195. Definition

Clause 195 signposts a definition for this Part of 'borrowing', which is in clause 196.

Clause 196. Meaning of *borrowing*

Clause 196 sets out the meaning of 'borrowing'. A council or local government subsidiary 'borrows' money if the council or local government subsidiary obtains any form of financial accommodation. For example, the financial accommodation might take the form of an overdraft or a loan of some other kind. Another example is if a council or local government subsidiary acquires possession of goods under a hire-purchase agreement, a lease or an instalment purchase arrangement, the council or local government subsidiary is taken to borrow money equivalent to the present value of the future consideration to be paid by the council or local government subsidiary under the agreement, lease or arrangement.

Clause 197. Council's or local government subsidiary's power to borrow

Sub-clause (1) prohibits a council or local government subsidiary from borrowing money without approval from the Minister, who must consult the Treasurer before giving such approval, subject to sub-clause (2).

Sub-clause (2) provides that the Minister's approval is not required for an advance on overdraft if: the term of the advance does not exceed 2 months; and the amount of the advance does not exceed 2% of the council's total revenue for the last financial year for which the council has an audited financial statement. In addition, the Minister's approval is not required for a transaction classified as a minor transaction under Ministerial guidelines.

Sub-clause (3) sets out the procedural steps for a council or local government subsidiary to borrow money under sub-clause (1). Subject to sub-clause (4), a council may borrow money if the council has, by resolution, sought the Minister's approval to borrow money and the Minister has approved the borrowing of the money. Subject to sub-clause (4), a local government subsidiary may borrow money if the local government subsidiary has obtained written authorisation from each of its constituent councils to seek the Minister's approval to borrow money and the Minister has approved the borrowing of the money.

Sub-clause (4) sets out the procedural steps for a council or local government subsidiary to borrow money under sub-clause (2). If sub-clause (2) applies, a council may borrow money if the council has, by resolution, decides to borrow money, and a local government subsidiary may borrow money if the local government subsidiary has obtained written authorisation from each of its constituent councils to borrow money.

Sub-clause (5) sets out the details required within a council resolution or written authorisation from a local government subsidiary for the purposes of sub-clauses (3) and (4). The council resolution or local government subsidiary's written authorisation must specify: the amount to be borrowed; the proposed lender or provider of financial accommodation; the purpose of the loan or financial accommodation; and the terms of the loan or financial accommodation.

Clause 198. Security for borrowing

Sub-clause (1) provides that with the Minister's approval, a mortgage or charge over the property of a council or local government subsidiary can be given as security for a loan.

Sub-clause (2) provides that a council or subsidiary can also obtain a loan by using the present and future general revenue of the council or subsidiary as security.

Sub-clause (3) prohibits the Minister from approving a security over property if it is essential that the property be retained in the ownership of the council or subsidiary.

Sub-clause (4) provides that the Minister can only approve a security under this clause after consulting with the Treasurer.

Clause 199. Security over general revenue

Sub-clause (1) provides that if a council or local government subsidiary defaults on its obligations secured on the general revenue of the council or subsidiary, on application by the holder of the security, the Supreme Court can order that the council or subsidiary appropriate a specified portion of its revenue to pay the holders of the security and/or order that the council must raise a specified amount by way of rates to pay the holder of the security. The Supreme Court may also give incidental or ancillary directions.

Sub-clause (2) clarifies that the rights the creditors have under sub-clause (1) are in addition to any other rights given to them by the security agreement.

Part 10.4 Long-term financial plan

Clause 200. Long-term financial plan

Sub-clause (1) requires a council to prepare and keep up-to-date a long-term financial plan.

Sub-clause (2) requires the long-term plan to be for a period of at least four years.

Sub-clause (3) requires the long-term financial plan to contain: a statement of the major initiatives the council proposes to undertake during the period to which the plan relates; the projected statement of income and expenditure for each financial year of the period to which the plan relates; and any other matters prescribed by regulation.

Sub-clause (4) requires the long-term plan to be provided to the Agency by 30 June in the preceding financial year to the first financial year that the plan relates to.

Part 10.5 Annual budgets

Clause 201. Annual budgets

Sub-clause (1) requires a council to prepare a budget for each financial year.

Sub-clause (2) requires the budget for a year to outline the council's objectives for the year and how it intends to achieve those objectives. It must also state the key performance indicators that the council will use to assess its achievement of the stated objectives.

Other contents of the budget, required as a minimum, are: a projected statement of income and expenditure for the year; a list of the councils fees for service and the projected revenue from those fees; the amount allocated for development and maintenance of infrastructure expenditure; the amount intended to be raised by rates and charges; an assessment of the social and economic impacts of its proposed rates and charges; the council member allowances that are payable during the year, as well as the amount budgeted to cover those allowances; a budget for the local authority area for any local authority established by the council; and any other information required by the regulations or by Ministerial guidelines.

The budget must be in a form required by Ministerial guideline or prescribed by regulation.

Clause 202. Budget not to be for deficit

Clause 202 prohibits a council from budgeting for a deficit unless it does so as permitted under the regulations.

Clause 203. Adoption of budget or amended budget

Sub-clause (1) requires a budget for a financial year to be adopted by 30 June in the preceding financial year.

Sub-clause (2) allows a council to adopt an amended budget after it has adopted a budget.

Sub-clause (3) provides that an amended budget may not increase council member allowances or alter any local authority member allowances unless it is in accordance with any Ministerial guidelines.

Sub-clause (4) provides that after adopting its initial budget or an amended budget a council must: publish the budget or amended on its website; notify the Agency in writing of the adoption; and publish a notice in a newspaper advising the public how a copy of the budget or amended budget can be obtained or downloaded from the council website.

Sub-clause (5) provides that where a budget is amended, the initial budget must remain on the council's website with a warning that it has been amended and the amended budget (in whole, not just the amendment) must also be published on the website.

Sub-clause (6) provides that the council's budget forms part of its annual plan. If the budget is amended, it is the amended version of the budget that forms part of the plan.

Clause 204. Allocation of money not in budget

Sub-clause (1) prohibits a council from making an allocation of money that is not budgeted for.

Sub-clause (2) provides exceptions to the rule in sub-clause (1), where the allocation is: approved by council resolution; within the terms of a grant accepted by council; or covered by revenue that compensates the expenditure. An example is given of where an allocation is covered by revenue that compensated the expenditure as follows. The council enters a contract to provide civil works. The council purchases equipment and materials to perform the works. The cost of the equipment and materials is within the amount the council is to be paid under the contract.

Sub-clause (3) provides that if council allocates unbudgeted money within the terms of a grant accepted by council or covered by revenue that compensates the expenditure, and that allocation will have a material effect on the council's budget, it must be reported at the next ordinary council meeting.

Sub-clause (4) requires any allocation under sub-clause (2) to be included in any subsequent amended budget for the financial year.

Sub-clause (5) contains a definition for this clause of 'material'. 'Material' has the same meaning as in Accounting Standard AASB 1031 of the Australian Accounting Standards.

Part 10.6 Accounting records

Clause 205. Accounting records

Clause 205 requires a council to maintain accounting records that give a true and fair view of its assets, liabilities, revenue and expenditure. Such a record must comply with any requirements in the regulations.

Clause 206. Availability of records for inspection

Sub-clause (1) requires a council's accounting records to be available for inspection, at any reasonable time, by the council's auditor or an inspector.

Sub-clause (2) requires the accounting records to be available for inspection, at any reasonable time, by a member of the council, subject to the council's privacy policy.

Sub-clause (3) requires a council to adopt a policy by resolution that protects the privacy of council members and staff from undue intrusion into their private affairs.

Sub-clause (4) requires a subsidiary to adopt a policy that protects the privacy of its staff from undue intrusion into their private affairs. For example, the privacy policy might limit the inspection of payroll records by members of a council.

Sub-clause (5) sets out the ways that local government subsidiaries, depending on whether they have one or more constituent councils, are to adopt the policy. For a local government subsidiary with one constituent council, it adopts the policy by resolution of the council. For a local government subsidiary with more than one constituent council, it adopts the policy by resolution of the local government subsidiary.

Part 10.7 Annual financial statement

Clause 207. Annual financial statement

Clause 207 provides that a council must prepare an annual financial statement and requires the statement to comply with the Australian Accounting Standards and any other requirements in the regulations or Ministerial guidelines.

Clause 208. Reference of annual financial statement for audit

Clause 208 requires the annual financial statement of a council to be prepared and referred for audit as soon as practicable after the end of the relevant financial year and in time to ensure that an audited statement is available by 15 November in the calendar year in which the financial year ends.

Part 10.8 Audit

Division 1 Auditor

Clause 209. Auditor

Sub-clause (1) requires an auditor to be appointed by council resolution.

Sub-clause (2) provides that a council's auditor can be the Auditor-General, a registered company auditor, an authorised audit company or a firm whose members include a registered company auditor.

Sub-clause (3) provides that a council member or council member candidate or a person holding any other office or position with the council is not eligible to be the auditor.

Sub-clause (4) requires the council to fix auditor's remuneration and the term of the auditor's appointment, which must be between two and five years, in the instrument of appointment of the auditor.

Sub-clause (5) sets out the circumstances in which the office of auditor becomes vacant. This will occur if the auditor: dies; resigns by providing written notice to the CEO; becomes a candidate for election as a member of council; accepts a remunerated office or position within council; or is removed from office by the council with the Minister's consent. A person also ceases to be the auditor if the term of appointment comes to an end and the person is not reappointed.

Sub-clause (6) references the meaning of 'authorised audit company' to section 9 of the *Corporations Act 2001* (Cth).

Clause 210. Appointment by the Minister

Clause 210 provides that where a council fails to appoint an auditor, the Minister may do so. The auditor is to be paid the fees fixed by the Minister.

Division 2 Audit

Clause 211. Annual audit

Sub-clause (1) requires the auditor to audit the annual financial statement of a council and report to the council on the results and any material irregularities identified. If the auditor finds any evidence of serious financial irregularity or the law being broken, the auditor must report this to the Minister and to the Independent Commissioner Against Corruption. If the audit results include a disclaimer of opinion, the auditor must give a copy of the results of the audit to the Minister.

Sub-clause (2) requires the audit to comply with the Australian auditing standards and the regulations.

Sub-clause (3) requires the auditor's report in sub-clause (1)(b) to be tabled at the next meeting of council after it is given to the council.

Sub-clause (4) requires the CEO to table a report at the next council meeting that sets out any actions that will be taken to implement the auditor's recommendations.

Sub-clause (5) contains a definition for this clause of 'Australian auditing standards'. 'Australian auditing standards' means the auditing standards in force under section 336 of the *Corporations Act 2001* (Cth).

Clause 212. Other audits

Clause 212 requires the auditor to undertake any other audits of the council's financial affairs that may be required under the regulations.

Clause 213. Assistance to be provided to auditor

Sub-clause (1) provides that the auditor can require the CEO or other council staff to produce financial records or answer questions relevant to the council's financial affairs.

Sub-clause (2) provides that a person does not comply with a requirement under sub-clause (1) commits an offence. The maximum penalty for this offence is 100 penalty units.

Sub-clause (3) provides that the offence in sub-clause (2) is of strict liability.

Sub-clause (4) provides a defence of reasonable excuse to the offence in sub-clause (2).

Part 10.9 Rectification orders

Clause 214. Power of Minister to make rectification order

Sub-clause (1) provides that the Minister may make a rectification order to a council if the Minister is of the opinion that an irregularity has occurred or is occurring in the administration of a council's financial affairs. The order must be in writing and set out the action the council must undertake to correct the irregularity or guard against the recurrence of irregularities.

Sub-clause (2) requires the order to set a date by when it must be complied with.

Sub-clause (3) enables the Minister to postpone the compliance date of a rectification order on application of a council.

Clause 215. Non-compliance with rectification order

Clause 215 provides that an offence is committed by a council member if the council does not comply with a rectification order by the compliance date. It is an offence of strict liability and has a maximum

penalty of 100 penalty units. A defence to the offence is that the member acted with reasonable diligence to secure compliance by the council.

Part 10.10 Shared services

Clause 216. Shared services policy

Clause 216 provides that a council must have a policy adopted by resolution on shared services. The policy may deal with sharing of a council service with another council or the council jointly procuring from a third party the delivery of a service with another council.

Chapter 11 Rates and charges

Part 11.1 Rateability

Clause 217. Categorisation of land

Clause 217 explains that rateable land, conditionally rateable land and land that is exempt from rates are the three basic categories of land in a local government area.

Clause 218. Rateable land

Clause 218 provides that, apart from exempt land and conditionally rateable land for which a notice has not been published under clause 219, all land within a local government area is rateable.

A notice under clause 219 refers to a notice published by the Minister pursuant to clause 219(2). This is a notice published by the Minister in the *Gazette*.

Clause 219. Conditionally rateable land

Clause 219 is about conditionally rateable land.

Sub-clause (1) provides that conditionally rateable land is land held under a pastoral lease, land occupied by a mining tenement or land prescribed by the regulations as conditionally rateable.

Sub-clause (2) provides for the Minister to publish a notice in the *Gazette* at least two months before the commencement of the financial year. This means that the notice must be published by the end of April in the calendar year in which the rates are to be declared by the Council. Conditionally rateable land may only be rated in accordance with the notice.

Sub-clause (3) and sub-clause (4) provide that a Council for the area can make submissions to the Minister in relation to conditionally rateable land.

If submissions are received by the Minister by 31 December in the financial year before the rates are to be declared by the council, the Minister must consider those submissions. The Minister must also consult with the Minister responsible for the administration of pastoral matters and the Minister responsible for the administration of mining matters.

The Minister must do these things (consider the submissions and consult with other Ministers) before the Minister can publish the notice about rating of conditionally rateable land.

Sub-clause (5) provides that councils must publish the Minister's notice on their websites and the Agency must publish the notice on the Agency's website.

Sub-clause (6) defines 'pastoral lease' as a pastoral lease granted under the *Pastoral Land Act 1992*.

Clause 220. Council to rate all rateable land

Clause 220 provides that a council must rate all rateable and conditionally rateable land in its area. This means that all the land, except exempt land, must be rated.

Clause 221. Urban farm land

Clause 221 provides that the owner or occupier of land within the council area may apply to the council for classification of that land as 'urban farm land'.

In order for land to be eligible to be classified as urban farm land, the land must be more than 0.8 of a hectare in size, be used by the occupier for carrying on a prescribed business or industry, and the occupier must derive a substantial part of their livelihood from carrying on that business or industry.

Clause 222. Exempt land

Clause 222 defines land that is exempt from rates (exempt land).

Crown land that is vacant and not leased, or occupied by the Territory for a public purpose, is exempt from rates unless that land is used for public housing. If the Crown land is used for the provision of public housing, it is subject to rates.

Council land is exempt from rates except if the land is leased for a purpose that is not exempt from rates under this clause.

Public places consisting of parks, gardens, reserves, playgrounds, sportsgrounds, cemeteries and roads are exempt from rates.

A church or other place of public worship and a place of residence for a minister of religion which is associated with a church or other place of public worship, are exempt from rates. A place of residence for the official head in the Territory of a religious body and an institution which is for religious teaching or training are also exempt from rates.

A hospital, medical clinic or health centre conducted by the Territory is exempt from rates.

Land which is used for a non-commercial purpose by a public benevolent institution or a public charity which is registered with the Australian Charities and Not-for-profits Commission established under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) is exempt from rates. It should be noted that sub-clause (3) explains how to decide if the purpose is a non-commercial one. It is the nature of the use and not the nature of the user which is relevant. Sub-clause (4) further explains that a non-commercial purpose does not include land being used for a residential purpose for employees or contractors of the public benevolent institution or charity. In order to be exempt from rates, land used by a public benevolent institution or charity cannot be used for residential purposes of contractors or staff and cannot be used for commercial purposes.

A university or other tertiary educational institution, kindergarten, Government school, non-Government school and early childhood service owned or operated by the Territory or a non-Government school are exempt from rates.

Land which the council recognises to be a youth centre as well as public libraries and museums are exempt from rates.

Where there is a units plan or building development plan registered under the Real Property (Unit Titles) Act 1975; or a scheme formed under the *Unit Title Schemes Act 2009*, the common property is exempt from rates.

Where land of a Land Trust or Aboriginal community living area association is subject to a lease or a licence of occupancy or where such land is used for a commercial purpose, it is rateable. Otherwise, land owned by a Land Trust or Aboriginal community living area is exempt from rates.

Lastly, where another Act provides that land is exempt from rates, then that land is exempt.

Sub-clause (2) provides that where land is used for 2 or more different purposes, and one of those purposes is not exempt, the land is not exempt from rates unless the purpose that is not exempt is merely incidental. For example, an allotment consists of a public museum containing a cafeteria. The allotment is exempt from rates despite the existence of the cafeteria. However, if the allotment were a restaurant attracting customers in its own right, the allotment would not be exempt from rates.

As explained above, sub-clause (3) explains how to decide if land is used for a commercial or non-commercial purpose. It is the nature of the use and not the nature of the user which is relevant. In addition, sub-clause (4) explains that a non-commercial purpose does not include land being used for a residential purpose for employees or contractors of the public benevolent institution or charity.

Sub-clause (5) contains definitions of 'Government school' and 'non-Government school'. Government school means a school as defined in section 5 of the *Education Act 2015*. Non-Government school means a non-Government school registered under the *Education Act 2015*.

Clause 223. Special cases

Clause 223 provides for some special cases in relation to rates. It provides that land owned by the Commonwealth is only rateable if the Commonwealth agrees. If the Commonwealth does agree, then it is only rateable in accordance with the terms agreed to by the Commonwealth. For example, the Commonwealth might agree that an occupier of land under a lease from the Commonwealth is to be liable for rates.

Sub-clause (2) explains that although a land trust itself is not liable to rates, an occupier of land owned by the land trust is liable to rates. If the land trust land is leased, the leasehold estate is the rateable land. The note for Sub-clause (2) clarifies that this sub-clause applies to land of a Land Trust that is not fully exempt from rates under sub-clause 222(1)(l).

Sub-clause (3) provides that although an Aboriginal community living area association is not rateable, an occupier of the land is rateable. If the land is leased, then the leasehold estate is rateable. The note for sub-clause (3) clarifies that this sub-clause applies to land of an Aboriginal community living area that is not fully exempt from rates under sub-clause 222(1)(l).

Sub-clause (4) provides that land owned by a Land Trust or Aboriginal community living area association is not subject to the clauses in this chapter which allow overdue rates to become a charge on the land. Land owned by a Land Trust or Aboriginal community living area association cannot be sold for non-payment of rates. The note for sub-clause (4) clarifies that this sub-clause does not protect a leasehold estate from such a charge or from being sold for non-payment of rates.

Clause 224. Apportionment if land rateable for part only of a financial year

Clause 224 provides that where land is rateable for only part of a financial year, the amount of rates payable must be reduced proportionately. The rates are reduced by the proportionate amount attributable to the number of days in the financial year that the land was not rateable. A council must give a refund or remission of rates if necessary to make sure that only the appropriate amount is paid.

Part 11.2 Basis for assessment of rates

Clause 225. Allotments

Clause 225 explains that an allotment is a parcel of land which the council will make a separate assessment of rates for. It might also be part of a parcel of land which the council will make a separate assessment of rates for. A parcel of land includes a unit or lot created by registration of a plan under the *Real Property (Unit Titles) Act 1975* or the *Unit Titles Act 1975* and a unit created by the registration of a unit title scheme under the *Unit Title Schemes Act 2009*.

A council may only divide a parcel of land that has the same owner into allotments if the allotments are separately occupied, fall within different zones or there is some other good reason. For example, if land consists of a block of flats in the same ownership but separately occupied, the council could either treat the block of flats as a single allotment and determine rates for the whole, or disaggregate it into the separate flats and determine rates for each flat.

The phrase 'parcel of land' is defined in section 4 of the *Valuation of Land Act 1963*.

Clause 226. Basis of rates

Sub-clause (1) provides that rates may consist of a fixed amount, a valuation-based amount (calculated as a proportion of the assessed value for each allotment) or a combination of the two.

Sub-clause (2) provides that if rates include a valuation-based amount, the amount can be subject to a minimum amount. For example, a valuation-based amount might be expressed as a specified proportion of assessed value or \$100 (whichever is the greater amount).

Sub-clause (3) provides that different amounts, whether they are fixed or valuation-based, and different minimum amounts can be set for allotments which are in different parts of the local government area. For example, the rates for land within different planning zones might be based on different components. In addition, different fixed amounts, different valuation-based amounts and different minimum amounts may be set for different classes of allotments. For example, if land is divided into small allotments (such as self-storage units or marina berths) because of a subdivision for the purposes of the *Unit Titles Act 1975* or *Unit Title Schemes Act 2009*, and the council considers it inequitable to apply the minimum amount otherwise applicable to land within the area to the small allotments, the council could set a different and lesser minimum for the small allotments. Furthermore, different fixed amounts, different valuation-based amounts and different minimum amounts may be set for a combination of allotments within different parts of the local government area and different classes of allotments.

Sub-clause (4) clarifies that different amounts cannot be set on the basis of who the owner or occupier is.

Sub-clause (5) provides that where an allotment is divided into separate units or parts that are adapted for separate occupation or use, a minimum amount to be multiplied by the number of separate parts or units can be used. For example, if an allotment consists of a block of flats in separate occupation, the minimum amount could consist of a set amount to be multiplied by the number of flats comprised in the complex.

Clause 227. Basis of assessed value

Clause 227 provides that unimproved capital value (section 9 of the *Valuation of Land Act 1963*), improved capital value (section 8 of the *Valuation of Land Act 1963*) or annual value (section 8A of the *Valuation of Land Act 1963*) can be used as the basis of assessed value of allotments.

The assessed value is either the unimproved capital value, improved capital value or annual value found in the valuation roll. However, in relation to mining tenements, the assessed value is the unimproved value, which is taken to be 20 times the annual rental.

Part 11.3 Liability for rates

Clause 228. Joint and several liability

Clause 228 provides that the owner and occupier of an allotment are jointly and severally liable to pay the rates for the allotment. The occupier does not become liable for the rates unless they have made an application to the council for their name to be recorded as the principal ratepayer for the allotment and that has been done, or the council has given written notice to the occupier that it intends to seek recovery of rates from the occupier.

If the council has given written notice to the occupier that it intends to seek recovery of rates from the occupier in the course of a financial year, the occupier is only liable for the proportion of rates attributable to that part of the financial year.

Clause 229. Principal ratepayer for an allotment

Sub-clauses (1) and (2) provide that the principal ratepayer for an allotment is the owner but if the owner is not liable to pay rates, the occupier is the principal ratepayer. The note for sub-clause (2) clarifies that the case of an allotment owned by a Land Trust, the Trust itself is not liable to rates so the lessee (if there is a lessee) is treated under this Act as the owner and hence the principal ratepayer for the allotment. If there is no lessee, the occupier may be liable for rates (see clause 228(2)) and, if so, would be the principal ratepayer for the allotment.

Sub-clause (3) qualifies the above by providing that if an occupier, who would not be the principal ratepayer, applies to the CEO of the council, the CEO of the council can designate that person to be the principal ratepayer in the assessment record. Also if there are two or more ratepayers who would be the principal ratepayer, the CEO of the council can designate one or more of them, in the assessment record, to be the principal ratepayer.

Sub-clause (4) provides that a ratepayer designated to be the principal ratepayer pursuant to sub-clauses (1) or (2), is the principal ratepayer to the exclusion of others. That ratepayer is responsible for paying the rates.

Sub-clause (5) provides that if someone other than the principal ratepayer pays the rates, that person can, subject to any relevant agreement, recover the amount from the principal ratepayer or set off the amount against any money owed to the principal ratepayer.

Part 11.4 Assessment record

Clause 230. Assessment record

Clause 230 provides that the council must maintain an assessment record, in electronic form, which must contain the specific information. This includes a brief description of each allotment within the area and a statement of its assessed value; the name and address of the owner of the land; the name and address of the principal ratepayer if the owner is not the principal ratepayer for the land; the land use if the land is subject to a different rate on the basis of its use; and a brief description of the land if a charge is imposed on non-rateable land. The assessment record must also contain any other information the council directs to be included in the record.

On payment of the fee set by council, the assessment record may be inspected, by a person with sufficient interest, at the council's public office. The Council can resolve to adopt a policy which explains what amounts to a 'sufficient interest'.

The CEO of an Agency can inspect or copy the assessment record free of charge. In relation to the record for particular land, the owner, the occupier or the lessee of the land or the adjoining land can inspect the record free of charge.

The CEO must, at the request of a person to whom an entry in the assessment record relates, suppress the person's contact details from the publicly accessible copy of the record.

Clause 231. Notifications to be given by ratepayers

Clause 231 provides for three offences of strict liability.

Firstly, it is an offence if a person becomes the principal ratepayer for an allotment in a local government area and does not give the CEO of the council written notice of that as well as their address within 28 days. The maximum penalty is 20 penalty units.

Secondly, it is an offence if the principal ratepayer for an allotment changes their address and they do not give the CEO of the council written notice of the new address within 28 days. The maximum penalty is 20 penalty units.

Thirdly, it is an offence if a person ceases to be the principal ratepayer for an allotment in a local government area and does not give the CEO of the council written notice within 28 days. The maximum penalty is 20 penalty units.

Clause 232. Correction of record by council

Clause 232 provides that the Council can change an entry in the assessment record. If a council changes the record and the change is not just to fix a typographical error, it must give a decision notice to the person who is affected by the change within 14 days of changing the entry. The decision to change the entry is a reviewable decision.

Clause 233. Correction of record by application

Clause 233 provides that a person can apply to the council to correct an entry in the assessment record. This application is free of charge. An application may be made on the grounds that the entry: wrongly classifies an allotment that is not rateable as rateable land; should, but does not, classify an allotment as urban farm land; wrongly records the use of an allotment; contains some other relevant misclassification or misdescription of the allotment; wrongly records ownership or occupation of an allotment; wrongly designates the applicant as principal ratepayer for an allotment; takes effect from the wrong date; and contains some other relevant error.

The application must be in writing and state the person's interest in the allotment. It must also explain what amendment should be made and when it should take effect. The CEO can decide the application if it is uncontroversial but otherwise the matter must be dealt with by the council or a council committee. Whether it is the CEO, the council or a council committee, further information can be requested from the applicant. This request should be made as soon as possible and must be made within 90 days of council's receipt of the application.

As soon as possible after a decision has been made and no later than 90 days after council's receipt of the application, the CEO must give the applicant a decision notice and also let the applicant know the date that the decision takes effect. However, if further information has been requested, the 90 days runs from the date that the information is received or that the applicant advises that they cannot provide the information.

A decision under this clause is reviewable.

Clause 234. Liability for rates

Clause 234 advises that an application for correction of the assessment record or an application for review under clause 323 or appeal to NTCAT under clause 327 does not suspend the obligation to pay rates.

Clause 235. Correction of record for misclassification

Clause 235 provides that if a person makes an application to correct the assessment record on the grounds that the allotment has been misclassified and a decision is made to correct the record, the date the correction takes effect cannot be retrospective if it will result in the ratepayer having to pay a higher amount of rates or charges.

Clause 236. Entitlement to difference in rates

Clause 236 provides that if a corrected entry takes effect from a retrospective date, the person to whom the entry relates is entitled to the difference in rates, if there is a difference. The person is also entitled to interest on the difference only if the person applied for a review of a council's decision to correct the entry and as a result of that application for review, the original decision of the council was revoked or amended.

Where a person is entitled to interest on the difference, it accrues on any overpayments from the date the council changed the entry on its own volition, or the date the person made the application for the review of the original decision of the council. If a person is entitled to interest in the difference, the interest is subject to the relevant interest rate or the relevant interest rates if the relevant interest rate changes during the period when the interest accrues.

Payment of a person's entitlement to the difference in rates and interest on the difference becomes due and payable immediately on the day the assessment record is corrected.

Part 11.5 Imposition of rates, charges and parking rates

Division 1 General and special rates

Clause 237. General rates

Clause 237 provides that a council must declare rates by 30 June in the financial year preceding the financial year in which the rates are imposed. These are general rates on allotments to raise money that council intends for general purposes for the financial year.

When a council declares general rates, it can also declare rates for a special purpose.

The rates declaration must state the amount to be raised for general purposes, the amount to be raised for a special purpose (if any) and the basis or bases of the rates. If the rates can be paid by instalments, the declaration must state the number of instalments and when they will be due. The declaration must also state the relevant interest rate that accrues on any unpaid rates for the financial year.

Clause 238. Special rates

Clause 238 provides that a council can declare special rates by 30 June in the financial year preceding the financial year in which the rates are imposed.

Before a council can declare special rates it must publish a notice on its website and in a newspaper which circulates in the area, inviting written submissions within a period that is at least 21 days. In addition, the council must give the principal ratepayer for each allotment to which the special rates are proposed to be imposed, a notice of intention to declare special rates. The council must also consider the submissions received and revise the rates if council thinks that is appropriate.

The notice which is published on the website and in a newspaper must contain specific particulars. These are the purpose for which the council proposes to impose the special rates; the total amount that is proposed to be raised by the special rates; the basis of the proposed special rates; whether the proposed special rates would be imposed on rateable property generally or on rateable property in a particular part of the council area and an identification of the particular part; that a person may

make submissions to the council about the proposed special rates before the date of the meeting in relation to the special rates specified in the notice; and how a person can obtain further information about the proposed special rates from the council..

After the council has considered the submissions, the council can declare the special rates but this must be by special resolution. A special resolution is a resolution supported by the votes of at least three-quarters of the total number of members of the council. The special rates declared may be consistent with the proposed special rates (that were on the website and in the newspaper), reduced for one or more of the allotments or reduced for all of the allotments. The council can also decide not to declare the special rates.

Special rates can be limited to part of the council area that will benefit from them.

A declaration of special rates must state the purpose for which they are imposed, the amount to be raised, the basis of the special rate and whether the rates apply to the council area generally or to a part of the council area. If the special rates apply to only part of the council area, that part of the area must be identified in the declaration.

Division 2 Charges

Clause 239. Imposition of charges

Clause 239 provides that a council can declare a charge on land if it carries out work or provides services for the benefit of the land or for the benefit of the occupiers of the land. The charge is valid even if the occupier does not accept the work or services.

A declaration of a charge must state the amount or basis of the charge, identify the land it applies to and state the purpose of the charge. The amount of a charge must not exceed a reasonable expectation of the cost of the service but it is not limited to the cost of providing the service.

The provisions of Chapter 11 which are applicable to rates apply with necessary adaptations to charges. However, a charge may be imposed on land that is not liable for rates and may have a reasonable basis that differs from rates (for example, a charge to recover the cost of kerbing might consist of an amount per metre of the frontage of an allotment). In addition, a charge may only consist of payments that are compulsory in respect of an allotment and must not consist of payments which are for an optional service. For example, a council that provides sewerage services to an allotment may impose a charge for this service, and may impose different charges with reference to the number of toilets installed at the allotment. However, if the council provided the service of connecting a toilet to a sewerage network, it could impose a fee for service but not a charge for the work. Another example is a council may impose a charge for rubbish bin collection that provides for an allotment to receive a specified number of rubbish bin collections. However, if the council provided the service of additional rubbish bin collections, it could impose a fee for service but not a charge for the work.

The provisions in relation to rate concessions do not apply to charges.

Division 3 Parking rate for council for municipality

Clause 240. Imposition of parking rate

Clause 240 provides that municipalities prescribed in the regulations may, by resolution, impose a parking rate in accordance with the regulations. A municipal parking rate is notified in the rates declaration made by 30 June in the financial year preceding the financial year in which the rates are imposed.

Part 11.6 General and particular notice

Clause 241. Public notice

Clause 241 provides that the Council must publish notice of the rates on its website and in a newspaper circulating in the area within 21 days after they are declared. However, failure to publish the notice within 21 days after the declaration of rates does not invalidate the declaration.

The notice must give details of the rates, state the date on which payment or instalments fall due and detail any discount, concession or benefit the council has resolved to allow for prompt payment of the rates in full.

Clause 242. Rates notice

Clause 242 provides that the council must issue a rates notice at least 28 days before full payment of rates, or payment of the first instalment of the rates, is due. The notice should be given to the principal ratepayer but if it is not practicable to do so, it can be given to any other ratepayer for that allotment. The rate notice must state the due date for payment of the rates or the date for payment of each instalment, if payment by instalment is allowed. Although the rates notice should be given at least 28 days before payment or the rates or the first instalment is due, it is not invalidated just because this does not happen.

Clause 243. Discount for prompt payment

Clause 243 provides that a council may allow a discount, concession or benefit for prompt payment of rates in full. In this case, the rates notice must state the discount, concession or benefit; conditions on which it is allowed; both the discounted and undiscounted amounts; and the date for which payment of the rates in full must be made in order to be entitled to the discount, concession or benefit.

Clause 244. Payment by instalment

Clause 244 provides for payment by instalment. If a council allows payment by instalment, each instalment is due on the date advised in the rate notice, and if an instalment is late, all remaining become immediately due and payable. However, a council can relieve a ratepayer of the consequences of default to an extent decided by the council.

At least 28 days before the payment of the second and subsequent instalments, the council must issue a reminder notice to the ratepayer. If possible, this notice is given to the principal ratepayer, but if that is not practicable, then to any ratepayer for the allotment. The reminder notice must state the due date of each instalment.

Part 11.7 Interest on unpaid rates

Clause 245. Accrual of interest on overdue rates

Sub-clause (1) provides that if rates are not paid when they fall due, interest accrues on the amount of the unpaid rates at the relevant interest rate. The note for sub-clause (1) clarifies that if the ratepayer defaults in payment, all remaining instalments become due and payable. Interest therefore accrues on the total amount of the unpaid rates and not merely the amount of the instalment (see clause 244(2)).

Sub-clause (2) provides that interest is calculated daily on the amount owing, excluding interest, from the due date until the date of payment.

Sub-clause (3) provides that a council can fix the rate of interest as the relevant interest rate for a financial year.

Sub-clause (4) provides that however, a council must not vary a rate of interest previously fixed as the relevant interest rate for a financial year.

Clause 246. Remission of interest

Clause 246 provides that the council can remit all or part of the interest which is due.

Part 11.8 Rate concessions

Clause 247. Rate concessions

Clause 247 provides that a rate concession is a waiver (or part waiver) of the requirement to pay rates. It can also mean a deferment of the obligation to pay rates or part of the rates.

A council must resolve to adopt a policy for rate concessions which must be published on the council website. A council can grant a rates concession under clauses 248, 249 or 250 with any conditions that the council thinks are appropriate. If a council grants a concession under these clauses and the ratepayer does not comply with a condition set by the council, the council can give a notice to the ratepayer advising that the concession is withdrawn and that the ratepayer must pay an amount, which neutralises any benefit to the ratepayer of the concession by a specified date.

Clause 248. Rate concessions to alleviate financial hardship

Clause 248 provides for the first type of concession a council might give. This is a concession to alleviate financial hardship. This concession may be granted on an application, which establishes to the council's satisfaction, that the applicant will suffer financial hardship if the concession is not granted.

Clause 249. Correction of anomalies in operation of rating system

Clause 249 provides for the second type of concession a council might give. This is a concession to correct an anomaly in the rating system. This may be given to a particular ratepayer or to ratepayers of a particular class if it is necessary to correct anomalies in the operation of the rating system. This concession may be granted on application by the affected ratepayer or by the council on its own initiative.

Clause 250. Public benefit concessions

Clause 250 provides for the third type of concession a council might give. This is a concession for the public benefit. If the concession would advance one of the purposes listed in sub-clause (1), the council can grant a concession, either on application by the affected ratepayer or on its own initiative.

Clause 251. Rate concession not to exceed term of council

Clause 251 provides that a council must not agree to a rate concession for a financial year that is not at least partly within the current term of council.

Part 11.9 Recovery of rates

Division 1 Application of this Part

Clause 252. Extended meaning of *rates* in this part

Clause 252 explains that the meaning of the word 'rates' in this Part includes charges, accrued interest and costs reasonably incurred by the council in recovering, or attempting to recover, the rates.

Division 2 Application of payments

Clause 253. Application of payments

Clause 253 provides that any money which is paid for rates pays the rates off in the order they became due.

Division 3 Recovery by action

Clause 254. Recovery by action

Clause 254 provides that rates may be recovered as a debt due to council from the principal ratepayer or any other ratepayer. The council could take action in court to have the debt paid but the proceeding must be commenced within 6 years.

Division 4 Overriding statutory charge

Clause 255. Overdue rates to be charge on land

Clause 255 explains that if the owner of the land is liable to pay rates and rates are not paid by the due date, they become a charge on the land. However, rates do not become a charge over land unless the owner of the land is a ratepayer who is liable for the rates that are in arrears. In addition, rates do not become a charge over land within an Aboriginal community living area.

Clause 256. Registration of charge

Clause 256 provides that after rates have been owing for at least 6 months, the council can apply to the registration authority to register a charge over the land. As long as council pays the appropriate fee, the registration authority must register the charge as an overriding statutory charge and notify everyone with a registered interest in that land, of the registration of the charge.

If the council does not notify everyone with a registered interest, the registration is not invalid. If council applies to cancel the charge, the registration authority must do so. A council must apply for cancellation if the rates which are due are paid and can apply to cancel the charge for any other reason.

Clause 257. Effect of registered charge

Clause 257 provides that if a charge is registered as an overriding statutory charge, it does not have priority over a previously registered overriding statutory charge. It does, however, have priority over all other registered and unregistered mortgages, charges and encumbrances.

Division 5 Sale of land

Clause 258. Power to sell land for non-payment of rates

Cause 258 provides that the council can sell the land if rates have been owing for at least 3 years and an overriding statutory charge has been registered for at least 6 months.

Clause 259. Pre-conditions of sale

Clause 259 provides that before council can sell the land, council must give a notice to the principal ratepayer (at the address appearing in the assessment record) stating the period the rates have been owing for, the total amount currently outstanding and that if the amount is not paid in full within a month (or a longer period), the council will sell the land.

A copy of the notice must also be given to anyone who has a registered interest in the land. If the land is a lease (including a pastoral lease) granted by the Territory, or a mining tenement, a copy of

the notice must be given to the Minister who administers the legislation under which the lease or mining tenement was granted.

If a person who is supposed to be given a notice (or a copy of the notice) cannot be found after reasonable enquiries, the council can give the required notice by publishing the notice in a newspaper circulating generally throughout the Territory and leaving a copy in a conspicuous place on the land.

Clause 260. Sale of land

Clause 260 provides that if the full amount of rates owed is not paid by the date in the warning notice given under clause 259, the council can sell the land. The sale must be by public auction unless it is a lease (including a pastoral lease) granted by the Territory or a mining tenement in which case the sale must be in accordance with approval by the Minister administering the legislation which enabled the lease or mining tenement to be granted. Also, if the land is a leasehold estate owned by a Land Trust, the sale must be made in accordance with approval by the relevant Land Council.

The public auction is to be advertised on the council's website and at least twice, on separate occasions, in a newspaper circulating generally throughout the Territory. If council sells land under this clause, the council can execute a conveyance of the land under its common seal. Once the conveyance is registered, the new owner is freed from all mortgages, charges and encumbrances securing the payment of money which had been on the land prior to sale.

The council must call off the sale if the outstanding rates (including the amount incurred by the council in cost recovery) are paid before the date of the sale.

If an auction fails, the council can sell the land by private contract for the best price it can reasonably obtain.

Clause 261. Proceeds of sale

Clause 261 provides that the council must apply the proceeds of sale of the land firstly to pay the costs incurred in selling the land, secondly to pay all liabilities secured on the land in the order of their priority and thirdly, to the person who had been the owner before the sale of the land. If, after reasonable inquiry, the council fails to discover the identity or whereabouts of a person entitled to payment under this clause, the council may make the payment to the Public Trustee as unclaimed property. Section 59A of the *Public Trustee Act 1979* applies to money paid to the Public Trustee as a result of this process.

Part 11.10 Correction of errors

Clause 262. Correction of errors

Clause 262 provides that the Minister can issue a *Gazette* notice stating that a council's rates have been validly declared or declared and levied despite a procedural non-compliance or irregularity; minor error; or an error of a technical nature. If the Minister does this, the rates will be valid from the date they were declared by the council.

Chapter 12 Council property

Part 12.1 Property generally

Clause 263. Acquisition of property

Clause 263 provides that a council may, by agreement, acquire both real and personal property, including intellectual property.

The Minister administering the *Lands Acquisition Act 1978* can compulsorily acquire land for a council, by arrangement with the council, pursuant to that Act. If this happens, the council must reimburse the relevant Minister for compensation and other costs involved.

Clause 264. Assumption of care, control and management of land

Clause 264 provides for a council to assume the care, control and management of land within its area. This can be at the request of each interested person (an interested person means the owner; a person with a registered estate or interest in the land; and caveator if the person claims an interest in the land that is protected by a registered caveat). If the land is subject to a trust, consent of the trustee, but not the equitable owners, is required. Consent is not required from a person who cannot be found after reasonable inquiry or from a body that has become defunct.

A council must publish notice on its website if it assumes the care, control and management of land.

Clause 265. Power to develop and improve land

Clause 265 provides that where a council owns land – or the land is under the care, control and management of the council – the council may develop and improve that land.

Clause 266. Power to act as trustee

Clause 266 provides that a council can act as a trustee of land or property but a council cannot assume an obligation to promote a particular religion. A council can, however accept a gift on conditions which require the council to maintain a portion of a cemetery which is set apart for a particular religious or cultural group.

A council can apply to the Supreme Court to vary the terms of a trust if the council is a trustee. When the council does this, notice of the application and the variation the council wants to make must be put on the council's website, published in a newspaper circulating generally in the Territory and advised in any other way that the Supreme Court directs.

The Supreme Court may vary the terms of the trust if it is satisfied that it is not practicable for the council to give effect to it in its current form. If the Supreme Court makes such an order, the council must publish notice of the order and the effect of the order on its website.

Clause 267. Power to deal with and dispose of property

Clause 267 provides that a council may deal with or dispose of property that it owns as long as it complies with the Minister's guidelines. This clause clarifies that a council cannot contravene a trust. If a council accepted property on conditions, the council may not breach those conditions.

Part 12.2 Reserves, cemeteries and facilities

Clause 268. Reserves

Clause 268 explains that the Minister may place a reserve in the area of a council, under the care, control and management of the council, if the council agrees for this to happen. The Minister does

this by notice in the *Gazette*. Where this happens, the council has the powers and functions of trustees appointed under section 79 of the *Crown Lands Act 1992*.

Clause 269 Public and community cemeteries and facilities

Clause 269 explains that a council is the responsible entity for a public or community cemetery that is located in the area of the council. The council can make by-laws for the management and control of such cemeteries.

A council is also the responsible entity for a facility that is located in a public cemetery in the area of the council.

Part 12.3 Roads

Clause 270. Roads

Clause 270 explains the meaning of the word 'road'. A road is land vested in the council as a road or road reserve at the commencement of this Act, or after this Act has commenced, vested in or placed under the care, control and management of a council under this or another Act. A road is land which, by council agreement, has been reserved, dedicated or resumed as a public street, road or thoroughfare. Land that has been transferred to the council in fee simple and accepted by the council as a public road is a road. Additionally, land declared by the council to be a road in a *Gazette* notice, with the consent of the land owner, is a road.

The Minister can vest Crown land in a council or place land under the care, control and management of a council as a road or road reserve, if the council agrees. This is done by the Minister in a *Gazette* notice.

Land that was a road is no longer a road if it is permanently closed under this Act or another Act.

Clause 271. Care, control and management of roads

Clause 271 states that, subject to this clause, all roads within an area are under the care, control and management of the council. The Minister can withdraw the care, control and management of a road from a council and place it under the care, control and management of the Territory after consulting with a council. The Minister would do this by *Gazette* notice. This divests the road from the council and vests it in the Territory.

Where a council has the care, control and management of a road that is vested in someone else, unless there is a contrary agreement with the owner, the powers of the council to control and manage the road are exclusive of the powers of the owner.

Certain types of property connected with a road under the care, control and management of a council belong to the council while it controls the road. Such property includes the vegetation growing on the road and anything erected on or affixed to the road, with the exception of infrastructure or equipment belonging to the Commonwealth or the Territory or one of their statutory authorities. This means, for example, that the council would control the median strip and plants on the road shoulders, but would not control a junction box operated by the Power and Water Corporation.

Clause 272. Closing of roads

Clause 272 provides that if a council has care, control and management of a road, the council can close the road permanently or temporarily. However, a road may not be permanently closed unless procedural requirements in the regulations have been followed and both the Minister for this Act and the Minister responsible for the administration of the *Control of Roads Act 1953* consent.

If a road under the care, control and management of a council is vested in the Territory and is permanently closed, unless there is a contrary agreement between the council and Minister, the land comprising the road vests in the council in fee simple.

Clause 273. Establishment of new road

Clause 273 provides that a council must give public notice if it proposes to establish a new road. The proposal, including a plan showing the proposed new road, must be put up on the council's website and be available for inspection at the council's public office. The plan must delineate the proposed new road with reasonable accuracy and detail.

The public notice of the proposal must invite any person to lodge a written objection within a period of at least 28 days. The period is to be specified in the notice and the council must consider any objections which are received.

If the council substantially modifies its proposal, the council must publish a fresh notice about the modified proposal that includes another invitation for any person to lodge a written objection within a period of at least 28 days.

This clause does not apply to the establishment of a temporary road.

Clause 274. Substantial temporary road closure

Clause 274 provides that if a council intends a temporary road closure of more than one month, it must consult with the Minister (or the Minister's nominee) and the Member of the Legislative Assembly for the electorate in which the road is situated. The council must carefully consider any written submissions made by the Minister and the Member of the Legislative Assembly. Unless the council is satisfied that the reasons for the closure justify the resulting disruption to traffic, the council must not close the road.

This clause does not apply if the road to be temporarily closed is a laneway or if the road needs to be closed urgently in the interests of safety.

Chapter 13 Regulatory powers

Part 13.1 By-laws

Clause 275. Power to make by-laws

Clause 275 provides that a council can make by-laws for the good governance of its area. Regulations may prescribe or exclude the subject matter councils can make by-laws about. A by-law binds the Territory and all its instrumentalities and may be limited in application, or general in application. Penalties in by-laws cannot exceed 100 penalty units for an individual or 500 penalty units for a body corporate. A by-law can have a daily penalty but such a penalty must not exceed the limit of 5 penalty units for an individual per day or 25 penalty units for a body corporate per day. The daily penalty applies for each day that the contravention of the by-law continues.

Clause 276. Principles applying to by-laws

Clause 276 provides that a by-law must not exceed the power under which it is made and must not operate retrospectively or impose a tax. A by-law must not shift the burden of proof onto the accused in criminal proceedings unless it is a parking offence or other minor traffic infringement, the shift concerns only formal or peripheral matters, or there is clear authority in legislation to shift the onus of proof. A by-law must be consistent with basic principles of justice and fairness. Further, a by-law must not unreasonably infringe on personal rights.

The principles which by-laws should reflect are that the by-law should not impose unreasonable burdens on the community and should not restrict competition unless the benefits outweigh the detriments. Also, by-laws should be expressed in plain and gender-neutral language.

If a by-law infringes on these principles, the by-law is not necessarily invalid, but a court must take the infringement into account when considering whether the by-law represents a reasonable exercise of power. A by-law should be consistent with other legislation that applies in the council area and should not duplicate or overlap with other legislation.

This clause does not affect the validity of any by-laws made before the commencement of this Act.

Clause 277. By-laws for animal management

Clause 277 specifically provides that a council has the power to make by-laws allowing for the seizure of an apparently diseased, injured, savage, destructive, stray or unregistered animal or an animal at large and for the destruction of a diseased, injured, savage, destructive, unclaimed, unregistered or unwanted animal.

Clause 278. Making by-laws

Clause 278 provides that before a council makes a by-law it must publish the proposed by-law on its website, make copies available for free public inspection at the council office and give notice in a newspaper circulating in the area of the council about the availability of the by-law and its general nature and effect. All these things must be done at least 28 days before the meeting when the council proposes to make the by-law and the period for the public to make submissions must be at least 21 days.

The council must consider the submissions and obtain a certificate from the CEO of the Agency specifying that the by-law is consistent with the principles for by-laws. A by-law must be made by special resolution. A special resolution is a resolution supported by the votes of at least three-quarters of the total number of members of the council.

The notes for this clause advises about the relevance of provisions in the *Interpretation Act 1978* to the making of by-laws.

Clause 279. Accessibility of by-laws

Clause 279 provides that a council must keep a copy of all by-laws it has made or adopted and the copy must include the text of the by-law along with any code, standard or other document referred to or incorporated in the by-law. Each by-law must be accessible on or from the council's website (this could be a link to the copy on the Northern Territory Government's website) and must be available for inspection at the council's public office free of charge.

A person is entitled to obtain a certified copy of a by-law by paying the fee fixed by the council.

Clause 280. Matters of evidence for entries in register

Clause 280 provides that a statement signed by the CEO of a council in relation to details contained in a register established by a by-law, is evidence of those details and does not require production of the register unless a court orders otherwise. This includes whether a person's name was entered in the register in relation to an animal, matter or thing and whether a licence or registration had been issued in relation to an animal or premises.

Clause 281. Determinations to be published

Clause 281 provides that if a council makes a determination of general application under a by-law, the council must publish the determination on its website.

Part 13.2 Regulatory orders

Division 1 Categories of regulatory order

Clause 282. Regulatory order

Clause 282 clarifies that an order made under Part 13.2, Division 1 is a 'regulatory order'.

Clause 283. Visual pollution

Clause 283 provides that if there is visual pollution on land that detracts significantly from the amenity of the surrounding neighbourhood, a council can issue a regulatory order that requires the owner or occupier of the land to take specified action. A specified action can be to remove or reduce the impact of the visual pollution.

This clause also explains that visual pollution exists if the land itself is in an unsightly condition or there is an unsightly structure or object on the land.

Clause 284. Mitigation of hazard or nuisance

Clause 284 provides that if there is a potential or actual hazard or nuisance on land, a council can make a regulatory order that requires the owner or occupier of the land to remove or mitigate the hazard or nuisance.

Clause 285. Animals and activities involving animals

Clause 285 provides that if an animal or an activity involving an animal is, or is likely to become, a hazard or nuisance, a council can make a regulatory order that requires the owner or occupier of the relevant land to take specified action to remove or mitigate the hazard or nuisance.

Division 2 Regulatory orders generally

Clause 286. Review of orders

Clause 286 provides that regulatory orders are reviewable.

Clause 287. Time for carrying out work under regulatory order

Clause 287 provides that a council must fix a reasonable period in the regulatory order to allow the specified action to take place. The council can also extend the time for compliance if the person required to comply applies for an extension.

Clause 288. Non-compliance with order

Clause 288 provide for an offence of failing to comply with a regulatory order. The maximum penalty is 100 penalty units and the offence is one of strict liability, however, it is a defence if the defendant has a reasonable excuse.

If a person fails to comply with a regulatory order, the council can authorise a person to enter the land and carry out the work or action required under the order. The owner or occupier must be given reasonable notice before this occurs. The council can recover the cost of the work or action as unpaid rates.

Part 13.3 Fees for services

Clause 289. Fees for services

Clause 289 provides that a council can resolve to impose a fee to be charged for a service. The fee can be stated in revenue units but where the council publishes the fee, it must show the equivalent dollar value. A service for which a fee is charged must be an optional service or a service provided on request.

A council that imposes a fee under this clause can resolve to provide for the following in relation to the fee: an exemption from payment; a waiver (wholly or partly); and a refund (wholly or partly).

Chapter 14 Reporting and public disclosure

Part 14.1 Annual reports

Clause 290. Annual reports

Clause 290 provides that a council must provide an annual report to the Minister by 15 November in each year about its work over the previous financial year (1 July – 30 June). The council must also, as soon as possible after the annual report has been delivered to the Minister, publish the report on the council's website and publish a notice in a newspaper circulating generally in the area advising that copies of the report may be downloaded from the council's website or obtained from the council's public office. The council must also provide a copy to the Agency.

Clause 291. Content of annual report

Clause 291 provides that a council's annual report must include the following information for the relevant financial year: a copy of the council's audited financial statement; an assessment of the council's performance against the objectives stated in the relevant council plan (using the performance indicators in the plan); the annual report of a council for a region must include an assessment of the activities of any local authority within the council's area; an itemisation of any shared services the council has been involved with; details of delegations to council committees, local government subsidiaries or local authorities; an itemisation of fees or allowances paid to committee members; a report on consultations undertaken by the council; an assessment of the council's performance of service delivery and projects with reference to the advice and recommendations of the relevant local authority or authorities.

Additionally, the annual report must contain any other information prescribed by regulation or in accordance with guidelines made by the Minister.

The annual report must be in the approved form, which is a form approved by the CEO of the Agency for this Act under clause 341.

The note for this clause identifies that the annual report of a constituent council of a local government subsidiary has additional requirements under clause 70(2).

Part 14.2 Public access to information

Clause 292. Information to be publicly available

Clause 292 provides that the material specified in Schedule 3 must be on the council's website and at the council's public office, but this is subject to the corresponding conditions specified in Schedule 3.

Clause 293. Suppression of certain information

Clause 293 provides that the CEO must suppress confidential information (prescribed in the regulations) from publicly available material. Publicly available material means an assessment record or other material (except an electoral roll) that is to be made publicly available under this Part or any other provision of this Act.

A person can make a request to the CEO in writing and ask for their name, address, telephone number, email address or any other personal details to be suppressed. The CEO must suppress the information unless the CEO considers there is good reason not to.

The CEO must notify the person of the CEO's decision in writing. If the request is refused, it is a reviewable decision.

Chapter 15 Compliance reviews and investigations

Part 15.1 Inspectors

Clause 294. Inspectors

Clause 294 provides that the Minister can appoint inspectors of local government. The Minister does this in an instrument which can also specify terms and conditions of an appointment. The terms and conditions may limit the circumstances in which the person can exercise powers of an inspector. An example of limiting powers is provided.

Clause 295. Identity card

Clause 295 provides that the Agency must give an identity card to an inspector, which states the person's name and that the person is an inspector. It is a requirement that the identity card displays a recent photograph of the inspector, state the card's date of issue and expiry, and be signed by the inspector.

This clause clarifies that a single identity card can be issued to a person for the purposes of this and another Act.

Clause 296. Return of identity card

Clause 296 provides that a person who ceases to be an inspector must return the person's identity card to the Agency within 21 days after ceasing to be an inspector. Failure to do so is an offence with a maximum penalty of 20 penalty units. This is an offence of strict liability but it is a defence if the defendant has a reasonable excuse.

Clause 297. Functions of an inspector

Clause 297 provides that the functions of an inspector are to carry out compliance reviews and to investigate suspected irregularities in or affecting the conduct of a council's or local government subsidiary's affairs.

Part 15.2 Compliance review

Clause 298. Program of compliance reviews

Clause 298 provides that the Agency must establish a program of compliance reviews for councils and local government subsidiaries. The purpose of a compliance review is to make sure that councils and subsidiaries are conducting their business in keeping with the law.

The compliance review of a local government subsidiary may be conducted separately from a compliance review of the subsidiary's constituent council or councils.

Clause 299. Carrying out of compliance review

Clause 299 provides that compliance reviews are conducted by one or more inspectors. The Agency assigns the inspectors to carry out the review.

Clause 300. Agency must report on results of compliance review

Clause 300 provides that the Agency must report to the council on the results of a compliance review of the council. The Agency must report to the local government subsidiary and its constituent council, or councils, on the results of a compliance review of a subsidiary.

The compliance report can contain recommendations for administrative or regulatory change and a copy of the report must be provided to the CEO of the council or the chief executive of the local government subsidiary, as the case requires.

As soon as the CEO of a council receives a compliance report they must provide a copy to all council members. As soon as the chief executive of a subsidiary receives a compliance report they must provide a copy to the constituent council or councils.

Part 15.3 Investigations

Clause 301. Investigations

Clause 301 provides that the Agency may direct an investigation into the affairs of a council or subsidiary at any time. An investigation is carried out by one or more inspectors who are assigned to the investigation by the Agency.

Part 15.4 Powers of inspector

Clause 302. Power of entry

Clause 302 provides for certain powers of an inspector. An inspector can enter, examine and search land and premises of a council or local government subsidiary for the purposes of a compliance review or investigation. An inspector can also examine and take copies of any records or other documents of the council or local government subsidiary for the purposes of a compliance review or investigation.

The CEO of the council, the chief executive of a subsidiary and any other member of the council's, or the subsidiary's, staff must do anything reasonably necessary to facilitate the exercise of the inspector's powers mentioned above if requested to do so by an inspector. The person must also answer any relevant question asked by the inspector, produce any relevant specified record or document and give any other assistance that is reasonably required by the inspector.

An inspector's request can be made orally or in writing and a person commits an offence if they fail to comply with an appropriate written request from an inspector. The maximum penalty is 100 penalty units and the offence is one of strict liability. It is a defence if the defendant took reasonable steps to comply with the request.

Clause 303. Power of formal questioning

Clause 303 provides that an inspector can, by written notice, require a person to provide written answers to specific questions or other specified written information for the purposes of a compliance review or investigation (within the time allowed in the notice). It also provides that an inspector can, by notice, require a person to attend before the inspector at a specified time and place for examination on a subject stated in the notice. Further, an inspector can, by notice, require a person to produce specified records or documents or records or documents of a specified kind (within the time allowed in the notice).

A person who is required to provide written answers to questions or other written information under this clause must verify the answers or information by statutory declaration.

When a person attends before an inspector for examination, they must, if required by the inspector, take an oath to answer all questions truthfully. The person must answer questions put to them at the examination. If they do not do these things, it amounts to an offence and the maximum penalty is 100 penalty units. The offence is one of strict liability although it is a defence if the defendant took reasonable steps to comply with the relevant requirement.

Clause 304. Self-incrimination

Clause 304 provides that a person who is required to answer a question, give information or produce a document under this Act is not excused from doing so on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.

The answer, information or document, however, is not admissible in evidence against the person in a civil or criminal proceeding except a proceeding for an offence in which the falsity or misleading nature of the answer, information or document is relevant.

Clause 305. Confidential matters

Clause 305 provides that a person cannot refuse to answer a question, give information or produce a record or document to an inspector on the basis that it is confidential. However, legally privileged information does not have to be disclosed.

Clause 306. Inspector's report

Clause 306 provides that if an inspector finds evidence of an irregularity in the conduct of a council's or local government subsidiary's affairs, the inspector must report the matter to the Agency and the council or, in the case of a subsidiary, the constituent council or councils.

The inspector must also report the matter to the Minister and the ICAC if the irregularity appears to involve improper conduct. Improper conduct is defined in section 4 of the *Independent Commissioner Against Corruption Act 2017*.

Part 15.5 NTCAT's power to remedy irregularity

Clause 307. Power to impose surcharge

Clause 307 provides that if a council has suffered loss as a result of dishonesty or serious illegality, the council can apply to impose a surcharge on the person whose actions caused the loss. The application is made to NTCAT.

If NTCAT imposes a surcharge, the amount must not exceed the amount of loss suffered by the council and the amount incurred to recover the surcharge. The surcharge is imposed by NTCAT giving the person a decision notice.

Clause 308. Recovery of surcharge

Clause 308 provides that a surcharge may be recovered as a debt due to the council. Further, the council can set off any liability the council owes to the person against the amount of the surcharge.

Chapter 16 Inquiries

Part 16.1 Establishment of commission

Clause 309. Establishment of commission of inquiry

Clause 309 provides that the Minister may establish a commission of inquiry to inquire into the affairs of a council or a subsidiary. A commission of inquiry may inquire into a subsidiary either as part of an inquiry into its constituent council or councils or separately.

The Minister can also establish a commission of inquiry to inquire into any other question relevant to local government in the Territory.

The Minister may appoint a person to be a commissioner to constitute the commission of inquiry. The Minister may appoint more than one commissioner to constitute an inquiry.

The Minister must give notice to a council if the Minister establishes a commission of inquiry to inquire into the affairs of that council. The Minister's notice must advise the reasons for, and the subject matter of, the inquiry.

Clause 310. Commissioner's terms of office

Clause 310 provides that the terms and conditions of office, as well as remuneration for a commissioner, are decided by the Minister. A commissioner has the same privileges and immunities as a Supreme Court Judge in relation to the performance of official functions.

Part 16.2 Conduct of inquiry

Clause 311. Conduct of inquiry

Clause 311 provides that a commission of inquiry must inquire diligently into the matter of the inquiry and report the results to the Minister. The commission may gather information in any way it sees fit and is not bound by the rules of evidence. Proceedings are to be held in public unless the commission thinks it desirable, in the public interest, that the proceedings should be held in private.

Where a commission of inquiry has been appointed to inquire into the affairs of a council or local government subsidiary, it must give the council or local government subsidiary a reasonable opportunity to make submissions on the subject matter of the inquiry.

Clause 312. Evidentiary powers of commission

Clause 312 provides that a commission of inquiry can require a person to appear before it to give evidence, require a person to provide written answers to questions and to verify those written answers by statutory declaration and require a person to produce documents or other evidentiary materials in the person's possession or control to the commission.

The commission makes a requirement by giving a person notice in writing stating the subject matter of the inquiry, setting out the terms of the requirement and fixing or allowing a reasonable time for compliance with the requirement.

The commission can require a person appearing before it to give evidence on oath.

There are three separate offences contained in this clause.

First, it is an offence if a person intentionally does not comply with a requirement of the commission. The maximum penalty is 100 penalty units or 6 months imprisonment. Strict liability applies to whether the person is required to comply with a requirement.

Second, it is an offence if a person fails or refuses to take an oath when required to do so by the commission. The maximum penalty is 100 penalty units or 6 months imprisonment.

Third, it is an offence if a person fails to, or refuses to, answer a question relevant to the subject matter of the inquiry when the commission requires them to do so. The maximum penalty for this offence is 100 penalty units or 6 months imprisonment.

It is a defence to all three of these offences if the defendant has a reasonable excuse.

A person who gives evidence to a commission of inquiry has the same privileges and immunities as a witness in proceedings before the Supreme Court.

Clause 313. Legal representation

Clause 313 provides that where a council's, local government subsidiary's or person's conduct is under investigation by a commission of inquiry, the council, local government subsidiary or person is entitled to legal representation.

Clause 314. Reopening of inquiry

Clause 311 provides that the Minister can direct a commission to re-open an inquiry if fresh evidence comes to light or it appears desirable for some other reason.

Clause 315. Report of commission of inquiry

Clause 312 provides that publication of a report of a commission of inquiry is absolutely privileged and publication of a fair report of proceedings or findings of a commission of inquiry is protected by qualified privilege.

Chapter 17 Defaulting councils

Part 17.1 Required remedial action

Clause 316. Minister may require action to remedy deficiencies

Clause 316 provides that if the Minister is satisfied that deficiencies have been identified in the conduct of a council's affairs and that action must be taken to address them, the Minister can require the council to take specified remedial action within a specified period and require the council to report back to the Minister on the action taken.

When the Minister makes such a requirement, the remedial action must be specified in writing and must refer to the offence and penalty provided in this clause. It is an offence if a member of a council fails to comply with a remedial action. The maximum penalty is 500 penalty units.

This is an offence of strict liability but it is a defence if the person acted with reasonable diligence to secure compliance by the council.

Part 17.2 Financial controller

Clause 317. Financial controller

Clause 317 provides that the CEO of the Agency can appoint a financial controller for a council or subsidiary if the CEO considers that the council or subsidiary is not performing its financial responsibilities appropriately or is not complying with this Act. The CEO appoints a financial controller by *Gazette* notice.

A financial controller is responsible for implementing financial controls and performing other related duties as directed by the CEO of the Agency. The council or subsidiary must cooperate fully with a financial controller. Further, the council or subsidiary must obtain authorisation from the financial controller before undertaking a transaction from an account kept with a financial institution. Also, authorisation must be obtained for any other type of expenditure and any future financial commitments.

If the financial controller believes on reasonable grounds that a decision, resolution or order to make a payment is financially unsound, the controller must take certain action. 'Financially unsound' means the decision, resolution or order may cause the council or local government subsidiary to become insolvent; or would result in unlawful expenditure; or would result in a disbursement from a fund that is not provided for in the budget; or would result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given.

In these circumstances the financial controller must refuse to make a payment and advise the CEO of the Agency and the council about why the decision, resolution or order is financially unsound.

Part 17.3 Official management

Clause 318. Official management of councils

Clause 318 provides that if the Minister is satisfied that there are or there may be serious deficiencies identified in the conduct of a council's affairs, the Minister can place the council under official management. The Minister does this by *Gazette* notice.

When the Minister does this, all members are suspended from office and, if a periodic general election is scheduled in the period of official management, the council does not participate in it. Also, the Minister must appoint an official manager to manage the affairs of the council and a suitable person (it could be the same person) as investigator to report on the conduct of the suspended members and the affairs and financial position of the council. The Minister must specify the period that is allowed for the investigation and report.

The investigator has the powers of an inspector and the Minister can extend the time allowed for the investigator's report.

When the Minister receives the investigator's report, written submissions must be invited from the suspended members and any other person against whom there is a significant adverse finding within a reasonable period of at least 21 days.

After considering any submissions the Minister must either reinstate or dismiss the members. This must happen within 12 months from when the council was put under official management. The investigator ceases to hold office when the Minister makes the decision to reinstate or dismiss the members.

Clause 319. General election for council under official management

Clause 319 provides that the Minister must immediately call a general election for the council if all of the suspended members are dismissed. The Minister must also immediately call a general election if a periodic general election was scheduled to be held during the period of official management, the council did not participate in the periodic general election, and the Minister subsequently reinstates all of the suspended council members.

If the Minister does not make a decision to reinstate or dismiss the members within 12 months of placing the council under official management, the Minister must call a general election within 90 days from the expiry of the 12 month period.

If the Minister calls a general election and it is held within one year of the date for a periodic general election, the general election replaces that particular periodic general election.

The note for this clause is a reminder that the first ordinary meeting of a council must be held within 21 days after the conclusion of the general election.

Clause 320. Resignation of suspended member

Clause 320 provides for when the resignation of a suspended council member takes effect if the council member resigns during the period of the suspension. If the council member is reinstated, the resignation takes effect at the time of reinstatement. If the council member is dismissed, the resignation has no effect the council member is dismissed. If the council member is not reinstated or dismissed and a general election is called under clause 319(2), then the resignation takes effect at the conclusion of that general election.

Clause 321. Official manager

Clause 321 provides that the official manager has full power to transact any business of the council and to do anything else that the council could have done. The official manager can act in the manager's name or the name of the council and can execute documents under the common seal of the council.

While the Minister determines the level of remuneration for the official manager, the remuneration is paid from the funds of the council.

The official manager ceases to hold office in the following circumstances. In circumstances where the council members are reinstated or the members are dismissed from office, the official manager ceases to hold office at the conclusion of the general election held under clause 319(1)(a). If a general election is called under clause 319(2), the official manager ceases to hold office at the conclusion of that general election.

Chapter 18 Review of decisions

Part 18.1 Internal review

Clause 322. Reviewable decisions

Clause 322 sets out the types of decisions that are reviewable. A reviewable decision is a decision that is reviewable by this Act (including a by-law under this Act) or by resolution of the council. The council is required to have a list of each category of reviewable decision that can be accessed on the council's website.

The note for this clause clarifies that the following are decisions that are designated by this Act as reviewable: a decision in relation to the correct of an entry in the assessment record under clause 232(1) or 233(7); a regulatory order under clause 286; and a decision to refuse to suppress a person's details in publicly available material under clause 293(5).

Clause 323. Right to apply for review

Sub-clause (1) gives a person adversely affected by a reviewable decision 28 days to apply to the CEO of the council for a review.

Sub-clause (2) requires the application for review to be in writing and set out the grounds on which the decision should, in the applicant's opinion, be reconsidered.

Sub-clause (3) allows the CEO to extend the 28 day application period if the CEO is satisfied there are exceptional circumstances justifying the extension.

Clause 324. Consideration of application by administrative review committee

Sub-clause (1) requires the CEO to refer the application to an administrative review committee.

Sub-clause (2) provides that if the application is frivolous, vexatious or lacks substance, the administrative review committee may summarily reject it.

Sub-clause (3) requires the administrative review committee to provide a decision notice to the applicant if it rejects the application under sub-clause (2).

Sub-clause (4) provides that if the administrative review committee does not reject the application and considers it, the committee must inquire into the matters raised by the application and must make a recommendation on the application to the council.

Sub-clause (5) provides that the administrative review committee can recommend that the decision be confirmed, amended or revoked. It may also recommend that a further decision be made to mitigate the impact of the decision.

Clause 325. Council's decision on recommendation

Sub-clause (1) provides that the council, after receiving a recommendation from an administrative review committee, must make a final decision on the application.

Sub-clause (2) provides that the council's decision does not have to be consistent with the administrative review committee's recommendation.

Sub-clause (3) requires the CEO of the council to give the applicant a decision notice as soon as practicable after the council makes a final decision on the application, but no later than 90 days after the application for review was received by the council.

Clause 326. No decision by council

Clause 326 provides that if a council fails to give a decision notice to the applicant within the required 90 days in accordance with clause 325(3), the applicant may refer the application to NTCAT.

Part 18.2 Jurisdiction of NTCAT

Clause 327. Review by NTCAT

Clause 327 provides that Schedule 2 lists the reviewable decisions and corresponding affected persons under this Act. An affected person may apply to NTCAT for a review of the decision.

The note for this clause references the *Northern Territory Civil and Administrative Tribunal Act 2014* in terms of the procedure for a review and other relevant matters.

Clause 328. Review does not affect decisions and orders

Sub-clause (1) provides that an application to NTCAT to review a decision does not stop the operation of the decision.

Sub-clause (2) allows NTCAT to make an order that suspends an obligation or prohibits an action arising from a decision until NTCAT has made its decision.

Sub-clause (3) provides that section 44(2) of the *Northern Territory Civil and Administrative Tribunal Act 2014* does not apply to the review of a decision notice under this Act, meaning that when NTCAT reviews such a decision, it may not make an order staying the decision being reviewed.

Chapter 19 Miscellaneous

Part 19.1 Legal proceedings

Clause 329. Commencement of legal proceedings on behalf of council

Sub-clause (1) provides that legal proceedings for a council – including proceedings for an offence – must be approved by council resolution, subject to the operation of sub-clause (2).

Sub-clause (2) clarifies that legal proceedings may be commenced under sub-clause (1) in the name of the council by the CEO of the council or some other person authorised by council to bring the proceedings on its behalf.

Sub-clause (3) sets out the exhaustive list of the types of proceedings that do not require approval by council resolution before they can be commenced. These include prosecution of an offence against a by-law, debt recovery and any other legal proceeding that is prescribed by regulation.

Sub-clause (4) provides that proceedings for an offence against this Act may be commenced within three years of the alleged offence taking place.

Part 19.2 Service of documents

Clause 330. Service of documents on council or local government subsidiary

Clause 330 sets out the ways in which a document may be served on a council or local government subsidiary. A document may be served by: handing it to the CEO or chief executive personally; emailing it to the CEO or chief executive; leaving it at the council office or local government subsidiary office with a council or local government subsidiary staff member; posting it to the council's or local government subsidiary's postal address; or serving the document in any other way notified on the council's or local government subsidiary's website as an accepted way to serve a document.

Clause 331. Service of documents by council or local government subsidiary

Clause 331 sets out the ways in which a council or local government subsidiary may serve a notice, order or other document on a person. The notice, order or other document may be served by: personally serving it on the person to whom it is addressed; leaving it for the person at the person's place of residence, employment or business; or by posting it, addressed to the person, at the person's last known place of residence, employment or business.

If a notice, order or other document is served on a person in their capacity as an owner or occupier of land, it binds successors in title or successive occupiers, as the case requires.

Part 19.3 Evidence

Clause 332. Judicial notice to be taken of certain facts

Clause 332 sets out matters that a court must take judicial notice of. A court is to take judicial notice of the: existence of a municipality, shire or region and its boundaries; the division of a council into wards and the ward boundaries; the existence and membership of a council; the election of council members; and the appointment and signature of the CEO of the council.

Clause 333. Certified copies of minutes

Clause 333 sets out the extracts that, for legal proceedings, are admissible as evidence of the matters to which the extracts relate. These include an extract from the minutes of a council or council committee (certified by the CEO of the council) and an extract from the minutes of a local government subsidiary (certified by the chief executive of the local government subsidiary).

Clause 334. Evidence of land ownership

Clause 334 provides that a certificate signed by the Registrar-General is, for legal proceedings, admissible as evidence of ownership of an estate in fee simple or a leasehold estate, in relation to the land indicated in the certificate.

Part 19.4 Offences for unauthorised disclosure and misleading information

Clause 335. Offence to disclose certain information

Clause 335 provides that a person commits an offence if they obtain confidential information when performing a function or exercising a power under this Act and disclose that information to another person who is not entitled to the information and the disclosure is not for a purpose connected with the administration of this Act. Strict liability applies to whether the person obtains information in the course of performing a function or exercising a power under this Act. The maximum penalty for this offence is 400 penalty units or 2 years imprisonment. A defence to this offence is that if the information disclosed relates to a person, the person consented to the disclosure of the information.

The note for this clause clarifies the operation of section 43BE of the Criminal Code in relation to this offence.

Clause 336. Misleading information

Sub-clause (1) provides that a person commits an offence if the person gives misleading information to a local government officer. The maximum penalty for this offence is 200 penalty units or 2 years imprisonment.

Sub-clause (2) provides that a person commits an offence if the person gives a document with misleading information to a local government officer. The maximum penalty for this offence is 400 penalty units or 2 years imprisonment.

Sub-clause (3) provides that it is a defence to the offence in sub-clause (2) if the person giving the document draws the recipient's attention to the misleading aspect of the document and provides the information needed to remedy the misleading aspect of the document.

Sub-clause (4) contains definitions for this clause.

Part 19.5 Carrying out work on land

Clause 337. Occupier entitled to carry out work on land

Sub-clause (1) provides that if a land owner does not perform work on the land required under this Act, the occupier may perform the work.

Sub-clause (2) provides that where the occupier performs work under sub-clause (1), the occupier is entitled to recover the reasonable costs of performing the work from the land owner.

Clause 338. Owner entitled to enter land to carry out work

Sub-clause (1) provides that where the owner of land is not in occupation of it, the land owner may enter the land to perform work on it required under this Act, provided reasonable notice is given to the occupier.

Sub-clause (2) provides that a person commits an offence if the person occupies land and intentionally obstructs the owner from entering the land to perform work on it required under this Act. The maximum penalty for this offence is 100 penalty units.

Sub-clause (3) provides that strict liability applies to whether the person is an occupier of the land.

Part 19.6 Certificates of liabilities

Clause 339. Certificates

Sub-clause (1) provides that on request of a person with a proper interest in land in the council's area, the council must give the person a certificate with details of any rates and charges on the land owing to the council, as well as any statutory notices or orders regarding the land issued by the council.

Sub-clause (2) provides that if a person, acting on faith in relation to the certificate, purchases the land or becomes a mortgagee on the land, the council cannot contest the correctness of the certificate with that person.

Sub-clause (3) sets out a list of persons that have a proper interest in the land for the purposes of this clause. These persons include: an owner or occupier of the land; a purchaser or prospective purchaser of the land; a mortgagee or prospective mortgagee of the land; and a person acting for any of the persons previously mentioned in this list.

Part 19.7 Acquisition on just terms

Clause 340. Acquisition on just terms

Clause 340 provides that if the operation of this Act would result in the acquisition of property otherwise than on just terms, the person is entitled to be compensated by the Northern Territory to make the terms of the acquisition just. A court of competent jurisdiction may decide the amount of compensation or make orders it considers necessary to ensure acquisition is on just terms.

Part 19.8 Forms, guidelines and regulations

Clause 341. Approved forms

Clause 341 provides that the CEO of the Agency may approve forms for this Act. An 'approved form' mentioned elsewhere in this Act refers to a form that is approved under this clause.

Clause 342. Guidelines

Clause 342 provides that the Minister may make, amend or revoke guidelines for the purposes of this Act. The Agency must publish any such guidelines on its website. After a guideline has been made, it must be tabled in the Legislative Assembly within six sitting days. This clause clarifies that guidelines made by the Minister do not have the status of subordinate legislation.

Clause 343. Regulations

Sub-clause (1) provides that the Administrator may make regulations under this Act. The note for this sub-clause refers to section 65 (Power to make subordinate legislation) of the *Interpretation Act 1978*, which is relevant to the interpretation of this regulation-making power.

Sub-clause (2) states that a regulation may provide for an offence against a regulation to be an offence of strict or absolute liability. Additionally, a regulation may apply, adopt or incorporate a whole or part of a document as in force or existing at particular time (or from time to time). However, sub-clause (2) does not limit the wide regulation-making power that exists under sub-clause (1).

Chapter 20 Repeals

Clause 344. Acts repealed

Clause 344 provides that the Acts set out in Schedule 4 are repealed.

Chapter 21 Transitional matters for Local Government Act 2019

Clause 345. Definitions

Clause 345 contains definitions for Chapter 21.

Clause 346. Continuation of LGANT

Clause 346 provides that the Local Government Association of the Northern Territory (LGANT) is continued for 12 months or the time prescribed by the regulations, as though section 242 of the *Local Government Act 2008* had not been repealed. The Minister may gazette a notice transferring the property, rights, liabilities and obligations of LGANT to the prescribed corporation on the date specified in the *Gazette* notice.

Clause 347. LGANT in formation of local government subsidiary

Clause 347 provides that if LGANT participated with a council or councils in the formation of a local government subsidiary, formed under the *Local Government Act 2008*, LGANT continues to participate with the council or councils and is to be considered a constituent council of the local government subsidiary under this Act. After the period under clause 346 expires, the prescribed corporation is to be considered a constituent council of the local government subsidiary.

Clause 348. Continuation of existing councils and by-laws

Sub-clause (1) provides that councils and local government areas for municipalities and shires are continued, as constituted immediately before the commencement of this Act.

Sub-clause (2) provides that the names of the councils mentioned in sub-clause (1) are continued.

Sub-clause (3) provides that members of the councils mentioned in sub-clause (1), holding office immediately before commencement, continue to hold that office.

Sub-clause (4) provides that, in relation to the councils mentioned in sub-clause (1), the titles of the principal members are the same as they were immediately before the commencement of this Act.

Sub-clause (5) provides that, in relation to the councils mentioned in sub-clause (1), the council by-laws continue in force, subject to the variation or revocation by by-laws made under this Act.

Sub-clause (6) protects the validity of an action taken by a council, after enactment but before commencement of this Act, that accords with this Act but conflicts with the *Local Government Act 2008*.

Sub-clause (7) provides that despite sub-clause (2), the Administrator or Minister may change the name of a council under this Act.

Clause 349. Regional councils taken to be local government councils

Sub-clause (1) provides that a regional council constituted under the *Local Government Act 2008* is taken to be a council for a region under this Act.

Sub-clause (2) provides that the names of the councils mentioned in sub-clause (1) are continued.

Sub-clause (3) provides that members of the councils mentioned in sub-clause (1), holding office immediately before commencement, continue to hold that office.

Sub-clause (4) provides that, in relation to the councils mentioned in sub-clause (1), the titles of the principal members are the same as they were immediately before the commencement of this Act.

Sub-clause (5) provides that, in relation to the councils mentioned in sub-clause (1), the council by-laws continue in force, subject to the variation or revocation by by-laws made under this Act. The note for this sub-clause clarifies that this applies to the by-laws made by the Jabiru Town Council that later became the by-laws of the West Arnhem Shire Council.

Sub-clause (6) protects the validity of an action taken by a council, after enactment but before commencement of this Act, that accords with this Act but conflicts with the *Local Government Act 2008*.

Sub-clause (7) provides that despite sub-clause (2), the Administrator or Minister may change the name of a council under this Act.

Clause 350. Contents of municipal, regional or shire plan

Clause 350 provides that during the term of council in which this Act commences, a council's constitutional arrangements are to be reviewed under sections 23(1)(c) and (2) of the *Local Government Act 2008*.

Clause 351. Local government subsidiaries

Clause 351 continues any local government subsidiaries formed under the *Local Government Act 2008*.

Clause 352. Formation, ownership or participation in other bodies corporate before the commencement

Clause 352 provides that where a council formed or otherwise participated in corporation, partnership or other trading body before commencement, after commencement the council is taken to have the Minister's approval under clause 39 to do so.

Clause 353. Continuation of allowances and expenses

Clause 353 continues sections 71 and 72 of the *Local Government Act 2008* and the guidelines in force under section 71(2) until the Remuneration Tribunal makes a determination of the amounts of council member allowances. If the Remuneration Tribunal makes a determination applicable to one or more councils but has not made a determination for all councils, repealed sections 71 and 72 and the guidelines in force under section 71(2) are continued in relation to any council for which there is not yet an applicable determination.

Clause 354. Conflict of interest if interest relates to allowances or expenses

Clause 354 provides that where the Remuneration Tribunal has not yet made a determination of the amounts of member allowances for a council, repealed section 73(2)(a), which exempts a member from having a conflict of interest when a council is considering member allowances, is continued for that council.

Clause 355. Preservation of local government functions of Nhulunbuy Corporation Limited

Sub-clause (1) provides that, subject to this clause: Nhulunbuy Corporation Limited has the same functions it did under the repealed Act; the *Nhulunbuy (Animal Control) By-laws 1998* are continued; and this Act applies to Nhulunbuy Corporation Limited – in relation to its performance of local government functions – as though it were a local government council under this Act.

Sub-clause (2) provides that Nhulunbuy Corporation Limited has the same functions as a council under this Bill.

Sub-clause (3) provides that the Minister may, by *Gazette* notice, modify the local government functions of, or the application of the Act to, Nhulunbuy Corporation Limited.

Clause 356. Annual review of plans

Clause 356 provides that section 24 of the *Local Government Act 2008* applies to a council's municipal, regional or shire plan for the financial year in which this Act commences and clause 34 applies to the plan for subsequent financial years.

Clause 357. Local authorities

Sub-clause (1) provides that this clause applies to all local authority members at the time immediately before commencement.

Sub-clause (2) provides that the council members for a ward in which a local authority is located are deemed to be appointed as members of the local authority under clause 77(1)(a).

Sub-clause (3) provides that the principal member of a council for a ward in which a local authority is located is deemed to be appointed as a member of the local authority under clause 77(1)(a).

Sub-clause (4) provides that all other members referred to in sub-clause (1) are deemed to be appointed as members of the local authority under clause 77(1)(b).

Clause 358. Complaints of breach of code of conduct

Sub-clause (1) provides that this clause applies where a code of conduct complaint was lodged under section 79 of the *Local Government Act 2008*.

Sub-clause (2) continues Chapter 7, Part 7.4, Division 2 and Part 7.5 of the *Local Government Act 2008* in relation to the complaint.

Sub-clause (3) provides that this Act applies if a person lodges a complaint after commencement.

Sub-clause (4) provides that sub-clause (3) applies irrespective of whether the alleged code of conduct breach was before or after the commencement of this Act.

Clause 359. Eligibility requirements for CEO, Deputy CEO and chief executive

Sub-clause (1) provides that this clause applies where a CEO of a council, Deputy CEO of a council, or chief executive of a local government subsidiary entered a contract of employment for the respective position before commencement.

Sub-clause (2) provides that clause 166 does not apply to the CEO or Deputy CEO during the person's existing contract of employment.

Sub-clause (3) provides that clause 71 does not apply to the chief executive during the person's existing contract of employment.

Sub-clause (4) provides that clauses 71 and 166 will apply if any CEO, Deputy CEO or chief executive is reappointed and enters into a renewal of the person's contract of employment after the commencement of this Act.

Clause 360. Long-term financial plan

Clause 360 provides that section 126 of the *Local Government Act 2008* continues to apply to a council's long-term financial plan that begins in the financial year in which this Act commences and clause 200 applies to a long-term financial plan beginning in the financial year following the year in which this Act commences.

Clause 361. Land exempt from rates

Sub-clause (1) provides that this clause applies to land that was exempt from rates under section 144(1)(f) of the *Local Government Act 2008*.

Sub-clause (2) provides that the land continues to be exempt, regardless of whether the public benevolent institution or charity is registered with the Australian Charities and Not-for-profits Commission.

Sub-clause (3) provides that sub-clause (2) only applies in the financial year in which this Act commences.

Sub-clause (4) provides that clause 222 applies to land exempt from rates for subsequent financial years, following the financial year in which this Act commences.

Clause 362. Declaration of general rates

Clause 362 provides that section 155 of the *Local Government Act 2008* continues to apply to a council's declaration of general rates for the financial year in which this Act commences and clause 237 applies to a declaration of general rates for subsequent financial years.

Clause 363. Official management of councils

Clause 363 provides that, if a council is under official management at the date of commencement, this Act applies to the official management after commencement and the maximum 12 month period before the Minister is required to dismiss or reinstate the members begins on the day of commencement of this Act.

Clause 364. Roads

Sub-clause (1) provides that any roads within a council area that were vested in or under the care, control and management of the Territory immediately before commencement of this Act, continue to be vested in or under the care, control and management of the Territory despite Part 12.3 of this Act.

Sub-clause (2) clarifies that any road that continues to be vested in the Territory remains subject to any agreement between the Territory and the council to vest the road in the council or any other proper dealing by the Territory in relation to the road.

Clause 365. Adoption of code of conduct and policies by councils

Sub-clause (1) provides a list, which specifies policies and a code of conduct for the CEO of the council, that a council must adopt within 12 months of the commencement of this Act.

Sub-clause (2) provides that despite sub-clause (1), if a council is required to take an action covered by one of the policies, the council must adopt the policy before taking the action.

Sub-clause (3) provides that if a council has adopted a policy specified in the Table contained in this clause before commencement and the adoption meets the requirements under this Act, that policy will be taken to have adopted by the council.

Sub-clause (4) provides that if a council has adopted a policy specified in the list in sub-clause (1) before commencement and the adoption meets the requirements under this Act, that policy will be taken to have adopted by the council.

Clause 366. Adoption of code of conduct and policies by local government subsidiary

Clause 366 sets out a list of policies that a local government subsidiary must adopt within 12 months of the commencement of this Act.

Clause 367. Transitional regulations

Sub-clause (1) provides that a regulation may provide for a matter of a transitional nature because of the enactment of this Act or to facilitate the transition from the *Local Government Act 2008* to this Act.

Sub-clause (2) states that a regulation may provide for the operation, disapplication or modification of the disclosure period under clause 149.

Sub-clause (3) clarifies that a transitional regulation made under this clause may operate retrospectively, but cannot operate prior to the commencement date of this Act.

Sub-clause (4) clarifies that, in relation to the transitional regulation, the regulation cannot operate retrospectively to the disadvantage of a person in terms of decreasing rights or imposing liabilities, other than the rights or liabilities of the Territory or a Territory authority.

Sub-clause (5) requires a regulation made under this clause to declare that it is made under this clause.

Sub-clause (6) provides that clause 367 and each transitional regulation made under this clause is repealed 12 months after the commencement of this Act.

Chapter 22 Consequential amendments

Part 22.1 Amendments to Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006

Clause 368. Act amended

Clause 368 is a standard clause that identifies the Act that Part 22.1 is amending.

Clause 369. Part 3, Division 1A inserted

Clause 369 sets out the provisions to be inserted into the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*.

Part 22.2 Other legislation amended

Clause 370. Legislation amended

Clause 370 is a standard clause that amends the legislation mentioned in Schedule 5.

Part 22.3 Repeal of Chapter

Clause 371. Repeal of Chapter

Clause 371 is a standard clause that repeals Chapter 22 (Consequential amendments) on the day after it commences.

Schedule 1 Code of conduct

Schedule 1 sets out the code of conduct provided for in clause 119.

Schedule 2 NTCAT reviewable decisions and affected persons

Schedule 2 provides a list of what constitutes a reviewable decision and who is considered an affected person in relation to a reviewable decision. Refer to clause 327.

Schedule 3 Information to be publicly available

Schedule 3 sets out the information a council must make publicly available, with the conditions and timing of such availability. Refer to clause 292.

Schedule 4 Repealed Acts

Schedule 4 lists the Acts that will be repealed on the commencement of this Act. Refer to clause 344.

Schedule 5 Other legislation amended

Schedule 5 lists the Northern Territory legislation that is to be amended on the commencement of this Act and as a result of repealing the Acts in Schedule 4. This ensures that any cross-referencing between other legislation and this Act is consistent. Refer to clause 370.