

THE NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT ACT (No. 4)
No. 7 of 1979
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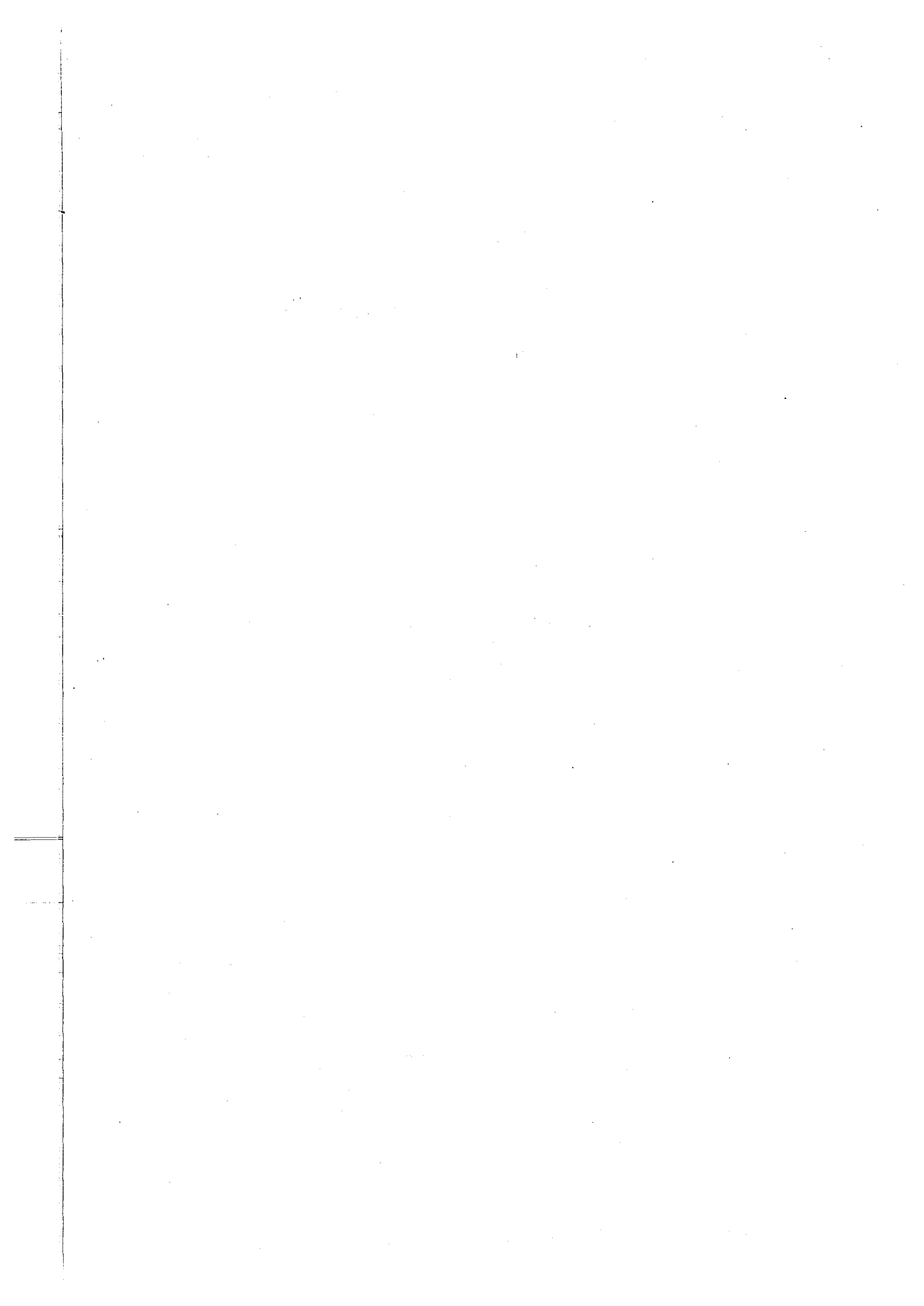
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THE NORTHERN TERRITORY OF AUSTRALIA

No. 7 of 1979

AN ACT

To amend the Local Government Act to make provision
for the Government of Local Communities other
than Municipalities

[Assented to 17 January 1979]

BE it enacted by the Legislative Assembly of the Northern Territory of
Australia, with the assent as provided by the *Northern Territory (Self-
Government) Act 1978* of the Commonwealth, as follows:

1. This Act may be cited as the Local Government Act (No. 4) 1978. Short title
2. The Local Government Act is in this Act referred to as the Principal Act. Principal Act
3. Section 12 of the Principal Act is amended by inserting at the end thereof the following sub-section: Adjustment of rights, &c.

"(2) A reference in sub-section (1) to a previously existing municipality includes a reference to a previously existing community government area within the meaning of Part XX."
4. Section 400(a) of the Principal Act is amended by inserting after the word "council" the words "or community government council constituted under Part XX". Proof of by-laws
5. Section 410 of the Principal Act is amended by inserting after "council" (wherever occurring) "or community government council constituted under Part XX". Recovery of damages, &c.
6. Section 422 of the Principal Act is amended - Regulations
 - (a) by omitting "Administrator in Council" and substituting "Administrator"; and
 - (b) by inserting at the end thereof the following sub-section:

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"(2) Without limiting the generality of sub-section (1), regulations which may be made under Part XX may apply generally or in any particular case or class of cases specified in the regulations."

Community
government

7. The Principal Act is amended by inserting after section 422 the Part contained in Schedule 1.

SCHEDULE 1

Section 7

PART XX - COMMUNITY GOVERNMENT

Division 1 - Preliminary

Application 423. This Part applies to and in respect of land which is not within a municipality.

Interpretation 424. In this Part, unless the contrary intention appears -

"auditor", in relation to a community government council, means the person who is appointed and holds office under Division 10 as the auditor of that council;

"clerk", in relation to a community government council, means the person appointed as clerk of that council under section 452;

"community government area" means a community government area constituted and in existence under a community government scheme;

"community government council" means the community government council for a community government area elected in accordance with this Part;

"community government scheme" means a scheme for the carrying out of local government functions by a community government council which is in force;

"election" means an election for the members of a community government council;

"member" means a member of a community government council;

"resident", in relation to an area, means a person who -

(a) is over the age of 18 years; and

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- (b) has continuously lived in that area for not less than 3 months.

Division 2 - Contents of Community Government Schemes

425.(1) Subject to this Part, a community government scheme may make provision for or with respect to -

Contents of community government schemes

- (a) the boundaries of the community government area to which the scheme applies;
 - (b) the name of the community government council;
 - (c) the form of the common seal of the community government council;
 - (d) the times at which the community government council will meet to transact its business;
 - (e) the procedure for calling meetings of the community government council;
 - (f) the procedure to be followed at meetings of the community government council;
 - (g) the method of determining the questions arising at meetings of the community government council;
 - (h) the appointment of officers for the conduct of elections;
 - (i) the frequency of general elections;
 - (j) the procedure for calling elections;
 - (k) the eligibility of persons to be members of the community government council;
 - (l) the eligibility of persons to vote at elections;
 - (m) the number of members; and
 - (n) the functions to be performed by the community government council and the manner of performance of those functions.
- (2) A community government scheme may authorize the community government council to make by-laws in accordance with this Part, not inconsistent with any other law of the Territory, in relation to -
- (a) the sale, purchase, possession, presence and

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consumption of liquor within the meaning of the Liquor Act;

(b) the sale, display, possession, hire, purchase, presence and use of firearms; and

(c) the sale, display, possession, hire, purchase, presence and use of offensive weapons,

within the community government area.

Model provisions

426.(1) The Minister may approve a set of model provisions for community government schemes.

(2) The Minister shall cause to be published in the Gazette notice of the approval of a set of model provisions under sub-section (1).

(3) A community government scheme may adopt by reference, wholly or partly, any set of model provisions approved by the Minister under sub-section (1).

Amendment and repeal

427. A community government scheme may amend or repeal another community government scheme.

Division 3 - Preparation and Exhibition of Draft Community Government Schemes

Application for constitution of community government council

428. Any 10 residents of an area may apply in writing signed by each of them to the Minister for the establishment of a community government council in respect of that area.

Explanation of application

429.(1) Where the Minister receives an application under section 428 he shall -

(a) inform the residents of the area to which the application relates of the receipt of the application;

(b) fix a time and place for a meeting with those residents; and

(c) notify the residents of the time and place fixed for the meeting under paragraph (b).

(2) At a meeting fixed under sub-section (1)(b), the Minister, or a person nominated by him, shall -

(a) explain to the residents present at the meeting -

(i) the purpose of the application under section 428 received by him; and

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(ii) the function which a community government council may perform; and

(b) endeavour to ascertain the opinion of the residents present at the meeting in relation to -

(i) the proposal to establish a community government council in relation to the area or a part thereof; and

(ii) the functions to be conferred on such a council, if established.

(3) The applicants may, having regard to the opinions expressed at a meeting convened under sub-section (2), vary their application as they think fit but not so as to extend the area to which the application relates.

(4) The applicants may, by notice in writing served on the Minister, withdraw an application at any time before the constitution of a community government council in accordance with the application.

430.(1) Upon receipt of an application as specified in section 428, the Minister may prepare a draft community government scheme.

Preparation of draft community government schemes

(2) A community government council may prepare a draft community government scheme.

(3) Any person may, at the request of not less than 10 residents of any area, prepare a draft community government scheme.

431. A person other than the Minister who prepares a draft community government scheme shall submit the scheme to the Minister.

Submission to Minister

432.(1) The Minister may direct that a draft community government scheme be exhibited at such places and in such manner as are specified in the direction.

Exhibition of draft community government schemes

(2) Where a draft community government scheme is exhibited under sub-section (1), the Minister shall cause notice of the exhibition of the scheme to be published -

(a) in the Gazette; and

(b) in a newspaper circulating in the locality to which the draft community government scheme relates.

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Submissions 433. Any person may make a submission to the Minister in relation to a draft community government scheme exhibited under section 432(1).

Division 4 - Approval of Draft Community
Government Schemes

Consultation 434. The Minister shall cause consultations to be carried out with the residents of the community government area, or the area which is proposed to be constituted as a community government area, to which a draft community government scheme exhibited under section 432(1) relates, in respect of the contents of that scheme.

Minister to be satisfied of certain things 435. The Minister shall not approve a draft community government scheme under section 436 unless -

(a) if the draft community government scheme makes provision for fixing the boundaries of the community government area - he is satisfied that a majority of the residents of the area to which the scheme relates is in favour of the boundaries of the community government area being fixed in that manner;

(b) if the draft community government scheme makes provision in relation to -

(i) the eligibility of persons to be members;
or

(ii) the eligibility of persons to vote at elections,

he is satisfied that a substantial majority of the residents of the area to which the scheme relates is in favour of the proposals contained in the scheme in relation to that matter;

(c) if the draft community government scheme makes provision in relation to the number of members - he is satisfied that a majority of the residents of the area to which the scheme relates is in favour of the number of members being the number of members proposed in the scheme; and

(d) if the draft community government scheme provides for the carrying out of a function by a community government council - he is satisfied that -

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- (i) a substantial majority of the residents of the area to which the scheme relates is in favour of the community government council's performing that function; and
- (ii) the community government council or proposed community government council, as the case may be, is capable of effectively performing that function.

436.(1) The Minister may -

Powers of
Minister

- (a) approve;
- (b) subject to sub-section (2), alter and approve as so altered; or
- (c) reject,

a draft community government scheme.

(2) If the Minister alters a draft community government scheme under sub-section (1)(b) in respect of any matter referred to in section 435, he shall cause consultations, as required by that section, to be carried out in relation to that alteration before he approves the draft community government scheme as so altered.

437.(1) Where the Minister approves a draft community government scheme under section 436(1)(a) or (b) he shall cause to be published in the Gazette -

Notice of
approval of
community
government
scheme

- (a) notice of the approval of the scheme;
- (b) if the scheme makes provision in relation to the boundaries of the community government area - a description of the boundaries of the community government area; and
- (c) if the scheme makes provision for the alteration of the boundaries of the community government area by -
 - (i) the addition of land in another community government area to the community government area; or
 - (ii) severance of land from the community government area and its addition to another community government area,

a notice apportioning, settling and adjusting all property, writs, liabilities (including a

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liability arising under or from a loan or overdraft) and all other matters requiring adjustment in consequence of the alteration of those boundaries.

(2) A community government council to which a notice under sub-section (1)(c) applies is deemed, as the case may be -

(a) to acquire or be divested of property or rights; and

(b) to be subject to or excused from liabilities,

in accordance with the terms of that notice.

Public
notice

438. The Minister shall cause to be published in a newspaper circulating in the area to which the community government scheme applies notice of the approval of the scheme and details of the scheme.

Community
government
scheme to be
law of
Territory

439.(1) A community government scheme has effect as a law of the Territory on and from the day on which notice of the approval of the scheme is published in the Gazette under section 437(1)(a) or, if a later date is specified in the scheme, that later date.

(2) A community government scheme shall not be expressed to take effect, or be in terms such that it takes effect, from a date before the date on which notice of the approval of the scheme was published under section 437(1)(a) in any case where, if it so took effect -

(a) the rights of a person (other than the Territory or a statutory corporation) existing at the date the notice was so given would be affected in a manner prejudicial to that person; or

(b) liabilities would be imposed on a person (other than the Territory or a statutory corporation) in respect of anything done or omitted to be done before that date,

and any provision in a community government scheme which does not comply with this sub-section is void.

(3) The Minister shall, within 3 sitting days of the commencement of a sittings of the Legislative Assembly after the date on which notice of approval of a community government scheme was given under section 437(1)(a), table the scheme in that Assembly.

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(4) A community government scheme which is not tabled in the Assembly as required by sub-section (3) is void.

(5) If the Legislative Assembly passes a resolution notice of which has been given at any time within 12 sitting days after a community government scheme has been tabled in that Assembly disallowing the scheme or any provision thereof the disallowance has, subject to sub-section (6), the same effect as a repeal of the scheme or provision, as the case may be.

(6) The disallowance of a community government scheme or provision referred to in sub-section (5) that repeals such a scheme or provision revives the last-mentioned scheme or provision as though the first-mentioned scheme or provision had not been made.

Division 5 - Community Government Councils

440. Subject to Division 12, there shall be a community government council in respect of each community government area.

Community
government
councils

441.(1) The community government council shall be a body corporate with perpetual succession and a common seal and shall be capable -

Community
government
council to
be body
corporate

- (a) of suing and being sued;
- (b) of purchasing, holding and alienating land or other property; and
- (c) subject to this Act, of doing and suffering all such other acts and things as bodies corporate may do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of a community government council affixed to a document and shall, unless the contrary is proved, presume that it was duly affixed.

Division 6 - Elections

442. The Minister may, after the publication under section 437(1)(b) of the notice first fixing the boundaries of a community government area, request the Returning Officer for the Northern Territory to conduct the election of the first community government council of that area.

Appointment
of returning
officer

443.(1) If the Minister is satisfied that, within 2 years before the commencement of a community

Appointments

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government scheme, the residents of the community government area have elected a number of persons to carry out functions of a similar kind to the functions which the community government council may, under that community government scheme, perform, he may appoint the persons so elected to be members of the community government council.

(2) An appointment under sub-section (1) shall be notified in the Gazette and shall take effect from -

(a) the date of that notification; or

(b) if there is a later date specified in the notification - that later date.

Elections

444. A general election shall be held before 31 December of -

(a) in the case of a community government council which consists of members appointed under section 443 - the second year after the appointment of those members; or

(b) in any other case - the fourth year after the general election immediately prior to that election.

Division 7 - Members

Fees and expenses

445. The Minister may, from time to time, determine the maximum amount of fees, allowances and expenses payable to members in respect of their service as members.

Clerk to apply to Magistrate in certain cases

446. Any person who is a resident, or the clerk of a community government council, may apply to a Magistrate appointed under the Magistrates Act for a declaration that a member is disqualified from holding or continuing to hold office as a member.

Jurisdiction of Magistrate

447.(1) A Magistrate to whom an application under section 446 is made has jurisdiction to hear and determine the application, and, in exercising the jurisdiction conferred by this sub-section, shall have and may exercise such powers as he would have in hearing a complaint as the Court of Summary Jurisdiction under the Justices Act.

(2) Subject to sub-section (3), a Magistrate who hears an application under section 446 -

(a) is not bound by any rules of evidence but may inform himself on any matter in such manner as he thinks fit; and

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(b) is not bound to act in a formal manner, but shall act without regard to legal forms and technicalities.

(3) The practice and procedure relating to the hearing of applications under section 446 shall be as determined by the Magistrate who hears the application.

(4) A Magistrate who makes a declaration under sub-section (1) shall forthwith notify the clerk of the community government council in writing of the making of the declaration.

448.(1) A member may resign his office by notice in writing.

Resignation

(2) A notice of resignation under sub-section (1) shall be delivered to -

(a) the clerk of the community government council;
and

(b) the Minister.

449. The clerk of a community government council shall inform the community government council, at the first meeting held after he becomes aware of the fact -

Clerk to inform of certain matters

(a) that a Magistrate has made a declaration under section 447 in respect of a member; or

(b) that a member has resigned or died.

450. The office of a member becomes vacant when -

Vacancy of office of member

(a) the member dies;

(b) the term for which he was elected expires;

(c) a notice of resignation given by him under section 448 is received by the clerk;

(d) a Magistrate makes a declaration under section 447 in relation to that member; or

(e) the member no longer has the eligibility requirement as set out in the community government scheme for that area pursuant to section 425(k).

451. The exercise of the functions and the performance of the duties or obligations of a community

Exercise of functions, &c., not affected

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government council are not affected by reason only of -

- (a) there being a vacancy in the office of a member of that council;
- (b) there being a defect in the election of a member; or
- (c) a member's having acted in office whilst being disqualified from holding office.

Division 8 - Officers of Community
Government Councils

Clerk 452. A community government council shall appoint a person to be the clerk of that council.

Other officers 453. A community government council may appoint such officers as it thinks fit on such terms and conditions as it thinks fit.

Division 9 - Powers of Community Government
Councils

Powers of community government councils 454. A community government scheme shall not contain a provision for or with respect to the performance of a function by a community government council unless that function is a function in relation to -

- (a) commercial development;
- (b) communications;
- (c) community amenities;
- (d) education or training;
- (e) electricity supply;
- (f) garbage collection and disposal;
- (g) health;
- (h) housing;
- (i) relief work for unemployed persons;
- (j) roads and associated works;
- (k) sewerage;

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(l) water supply; or

(m) welfare.

455.(1) A community government council may, from time to time, whether or not the Minister or some other person holding office under an Act has so requested, advise the Minister or that person holding office under an Act upon any matter relating to the control, management, government or welfare of the community government area and may, in relation to that advice, prepare and transmit to the Minister or that person proposals for the implementation or amendment of any law of the Territory relating to the affairs of the community government area.

Advice and proposals

(2) The power of a community government council under sub-section (1) includes a power to lodge with the Registrar of Liquor Licences under the Liquor Act any objection, complaint, application or opinion required or permitted under that Act to be made.

Division 10 - Financial Management

456. A community government council shall cause -

Books of account

(a) books to be provided and kept; and

(b) true and regular accounts to be entered in those books,

in respect of the funds of the council showing -

(c) the assets, liabilities, income and expenditure of the council; and

(d) the sources of income and the purposes for which each item of expenditure is made.

457. A community government council shall cause its accounts to be kept -

Methods of accounting

(a) in accordance with the prescribed method of accounting; and

(b) in the prescribed forms of books.

458. A community government council shall cause not less than one bank account to be maintained by it.

Bank account

459. Any officer of a community government council having the conduct of the financial affairs of that council or, if there is no such officer, the clerk,

Banking of moneys

Local Government (No. 4)

shall cause all money received by him or by any other officer of the council on behalf of the council to be paid to the credit of -

(a) if the money has been received by the council in trust for any person - a bank account maintained by the council for the purpose of receiving trust moneys; or

(b) in any other case - the bank account referred to in section 458.

Power to borrow

460. A community government council shall not -

(a) borrow any money, whether by way of overdraft or otherwise; or

(b) expend any money obtained by borrowing,

except with the approval of the Minister and in accordance with any conditions to which that approval is subject.

Power to expend funds

461. Subject to this Act a community government council may expend its funds in carrying out its functions under this Act.

Appointment of auditor

462.(1) A community government council shall, within 2 months of the beginning of each financial year, appoint a person to be the auditor for the community government area.

(2) Where a vacancy occurs in the office of the auditor for a community government area, the council shall, within one month of that vacancy occurring, appoint another person to be auditor for its community government area.

(3) The person appointed under sub-section (2) holds office for the unexpired portion of the term of the auditor appointed under sub-section (1).

Approval by Minister

463.(1) Subject to this section, a community government council shall not appoint a person to be auditor unless he is a member of an institute or association of accountants of which the Minister has approved as an institute or association for the purpose of this section.

(2) Where, on an application being made to him by a community government council, the Minister is satisfied that -

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- (a) no person who is a member of an institute or association of accountants approved under sub-section (1) is available for appointment as auditor; and
- (b) a person nominated by the council is competent to carry out the duties of auditor,

he may approve of the appointment as auditor of the person nominated, notwithstanding that the person is not a member of an institute or association of accountants so approved.

464.(1) A person who -

Disqualification
of auditor

- (a) is a member or officer of the community government council;
- (b) holds an office of profit under, or at the disposal of, the council other than as auditor; or
- (c) is directly or indirectly interested in a contract with the council other than as a shareholder in or a member, director, manager or servant of a company which consists of at least 70 registered shareholders or members, which is incorporated or registered in a State or Territory, and which is concerned in a contract or dealing with the council,

is disqualified from holding office as auditor for that community government council.

(2) A person who -

- (a) is an undischarged bankrupt; or
- (b) has been sentenced to a term of imprisonment for an indictable offence, until that term expires,

is disqualified from holding office as auditor for a council.

465.(1) If a community government council fails to appoint an auditor in accordance with this Division the Minister may appoint an auditor for the community government area.

Auditor

(2) The fees payable to an auditor appointed under sub-section (1) shall be paid by the community government council.

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Audit

466.(1) The auditor shall inspect and audit the accounts of the community government council in respect of its operations during the financial year immediately preceding the financial year in which he was appointed as auditor in the manner directed by the Minister.

(2) The auditor may, at his discretion, dispense with any or all of a detailed audit required under sub-section (1).

(3) The auditor shall report to the Minister the results of each inspection and audit carried out in accordance with sub-section (1).

(4) A report under sub-section (2) shall draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the auditor, of sufficient importance to justify his so doing.

(5) For the purposes of carrying out an inspection and audit in pursuance of this section, the auditor is entitled at all reasonable times to full and free access to the accounts and records of the community government council and may make copies or take extracts from those accounts and records.

Financial Statements

467.(1) Each community government council shall, within 3 months of the end of a financial year, or such longer time as the Minister may permit, submit to the auditor financial statements in respect of that year in the prescribed form.

(2) The auditor shall, within 3 months of receiving the financial statements referred to in sub-section (1), or within such longer period as the Minister may permit, forward to the Minister -

- (a) those financial statements; and
- (b) a report thereon.

(3) A report made by an auditor under sub-section (2) shall -

- (a) state whether, in the opinion of the auditor, the financial statements in respect of which the report is made -
 - (i) are based on proper accounts;

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- (ii) are in agreement with those accounts; and
- (iii) have been drawn up so as to present a true and fair view of the transactions for the financial year of the community government council and the financial position of the council at the end of that year;
- (b) state whether in the opinion of the auditor the receipt and expenditure of moneys and the acquisition and disposal of property by the council during the year have been in accordance with this Act; and
- (c) draw the attention of the Minister to such other matters and things arising out of his consideration of the statements as the auditor considers should be reported to the Minister.

(4) The Minister shall table in the Legislative Assembly a copy of the report and financial statements referred to in sub-section (1) together with a copy of the report referred to in sub-section (2) within 3 sitting days of receiving them.

468. The clerk shall inform the council at the first meeting held after he becomes aware that the auditor -

Council to be informed of Auditor's disqualification

- (a) is disqualified under section 464 from holding office as auditor;
- (b) has died;
- (c) has become mentally defective within the meaning of the Mental Defectives Act;
- (d) has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with his creditors or has made an assignment of his remuneration for their benefit; or
- (e) has failed to attend at the time and place appointed by the council for the holding of an audit after the clerk has given 14 clear days' notice of the appointment to carry out the audit and inspection to the auditor,

of that fact.

469.(1) At the meeting of the community government council at which -

Vacancy in office of auditor

Local Government (No. 4)

- (a) the council accepts the resignation of the auditor; or
- (b) the clerk informs the council of a matter pursuant to the provisions of the last preceding section,

the council shall declare the office of auditor to be vacant.

(2) The office of auditor becomes vacant when -

- (a) the council passes a resolution to that effect under the last preceding sub-section; or
- (b) the term for which the auditor was appointed expires.

Inspector of
local govern-
ment accounts

470. An inspector of local government accounts -

- (a) may inspect the accounts, books and records of a community government council and the organization and management of the council's activities;
- (b) shall report to the Minister and to the council any irregularity, dishonesty or breach of the provisions of any law applying in the Territory or the by-laws of the community government council revealed by his inspection;
- (c) may report on any other matter which, in his opinion, calls for special notice or which is prescribed; and
- (d) shall inquire into and report on any matter which the Minister has required him to investigate.

Inspector of
local govern-
ment accounts
may call on
person to show
cause

471. Where an inspector of local government accounts -

- (a) considers that an expenditure, transfer or entry in the books or accounts of a community government council has been incurred or made in contravention of any law applying in the Territory or of a by-law of the council;
- (b) considers that a deficiency or loss has been incurred by the negligence or misconduct of a member or officer of a community government council; or

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(c) considers that any moneys which ought to have been brought into account have not been brought into account,

he shall call upon the person -

(d) by whom the transfer, entry or expenditure was made or caused to be made;

(e) by whose negligence or misconduct a deficiency or loss has been incurred; or

(f) who has failed to bring into account moneys which ought to have been brought into account,

to show cause why the inspector should not cause a surcharge to be made against that person.

472.(1) Where a person who has been called upon to show cause under section 471 does not satisfy the inspector of community government accounts that a surcharge should not be made against him, the inspector shall cause a surcharge to be made against that person.

Surcharge

(2) A surcharge made under this section shall not exceed the amount of the expenditure, transfer, entry, deficiency or loss or the amount which has not been brought into account, as the case may be.

473. Immediately he makes a surcharge against a person, an inspector of local government accounts shall give notice in the prescribed form and manner to the person concerned.

Notification

474.(1) A person to whom notice is given under section 473 may, within one month from and including the date upon which he receives the notice, appeal to the Local Court nearest to the office of the community government council against the imposition or the amount of the surcharge.

Appeal

(2) A Local Court may, upon hearing an appeal under this section, confirm, reduce or annul a surcharge and make such order as to costs as it sees fit.

475. A surcharge imposed under this Division on a person is a debt due and payable by that person to the community government council.

Surcharge is debt to council

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Division 11 - By-laws

By-laws

476. Subject to this Act a community government council may, from time to time, make by-laws -

- (a) fixing or varying the charges that are payable to it in respect of any prescribed service provided by it;
- (b) fixing the terms and conditions of supply of a service in respect of which charges may be fixed under paragraph (a);
- (c) regulating the supply of those services;
- (d) for or with respect to the sale, purchase, possession, presence and consumption of liquor within the meaning of the Liquor Act;
- (e) for or with respect to the sale, display, possession, hire, purchase, presence and use of firearms;
- (f) for or with respect to the sale, display, possession, hire, purchase, presence and use of offensive weapons;
- (g) for or in relation to the exercise of its functions under the community government scheme of this Act; and
- (h) providing for a penalty not exceeding \$200 for an offence against the by-laws.

(2) A community government council shall, before it makes any by-laws by reference to section 476(1)(d), advise the Liquor Commission of its intention to make those by-laws and the proposed contents thereof.

Defence to prosecution

477. It is a defence to a prosecution in respect of a breach of a by-law made by reference to section 476(1)(d) that the act or thing complained of was authorized by or under the Liquor Act.

Procedure for making by-laws

478.(1) A by-law made under section 476 shall be -

- (a) signed by a person authorized in that behalf by the community government council; and
- (b) forwarded to the Minister.

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(2) Where a by-law is forwarded to the Minister under sub-section (1) -

- (a) the Minister shall cause the by-law to be notified in the Gazette;
- (b) the by-law takes effect from the date of notification under paragraph (a) or, if another date is provided for in the by-law, from the date so provided for; and
- (c) the Minister shall table the by-law in the Legislative Assembly within 3 sitting days of the Assembly after it is notified in the Gazette.

(3) Where by-laws are forwarded to the Minister under sub-section (1), the Minister may, before he causes them to be notified in the Gazette, return them to the community government council with such amendments as he recommends.

(4) Where the Minister returns by-laws under sub-section (3) the community government council shall consider those amendments and the by-laws with or without amendments shall again be forwarded to the Minister and sub-section (2) applies accordingly.

(5) If by-laws are not tabled in the Legislative Assembly in accordance with this section they are void and of no effect.

(6) If the Legislative Assembly passes a resolution of which notice has been given at any time within 12 sitting days after the by-laws have been tabled in the Legislative Assembly disallowing any by-laws, the disallowance has, subject to sub-section (7), the same effect as a repeal of the by-law or part of the by-law.

(7) The disallowance of a by-law or part thereof referred to in sub-section (6) that repeals another by-law or part thereof revives the last-mentioned by-law or part as though the first-mentioned by-law or part had not been made.

Division 12 - Dissolution of Community
Government Councils

479. The Administrator may, on the recommendation of the Minister, dissolve a community government council.

Administrator
may dissolve
community govern-
ment councils

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- Consultation 480. The Minister shall not recommend to the Administrator that a community government council be dissolved unless -
- (a) he has by notice in writing advised the council of his intention so to recommend and the reasons for the recommendation; and
 - (b) he has taken into account any representation made by the council before the expiration of 6 weeks from the date of that notification.
- Notice of dissolution 481. Notice of a dissolution of a community government council shall be published in the Gazette and in a newspaper circulating in the locality to which the notice of dissolution relates.
- Minister to report to Legislative Assembly and appoint manager 482.(1) Where a community government council is dissolved under this Division the Minister shall -
- (a) table in the Legislative Assembly a report on the dissolution and the reasons for the recommendation under section 480 within 2 sitting days after the publication of the notice in the Gazette under section 481; and
 - (b) appoint a manager on such terms and conditions as he sees fit to manage the affairs of the community government council until an election is held.
- (2) A manager appointed under sub-section (1)(b) may exercise and discharge the functions of the community government council in respect of which he is appointed.
- Effect of dissolution 483. Where a manager is appointed by the Minister under section 476 -
- (a) the officers of the community government council referred to in that section cease to hold office unless specifically retained by the manager; and
 - (b) the members of the council are deemed to vacate their respective offices,
- from and including the day following the date upon which the appointment of the manager becomes effective.
- Disallowance 484. If the Legislative Assembly passes a resolution of which notice has been given at any time

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within 12 sitting days after the report on the dissolution of the community government council has been tabled in the Assembly under section 482(1)(a) disallowing the dissolution of that council, the dissolution of that council, on and from the date of disallowance, ceases to have effect.

485.(1) Where a community government council has been dissolved under this Division, the Minister shall cause consultations to be carried out with the residents of the community government area to determine whether a majority of the residents is in favour of an election being held.

New elections

(2) Subject to sub-section (3), the Minister may appoint a date for the holding of an election.

(3) The Minister shall not appoint a date under sub-section (2) unless he is satisfied that a majority of the residents of the community government area is in favour of the election's being so held.

Division 13 - General

486. A person shall not cause any obstruction or disturbance or do any other act or thing which interferes with or is prejudicial to, or is likely to interfere with or be prejudicial to, the fair conduct of an election.

Conduct prejudicial to elections

487. All fines and monetary penalties recovered for offences against this Part shall be paid to the community government council of the community government area in which the offence was committed.

Fines

488. A summons, writ, notice or other proceeding may be served on a community government council by being handed personally to the clerk or by being left with an officer of the council at its office.

Service

489. A member or an officer of a community government council is not rendered personally liable for or in respect of -

Protection of members and officers

- (a) a matter or thing done, or a contract entered into, by the council in good faith in pursuance of and for the purposes of this Act; or
- (b) a matter or thing done, or a contract entered into, by the member or officer in good faith in pursuance of and for the purposes of this Act and for or on behalf of the council.

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Evidentiary
provisions

490. In any prosecution or other legal proceeding under this Part instituted by, under the direction of, on behalf of or for the benefit of a community government council, proof shall not be required, until evidence is given to the contrary -

- (a) of the constitution of the community government area;
- (b) of the constitution of the community government council as the council for the community government area;
- (c) of the election of members;
- (d) of the extent of the boundaries of the community government area;
- (e) of the fact that a particular place is within the community government area;
- (f) of the appointment of any officer of the community government council;
- (g) of the particular or general appointment of an officer of the council as the proper person to do any act or for any other purpose of this Act;
- (h) of the contents of a community government scheme;
- (i) of the order pursuant to which, or the authority to which, an officer of the community government council prosecutes; or
- (j) the fact that the defendant is or at the relevant time was -
 - (i) the owner or occupier of any land in question; or
 - (ii) the owner, or in possession of, or in charge of any thing or animal in question.