

Serial 35  
Local Government Amendment Bill 2013  
Ms Anderson

A Bill for an Act to amend the *Local Government Act*, and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

LOCAL GOVERNMENT AMENDMENT ACT 2013

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Act No. [ ] of 2013

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2013

An Act to amend the *Local Government Act*, and for related purposes

[Assented to [ ] 2013]  
[Second reading [ ] 2013]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Local Government Amendment Act 2013*.

## Part 2 Local Government Act amended

### 2 Act amended

This Part amends the *Local Government Act*.

### 3 Section 3 amended

(1) Section 3, definition **Chair**, after "a council,"

*insert*

local authority,

- (2) Section 3, definition **member**, after "a council,"

*insert*

a local authority,

- (3) Section 3

*insert (in alphabetical order)*

**council**, for an area, means the council constituted for that area under section 7(b).

**local government council**, see section 7(b).

#### **4 Section 5 amended**

Section 5(3), after "exercised"

*insert*

or performed

#### **5 Section 7 amended**

Section 7(b), after "a council"

*insert*

(the **local government council**)

#### **6 Section 8 replaced**

Section 8

*repeal, insert*

#### **8 Municipalities, regions and shires**

Local government areas are classified as municipalities, regions or shires according to their geographical size, the density of their population and their degree of urbanisation.

#### **7 Section 9 amended**

- (1) Section 9(1)(b)

*omit, insert*

- (b) determine whether a local government area is a municipality, a region or a shire;

(ba) change a municipality into a shire, or a shire into a municipality;

(bb) change a municipality into a region or a region into a municipality;

(bc) change a region into a shire, or a shire into a region;

(2) After section 9(2)

*insert*

(2A) If a *Gazette* notice under subsection (1) or (2) changes the name of a local government area, or of a local government council, any reference to the area or council is to be read as a reference to the area or council as changed by the notice.

## **8 Section 11 amended**

Section 11(f)

*omit*

carry out

*insert*

perform

## **9 Section 12 amended**

Section 12(2)

*omit*

exercise

*insert*

perform

## **10 Chapter 3 heading amended**

Chapter 3, heading

*omit*

**regional and**

**11 Chapter 3, Part 3.1 repealed**

Chapter 3, Part 3.1

*repeal***12 Chapter 3, Part 3.2 heading amended**Chapter 3, Part 3.2, heading, after "**municipal**"*insert***, regional****13 Section 22 amended**(1) Section 22, heading, after "**municipal**"*insert***, regional**(2) Section 22(2), after "**municipal plan**"*insert***, for a regional council, the regional plan,**

(3) Section 22(3), after "municipal"

*insert***, regional****14 Section 23 amended**(1) Section 23, heading, after "**municipal**"*insert***, regional**

(2) Section 23(1), after "municipal"

*insert***, regional**

- (3) Section 23(1)(a)  
*omit, insert*
- (a) must contain:
- (i) a service delivery plan for the period to which the municipal, regional or shire plan relates; and
  - (ii) the council's budget; and
- (4) Section 23(1)(b)(i)  
*omit, insert*
- (i) any long-term, community or strategic plan adopted by the council or a local authority or local board and relevant to the period to which the municipal, regional or shire plan relates; and
- (5) Section 23(2) and (3), after "municipal"  
*insert*  
, regional

## **15 Section 24 amended**

- (1) Section 24, heading, after "**municipal**"  
*insert*  
, **regional**
- (2) Section 24(1) to (4), after "municipal" (*all references*)  
*insert*  
, regional

## **16 Section 24A inserted**

After section 24, in Chapter 3, Part 3.2

*insert*

### **24A Core services**

The Minister may, by *Gazette* notice, advise one or more regional councils or shire councils as to the services that, in the Minister's view, are services that the regional council or councils or shire

council or councils should, as a priority, provide and the regional council or councils or shire council or councils must consider such a list when adopting and renewing their plan.

**17 Section 26 amended**

Section 26(1)(a)

*omit*

local boards, council committees

*insert*

local authorities, local boards or council committees

**18 Section 32 amended**

Section 32(2)(a)

*omit, insert*

(a) a local authority; or

(aa) a local board; or

**19 Section 41 amended**

Section 41(1)

*omit (all references)*

exercise

*insert*

performance

**20 Section 42 amended**

Section 42(3), after "member of"

*insert*

a regional council or

---

**21 Section 44 amended**

- (1) Section 44(1) to (3), before "shire council"  
*insert*  
regional council or a
- (2) After section 44(5)  
*insert*
- (6) If a shire is changed into a region or a region is changed into a shire, by *Gazette* notice under section 9, the basis of filling the office of the principal member remains the same as it was before the change, until changed under this section.
- (7) If a shire or a region is changed into a municipality, by *Gazette* notice under section 9, and the principal member was appointed under this section:
- (a) the basis of filling the office of the principal member remains the same as it was before the change; and
  - (b) as of the date of the next general election the basis of filling the office of the principal member of the municipality is governed by subsection (1)(a).

**22 Chapter 5 heading amended**

Chapter 5, heading

*omit*

**boards**

*insert*

**authorities, local boards**

**23 Section 48 amended**

Section 48, after "government"

*insert*

as it relates to municipalities and shires

**24 Section 49 amended**

- (1) Section 49(1), before "council"

*insert*

municipal or shire

- (2) Section 49(2)

*omit*

exercise

*insert*

perform

**25 Section 50 amended**

Section 50(1), before "council"

*insert*

municipal or shire

**26 Section 51 amended**

- (1) Section 51(1)(a), before "council"

*insert*

municipal or shire

- (2) Section 51(1), note

*omit*

*(even though staff members may be disqualified from membership of the council itself)*

**27 Section 52 amended**

Section 52(1)(c) to (e)

*omit, insert*

- (c) to allow local communities a voice in the formulation of policies for the locality as well as policies for the area; and

- (d) to take the views of local communities back to the relevant municipal or shire council and act as advocates on their behalf; and
- (e) to contribute to the development of the relevant municipal or shire plan.

**28 Chapter 5, Part 5.1A inserted**

After section 53

*insert*

**Part 5.1A Local authorities****53A Object**

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.

**53B Establishment of local authorities**

- (1) The Minister may, by *Gazette* notice:
  - (a) identify a regional council that must establish one or more local authorities; and
  - (b) identify the part of the council's area as the location within which each particular local authority is to perform its functions.
- (2) A council identified in a *Gazette* notice mentioned in subsection (1)(a) must establish the local authority in accordance with any guidelines that the Minister may make.
- (3) The Minister may, by *Gazette* notice, abolish a local authority.

**53C Constitution of local authority**

- (1) A local authority is to consist of:
  - (a) the members of the regional council who represent a ward within which the local authority's area is situated; and
  - (b) such other members of the community or communities within the local authority's area as the council appoints as members of the local authority.

*Note for subsection (1)*

*A member of the council's staff is eligible for appointment as a member of a local*

*authority.*

- (2) The principal member of the council is a member ex officio of a local authority and may (but is not obliged to) participate in its meetings.
- (3) The council must appoint the members under subsection (1)(b) in accordance with any guidelines that the Minister may make.

### **53D Functions of local authority**

The functions of a local authority are:

- (a) to involve local communities more closely in issues related to local government; and
- (b) to ensure that local communities are given an opportunity to express their opinions on questions affecting local government; and
- (c) to allow local communities a voice in the formulation of policies for the locality as well as policies for the area and the region; and
- (d) to take the views of local communities back to the regional council and act as advocates on their behalf; and
- (e) to contribute to the development of the relevant regional plan; and
- (f) to make recommendations to the council in relation to the council's budget, and to review expenditures by the council, in relation to the part of the council's area within which the local authority performs its functions; and
- (g) to perform other functions assigned to the local authority by the Minister, in accordance with any guidelines that the Minister may make.

### **53E Limits on functions of local authority**

- (1) A local authority must comply with any guidelines that the Minister may make.
- (2) A local authority is subject to control and direction by the council, subject to any guidelines that the Minister may make.

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**53F Reporting**

The local authority and the council must provide each other with reports in accordance with any guidelines that the Minister may make.

**29 Part 6.2 heading amended**

Part 6.2, heading, after "of"

*insert*

**local authorities,**

**30 Section 62 replaced**

Section 62

*repeal, insert*

**62 Timing of meetings of local authorities, local boards, and council committees**

- (1) Subject to direction by the council, a local board or council committee meets at times determined by the local board or council committee.
- (2) Subject to any guidelines that the Minister may make, and to direction by the council, a local authority meets at times determined by the local authority.

**31 Section 63 amended**

Section 63(1) to (3), before "local board" (*all references*)

*insert*

local authority,

**32 Section 64 amended**

- (1) Section 64(1)

*omit, insert*

- (1) The Chair of a meeting of a local authority, local board or council committee will be:
  - (a) in the case of a local board – a member appointed by the board as its Chair; or

- (aa) in the case of a local authority:
    - (i) the member of the regional council who represents a ward within which the local authority's area is situated, or
    - (ii) if there is more than one member of the regional council who represents a ward within which the local authority's area is situated, the member who is appointed by the regional council to be the Chair; or
  - (b) in the case of a council committee – a member appointed by the council as Chair of the committee; or
  - (c) in the case of a local board or council committee, if the Chair is not present (or no-one currently holds the position of the Chair) – a member chosen by a majority vote of the members present at the meeting to chair the meeting; or
  - (d) in the case of a local authority:
    - (i) if the Chair is not present (or no-one currently holds the position of the Chair) – a member of the local authority who is also a member of the council; or
    - (ii) if the Chair is not present (or no-one currently holds the position of the Chair) and there is no member of the local authority who is also a member of the council present, another member of the local authority chosen by a majority vote of the members of the local authority present at the meeting.
- (2) Section 64(2), before "local board"  
*insert*  
local authority,
- (3) Section 64(5), before "local board"  
*insert*  
local authority, a
- (4) Section 64(6)  
*omit, insert*
- (6) Subject to this Act, any guidelines that the Minister may make and any direction by the council, a local authority, local board or council committee may determine its own procedures.

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**33 Part 6.3 heading amended**

Part 6.3, heading, after "**councils**,"

*insert*

**local authorities,**

**34 Section 65 amended**

Section 65(1), after "council,"

*insert*

local authority,

**35 Section 66 amended**

Section 66(1), after "council,"

*insert*

local authority,

**36 Section 67 amended**

(1) Section 67(1), after "council,"

*insert*

local authorities,

(2) Section 67(3) and (6), after "council,"

*insert*

local authority,

**37 Section 68 amended**

Section 68(2)

*omit, insert*

- (2) A local authority or local board may call a meeting of the electors for its local authority area or local board area.

**38 Section 69 amended**

Section 69(1) and (2), before "local board"

*insert*

local authority or the

**39 Section 71 amended**

(1) Section 71(2)

*omit, insert*

(2) The allowance for a member of a council is to be at a rate fixed by the council (subject to any guidelines that the Minister may make) for the relevant financial year.

(2A) A member of a local authority is to be paid an allowance by the council to the extent that any guidelines that the Minister may make and that apply in the relevant financial year permit such an allowance to be paid.

(2B) The allowance for a member of a local authority is to be fixed by the council in accordance with any guidelines that the Minister may make and that apply in the relevant financial year.

(2) Section 71(4)(c), after "council"

*insert*

or local authority

(3) Section 71(5), after "council"

*insert*

or by the guidelines

---

**40 Section 72 replaced**

Section 72

*repeal, insert*

**72 Expenses**

A council member or member of a local authority is (subject to conditions and limitations determined by the council) entitled to payment or reimbursement of reasonable expenses for travel and accommodation necessary for:

- (a) attending a meeting of the council, local authority, local board or a council committee; or
- (b) attending to business of the council in accordance with a prior resolution of the council.

**41 Section 73 amended**

Section 73(1), after "council,"

*insert*

local authority,

**42 Section 74 amended**

- (1) Section 74(1), after "council," (*all references*)

*insert*

local authority,

- (2) Section 74(3)(a)

*omit*

the local board

*insert*

local authority, local board

- (3) Section 74(6), after "council,"

*insert*

a local authority,

**43 Section 75 amended**

(1) Section 75(1), after "council,"

*insert*

a local authority,

(2) Section 75(2)(a), after "council,"

*insert*

local authority,

**44 Section 76 amended**

Section 76(1)

*omit*

a local board

*insert*

local authority, local board

**45 Section 77 amended**

Section 77(2), after "council,"

*insert*

members of local authorities,

**46 Section 107 amended**

Section 107(3)(c), after "council,"

*insert*

a local authority,

**47 Section 108 amended**

Section 108(4)(c), after "council,"

*insert*

a local authority,

**48 Section 126 amended**

Section 126(4)

*omit*

**49 Section 127 amended**

(1) Section 127(2)(f)

*omit*

allowances.

*insert*

allowances; and

(2) After section 127(2)(f)

*insert*

(g) contain any other information required by any guidelines that the Minister may make.

**50 Section 128 amended**

(1) Section 128(2), after "the council"

*insert*

, or of a local authority established by the council,

(2) Section 128(4), after "municipal"

*insert*

, regional

**51 Section 131 amended**

Section 131(3), after "regulations"

*insert*

and any guidelines that the Minister may make

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**52 Section 133 amended**

Section 133(3)

*omit, insert*

- (3) A person is not eligible to be the auditor if the person:
- (a) is a member or a candidate for election as a member of the council; or
  - (b) holds any other office or position with the council.

**53 Section 184 amended**

Section 184(2) and (3)

*omit, insert*

- (2) A council has, in regard to such a cemetery, the powers of a Board of Trustees under the *Cemeteries Act*.

Exception

If a cemetery is managed by a local government subsidiary, the powers of a Board of Trustees under the *Cemeteries Act* are vested in the local government subsidiary.

- (3) A council may make by-laws for the management and control of a public cemetery.

**54 Section 199 amended**

Section 199(3)

*omit, insert*

- (3) The report must also contain an assessment of the council's performance against the objectives stated in the relevant municipal, regional or shire plan (applying indicators of performance set in the plan), and, in the case of a regional council, of the activities of any local authority within the council's area.

**55 Section 200 amended**

- (1) Section 200(a) to (c)

*omit, insert*

- (c) the council's draft and final municipal, regional or shire plans (See sections 22(3) and 24(2));

- (2) Section 200(e), after "council,"  
*insert*  
local authorities,

**56 Section 237 amended**

- Section 237, note, paragraph (b), after "*council*,"  
*insert*  
*local authority*,

**57 Section 270**

- Section 270(1)(c)  
*omit*  
exercise  
*insert*  
performance

**58 Chapter 20, Part 20.4 inserted**

- After section 274  
*insert*

**Part 20.4 Transitional provisions for Local Government  
Amendment Act 2013**

**275 Regional management plans**

Any regional management plan in force immediately before the date on which this section commences ceases to have any force on and from that date and no rights, duties or obligations under such a plan may be enforced on and from that date.

**59 Schedule 1 repealed**

- Schedule 1  
*repeal*

**60 Schedule 2 amended**

Schedule 2, clause 10, after "municipality" (*all references*)

*insert*

, region

**Part 3 Other laws amended**

**61 Other laws amended**

The Schedule amends the laws mentioned in it.

Schedule	Other laws amended	
	Provision	Amendment
	<i>omit</i>	<i>insert</i>
		section 61
<b><i>AustralAsia Railway (Special Provisions) Act</i></b>		
section 6	, municipal council and shire	and local government
section 6(b)	, municipal council or shire	or local government
<b><i>Darwin Port Corporation Act</i></b>		
section 45(2)	municipal or shire	local government
<b><i>Education (College and School Councils) Regulations</i></b>		
regulation 4E(1)(c)	all words from "municipal or shire" to "government in,"	local government council for
<b><i>Energy Pipelines Act</i></b>		
sections 6(1)(a) and 13(4)(a)	municipality or shire	local government area
<b><i>Evidence Act</i></b>		
section 62A(1)	municipality, shire or	local government area or a
<b><i>Heritage Act</i></b>		
section 45(1)(b)	municipal or shire	local government
<b><i>Housing Act</i></b>		
section 32(1)(a)	municipality or shire	local government area
section 32(1)(b)	shire	local government area

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**Interpretation Act**

section 17

*(in alphabetical order)*

**local government area** means an area as defined in section 3 of the *Local Government Act*.

**local government council** means a council as defined in section 3 of the *Local Government Act*.

**Jabiru Town Development Act**section 3, definition  
**Council**West Arnhem Shire  
Council

local government council with responsibility for the area that includes Jabiru

section 34(b)

West Arnhem Shire

**Kava Management Act**

section 53

*(in alphabetical order)*

**regional council** means a council constituted as a regional council under the *Local Government Act*.

sections 54(1A) and  
58D(1), after "shire  
council"

or regional council

**Liquor Act**section 4, definition  
**local government  
council**

whole definition

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section 4		<i>(in alphabetical order)</i> <b>region</b> means a local government area constituted as a region under the <i>Local Government Act</i> . <b>shire</b> means a local government area constituted as a shire under the <i>Local Government Act</i> .
sections 27(3), 32A(5) and 46A(4), after "shire council"		or a regional council
section 80(b), after "municipality"		, region
section 119(5), after "shire council"		or a regional council
<b>Litter Act</b>		
section 3, definition <b>municipality</b>	and includes a shire	
<b>Local Government (Administration) Regulations</b>		
regulation 10(1)(a)	council committees and local boards	local authorities, local boards and council committees
regulation 10(1)(c), after "local"		authorities, local
regulation 13	all words from "local" to "committee"	local authority, a local board or a council committee
regulation 15(1)(b), after "local"		authorities, local

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**Local Government Grants Commission Act**

- |                      |                  |  |
|----------------------|------------------|--|
| section 5(2) and (3) | whole subsection | (2) Of the members appointed under subsection (1)(a): <ul style="list-style-type: none"><li>(a) one must be a person who, in the opinion of the Minister, is capable of representing the interests of municipal councils (within the meaning of the <i>Local Government Act</i>); and</li><li>(b) one must be a person who, in the opinion of the Minister, is capable of representing the interests of shire councils or regional councils (within the meaning of the <i>Local Government Act</i>).</li></ul> |
|                      |                  | (3) The Minister must, before making an appointment under subsection (2), request the Local Government Association of the Northern Territory   |

to nominate  
3 persons from  
whom may be  
appointed a  
member to  
represent the  
interests of  
municipal councils  
and 3 other  
persons from  
whom may be  
appointed a  
member to  
represent the  
interests of shire  
councils or  
regional councils.

***Northern Territory Aboriginal Sacred Sites Regulations***

Schedule 4, item 1(b)(i) Shire  
and (c)(i)

***Volatile Substance Abuse Prevention Act***

section 42(1), definition  
***community council***,  
paragraph (a), after  
"council"

or regional council

***Volatile Substance Abuse Prevention Regulations***

regulation 3

*(in alphabetical order)*

***local authority*** means  
a local authority  
established under  
section 53B of the  
*Local Government Act*.

regulation 8(2)

a local board

a local authority or a  
local board

the local board

the local authority or  
local board

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