

2004-2005-2006

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Aboriginal Land Rights (Northern  
Territory) Amendment Bill 2006**

**No.     , 2006**

*(Families, Community Services and Indigenous Affairs)*

**A Bill for an Act to amend the *Aboriginal Land  
Rights (Northern Territory) Act 1976*, and for other  
purposes**



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## Contents

1	Short title .....	1
2	Commencement .....	1
3	Schedule(s) .....	4
<b>Schedule 1—Amendments</b>		<b>5</b>
Part 1—Amendments		5
<i>Aboriginal and Torres Strait Islander Act 2005</i>		5
<i>Aboriginal Land Rights (Northern Territory) Act 1976</i>		6
Part 2—Application and transitional provisions		81
Part 3—Review of mining provisions		91



1     **A Bill for an Act to amend the *Aboriginal Land***  
2     ***Rights (Northern Territory) Act 1976, and for other***  
3     **purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Aboriginal Land Rights (Northern*  
7                     *Territory) Amendment Act 2006.*

8     **2 Commencement**

9                     (1) Each provision of this Act specified in column 1 of the table  
10                     commences, or is taken to have commenced, in accordance with  
11                     column 2 of the table. Any other statement in column 2 has effect  
12                     according to its terms.  
13

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 4	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 1, items 5 and 6	A single day to be fixed by Proclamation.	
4. Schedule 1, items 7 and 8	At the same time as the provision(s) covered by table item 2.	
5. Schedule 1, item 9	At the same time as the provision(s) covered by table item 3.	
6. Schedule 1, items 10 and 11	At the same time as the provision(s) covered by table item 2.	
7. Schedule 1, item 12	At the same time as the provision(s) covered by table item 3.	
8. Schedule 1, items 13 to 15	At the same time as the provision(s) covered by table item 2.	
9. Schedule 1, item 16	The day on which this Act receives the Royal Assent.	
10. Schedule 1, items 17 to 33	At the same time as the provision(s) covered by table item 2.	
11. Schedule 1, item 34	The day on which this Act receives the Royal Assent.	
12. Schedule 1, items 35 to 71	At the same time as the provision(s) covered by table item 2.	
13. Schedule 1, item 72	The day on which this Act receives the Royal Assent.	
14. Schedule 1, items 73 to 99	At the same time as the provision(s) covered by table item 2.	

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
15. Schedule 1, item 100	On the day after the end of the period of 12 months beginning on the day on which this Act receives the Royal Assent.	
16. Schedule 1, items 101 to 103	At the same time as the provision(s) covered by table item 2.	
17. Schedule 1, items 104 to 158	At the same time as the provision(s) covered by table item 3.	
18. Schedule 1, items 159 to 162	At the same time as the provision(s) covered by table item 2.	
19. Schedule 1, items 163 and 164	The day on which this Act receives the Royal Assent.	
20. Schedule 1, items 165 to 201	At the same time as the provision(s) covered by table item 2.	
21. Schedule 1, item 202	At the same time as the provision(s) covered by table item 3.	
22. Schedule 1, items 203 and 204	At the same time as the provision(s) covered by table item 2.	
23. Schedule 1, item 205	The day on which this Act receives the Royal Assent.	
24. Schedule 1, item 206	At the same time as the provision(s) covered by table item 2.	
25. Schedule 1, item 207	At the same time as the provision(s) covered by table item 3.	
26. Schedule 1, items 208 to 218	At the same time as the provision(s) covered by table item 2.	
27. Schedule 1, item 219	On the day after the end of the period of 12 months beginning on the day on which this Act receives the Royal Assent.	
28. Schedule 1, items 220 to 223	At the same time as the provision(s) covered by table item 2.	
29. Schedule 1, item 224	At the same time as the provision(s) covered by table item 3.	
30. Schedule 1, items 225 to 231	At the same time as the provision(s) covered by table item 2.	



1  
2 **Schedule 1—Amendments**

3 **Part 1—Amendments**

4 *Aboriginal and Torres Strait Islander Act 2005*

5 **1 After paragraph 193X(1)(c)**

6 Insert:

- 7 (ca) when requested to do so by the Minister—to evaluate or audit  
8 the activities or operations of a Land Council (within the  
9 meaning of the *Aboriginal Land Rights (Northern Territory)*  
10 *Act 1976*); and
- 11 (cb) when requested to do so by the Minister—to evaluate or audit  
12 the activities or operations of any body corporate or other  
13 person that has received an amount:
- 14 (i) under a determination under subsection 35(2), (3) or (6)  
15 of the *Aboriginal Land Rights (Northern Territory) Act*  
16 *1976*; or
- 17 (ii) under subsection 35(3) of that Act in accordance with an  
18 agreement mentioned in that subsection; or
- 19 (iii) under subsection 35(4) of that Act that the Land Council  
20 concerned has advised, under subsection 35(4A) of that  
21 Act, is an accountable amount; or
- 22 (iv) under subsection 35(4B) of that Act; or
- 23 (v) under subsection 35(11) of that Act in relation to an  
24 amount covered by subparagraph (i), (ii), (iii) or (iv) of  
25 this paragraph; or
- 26 (vi) under subsection 67B(6) of that Act that the Land  
27 Council concerned has advised, under subsection  
28 67B(7) of that Act, is an accountable amount;  
29 but only to the extent that the evaluation or audit concerns  
30 that amount or the income or other benefit derived from that  
31 amount; and
- 32 (cc) when requested to do so by the Minister—to evaluate or audit  
33 the activities of any individual or organisation that has  
34 received an amount under subsection 64(4) of the *Aboriginal*  
35 *Land Rights (Northern Territory) Act 1976*, but only to the

1 extent that the evaluation or audit concerns that amount or  
2 the income or other benefit derived from that amount; and

3 ***Aboriginal Land Rights (Northern Territory) Act 1976***

4 **2 Subsection 3(1)**

5 Insert:

6 *Commonwealth Electoral Roll* means the Rolls kept under the  
7 *Commonwealth Electoral Act 1918*.

8 **3 Subsection 3(1)**

9 Insert:

10 *Electoral Commissioner* has the same meaning as in the  
11 *Commonwealth Electoral Act 1918*.

12 **4 Subsection 3(1)**

13 Insert:

14 *excludable matter* means any of the following:

- 15 (a) a matter relating to a member of the staff of a Land Council  
16 or to any other person assisting a Land Council in the  
17 performance of its functions or in the exercise of its powers;  
18 (b) a matter involving personal hardship suffered by a person;  
19 (c) a trade secret or other information having a commercial value  
20 the disclosure of which would, or could reasonably be  
21 expected to, affect a person adversely in respect of the  
22 person's lawful business, professional, commercial or  
23 financial affairs;  
24 (d) any matter the divulging or communicating of which is  
25 prohibited by section 23E;  
26 (e) information the disclosure of which would found an action  
27 for breach of confidence;  
28 (f) information of such a nature that it would be privileged from  
29 being disclosed in legal proceedings on the ground of legal  
30 professional privilege;  
31 (g) information the disclosure of which would, or could  
32 reasonably be expected to, prejudice the enforcement or  
33 proper administration of the law;

- 1 (h) a matter affecting the security of a Land Council, its  
2 members, its staff or its property;  
3 (i) information that is considered sacred or otherwise significant  
4 by a particular group of Aboriginals, the disclosure of which  
5 would be inconsistent with the views or sensitivities of those  
6 Aboriginals.

7 **5 Subsection 3(1) (paragraph (a) of the definition of *intending***  
8 ***miner*)**

9 Repeal the paragraph, substitute:

- 10 (a) a person who makes an application, under the law of the  
11 Northern Territory relating to mining for minerals, for the  
12 grant of a mining interest in respect of that land; or

13 **6 Subsection 3(1) (after paragraph (c) of the definition of**  
14 ***mining interest*)**

15 Insert:

- 16 or (d) subject to subsection (4), the renewal of any lease, licence,  
17 interest or right covered by paragraph (a), (b) or (c);

18 **7 Subsection 3(1)**

19 Insert:

20 *Northern Territory Valuer-General* means the person appointed  
21 under section 5 of the *Valuation of Land Act* of the Northern  
22 Territory.

23 **8 Subsection 3(1)**

24 Insert:

25 *NT entity* means a person approved by the Chief Minister of the  
26 Northern Territory under subsection 3AA(1).

27 **9 Subsection 3(1) (definition of *petroleum*)**

28 Repeal the definition, substitute:

29 *petroleum* has the meaning given by subsection 5(1) of the  
30 *Petroleum Act* of the Northern Territory.

31 **10 Subsection 3(1)**

1           Insert:

2                     ***qualifying area*** means an area that:

3                         (a) is wholly included in the area of a Land Council; or

4                         (b) is partly included in the area of one Land Council and partly  
5                             included in the area of one or more other Land Councils.

6       **11 Subsection 3(1)**

7           Insert:

8                     ***township***, in relation to a Land Trust, has the meaning given by  
9                     section 3AB.

10       **12 At the end of subsection 3(4)**

11           Add:

12                     Note:       One of the effects of this subsection is that section 45 does not apply  
13                             to the renewal of a mining interest covered by this subsection.

14       **13 After section 3**

15           Insert:

16       **3AA Approval of NT entities**

17                     (1) The Chief Minister of the Northern Territory may, by writing,  
18                             approve a person for the purposes of the definition of ***NT entity*** in  
19                             subsection 3(1).

20                     Note:       Paragraph 22(1)(a) of the *Acts Interpretation Act 1901* provides that  
21                             ***person*** includes a body corporate or body politic.

22                     ***Executive authority***

23                     (2) If an NT entity is the Northern Territory, a Minister of the  
24                             Northern Territory, on behalf of that entity, may:

25                             (a) enter into a lease under section 19A; and

26                             (b) exercise all the powers of a lessee (including granting a  
27                             sublease).

28                     (3) The power of the Legislative Assembly of the Northern Territory  
29                             under the *Northern Territory (Self-Government) Act 1978* in  
30                             relation to the making of laws extends to the making of laws  
31                             providing for the establishment and operation of an authority or

1 body for the purpose of the authority or body being approved under  
2 subsection (1) of this section.

### 3 **3AB Townships**

4 (1) For the purposes of this Act, *township*, in relation to a Land Trust  
5 (the *applicable Land Trust*), means either of the following 2 types  
6 of areas of Aboriginal land vested in that Land Trust.

7 *Areas applicable to all Land Trusts*

8 (2) The first type is an area of land that is of a kind prescribed by the  
9 regulations, for the purposes of this subsection, in relation to all  
10 Land Trusts.

11 *Areas applicable to that Land Trust*

12 (3) The second type is an area of land that is prescribed by the  
13 regulations, for the purposes of this subsection, in relation to the  
14 applicable Land Trust only.

### 15 **14 Subsection 4(1)**

16 After “permission, and”, insert “, subject to subsections 10(1) and (2),”.

### 17 **15 After subsection 4(1AA)**

18 Insert:

19 (1AB) To avoid doubt, the Minister may establish a Land Trust under  
20 subsection (1) for the purpose of it holding land that is to be  
21 transferred to it under subsection 19(4).

22 (1AC) If:

23 (a) the Minister establishes a Land Trust (the *new Land Trust*)  
24 under subsection (1) for the purpose of it holding land that is  
25 to be transferred to it under subsection 19(4) by another Land  
26 Trust; and

27 (b) the other Land Trust advises the Minister in writing that it is  
28 no longer going to transfer the land;

29 the Minister may, by written notice, abolish the new Land Trust.

### 30 **16 After subsection 4(2)**

31 Insert:

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1 *Anindilyakwa Land Trust*

2 (2A) An Aboriginal Land Trust with the name “Anindilyakwa Land  
3 Trust” is established by this subsection. The boundaries of the land  
4 to be held by the Land Trust are set out in Schedule 6.

5 Note: Section 12AAB deals with the grant of land to the Land Trust.

6 **17 Before subsection 4(3)**

7 Insert:

8 *Varying Land Trust boundaries*

9 (2B) The Minister may, by notice published in the *Gazette*, vary the  
10 boundaries of the land to be held by a Land Trust:

11 (a) because of a determination under subsection 10(2AA) or  
12 subparagraph 11(1)(c)(ii), (1AD)(d)(ii) or (1AE)(c)(ii); or

13 (b) because of a proposed transfer under subsection 19(4).

14 The variation takes effect on the day, or on the occurrence of an  
15 event, specified in the notice.

16 Note 1: The following heading to subsection 4(3) is inserted “*Legal status of Land Trust*”.

17 Note 2: The following heading to subsection 4(4) is inserted “*Common seal of Land Trust*”.

18 **18 Subsections 4(5) and (5A)**

19 Repeal the subsections, substitute:

20 (5) The common seal of a Land Trust is to be affixed to a document  
21 only with a written authority signed by:

22 (a) if the Trust consists of 4 or more members—at least 3 of  
23 those members; or

24 (b) if the Trust consists of 3 members—at least 2 of those  
25 members.

26 Note: Section 7 deals with the membership of a Land Trust.

27 **19 At the end of section 4**

28 Add:

29 *Notices are not legislative instruments*

30 (7) A notice under subsection (1), (1AC) or (2B) is not a legislative  
31 instrument.

1 **20 Subsection 7(7)**

2 Omit “3”, substitute “5”.

3 **21 Paragraph 10(1)(a)**

4 Repeal the paragraph, substitute:

5 (a) either:

- 6 (i) a Land Trust has been established in respect of land  
7 constituting, or included within, an area of land  
8 described in Schedule 1; or  
9 (ii) the Minister has, under subsection (2AA), determined  
10 that a specified existing Land Trust should hold a  
11 specified area of land described in Schedule 1; and

12 **22 Paragraph 10(2)(a)**

13 Repeal the paragraph, substitute:

14 (a) either:

- 15 (i) a Land Trust has been established in respect of land  
16 constituting, or included within, an area of land  
17 described in Schedule 1; or  
18 (ii) the Minister has, under subsection (2AA), determined  
19 that a specified existing Land Trust should hold a  
20 specified area of land described in Schedule 1; and

21 **23 After subsection 10(2)**

22 Insert:

23 (2AA) The Minister may, by a determination in writing, specify an  
24 existing Land Trust, and an area of land described in Schedule 1,  
25 for the purposes of subparagraph (1)(a)(ii) or (2)(a)(ii). The  
26 determination is not a legislative instrument.

27 **24 Paragraph 11(1)(b)**

28 Repeal the paragraph, substitute:

- 29 (b) the Minister is satisfied that the land (the *divisible land*), or a  
30 part (also the *divisible land*) of the land, should be granted to  
31 one or more new or existing Land Trusts so that each Land  
32 Trust holds the land granted to it for the benefit of  
33 Aboriginals who are the relevant Aboriginals in relation to  
34 the land granted to it;

1 **25 Paragraphs 11(1)(c), (d) and (e)**

2 Repeal the paragraphs, substitute:

3 (c) do either or both of the following:

4 (i) establish the one or more Land Trusts under section 4;

5 (ii) make a determination in writing specifying the one or  
6 more existing Land Trusts;

7 that are to hold the divisible land or parts of the divisible land  
8 for the benefit of Aboriginals who are the relevant  
9 Aboriginals in relation to the divisible land or the parts of the  
10 divisible land; and

11 (d) if the divisible land or a part of the divisible land proposed to  
12 be held by a Land Trust referred to in paragraph (c) is not,  
13 and does not include, alienated Crown land—recommend to  
14 the Governor-General that a grant of an estate in fee simple  
15 in that land or part be made to that Land Trust; and

16 (e) if the divisible land or a part of the divisible land proposed to  
17 be held by a Land Trust referred to in paragraph (c) is, or  
18 includes, alienated Crown land:

19 (i) ensure that the estates and interests in that land or part  
20 of persons (other than the Crown) are acquired by the  
21 Crown by surrender or otherwise; and

22 (ii) after any acquisition referred to in subparagraph (i) has  
23 been effected, recommend to the Governor-General that  
24 a grant of an estate in fee simple in that land or part be  
25 made to that Land Trust.

26 **26 Subsection 11(1AA)**

27 Omit “, being further action involving the establishment of a Land Trust  
28 that is, or Land Trusts each of which is, different from the Land Trust or  
29 from any of the Land Trusts established by the first-mentioned action”.

30 **27 Paragraph 11(1AD)(c)**

31 After “all the land”, insert “(the *recommended land*)”.

32 **28 Paragraph 11(1AD)(c)**

33 Omit “(in this subsection referred to as *relevant recommendations*)”.

34 **29 Paragraphs 11(1AD)(d), (e) and (f)**

35 Repeal the paragraphs, substitute:

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- 1 (d) do either or both of the following:  
2 (i) establish one or more Land Trusts under section 4;  
3 (ii) make a determination in writing specifying one or more  
4 existing Land Trusts;  
5 that are to hold the recommended land or a part or parts of  
6 the recommended land for the benefit of Aboriginals who are  
7 the relevant Aboriginals in relation to the recommended land  
8 or the part or parts of the recommended land; and  
9 (e) if the recommended land or a part of the recommended land  
10 proposed to be held by a Land Trust referred to in  
11 paragraph (d) is not, and does not include, alienated Crown  
12 land—recommend to the Governor-General that a grant of an  
13 estate in fee simple in that land or part be made to that Land  
14 Trust; and  
15 (f) if the recommended land or a part of the recommended land  
16 proposed to be held by a Land Trust referred to in  
17 paragraph (d) is, or includes, alienated Crown land:  
18 (i) ensure that the estates and interests in that land or part  
19 of persons (other than the Crown) are acquired by the  
20 Crown by surrender or otherwise; and  
21 (ii) after any acquisition referred to in subparagraph (i) has  
22 been effected, recommend to the Governor-General that  
23 a grant of an estate in fee simple in that land or part be  
24 made to that Land Trust.

25 **30 Paragraphs 11(1AE)(c), (d) and (e)**

26 Repeal the paragraphs, substitute:

- 27 (c) do either of the following:  
28 (i) establish a single Land Trust under section 4;  
29 (ii) make a determination in writing specifying a single  
30 existing Land Trust;  
31 that is to hold those areas or those parts of those areas for the  
32 benefit of Aboriginals who are the relevant Aboriginals in  
33 relation to those areas or parts; and  
34 (d) if those areas or those parts of those areas are not, and do not  
35 include, alienated Crown land—recommend to the  
36 Governor-General that a grant of an estate in fee simple in  
37 those areas or parts be made to the Land Trust; and  
38 (e) if those areas or those parts of those areas are, or include,  
39 alienated Crown land:
-

- 1 (i) ensure that the estates and interests in those areas or  
2 parts of persons (other than the Crown) are acquired by  
3 the Crown by surrender or otherwise; and  
4 (ii) after any acquisition referred to in subparagraph (i) has  
5 been effected, recommend to the Governor-General that  
6 a grant of an estate in fee simple in those areas or parts  
7 be made to that Land Trust.

8 **31 Subsection 11(5)**

9 Omit “paragraph (1)(e)”, substitute “paragraph (1)(d) or (e)”.

10 **32 Subsection 11(5)**

11 Omit “(1AD)(f) or (1AE)(e)”, substitute “(1AD)(e) or (f) or (1AE)(d) or  
12 (e)”.

13 **33 At the end of section 11**

14 Add:

- 15 (6) A determination under subparagraph (1)(c)(ii), (1AD)(d)(ii) or  
16 (1AE)(c)(ii) is not a legislative instrument.

17 **34 After section 12AAA**

18 Insert:

19 **12AAB Grant of land to Anindilyakwa Land Trust etc.**

20 *Immediate grant of land to Anindilyakwa Land Trust*

- 21 (1) The Governor-General may:  
22 (a) execute a deed of grant to the Anindilyakwa Land Trust of an  
23 estate in fee simple in so much of the land in the area of the  
24 Anindilyakwa Land Council as was included in any Arnhem  
25 Land type 1 deed (regardless of whether the deed also  
26 included other land); and  
27 (b) deliver it to the Anindilyakwa Land Trust.

28 The deed of grant is not a legislative instrument.

29 Note: See subsection (9) for the definition of *Arnhem Land type 1 deed*.

30 *Delayed grant of land to Anindilyakwa Land Trust*

- 31 (2) The Governor-General may:
-

- 1 (a) execute a deed of grant to the Anindilyakwa Land Trust of an  
2 estate in fee simple in so much of the land in the area of the  
3 Anindilyakwa Land Council as was included in any Arnhem  
4 Land type 2 deed; and  
5 (b) deliver it to the Anindilyakwa Land Council on the condition  
6 that the Council hold it in escrow and deliver it to the  
7 Anindilyakwa Land Trust when all of the estates and interests  
8 in that land held by a person (other than the Crown) have  
9 come to an end, whether by surrender to the Crown or  
10 otherwise.

11 The deed of grant is not a legislative instrument.

12 Note: See subsection (9) for the definition of *Arnhem Land type 2 deed*.

13 *Application of other provisions of this Act*

- 14 (3) The provisions of this Act apply to a grant under subsection (1) or  
15 (2) as if it were a grant under subsection 12(1).

16 Note: One of the consequences of this subsection is that subsection 12(4)  
17 will apply to determine when a deed of grant executed under  
18 subsection (1) or (2) of this section takes effect. Another consequence  
19 is that the Anindilyakwa Land Trust will be able to apply under  
20 subsection 12(5) to have such a deed registered.

21 *Land no longer held by Arnhem Land Aboriginal Land Trust*

- 22 (4) The following table sets out the effect on:  
23 (a) an Arnhem Land type 1 deed or an Arnhem Land type 2 deed  
24 that included land in the area of the Anindilyakwa Land  
25 Council (regardless of whether the deed also included other  
26 land); and  
27 (b) the boundaries of the land that is held by the Arnhem Land  
28 Aboriginal Land Trust.

29

**Schedule 1** Amendments

**Part 1** Amendments

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**Deeds of grant**

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**For this deed:**

**the result is:**

1	An Arnhem Land type 1 deed that included part of the land in the area of the Anindilyakwa Land Council and no other land	The deed is taken to be revoked. At the time the deed of grant executed under subsection (1) takes effect: (a) the revocation takes effect; and (b) the boundaries are taken to have been varied to no longer relate to that part of the land in the area of the Anindilyakwa Land Council.
2	An Arnhem Land type 1 deed that included part of the land in the area of the Anindilyakwa Land Council and some other land	The deed ceases to include the part of the land in the area of the Anindilyakwa Land Council. At the time the deed of grant executed under subsection (1) takes effect: (a) the cessation takes effect; and (b) the boundaries are taken to have been varied to no longer relate to that part of the land in the area of the Anindilyakwa Land Council.
3	An Arnhem Land type 2 deed that included part of the land in the area of the Anindilyakwa Land Council and no other land	The deed is taken to be revoked. At the time the deed of grant executed under subsection (2) is delivered to the Anindilyakwa Land Council: (a) the revocation takes effect; and (b) the boundaries are taken to have been varied to no longer relate to that part of the land in the area of the Anindilyakwa Land Council.

1 (5) If the Registrar-General or other appropriate officer under the law  
2 of the Northern Territory relating to the transfer of land is required  
3 to register the deed of grant executed under subsection (1), he or  
4 she must also take such measures as are necessary to take account  
5 of the effect on the deeds of grant mentioned in item 1 or 2 of the  
6 table in subsection (4).

7 Note: Subsection 12(5) deals with registration of deeds of grant.

8 *Existing rights, titles or other interests*

9 (6) The following table sets out the effect on a right, title or other  
10 interest in land in the area of the Anindilyakwa Land Council to

1 which an Arnhem Land type 1 deed or an Arnhem Land type 2  
2 deed related.  
3

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**Existing rights, titles or other interests**

---

<b>For this deed:</b>	<b>the result is:</b>
1 An Arnhem Land type 1 deed	The right, title or other interest is, from the day the deed of grant executed under subsection (1) takes effect, preserved as a right, title or interest in that land in that deed.
2 An Arnhem Land type 2 deed	(a) if the right, title or other interest was acquired by the Arnhem Land Aboriginal Land Trust as mentioned in paragraph 5(1)(c)—the right, title or other interest is, from the day the deed of grant executed under subsection (2) of this section is delivered to the Anindilyakwa Land Council, taken to have been acquired and to be held by the Anindilyakwa Land Trust; or (b) otherwise—the right, title or other interest is, from the day the deed of grant executed under subsection (2) of this section is delivered to the Anindilyakwa Land Council, preserved as a right, title or interest in that land in that deed.

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4 *Documents*

5 (7) The following table sets out the effect on a reference in a document  
6 to an Arnhem Land type 1 deed or an Arnhem Land type 2 deed, in  
7 so far as the reference relates to land in the area of the  
8 Anindilyakwa Land Council.  
9

**Schedule 1 Amendments**

**Part 1 Amendments**

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**Documents**

<b>For this deed:</b>	<b>the result is:</b>
1 An Arnhem Land type 1 deed	The reference is taken, from the day the deed of grant executed under subsection (1) takes effect, to be a reference to that deed.
2 An Arnhem Land type 2 deed	The reference is taken, from the day the deed of grant executed under subsection (2) is delivered to the Anindilyakwa Land Council, to be a reference to that deed.

*Agreements*

- (8) The following table sets out the effect on an agreement entered into by the Arnhem Land Aboriginal Land Trust in respect of land:
- (a) in the area of the Anindilyakwa Land Council; and
  - (b) included in an Arnhem Land type 1 deed or an Arnhem Land type 2 deed.

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**Agreements**

<b>For this deed:</b>	<b>the result is:</b>
1 An Arnhem Land type 1 deed	The agreement is taken to have the same force and effect, with effect from the day the deed of grant executed under subsection (1) takes effect, as the agreement would have had if it had been entered into by the Anindilyakwa Land Trust.
2 An Arnhem Land type 2 deed	The agreement is taken to have the same force and effect, with effect from the day the deed of grant executed under subsection (2) is delivered to the Anindilyakwa Land Council, as the agreement would have had if it had been entered into by the Anindilyakwa Land Trust.

*Definitions*

- (9) In this section:

1                    **Arnhem Land Aboriginal Land Trust** means the Land Trust of  
2                    that name established by the Minister by notice published in the  
3                    *Gazette* under subsection 4(1).

4                    **Arnhem Land type 1 deed** means:

- 5                    (a) a deed of grant executed under paragraph 12(1)(a) to the  
6                    Arnhem Land Aboriginal Land Trust; or  
7                    (b) a deed of grant executed under paragraph 12(1)(b) to the  
8                    Arnhem Land Aboriginal Land Trust that took effect before  
9                    the commencement of this section.

10                    Note:        See subsection 12(4) for when a deed of grant under section 12 takes  
11                    effect.

12                    **Arnhem Land type 2 deed** means a deed of grant executed under  
13                    paragraph 12(1)(b) to the Arnhem Land Aboriginal Land Trust that  
14                    has not taken effect before the commencement of this section.

15                    **35 Subsection 14(3)**

16                    After “Authority”, insert “, as the case may be,”.

17                    **36 After subsection 14(3)**

18                    Insert:

19                    (3A) Nothing in this section prevents a Land Trust granting a lease of  
20                    land to an NT entity under section 19A that includes land referred  
21                    to in subsection (1) of this section.

22                    (3B) If land (the **applicable land**):

- 23                    (a) is of a kind referred to in subsection (1); and  
24                    (b) is part of land that is leased to an NT entity under  
25                    section 19A;

26                    nothing in this section prevents the NT entity granting a sublease  
27                    of the applicable land to the Commonwealth, the Northern  
28                    Territory or an Authority, as the case may be.

29                    (3C) If such a sublease is granted, the applicable land ceases to be land  
30                    to which this section applies.

31                    **37 Subsection 15(1)**

32                    Omit “Where”, substitute “Subject to subsection (1A), if”.

33                    Note:        The heading to section 15 is altered by omitting “**to Land Council**”.

1 **38 After subsection 15(1)**

2 Insert:

3 (1A) If the land referred to in subsection (1) is part of land that is leased  
4 to an NT entity under section 19A, the Crown must pay to the NT  
5 entity the amounts referred to in subsection (1) of this section  
6 (instead of paying the amounts to the Land Council concerned).

7 **39 Section 17**

8 After “Land Council”, insert “or an NT entity”.

9 Note: The heading to section 17 is altered by adding at the end “**or NT entity**”.

10 **40 Subsection 19(1)**

11 Before “20”, insert “19A or”.

12 **41 At the end of subsection 19(4)**

13 Add:

14 Note: See also section 20A (which deals with the application of the law of  
15 the Northern Territory relating to the transfer of land).

16 **42 After subsection 19(4)**

17 Insert:

18 (4AA) Any right, title or other interest in land transferred under  
19 subsection (4) that existed immediately before the transfer is  
20 preserved as a right, title or interest in that land after the transfer.

21 (4AB) Any agreement in respect of land transferred under subsection (4)  
22 that was entered into by the transferor Land Trust and that is in  
23 force immediately before the transfer is taken to have the same  
24 force and effect, after the transfer, as the agreement would have  
25 had if it had been entered into by the transferee Land Trust.

26 **43 Subsection 19(7)**

27 Repeal the subsection, substitute:

28 (7) The consent of the Minister is not required for the grant under  
29 subsection (2), (3) or (4A) of an estate or interest the term of which  
30 does not exceed 40 years.

31 **44 After subsection 19(8)**

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1           Insert:

2           (8A) A Land Council may give a consent under subsection (8) at the  
3           time it gives a direction under subsection (2), (3) or (4A) or at any  
4           later time.

5           (8B) The Minister may give a consent under subsection (8) at the time  
6           he or she gives a consent under subsection (2), (3) or (4A) or at any  
7           later time.

8           **45 At the end of section 19**

9           Add:

10          (13) If a Land Trust grants an estate or interest in Aboriginal land under  
11          this section, then, at the direction, in writing, of the relevant Land  
12          Council, the Land Trust may, in writing, authorise a specified  
13          person, or any person included in a specified class of persons, to  
14          enter or remain on the land for a specified purpose that is related to  
15          that estate or interest.

16          Note:        Section 70 will not apply to a person who enters or remains on the  
17          land in accordance with such an authorisation: see subsection 70(2B).

18          (14) A direction or an authorisation under subsection (13) is not a  
19          legislative instrument.

20          **46 After section 19**

21          Insert:

22          **19A Land Trust may grant headlease over township**

23                 *Grant of lease*

24          (1) A Land Trust may grant a lease of a township to an NT entity if:  
25                 (a) the Minister consents, in writing, to the grant of the lease;  
26                 and  
27                 (b) the Land Council for the area in which the land is situated  
28                 directs, in writing, the Land Trust to grant the lease.

29          A consent or direction under this subsection is not a legislative  
30          instrument.

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*Land Council direction*

- (2) A Land Council must not give a direction under subsection (1) for the grant of a lease unless it is satisfied that:
  - (a) the traditional Aboriginal owners (if any) of the land understand the nature and purpose of the proposed lease and, as a group, consent to it; and
  - (b) any Aboriginal community or group that may be affected by the proposed lease has been consulted and has had adequate opportunity to express its view to the Land Council; and
  - (c) the terms and conditions of the proposed lease (except those relating to matters covered by this section) are reasonable.
- (3) If a Land Council, in giving a direction for a grant of a lease, fails to comply with subsection (2), that failure does not invalidate that grant unless the person to whom the grant was made procured the direction of the Land Council by fraud.

*Term of lease*

- (4) Subject to subsection (5), the term of a lease granted under this section is 99 years.
- (5) If, before the end of the 79th year of the term of a lease (the **original lease**) granted under this section, a Land Trust grants another lease under this section covering the area of land concerned (whether or not the other lease also covers other land), the original lease ends at the time the other lease takes effect.

*Rent*

- (6) A lease granted under this section:
  - (a) must provide for annual rent to be paid (whether by periodic payments or otherwise); and
  - (b) must not provide for the amount of the annual rent to be paid to exceed 5% of the improved capital value of the land (as last assessed by the Northern Territory Valuer-General before the start of the year concerned).

*No other payments*

- (7) A lease granted under this section must not contain any provision for the making of a payment of a pecuniary or other benefit (except

1                   rent referred to in subsection (6)) to a person by the NT entity or  
2                   any other person.

3                   *Transfer of lease*

4                   (8) A lease granted under this section must not be transferred, except  
5                   to another NT entity with the written approval of the Minister. An  
6                   approval is not a legislative instrument.

7                   *Lease not to be used as security*

8                   (9) A lease granted under this section must not be used as security for  
9                   a borrowing.

10                  *Preserving any existing right, title or other interest*

11                  (10) Any right, title or other interest in land the subject of a lease  
12                  granted under this section that existed immediately before the time  
13                  the lease takes effect is preserved as a right, title or interest in that  
14                  land after that time.

15                  (11) If that right, title or other interest was granted by the Land Trust,  
16                  then, at the time the lease granted under this section takes effect,  
17                  that right, title or other interest has effect as if it were granted by  
18                  the NT entity on the same terms and conditions as existed  
19                  immediately before that time.

20                  (12) If:

- 21                         (a) subsection (11) applies in relation to a right, title or other  
22                         interest; and  
23                         (b) the lease is transferred in accordance with this section; and  
24                         (c) the right, title or other interest existed immediately before the  
25                         time the transfer takes effect;  
26                  then, at that time, the right, title or other interest has effect as if it  
27                  were granted by the transferee on the same terms and conditions as  
28                  existed immediately before that time.

29                  *Subleases*

30                  (13) This section does not prevent a sublease of a lease granted under  
31                  this section.

1 (14) A lease granted under this section must not contain any provision  
2 requiring the consent of any person to the grant of a sublease of the  
3 lease.

4 (15) A lease granted under this section must not contain any provision  
5 relating to the payment of rent, or the non-payment of rent, in  
6 relation to a sublease of the lease.

7 **47 Section 20A**

8 Before “The law”, insert “(1)”.

9 **48 Section 20A**

10 Omit “The law”, substitute “Subject to this section, the law”.

11 **49 At the end of section 20A**

12 Add:

13 (2) No stamp duty or similar tax is payable under a law of the  
14 Northern Territory in respect of a transfer under subsection 19(4).

15 (3) The procedures for the subdivision of land under the law of the  
16 Northern Territory relating to the transfer of land do not apply in  
17 respect of a transfer of an estate or interest in any part of land  
18 under subsection 19(4).

19 (4) On the application of a Land Trust that has had an estate or interest  
20 in any part of land transferred to it under subsection 19(4), the  
21 Registrar-General or other appropriate officer under the law of the  
22 Northern Territory relating to the transfer of land must register the  
23 instrument of transfer as if it were duly executed under that law.

24 **50 At the end of subsection 21(1)**

25 Add:

26 Note: New Land Councils may also be established: see sections 21A to 21D.

27 **51 Subsections 21(3), (4), (5) and (6)**

28 Repeal the subsections.

29 **52 After section 21**

30 Insert:

1     **21A Aboriginal group or body may seek establishment of new Land**  
2             **Council**

- 3             (1) The following may apply to the Minister, in writing, for the  
4             establishment of a new Land Council for a qualifying area:
- 5                 (a) one or more adult Aboriginals living in the qualifying area;
  - 6                 (b) an Aboriginal Council, the area of which is in the qualifying  
7                     area;
  - 8                 (c) an Incorporated Aboriginal Association, the majority of  
9                     whose members live in the qualifying area;
  - 10                (d) an association of Aboriginals, or a company whose  
11                     shareholders are all Aboriginals, incorporated under a law of  
12                     the Northern Territory and the majority of whose members or  
13                     shareholders live in the qualifying area;
  - 14                (e) any other body prescribed by the regulations, the majority of  
15                     whose members live in the qualifying area.

- 16             (2) An application must:
- 17                 (a) set out the boundaries of the qualifying area; and
  - 18                 (b) specify a name for the proposed new Land Council; and
  - 19                 (c) include an estimate of the number of Aboriginals living in the  
20                     qualifying area and an explanation of how the estimate was  
21                     arrived at; and
  - 22                 (d) specify the proposed management structure for the proposed  
23                     new Land Council; and
  - 24                 (e) specify the proposed arrangements for consulting and  
25                     representing Aboriginals living in the qualifying area on  
26                     issues affecting that area; and
  - 27                 (f) include details of any consultation that has occurred with  
28                     Aboriginals living in the qualifying area on the proposed  
29                     establishment of the new Land Council; and
  - 30                 (g) include any other information prescribed by the regulations.

31     **21B Minister's assessment of application for establishment of new**  
32             **Land Council**

- 33             (1) If the Minister receives an application under section 21A, the  
34             Minister must, by notice in writing:

- 1 (a) state that he or she supports the establishment of the new  
2 Land Council and that he or she will request the Australian  
3 Electoral Commission to hold a vote on the matter; or  
4 (b) refuse the application.
- 5 (2) The Minister must not give a notice stating that he or she supports  
6 the establishment of the new Land Council unless he or she is  
7 satisfied that:
- 8 (a) the qualifying area is an appropriate area for the  
9 establishment of a new Land Council; and  
10 (b) the proposed new Land Council will be able to satisfactorily  
11 perform the functions of a Land Council.
- 12 (3) The Minister must give the applicant written notice of the  
13 Minister's decision. If the Minister refuses the application, the  
14 notice must also include reasons for the refusal.
- 15 (4) A notice under subsection (1) is not a legislative instrument.

16 **21C Establishment of new Land Council if a 55% positive vote**

- 17 (1) If the Minister gives a notice under section 21B stating that he or  
18 she supports the establishment of the new Land Council, he or she  
19 must request the Australian Electoral Commission to hold a vote  
20 on the proposed establishment of the new Land Council.
- 21 (2) The Australian Electoral Commission must hold the vote as soon  
22 as practicable after being requested to do so.

23 *Voting*

- 24 (3) A person is entitled to vote if:
- 25 (a) the person is an adult Aboriginal; and  
26 (b) either:
- 27 (i) the person's name is on the Commonwealth Electoral  
28 Roll and the person's place of living as shown on the  
29 Roll is in the qualifying area; or  
30 (ii) the person is entitled to vote under rules made under  
31 subsection (4).

32 Note: See also section 21D (which contains further provisions about the  
33 Commonwealth Electoral Roll).

- 1 (4) The Minister may, by legislative instrument, make rules for and in  
2 relation to the holding of the vote. In particular, the rules may:  
3 (a) deal with the timing of the vote; and  
4 (b) for the purposes of subparagraph (3)(b)(ii)—deal with those  
5 persons entitled to vote; and  
6 (c) confer powers on the Electoral Commissioner or a member of  
7 the staff of the Australian Electoral Commission.

8 *Minister may establish new Land Council if a 55% positive vote*

- 9 (5) The Minister may, by notice in writing, establish the new Land  
10 Council for the qualifying area if at least 55% of the formal votes  
11 cast by persons entitled to vote on the proposal are in favour of it.
- 12 (6) For the purposes of subsection (5), a vote is formal if and only if:  
13 (a) a person authorised under subsection (7) is satisfied that it is  
14 on an authentic ballot paper; and  
15 (b) it indicates the voter's preference for either being in favour or  
16 against the proposal; and  
17 (c) it does not have upon it any writing or another mark by  
18 which, in the opinion of a person authorised under  
19 subsection (7), the voter can be identified (not including  
20 writing or another mark placed on the ballot paper, whether  
21 or not in contravention of any law, by a person involved in  
22 conducting the vote).
- 23 (7) The Electoral Commissioner may, by writing, authorise a member  
24 of the staff of the Australian Electoral Commission for the purpose  
25 of subsection (6).

26 *Name and boundaries of new Land Council*

- 27 (8) The notice under subsection (5) must:  
28 (a) specify the name of the new Land Council (which must be  
29 the name specified in the application under section 21A); and  
30 (b) set out the boundaries of the area for which the new Land  
31 Council is established.

32 *Redrawing of boundaries of other Land Council areas*

- 33 (9) On the establishment of the new Land Council, the area specified  
34 in the notice under subsection (5) ceases to be part of the area of

1 the Land Council, or of the areas of the Land Councils, in which it  
2 was included immediately before that establishment.

3 *Informing Aboriginals about existence of new Land Council*

4 (10) On the establishment of the new Land Council, the Minister must  
5 take whatever steps he or she considers necessary and practicable  
6 to inform the adult Aboriginals living in the area of the Council of  
7 the existence of the Council.

8 *Publication*

9 (11) The Minister must publish the notice under subsection (5) in the  
10 *Gazette*.

11 *Notice not a legislative instrument*

12 (12) A notice under subsection (5) is not a legislative instrument.

13 **21D Rules about Commonwealth Electoral Roll**

14 (1) For the purposes of section 21C, a person's name is taken to be on  
15 the Commonwealth Electoral Roll if the name appearing on the  
16 Roll is, in the opinion of a person authorised under subsection (2)  
17 of this section, sufficient to identify the person.

18 (2) The Electoral Commissioner may, by writing, authorise a member  
19 of the staff of the Australian Electoral Commission for the purpose  
20 of subsection (1).

21 **53 Subsection 22(1) (note)**

22 Omit "Note", substitute "Note 1".

23 **54 At the end of subsection 22(1)**

24 Add:

25 Note 2: The activities or operations of a Land Council may be evaluated or  
26 audited: see paragraph 193X(1)(ca) of the *Aboriginal and Torres*  
27 *Strait Islander Act 2005*.

28 **55 Subsection 22A(2)**

29 Omit "of a Land Council (not the members of the Land Council) is the  
30 only director", substitute "and Deputy Chair of a Land Council are the  
31 only directors".

1 **56 After section 23**

2 Insert:

3 **23AA How functions of a Land Council are to be performed**

4 *Priorities*

- 5 (1) A Land Council must from time to time determine the priorities it  
6 will give to performing its functions under this Part.
- 7 (2) A Land Council may allocate resources in the way it thinks fit so  
8 as to be able to perform its functions efficiently.
- 9 (3) A Land Council must give priority to the protection of the interests  
10 of traditional Aboriginal owners of, and other Aboriginals  
11 interested in, Aboriginal land in the area of the Council.

12 *Functions to be performed in a timely manner*

- 13 (4) A Land Council must use its best efforts to perform its functions in  
14 a timely manner, particularly in respect of matters affected by:  
15 (a) time limits under this Act; or  
16 (b) time limits under another law of the Commonwealth or a law  
17 of the Northern Territory that are relevant to the performance  
18 of its functions.

19 *Maintenance of organisational structures and processes*

- 20 (5) A Land Council must perform its functions in a manner that:  
21 (a) maintains organisational structures and administrative  
22 processes that promote the satisfactory representation by the  
23 Council of, and promote effective consultation with, the  
24 traditional Aboriginal owners of, and other Aboriginals  
25 interested in, Aboriginal land in the area of the Council; and  
26 (b) ensures that the structures and processes operate in a fair  
27 manner.

28 **57 Subsection 23E(2)**

29 Omit “a fine of \$2,000 or imprisonment for 12 months, or both”,  
30 substitute “a fine of not more than 60 penalty units or imprisonment for  
31 not more than 12 months, or both”.

1 **58 Subsection 23E(4) (penalty)**

2 Repeal the penalty, substitute:

3 Penalty: 30 penalty units or imprisonment for 6 months.

4 **59 After subsection 27(1)**

5 Insert:

6 (1A) A Land Council may, on the request of an Incorporated Aboriginal  
7 Association that has received an amount of money from the  
8 Council under this Act, provide administrative or other assistance  
9 to the Association.

10 **60 Subsection 27(3)**

11 Omit "\$100,000", substitute "\$1,000,000".

12 **61 Subsections 28(1), (2) and (3)**

13 Repeal the subsections, substitute:

14 *Delegation to Council Chair or Council member or staff member*

15 (1) A Land Council may, in writing under its common seal, delegate to  
16 the following:

17 (a) the Chair or another member of the Council;

18 (b) a member of the staff of the Council;

19 any of the Council's functions or powers under this Act other than  
20 the following:

21 (c) the giving or withholding of consent in relation to the  
22 acquisition or grant of an estate or interest in Aboriginal land  
23 under an agreement or agreements:

24 (i) that will have effect for a period that exceeds, or for  
25 periods that together exceed, 2 years; or

26 (ii) in respect of which the approval of the Minister is  
27 required by subsection 27(3);

28 (d) the making of determinations under section 35;

29 (e) the giving or refusing of a consent under subsection 42(1);

30 (f) the giving of a consent under section 48C;

31 (g) any function or power prescribed by the regulations.

1                                    *Delegation to Council committee*

- 2                    (2) A Land Council may, in writing under its common seal, delegate to  
3                    a committee appointed under section 29A any of the Council's  
4                    functions or powers under this Act other than the following:  
5                    (a) the making of determinations under section 35;  
6                    (b) any function or power prescribed by the regulations.

7                                    *Delegation to a body corporate*

- 8                    (3) A Land Council may, in writing under its common seal, delegate to  
9                    a body corporate incorporated under the *Aboriginal Councils and*  
10                    *Associations Act 1976*, that has made an application in accordance  
11                    with section 28A, the Council's functions or powers under the  
12                    following provisions:  
13                    (a) section 11A (about agreements concerning land under claim);  
14                    (b) section 19 (about dealings with interests in land by Land  
15                    Trusts);  
16                    (c) Part IV (about mining);  
17                    (d) section 67B (about granting estates or interests while land is  
18                    subject to a traditional land claim).

19                    **62 Subsection 28(4)**

20                    After "Council, before", insert "performing a function or".

21                    **63 Paragraph 28(4)(a)**

22                    After "by the", insert "performance of the function or the".

23                    **64 Subsection 28(4)**

24                    Omit "power is delegated to another person, the person to whom it is  
25                    delegated may exercise the power", substitute "function or power is  
26                    delegated, the delegate may perform the function or exercise the  
27                    power".

28                    **65 After section 28**

29                    Insert:

1     **28A Delegation of a Land Council's functions or powers to body**  
2             **corporate**

3                     *Application*

4             (1) A body corporate incorporated under the *Aboriginal Councils and*  
5                 *Associations Act 1976* may, in writing, apply to a Land Council to  
6                 have the Council delegate to the body some or all of the Council's  
7                 functions or powers that are delegable to the body if a majority of  
8                 the members of the body are either:

- 9                     (a) the traditional Aboriginal owners of land in the part of the  
10                     area of the Council mentioned in paragraph (2)(b); or  
11                     (b) Aboriginals who live in that part.

12             Note:         Section 28 sets out which of the Council's functions or powers are  
13                             delegable to the body.

14             (2) An application must:

- 15                     (a) set out whether the body wants the Council to delegate to the  
16                     body:  
17                             (i) all of the delegable functions or powers; or  
18                             (ii) specified delegable functions or powers; or  
19                             (iii) specified delegable functions or powers in relation to  
20                             specified matters; and  
21                     (b) set out the part of the area of the Council in respect of which  
22                     the body is seeking to perform those functions or exercise  
23                     those powers; and  
24                     (c) contain any other information prescribed by the regulations.

25                     *Decision*

26             (3) The Council must make the delegation under section 28 or refuse  
27             to make the delegation.

28                     *Refusal*

29             (4) If the Council refuses to make the delegation:

- 30                     (a) it must give the body written notice of the refusal including  
31                     reasons for the refusal; and  
32                     (b) it must give the Minister a copy of the notice.

33             Note:         The body may seek the Minister's agreement to the delegation: see  
34                             section 28C.

1 *Deemed refusal*

- 2 (5) If the Council has neither made nor refused to make the delegation  
3 within the period worked out in accordance with the regulations, or  
4 such longer period as is agreed by the Minister, the Council is  
5 taken, at the end of that period, to have refused to make the  
6 delegation.

7 Note: The body may seek the Minister's agreement to the delegation: see  
8 section 28C.

- 9 (6) The Council must give the body written notice of any longer period  
10 agreed by the Minister.

11 **28B Variation or revocation of a delegation to body corporate**

- 12 (1) If a Land Council delegates some or all of its functions or powers  
13 under section 28 to a body corporate, the Council must not vary or  
14 revoke the delegation except as set out in this section.

15 *Revocation at request of body*

- 16 (2) The body may, in writing, request the Council to revoke the  
17 delegation. At the end of the period of 30 days beginning on the  
18 day the body made the request, the Council is taken to have  
19 revoked the delegation.

20 *Variation to remove functions or powers—application by body*

- 21 (3) The body may, in writing, request the Council to vary the  
22 delegation to:  
23 (a) remove specified functions or powers; or  
24 (b) remove specified functions or powers in relation to specified  
25 matters.

26 At the end of the period of 30 days beginning on the day the body  
27 made the request, the Council is taken to have so varied the  
28 delegation.

29 Note: For example, the body may seek to reduce the part of the area of the  
30 Council in respect of which the body wants to perform functions or  
31 exercise powers.

- 1                                    *Variation to add functions or powers—application by body*
- 2                    (4) The body may, in writing, apply to the Council for a variation of  
3                    the delegation to:
- 4                                    (a) apply to all of the Council’s functions or powers that are  
5                                    delegable to the body; or
- 6                                    (b) add specified delegable functions or powers; or
- 7                                    (c) add specified delegable functions or powers in relation to  
8                                    specified matters.
- 9                    The Council must, in writing, vary or refuse to vary the delegation.
- 10                    Note:            For example, the body may seek to increase the part of the area of the  
11                                    Council in respect of which the body wants to perform functions or  
12                                    exercise powers.
- 13                    (5) If the Council refuses to vary the delegation:
- 14                                    (a) it must give the body written notice of the refusal including  
15                                    reasons for the refusal; and
- 16                                    (b) it must give the Minister a copy of the notice.
- 17                    Note:            The body may seek the Minister’s agreement to the variation: see  
18                                    section 28C.
- 19                    (6) If the Council has neither varied nor refused to vary the delegation  
20                                    within the period worked out in accordance with the regulations, or  
21                                    such longer period as is agreed by the Minister, the Council is  
22                                    taken, at the end of that period, to have refused to vary the  
23                                    delegation.
- 24                    Note:            The body may seek the Minister’s agreement to the variation: see  
25                                    section 28C.
- 26                    (7) The Council must give the body written notice of any longer period  
27                                    agreed by the Minister.
- 28                                    *Variation or revocation with Minister’s approval*
- 29                    (8) The Council may, by notice in writing, seek the Minister’s  
30                                    approval to vary or revoke the delegation.
- 31                    (9) The Minister may, by notice in writing, give the approval. The  
32                                    Council may, in writing, vary or revoke the delegation accordingly.



1

*Consultation*

2

- (5) In deciding whether to approve or refuse the request, the Minister must consult the Council. The Minister may also consult such other persons or bodies as the Minister thinks appropriate.

3

4

5

*Approval*

6

- (6) If the Minister approves the request:

7

(a) the Minister must give the body and the Council written notice of the approval; and

8

9

(b) at the time the Minister gives the body notice of the approval, the Council is taken to have made the delegation under section 28, or the variation to the delegation, sought by the body (as the case requires).

10

11

12

13

*Refusal*

14

- (7) If the Minister refuses the request, the Minister must give the body and the Council written notice of the refusal. The Minister must also give the body written reasons for the refusal.

15

16

17

*Notice not a legislative instrument*

18

- (8) A notice under subsection (2) or (4) is not a legislative instrument.

19

**28D Land Council cannot perform functions or exercise powers delegated to body corporate**

20

21

- (1) While a delegation from a Land Council to a body corporate is in force under section 28, the Council cannot perform its functions or exercise its powers under this Act to the extent that they are covered by the delegation.

22

23

24

25

- (2) Subsection (1) applies despite paragraph 34AB(d) of the *Acts Interpretation Act 1901*.

26

27

**28E Land Council to provide assistance to body corporate**

28

- (1) If:

29

(a) a delegation from a Land Council to a body corporate is in force under section 28; and

30

1 (b) a person requests the Land Council to perform a function or  
2 exercise a power covered by the delegation;  
3 the Land Council must, as soon as practicable, advise the body in  
4 writing of that request.

5 (2) While a delegation from a Land Council to a body corporate is in  
6 force under section 28, the Council must provide the body with all  
7 reasonable facilities and assistance requested by the body in  
8 relation to the body's performance of the functions or the exercise  
9 of the powers covered by the delegation.

10 **28F Body corporate to give notice of its decisions**

11 If a body corporate makes a decision under a delegation from a  
12 Land Council under section 28, the body must:

- 13 (a) record its decision in writing; and  
14 (b) give the Council a written notice setting out the decision; and  
15 (c) give a copy of the decision, upon request, to any person or  
16 body affected by the decision.

17 **66 At the end of section 29**

18 Add:

19 *Eligibility requirements*

20 (3) A person is not eligible to be a member of a Land Council for the  
21 period set out in subsection (6) if a disqualifying event happens in  
22 relation to the person.

23 (4) A person ceases to be a member of a Land Council if a  
24 disqualifying event happens in relation to the person.

25 (5) For the purposes of subsections (3) and (4), a *disqualifying event*  
26 happens in relation to a person if the person:

- 27 (a) is convicted of an offence against a law of the  
28 Commonwealth, a State or a Territory (not involving  
29 dishonesty) and sentenced to a period of imprisonment of 12  
30 months or more; or  
31 (b) is convicted of an offence against a law of the  
32 Commonwealth, a State or a Territory involving dishonesty  
33 and sentenced to a period of imprisonment of 3 months or  
34 more; or

- 1 (c) is convicted of 2 or more offences against a law of the  
2 Commonwealth, a State or a Territory, is sentenced to a  
3 period or periods of imprisonment in respect of the offences  
4 and is required (or would have been required if the sentence  
5 or sentences had not been suspended) to serve a term of  
6 imprisonment of 12 months or more; or  
7 (d) is convicted of 2 or more offences against a law of the  
8 Commonwealth, a State or a Territory involving dishonesty,  
9 is sentenced to a period or periods of imprisonment in respect  
10 of the offences and is required (or would have been required  
11 if the sentence or sentences had not been suspended) to serve  
12 a term of imprisonment of 3 months or more.  
13 This subsection applies whether or not the person is also fined in  
14 respect of the offence or offences.
- 15 (6) For the purposes of subsection (3), the period of ineligibility is for:  
16 (a) if the person serves a term of imprisonment—2 years  
17 beginning on the day the person is released from prison; or  
18 (b) if the person does not serve a term of imprisonment—2 years  
19 beginning on the day the person is convicted.

## 20 **67 After section 29**

21 Insert:

### 22 **29AA Register of interests of members of Land Council**

#### 23 *Disclosure*

- 24 (1) Each member of a Land Council must make to the Council written  
25 disclosures of the member's direct or indirect pecuniary interests in  
26 accordance with a determination of the Minister under this section.

#### 27 *Keeping of register*

- 28 (2) The Council must keep a register of the interests disclosed in  
29 accordance with the determination.

#### 30 *Determination*

- 31 (3) The Minister may, by legislative instrument, make a determination  
32 specifying:  
33 (a) the kinds of interests to be disclosed; and

1 (b) the manner in which, and the times at which, disclosures are  
2 to be made; and

3 (c) the form in which the register is to be kept.

4 **68 Subsection 29A(1)**

5 After “may”, insert “, by notice in writing,”.

6 **69 At the end of subsection 29A(1)**

7 Add “or the exercise of any of its powers”.

8 **70 Subsection 29A(2)**

9 Repeal the subsection, substitute:

10 *Content of notice*

11 (2) The notice must specify:

12 (a) the name of each committee member; and

13 (b) if the committee is appointed in relation to a particular area  
14 of the Land Council—that area.

15 *Number of committee members*

16 (3) A committee must consist of at least 7 members or such other  
17 number as is prescribed by the regulations.

18 *Rules for conduct of meetings*

19 (4) The Land Council must make written rules providing for and in  
20 relation to the convening of meetings, and the procedure for the  
21 conduct of meetings, of a committee appointed under this section.  
22 The rules are not a legislative instrument.

23 (5) The Land Council must give a copy of the rules made under  
24 subsection (4) to the Minister.

25 *Minutes*

26 (6) A committee must keep minutes of its meetings.

27 *Inspection*

28 (7) The Land Council must allow:

- 1 (a) the traditional Aboriginal owners of Aboriginal land in the  
2 area of the Council; or  
3 (b) any Aboriginal living in the area of the Council;  
4 to inspect, at any reasonable time without charge:  
5 (c) rules made under subsection (4); or  
6 (d) the minutes of committee meetings (other than any part of the  
7 minutes that relates to an excludable matter).

8 **71 Subsection 31(7)**

9 Repeal the subsection, substitute:

10 (7) A Land Council must make written rules, not inconsistent with this  
11 Act, providing for and in relation to the convening of meetings,  
12 and the procedure for the conduct of meetings, of the Council. The  
13 rules are not a legislative instrument.

14 (7A) A Land Council must give a copy of the rules made under  
15 subsection (7) to the Minister for his or her approval.

16 (7B) The Minister must, by notice in writing, approve or refuse to  
17 approve the rules. The notice is not a legislative instrument.

18 (7C) The rules come into force once the Minister has approved them.

19 (7D) A Land Council must allow the following persons to inspect, at any  
20 reasonable time without charge, rules made under subsection (7)  
21 and approved by the Minister:

- 22 (a) the traditional Aboriginal owners of Aboriginal land in the  
23 area of the Council;  
24 (b) any Aboriginal living in the area of the Council.

25 **72 Subsection 31(8)**

26 Repeal the subsection.

27 **73 At the end of section 31**

28 Add:

29 *Minutes*

30 (10) A Land Council must keep minutes of its meetings.

1 (11) A Land Council must allow the following persons to inspect, at any  
2 reasonable time without charge, the minutes of its meetings (other  
3 than any part of the minutes that relates to an excludable matter):

4 (a) the traditional Aboriginal owners of Aboriginal land in the  
5 area of the Council;

6 (b) any Aboriginal living in the area of the Council.

7 **74 After section 33**

8 Insert:

9 **33A Land Council may charge fees for services**

10 (1) A Land Council may charge a fee for services prescribed by the  
11 regulations that it provides in performing any of its functions, or  
12 exercising any of its powers, under this Act.

13 (2) The fee must not be such as to amount to taxation.

14 **75 Subsection 34(1)**

15 After “administrative costs”, insert “or capital costs”.

16 Note: The heading to section 34 is altered by omitting “**Administrative expenditure**” and  
17 substituting “**Expenditure**”.

18 **76 At the end of subsection 34(1)**

19 Add:

20 Note: The Minister must have regard to approved estimates in determining  
21 what amounts are to be debited from the Account under subsection  
22 64(1).

23 **77 After subsection 34(1)**

24 Insert:

25 (1A) A Land Council must, at the time it submits estimates to the  
26 Minister under subsection (1), notify the Minister, in such form as  
27 the Minister directs, of:

28 (a) the total amount of fees it expects to receive under  
29 section 33A during the period to which those estimates relate;  
30 and

31 (b) the total amount of other income it expects to receive during  
32 the period to which those estimates relate in relation to  
33 performing functions or exercising powers under this Act.

**Schedule 1 Amendments**  
**Part 1 Amendments**

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1 Note: The Minister must have regard to these amounts in determining what  
2 amounts are to be debited from the Account under subsection 64(1).

- 3 (1B) Paragraph (1A)(b) does not apply to:  
4 (a) a payment made to a Land Council as mentioned in  
5 subsection 35(2), (3), (4) or (4B); or  
6 (b) interest received by a Land Council as mentioned in  
7 subsection 35(11) in relation to such a payment.

8 **78 Subsection 34(2)**

9 After “administrative costs”, insert “or capital costs”.

10 **79 After subsection 34(3)**

11 Insert:

12 (3AA) Nothing in subsection (3) empowers a Land Council to spend  
13 amounts, in relation to matters covered by the estimates approved  
14 by the Minister, that exceed the total amount of expenditure  
15 provided for by those estimates.

16 **80 Subsection 34(4)**

17 Repeal the subsection, substitute:

18 (4) In this section:

19 *administrative costs* of a Land Council includes:

- 20 (a) the cost of providing services for which the Council may  
21 charge a fee under section 33A; and  
22 (b) the cost of paying remuneration and allowances that are  
23 payable under this Act to:  
24 (i) a member of the Council; or  
25 (ii) a member of a Land Trust holding land, or established  
26 to hold land, in the area of the Council.

27 **81 Subsection 35(1)**

28 Repeal the subsection, substitute:

- 29 (1) A Land Council must spend the following amounts in meeting its  
30 administrative costs or capital costs, in accordance with section 34,  
31 in the financial year in which the amounts are received or in the  
32 next financial year:  
33 (a) money paid to the Council under subsection 64(1);
-

- 1 (b) fees the Council receives under section 33A;  
2 (c) other income the Council receives in relation to performing  
3 functions or exercising powers under this Act.

4 (1A) Paragraph (1)(c) does not apply to:

- 5 (a) a payment made to a Land Council as mentioned in  
6 subsection (2), (3), (4) or (4B); or  
7 (b) interest received by a Land Council as mentioned in  
8 subsection (11) in relation to such a payment.

9 **82 Subsection 35(2)**

10 Omit “Moneys”, substitute “Subject to this section, moneys”.

11 **83 At the end of subsection 35(2)**

12 Add:

- 13 Note 1: A determination must satisfy the requirement in section 35A.  
14 Note 2: Sections 35B and 35C impose requirements on a body corporate that  
15 receives an amount under a determination.  
16 Note 3: The activities or operations of a body corporate receiving an amount  
17 under a determination may be evaluated or audited: see paragraph  
18 193X(1)(cb) of the *Aboriginal and Torres Strait Islander Act 2005*.

19 **84 Subsection 35(2A)**

20 Repeal the subsection.

21 **85 Subsection 35(3)**

22 Omit “Within”, substitute “Subject to this section, within”.

23 **86 At the end of subsection 35(3)**

24 Add:

- 25 Note 1: A determination must satisfy the requirements in section 35A.  
26 Note 2: Sections 35B and 35C impose requirements on a body corporate that  
27 receives an amount under this subsection.  
28 Note 3: The activities or operations of a body corporate or other person  
29 receiving an amount under this subsection may be evaluated or  
30 audited: see paragraph 193X(1)(cb) of the *Aboriginal and Torres*  
31 *Strait Islander Act 2005*.

32 **87 After subsection 35(4)**

33 Insert:

- 1 (4A) If:  
2 (a) a Land Council receives a payment as mentioned in  
3 subsection (4); and  
4 (b) the payment is made by the Commonwealth, the Northern  
5 Territory or an Authority; and  
6 (c) the payment is of a kind prescribed by the regulations for the  
7 purposes of this subsection; and  
8 (d) under subsection (4), the Land Council pays an amount equal  
9 to that payment to a person;

10 the Land Council must, at the time it pays that amount, advise the  
11 person in writing that the amount is an accountable amount.

12 Note 1: Sections 35B and 35C impose requirements on a body corporate in  
13 relation to accountable amounts.

14 Note 2: The activities or operations of a body corporate or other person  
15 receiving an accountable amount may be evaluated or audited: see  
16 paragraph 193X(1)(cb) of the *Aboriginal and Torres Strait Islander*  
17 *Act 2005*.

## 18 **88 Before subsection 35(5)**

19 Insert:

- 20 (4B) If a Land Council receives a payment in respect of Aboriginal land  
21 under a lease under section 19A, the Land Council must, within 6  
22 months of receiving the payment, pay an amount equal to that  
23 payment to an Incorporated Aboriginal Association for the benefit  
24 of the traditional Aboriginal owners of the land.

## 25 **89 Subsection 35(5)**

26 Omit “(1),”.

## 27 **90 Paragraph 35(6)(b)**

28 Before “the Land”, insert “subject to this section,”.

## 29 **91 At the end of subsection 35(6)**

30 Add:

31 Note 1: Sections 35B and 35C impose requirements on a body corporate that  
32 receives an amount under a determination.

33 Note 2: The activities or operations of a body corporate receiving an amount  
34 under a determination may be evaluated or audited: see paragraph  
35 193X(1)(cb) of the *Aboriginal and Torres Strait Islander Act 2005*.

1 **92 After subsection 35(6)**

2 Insert:

3 (6A) If:

- 4 (a) a body corporate spends an amount it received under a  
5 determination under subsection (2), (3) or (6); and  
6 (b) the Land Council concerned is satisfied that the body  
7 corporate has not complied with section 35C in respect of the  
8 financial year in which the body corporate spent the amount;  
9 the Land Council may, by notice in writing given to the body  
10 corporate, suspend payments under a determination under  
11 subsection (2), (3) or (6) of this section, as the case may be, to the  
12 body corporate until the body corporate does so comply.

13 (6B) If a Land Council gives a notice under subsection (6A), the  
14 Council must:

- 15 (a) hold an amount that would have been paid to the body  
16 corporate, apart from the giving of that notice, in trust for the  
17 body corporate; and  
18 (b) hold the amount in trust until it is paid to the body corporate.

19 (6C) During the period of a suspension under subsection (6A), the Land  
20 Council may, under subsection 35A(3) or (4):

- 21 (a) vary a determination under subsection (2), (3) or (6) of this  
22 section, as the case may be, so that the determination no  
23 longer applies in respect of the body corporate and instead  
24 applies in respect of another body corporate; or  
25 (b) revoke a determination under subsection (2), (3) or (6) of this  
26 section, as the case may be, in respect of the body corporate  
27 and make a new determination under subsection (2) or (3) of  
28 this section, as the case may be, in respect of another body  
29 corporate.

30 (6D) If subsection (6C) applies, the Land Council must pay to the other  
31 body corporate any amount held in trust in accordance with  
32 subsection (6B). This subsection applies despite subsection (6B).

33 Note: Interest may also be payable to the other body corporate under  
34 subsection (11).

35 (6E) A notice under subsection (6A) is not a legislative instrument.

36 **93 Subsection 35(7)**

---

1 Repeal the subsection.

2 **94 Subsection 35(8)**

3 Omit “under subsection (2), (3) or (4)”, substitute “as mentioned in  
4 subsection (2), (3), (4) or (4B)”.

5 **95 Subsection 35(9)**

6 Omit “(1),”.

7 **96 Subsection 35(9)**

8 After “(4)”, insert “, (4B)”.

9 **97 Subsection 35(10)**

10 After “in subsection”, insert “(6B),”.

11 **98 Subsection 35(10)**

12 Omit “(7),”.

13 **99 At the end of subsection 35(11)**

14 Add:

15 Note 1: Sections 35B and 35C impose requirements on a body corporate that  
16 receives an amount under this subsection.

17 Note 2: The activities or operations of a person receiving a payment under this  
18 subsection in certain circumstances may be evaluated or audited: see  
19 paragraph 193X(1)(cb) of the *Aboriginal and Torres Strait Islander*  
20 *Act 2005*.

21 **100 Subsection 35(12)**

22 Repeal the subsection.

23 **101 Section 35A**

24 Repeal the section, substitute:

25 **35A Making of determinations under subsection 35(2), (3) or (6)**

26 (1) A Land Council must have regard to the following matters before  
27 making a determination under subsection 35(2) or (3) in relation to  
28 a body corporate:

29 (a) any report:

- 1 (i) of an evaluation or audit conducted under paragraph  
2 193X(1)(cb) of the *Aboriginal and Torres Strait*  
3 *Islander Act 2005* in relation to the body; and  
4 (ii) that was given to the Minister administering Part 4B of  
5 that Act in the period of 5 years before the time when  
6 the Council began to consider making the  
7 determination;  
8 (b) if the body was required to comply with section 35C for one  
9 or more of the previous 5 financial years—whether the body  
10 has so complied.
- 11 (2) A determination under subsection 35(2), (3) or (6) must be in  
12 writing and must specify the period, not exceeding 5 years, for  
13 which it is in force.
- 14 (3) A Land Council may vary or revoke a determination under  
15 subsection 35(2) or (3). The variation or revocation must be in  
16 writing.
- 17 (4) A Land Council may, with the Minister’s approval, vary or revoke  
18 a determination under subsection 35(6). The variation or  
19 revocation must be in writing.
- 20 (5) A determination under subsection 35(2), (3) or (6) is not a  
21 legislative instrument.

22 **35B Notification requirements for body corporate receiving money**  
23 **from Land Council**

- 24 A body corporate that spends an amount that it received:
- 25 (a) under a determination under subsection 35(2), (3) or (6); or  
26 (b) under subsection 35(3) in accordance with an agreement  
27 mentioned in that subsection; or  
28 (c) under subsection 35(4) that the Land Council concerned has  
29 advised, under subsection 35(4A), is an accountable amount;  
30 or  
31 (d) under subsection 35(4B); or  
32 (e) under subsection 35(11) in relation to an amount covered by  
33 paragraph (a), (b), (c) or (d) of this section; or  
34 (f) under subsection 67B(6) that the Land Council concerned has  
35 advised, under subsection 67B(7), is an accountable amount;

1 must inform the recipient of the amount of the purpose of the  
2 payment.

3 **35C Reporting obligations for body corporate receiving money from**  
4 **Land Council**

5 (1) This section applies to a body corporate that spends an amount in a  
6 financial year (the *reporting year*) that it received in that year or an  
7 earlier financial year:

8 (a) under a determination under subsection 35(2), (3) or (6); or

9 (b) under subsection 35(3) in accordance with an agreement  
10 mentioned in that subsection; or

11 (c) under subsection 35(4), but only if the Land Council  
12 concerned has advised, under subsection 35(4A), that the  
13 amount the body corporate received is an accountable  
14 amount; or

15 (d) under subsection 35(4B); or

16 (e) under subsection 35(11) in relation to an amount covered by  
17 paragraph (a), (b), (c) or (d) of this subsection; or

18 (f) under subsection 67B(6), but only if the Land Council  
19 concerned has advised, under subsection 67B(7), that the  
20 amount the body corporate received is an accountable  
21 amount.

22 (2) The body corporate must give the Land Council concerned:

23 (a) a copy of the financial statements that the body is required,  
24 under the law under which it is incorporated, to give in  
25 respect of the reporting year; and

26 (b) a written report setting out:

27 (i) the purpose for which that amount was spent (including  
28 details of any relevant project); and

29 (ii) each recipient of that amount; and

30 (iii) the amount paid to each recipient and the day or days  
31 the amount was paid.

32 (3) The body corporate must comply with subsection (2) within 30  
33 days after the day by which it is required to give those financial  
34 statements.

35 Note: A body corporate's failure to do so may affect future payments to the  
36 body: see subsections 35(6A) to (6D) and section 35A.

1 **102 Section 37**

2 Repeal the section, substitute:

3 **37 Additional Land Council reporting requirements**

4 (1) The annual report of a Land Council under section 9 of the  
5 *Commonwealth Authorities and Companies Act 1997* must also  
6 include the matters set out in this section in relation to the financial  
7 year to which the report relates.

8 *Fees*

- 9 (2) The report must specify:
- 10 (a) the total fees the Council received under section 33A during  
11 that year for services the Council provided under Part IV  
12 (whether in that year or the previous year); and  
13 (b) the total fees the Council received under section 33A during  
14 that year for any other services the Council provided  
15 (whether in that year or the previous year).

16 *Section 35 determinations*

- 17 (3) The report must include:
- 18 (a) particulars of any determinations made by the Council under  
19 subsection 35(2) or (3) during that year; and  
20 (b) particulars of any determinations made by the Minister under  
21 subsection 35(6) during that year.

22 *Details of amounts paid*

- 23 (4) The report must include for each amount paid by the Council  
24 during that year:
- 25 (a) under a determination made under subsection 35(2); or  
26 (b) under a determination made under subsection 35(6) (in so far  
27 as that determination was made because the Council did not  
28 make a determination under subsection 35(2)); or  
29 (c) under subsection 35(4) that the Council has advised, under  
30 subsection 35(4A), is an accountable amount; or  
31 (d) under subsection 35(4B); or  
32 (e) under subsection 35(11) in relation to an amount covered by  
33 paragraph (a), (b), (c) or (d) of this subsection; or

- 1 (f) under subsection 67B(6) that the Council has advised, under  
2 subsection 67B(7), is an accountable amount;  
3 the following details:  
4 (g) the recipient of the amount;  
5 (h) the subsection under which the amount was paid;  
6 (i) the total of the amount paid.

7 *Details of amounts held in trust*

- 8 (5) If, at the end of that year, the Council holds an amount:  
9 (a) paid to the Council, in any financial year, as mentioned in  
10 subsection 35(2) or (3); and  
11 (b) in trust as mentioned in subsection 35(6B), (8) or (9);  
12 the report must include the following details:  
13 (c) the amount paid to the Council and the financial year in  
14 which the amount was paid;  
15 (d) the amount held in trust;  
16 (e) the mining operations concerned.

17 *Details of section 28 delegations*

- 18 (6) If a delegation under section 28 to a body corporate is in force at  
19 any time during that year, the report must include particulars of the  
20 activities of the body during that year to the extent they relate to  
21 the delegation.

22 *Details of section 29A committees*

- 23 (7) If the appointment of a committee under 29A is in force at any  
24 time during that year, the report must include particulars of the  
25 activities of the committee during that year.

26 *Details of consultants*

- 27 (8) The report must specify:  
28 (a) each consultant engaged by the Council during that year to  
29 do work in relation to the Council's performance of functions  
30 or exercise of powers under this Act; and  
31 (b) the amount paid to the consultant by the Council during that  
32 year for that work.

1 **103 At the end of Part III**

2 Add:

3 **38 Minister to provide evaluation or audit reports to Land Council**

4 If the Minister receives a copy of a report of an evaluation or audit  
5 conducted under paragraph 193X(1)(cb) of the *Aboriginal and*  
6 *Torres Strait Islander Act 2005* in relation to a body corporate, the  
7 Minister must provide a copy of the report to the Land Council that  
8 paid the amount referred to in that paragraph.

9 **39 Minister may give directions about Land Council finances**

- 10 (1) The Minister may give a written direction to a Land Council about  
11 the administration of the Council's finances.
- 12 (2) A direction under subsection (1) must not be inconsistent with:  
13 (a) this Act or the regulations under this Act; or  
14 (b) the *Commonwealth Authorities and Companies Act 1997*, or  
15 regulations or Finance Minister's Orders made under that  
16 Act.
- 17 (3) A Land Council must comply with a direction that is in force under  
18 subsection (1).
- 19 (4) A direction under subsection (1) is not a legislative instrument.

20 **104 Paragraph 40(a)**

21 Repeal the paragraph, substitute:

- 22 (a) both of the following occur:  
23 (i) the Land Council for the area in which the land is  
24 situated gives consent under subsection 42(1) to the  
25 grant of the licence;  
26 (ii) the Minister gives consent under subsection 42(8) to the  
27 grant of the licence; or

28 **105 At the end of subsection 41(1)**

29 Add:

30 Note: If the consent of the Northern Territory Mining Minister is withdrawn,  
31 then the application is also taken to have been withdrawn: see  
32 section 41A.

1 **106 Subsection 41(2)**

2 Repeal the subsection, substitute:

3 (2) The person must make the application:

4 (a) within the period (the *standard period*) of 3 months after the  
5 consent of the Northern Territory Mining Minister was given;  
6 or

7 (b) if before the end of the standard period the person requests,  
8 in writing, the Minister to extend the standard period:

9 (i) if the Minister grants the request—within the extension  
10 period; or

11 (ii) if the Minister refuses the request—before receiving  
12 notice of the refusal.

13 (2A) The Minister must decide any extension request within 6 weeks of  
14 receiving it. The Minister must, by notice in writing given to the  
15 person:

16 (a) extend the standard period for a period not exceeding 3  
17 months; or

18 (b) refuse to extend the standard period.

19 **107 Subsection 41(4)**

20 Repeal the subsection.

21 **108 After subsection 41(6)**

22 Insert:

23 (6A) Strict compliance with subsection (6) is not necessary and  
24 substantial compliance is sufficient.

25 **109 Subsection 41(7)**

26 Repeal the subsection.

27 **110 After section 41**

28 Insert:

29 **41A Withdrawal of application for consent to exploration licence**

30 If the consent of the Northern Territory Mining Minister referred to  
31 in subsection 41(1) is withdrawn before the Land Council consents,

1 or refuses to consent, to the grant of an exploration licence in  
2 respect of the Aboriginal land concerned, the application under that  
3 subsection is taken to have been withdrawn on the day the consent  
4 is withdrawn.

5 **111 Paragraph 42(1)(a)**

6 Before “either,”, insert “by notice in writing,”.

7 **112 At the end of paragraph 42(1)(b)**

8 Add “and of the day on which the decision is made”.

9 **113 After subsection 42(1)**

10 Insert:

11 (1A) A notice under paragraph (1)(a) is not a legislative instrument.

12 (1B) If the Land Council does not make a decision under  
13 paragraph (1)(a) before the end of the negotiating period, the  
14 consent of the Northern Territory Mining Minister referred to in  
15 subsection 41(1) is taken to be withdrawn at the end of that period.

16 **114 Subsection 42(5)**

17 Repeal the subsection, substitute:

18 (5) The Minister may, in writing, authorise a specified person, or any  
19 person included in a specified class of persons, to:

- 20 (a) attend the meeting, or each meeting, referred to in  
21 paragraph (4)(c); and  
22 (b) attend any subsequent meeting.

23 (5A) However, a person covered by subsection (5) must not attend any  
24 subsequent meeting if the traditional Aboriginal owners as a group:

- 25 (a) decide that the person must not attend; and  
26 (b) notify the Minister, through the Land Council, of that  
27 decision.

28 **115 Subsection 42(7)**

29 Repeal the subsection, substitute:

30 (7) If, at any time within the negotiating period, the Land Council  
31 notifies the Minister in writing that the Council and the applicant

1                   agree that the terms and conditions should be dealt with by  
2                   arbitration, the Council is, for the purposes of this Part, taken to  
3                   have consented to the grant of the licence on the day of the  
4                   notification.

5                   **116 Subsection 42(8)**

6                   After “determine”, insert “, in writing,”.

7                   **117 After subsection 42(8)**

8                   Insert:

9                   (8A) A determination under subsection (8) is not a legislative  
10                  instrument.

11                  **118 Subsection 42(11)**

12                  Omit “paragraph 42(7)(a)”, substitute “subsection (7)”.

13                  **119 Subsections 42(13), (14) and (15)**

14                  Repeal the subsections, substitute:

15                                 *Standard negotiating period*

16                  (13) Subject to subsections (15) and (17), the *negotiating period* for an  
17                  application is the period beginning on the day the application is  
18                  received by the Land Council and ending at the end of:

19                                 (a) the period of 22 months beginning on 1 January in the  
20                                 calendar year after the calendar year in which the application  
21                                 is received by the Council; or

22                                 (b) if, before the end of that 22 month period, the applicant and  
23                                 the Council agree in writing to extend that period by 2  
24                                 years—that 2 year period; or

25                                 (c) if, before the end of the following period (the *agreed period*):

26   (i) that 2 year period;

27   (ii) any 12 month period applicable under any application or  
28   applications of this paragraph;

29   the applicant and the Council agree in writing to extend the  
30   agreed period by 12 months—that 12 month period.

1                                    *Notification of extension agreed between the applicant and the*  
2                                    *Land Council*

3                    (14) The Land Council must notify the Minister and the Northern  
4                    Territory Mining Minister of any extension agreed under  
5                    paragraph (13)(b) or (c).

6                                    *Ministerial deadline*

7                    (15) At any time during a period applicable under paragraph (13)(b) or  
8                    (c), the Minister may, in writing, determine that a specified day is  
9                    to be the end of the negotiating period (which must be a day at  
10                    least 12 months after the day of the determination).

11                                   *Consultation*

12                    (16) The Minister must, before making a determination under  
13                    subsection (15), consult the applicant, the Land Council and the  
14                    Northern Territory Mining Minister. The Minister may conduct the  
15                    consultation during the period applicable under paragraph (13)(a).

16                                   *Special negotiating period for some applications*

17                    (17) If:  
18                                    (a) a person makes an application (the ***original application***)  
19                                    under section 41; and  
20                                    (b) subsection (1B) of this section applies in relation to the  
21                                    original application; and  
22                                    (c) the person makes a later application under section 41 and the  
23                                    comprehensive proposal set out in the later application is  
24                                    substantially the same as the comprehensive proposal set out  
25                                    in the original application;  
26                    the ***negotiating period*** for the later application is the period  
27                    determined by the Minister under subsection (18).

28                    (18) The Minister must, in writing, determine a period for the purposes  
29                    of subsection (17). The period must not be more than 12 months  
30                    beginning on the day the later application is received by the Land  
31                    Council.

1                                    *Notice of determination*

- 2                    (19) The Minister must give written notice of a determination under  
3                    subsection (15) or (18) to:  
4                    (a) the applicant; and  
5                    (b) the Land Council; and  
6                    (c) the Northern Territory Mining Minister.

7                                    *Determination not a legislative instrument*

- 8                    (20) A determination made under subsection (15) or (18) is not a  
9                    legislative instrument.

10                    **120 Subsection 43(1)**

11                    Omit “shall, within 180 days, or such longer period as is agreed upon in  
12                    writing between the applicant and the Land Council, after the  
13                    Proclamation takes effect,”; substitute “must, within the negotiating  
14                    period,”.

15                    **121 Subsections 43(3) and (4)**

16                    Repeal the subsections, substitute:

17                                    *Consultation obligations*

- 18                    (3) In order to facilitate consultation between the Land Council and the  
19                    traditional Aboriginal owners:  
20                    (a) the Council must convene such meetings with them as are  
21                    necessary for the purpose of considering the terms and  
22                    conditions; and  
23                    (b) the Council must give reasonable notice to the applicant and  
24                    the Minister before each meeting which the applicant and the  
25                    Minister are entitled to attend; and  
26                    (c) the representatives of the applicant may attend so much of  
27                    the first meeting at which the terms and conditions are  
28                    discussed as is appropriate for the purpose of outlining the  
29                    applicant’s views concerning the terms and conditions; and  
30                    (d) the representatives of the applicant may attend so much of  
31                    any subsequent meeting as is appropriate for the purpose  
32                    referred to in paragraph (c) unless the traditional Aboriginal  
33                    owners as a group:  
34                    (i) decide that the representatives must not attend; and

- 1 (ii) notify the applicant, through the Council, of that  
2 decision.

3 *Minister's representative may attend meetings*

- 4 (4) A representative of the Minister:  
5 (a) may attend the meeting referred to in paragraph (3)(c); and  
6 (b) may attend any subsequent meeting unless the traditional  
7 Aboriginal owners as a group:  
8 (i) decide that the representative must not attend; and  
9 (ii) notify the Minister, through the Council, of that  
10 decision.

11 *Negotiating period*

- 12 (5) Subject to subsection (6), the *negotiating period* is:  
13 (a) the period of 180 days after the Proclamation referred to in  
14 subsection (1) takes effect; or  
15 (b) such longer period as is agreed upon in writing between the  
16 applicant and the Land Council.
- 17 (6) If:  
18 (a) the Land Council, within the period applicable under  
19 paragraph (5)(a) or (b), requests the Minister to extend that  
20 period; and  
21 (b) the Minister, after consulting the Northern Territory Mining  
22 Minister, is satisfied that:  
23 (i) it is not reasonably practicable for the Council to  
24 perform its functions under this section within that  
25 period; and  
26 (ii) it is appropriate to extend that period in all the  
27 circumstances;  
28 the Minister may, by notice in writing given to the applicant, the  
29 Land Council and the Northern Territory Mining Minister,  
30 determine the negotiating period to be a specified longer period.

31 **122 Subsection 44(2)**

- 32 Omit "an arbitrator agreed upon by the parties", substitute "arbitration  
33 in accordance with the *Commercial Arbitration Act* of the Northern  
34 Territory".

1 **123 Subsection 44(4)**

2 Repeal the subsection, substitute:

- 3 (4) If paragraph (1)(b) applies, the applicant or the Land Council, or  
4 both, may, in writing, request the Minister to refer the terms and  
5 conditions to a person appointed by the Minister as a Mining  
6 Commissioner for determination by conciliation or, failing that, by  
7 arbitration.

8 **124 Subsection 44(9)**

9 Omit “under”, substitute “in accordance with”.

10 **125 Section 45**

11 Before “A”, insert “(1)”.

12 **126 At the end of section 45**

13 Add:

14 (2) If:

- 15 (a) the mining interest referred to in subsection (1) is the  
16 proposed renewal of a lease, licence, interest or right; and  
17 (b) in relation to the grant of the original lease, licence, interest  
18 or right, the agreement entered into under section 46 covered  
19 the terms and conditions to which a renewal of the lease,  
20 licence, interest or right would be subject;

21 then paragraph (1)(a) is taken to be satisfied in relation to the  
22 proposed renewal of the lease, licence, interest or right.

- 23 (3) The Minister may give a consent under paragraph (1)(b) to the  
24 renewal of a lease, licence, interest or right at the time he or she  
25 gives a consent under that paragraph in relation to the grant of the  
26 original lease, licence, interest or right.

27 **127 Subsection 46(1)**

28 Omit “in respect of which that intending miner holds or held an  
29 exploration licence or an exploration retention lease (whether that  
30 licence or lease was granted before or after the land became Aboriginal  
31 land)”.

32 **128 Subsection 46(6)**

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1 Repeal the subsection, substitute:

2 (6) The Minister may, in writing, authorise a specified person, or any  
3 person included in a specified class of persons, to:

- 4 (a) attend the first meeting; and  
5 (b) attend any subsequent meeting.

6 (6A) However, a person covered by subsection (6) must not attend any  
7 subsequent meeting if the traditional Aboriginal owners as a group:

- 8 (a) decide that the person must not attend; and  
9 (b) notify the Minister, through the Land Council, of that  
10 decision.

11 **129 Subsection 46(7)**

12 Omit “by the Minister”.

13 **130 Subsection 46(8)**

14 Omit “appoint a person, in accordance with section 48F, as a Mining  
15 Commissioner”, substitute “arrange for a person to be appointed as a  
16 Mining Commissioner under section 48F”.

17 **131 Subsection 46(10)**

18 Omit “appoint another person under section 48F as a Mining  
19 Commissioner”, substitute “arrange for another person to be appointed  
20 as a Mining Commissioner under section 48F”.

21 **132 Section 47**

22 Repeal the section, substitute:

23 **47 Cancellation of exploration licence or mining interest**

24 *Exploration works*

25 (1) If:

26 (a) a Land Council has consented to the grant of an exploration  
27 licence (including because of the operation of subsection  
28 42(7)); and

29 (b) the Council, by notice in writing to the Minister, states that:

30 (i) the licence-holder is conducting, or is likely to conduct,  
31 exploration works otherwise than in accordance with the

- 1 proposed exploration program referred to in the  
2 application for that consent; and  
3 (ii) the exploration works are causing, or are likely to cause,  
4 a significant impact on the affected land and on  
5 Aboriginals, to the extent that the Council would not  
6 have consented to the grant of the licence;  
7 the Minister must, within 90 days after receiving the notice:  
8 (c) consult the Northern Territory Mining Minister; and  
9 (d) determine, in writing, whether the Minister is satisfied that  
10 the Council was entitled to make the statement; and  
11 (e) determine, in writing, whether the Minister is satisfied that  
12 the national interest does not require that the exploration  
13 works should proceed.
- 14 (2) If the Minister determines that he or she is satisfied of the matters  
15 in paragraphs (1)(d) and (e):  
16 (a) the Minister must inform the Land Council and the  
17 licence-holder; and  
18 (b) the exploration licence is cancelled under this subsection.

19 *Mining works or activities*

- 20 (3) If an intending miner causes a copy of a statement of mining  
21 proposals to be sent to the Minister under subsection 46(2), the  
22 Minister must, within 90 days after receiving the statement:  
23 (a) determine, in writing, whether the Minister is satisfied that:  
24 (i) the proposed mining works or related activities are not  
25 in accordance with the description set out under  
26 paragraph 41(6)(e) in respect of the application relating  
27 to the relevant exploration licence; and  
28 (ii) the Land Council consented to the grant of the licence  
29 (including because of the operation of subsection  
30 42(7)); and  
31 (iii) the works or activities are causing, or are likely to  
32 cause, a significant impact on the affected land and on  
33 Aboriginals, to the extent that the Council would not  
34 have consented to the grant of the licence; and  
35 (b) determine, in writing, whether the Minister is satisfied that  
36 the national interest does not require that the works or  
37 activities should proceed.

- 1 (4) If the Minister determines that he or she is satisfied of the matters  
2 in paragraphs (3)(a) and (b):  
3 (a) the Minister must inform the Land Council and the intending  
4 miner; and  
5 (b) if the mining interest applied for has not yet been granted—  
6 the application must not be granted; and  
7 (c) if the mining interest has been granted—the interest is  
8 cancelled under this subsection.

9 *Determination not a legislative instrument*

- 10 (5) A determination under paragraph (1)(d) or (e) or (3)(a) or (b) is not  
11 a legislative instrument.

12 **133 Before subsection 48(1)**

13 Insert:

- 14 (1A) Subsections (1) to (4A) have 2 separate applications as follows:  
15 (a) the first application is in relation to petroleum and for this  
16 purpose those subsections apply as if:  
17 (i) a reference to a refusal to consent to the grant of an  
18 exploration licence were a reference to a refusal to  
19 consent to the grant of an exploration licence in relation  
20 to petroleum; and  
21 (ii) a reference to an application under section 41 in respect  
22 of particular land or an area within that land were a  
23 reference to an application under section 41 in relation  
24 to petroleum in respect of that land or an area within  
25 that land;  
26 (b) the second application is other than in relation to petroleum  
27 and for this purpose those subsections apply as if:  
28 (i) a reference to a refusal to consent to the grant of an  
29 exploration licence were a reference to a refusal to  
30 consent to the grant of an exploration licence other than  
31 in relation to petroleum; and  
32 (ii) a reference to an application under section 41 in respect  
33 of particular land or an area within that land were a  
34 reference to an application under section 41 other than  
35 in relation to petroleum in respect of that land or an area  
36 within that land.

1 **134 Subsection 48(1)**

2 Omit “or (4)”, substitute “, (4) or (4A)”.

3 **135 At the end of subsection 48(2)**

4 Add:

5 Note: See also the requirement in subsection (4B) (about having a consent to  
6 negotiate).

7 **136 Paragraph 48(3)(b)**

8 Omit “not less than 2 years from”, substitute “at any time after”.

9 **137 Subsection 48(3)**

10 After “Minister shall”, insert “, subject to subsection (3A),”.

11 **138 At the end of subsection 48(3)**

12 Add:

13 Note: See also the requirement in subsection (4B) (about having a consent to  
14 negotiate).

15 **139 After subsection 48(3)**

16 Insert:

17 (3A) However, if:

18 (a) the refusal under paragraph (3)(a) is in relation to a body  
19 corporate; and

20 (b) at the time the Minister is satisfied of the matters referred to  
21 in paragraph (3)(c), the body corporate has been wound up  
22 and has not assigned its rights in relation to this section;

23 then the Minister may, under subsection (3), authorise an  
24 application in respect of the land concerned or an area within that  
25 land to be made by any person under section 41 within the period  
26 applicable under subsection 41(2).

27 **140 Subsection 48(4)**

28 Omit “Where”, substitute “Subject to subsection (4A), if”.

29 **141 At the end of subsection 48(4)**

30 Add:



- 1 (3) A Land Council may enter into an agreement with a person who  
2 has lodged an application, under the law of the Northern Territory  
3 relating to mining, for the grant of a mining interest in respect of  
4 land that is:  
5 (a) the subject of an application referred to in paragraph  
6 50(1)(a); and  
7 (b) in the area of that Land Council;  
8 setting out the terms and conditions to which, if the land becomes  
9 Aboriginal land before the grant of that mining interest, the grant  
10 of that mining interest will be subject.

11 **147 Subsection 48B(1)**

12 Omit “appoint”, substitute “arrange for a person to be appointed as”.

13 **148 Subsection 48B(2)**

14 Omit “appoint a person”, substitute “arrange for a person to be  
15 appointed”.

16 **149 Subsection 48E(1)**

17 Omit “appoint a person”, substitute “arrange for a person to be  
18 appointed”.

19 **150 Subsection 48F(1)**

20 Omit “Where the Minister is required to appoint a Mining  
21 Commissioner”, substitute “If a Mining Commissioner is to be  
22 appointed”.

23 **151 At the end of paragraph 48F(1)(a)**

24 Add “or”.

25 **152 Paragraph 48F(1)(c)**

26 After “Arbitrators”, insert “and Mediators”.

27 **153 At the end of subsection 48F(1)**

28 Add:  
29 ; or (d) a person prescribed by the regulations.

30 **154 Subsection 48F(2)**

1 Omit “Where the Minister is required to appoint a Mining  
2 Commissioner”, substitute “If a Mining Commissioner is to be  
3 appointed”.

4 **155 Subsection 48F(3)**

5 Omit “section 44B”, substitute “section 48B”.

6 **156 Subsection 48F(4)**

7 Omit “subsection (2)”, substitute “subsection (3)”.

8 **157 Subsection 48F(6)**

9 Omit “subsection (4)”, substitute “subsection (5)”.

10 **158 Subsection 48F(6)**

11 Omit “Chamber of Mines (Incorporated)”, substitute “Minerals Council  
12 (Incorporated)”.

13 **159 Subsection 48J(1)**

14 After “section”, insert “33A,”.

15 **160 Paragraphs 48J(2)(a) and (b)**

16 Repeal the paragraphs, substitute:

17 (a) in the case of a natural person—a fine of not more than 120  
18 penalty units or imprisonment for not more than 2 years, or  
19 both; or

20 (b) in the case of a body corporate—a fine of not more than 600  
21 penalty units.

22 **161 Paragraphs 48J(4)(a) and (b)**

23 Repeal the paragraphs, substitute:

24 (a) in the case of a natural person—a fine of 60 penalty units or  
25 imprisonment for 12 months, or both; or

26 (b) in the case of a body corporate—a fine of 300 penalty units.

27 **162 Subsection 48J(5)**

28 Repeal the subsection.

29 **163 Subsection 50(2B)**

30 Omit “in which”, substitute “to which”.

1 **164 Paragraph 50(2D)(a)**

2 Omit “section”, substitute “subsection”.

3 **165 Subsection 52(3)**

4 Repeal the subsection.

5 **166 Subsection 53(1)**

6 After “is”, insert “or has been”.

7 Note: The heading to section 53 is altered by inserting “or former Judge” after “Judge”.

8 **167 Subsection 53(2)**

9 Repeal the subsection.

10 **168 Subsection 54(6) (penalty)**

11 Repeal the penalty, substitute:

12 Penalty: 30 penalty units.

13 **169 Subsection 54A(2) (penalty)**

14 Repeal the penalty, substitute:

15 Penalty: 30 penalty units.

16 **170 Paragraphs 54AA(3)(a) and (b)**

17 Repeal the paragraphs, substitute:

18 (a) in the case of a natural person—a fine of not more than 60  
19 penalty units or imprisonment for not more than 12 months,  
20 or both; or

21 (b) in the case of a body corporate—a fine of not more than 300  
22 penalty units.

23 **171 Subsection 57(4)**

24 After “is”, insert “or has been”.

25 **172 After section 62**

26 Insert:

1 **62A Minimum investment amount**

- 2 (1) The Minister may, by writing, determine an amount (the  
3 *investment amount*) for the purposes of this section.
- 4 (2) If, at any time while the determination is in effect, the total of the  
5 amounts that:  
6 (a) have been debited from the Account; and  
7 (b) are invested in accordance with section 39 of the *Financial*  
8 *Management and Accountability Act 1997*;  
9 is less than the investment amount, the balance is to be available to  
10 be debited from the Account for the purpose of being so invested  
11 (and not for any other purpose).
- 12 (3) A determination takes effect on the day specified in the  
13 determination.
- 14 (4) A determination is not a legislative instrument.

15 **173 Subsection 64(1)**

16 Omit “in such proportions”, substitute “such amounts”.

17 **174 Subsection 64(1)**

18 Omit “having regard to the number of Aboriginals living in the area of  
19 each Council, an amount equal to 40% of the amounts credited to the  
20 Account in accordance with subsection 63(1) or (4).”, substitute:  
21 having regard to the following in relation to each Land Council:  
22 (a) the most recent estimates approved by the Minister under  
23 section 34;  
24 (b) the most recent amounts notified to the Minister under  
25 subsection 34(1A);  
26 (c) any surplus specified in the most recent financial statements  
27 prepared under clause 2 of Schedule 1 to the *Commonwealth*  
28 *Authorities and Companies Act 1997* and given to the  
29 Minister.

30 **175 Subsection 64(2)**

31 Repeal the subsection.

32 **176 At the end of subsection 64(4)**

33 Add:

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1                   Note:       The activities or operations of any individual or organisation that  
2                                   receives a payment under this subsection may be evaluated or audited:  
3                                   see paragraph 193X(1)(cc) of the *Aboriginal and Torres Strait*  
4                                   *Islander Act 2005*.

5       **177 After subsection 64(4)**

6                   Insert:

- 7                   (4A) There must be debited from the Account and paid by the  
8                                   Commonwealth such other amounts as the Minister directs to be  
9                                   paid in relation to:
- 10                               (a) the acquiring of leases by, or the administering of leases  
11   granted or transferred to, NT entities under section 19A; or  
12                               (b) the payment of rent under leases granted or transferred to NT  
13   entities under section 19A.

14       **178 Subsection 64(5)**

15                   Omit “on such conditions as the Minister thinks fit”.

16       **179 After subsection 64(5)**

17                   Insert:

- 18                   (5A) The Minister may, by notice in writing, specify conditions on  
19                                   which a payment of an amount to a person under subsection (4)  
20                                   (including by way of a loan) is made. The notice is not a legislative  
21                                   instrument.
- 22                   (5B) If a condition on which a payment of an amount to a person under  
23                                   subsection (4) is made is breached, the Minister, on behalf of the  
24                                   Commonwealth, may:
- 25                               (a) if the payment is by way of a loan—recover so much of the  
26   loan as has not been repaid, and any accrued interest that has  
27   not been paid, as a debt in a court of competent jurisdiction;  
28   or  
29                               (b) in any other case—recover the whole or a part of the amount  
30   as a debt in a court of competent jurisdiction.

31       **180 Subsection 64(7)**

32                   Omit “or (6)”, substitute “, (4A) or (6)”.

33       **181 Subsection 64(8)**

34                   Repeal the subsection.

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1 **182 Subsection 64A(5)**

2 After “administrative costs”, insert “or capital costs”.

3 **183 Subsection 64A(7)**

4 After “administrative costs”, insert “or capital costs”.

5 **184 At the end of subsection 65(2)**

6 Add:

7 ; and (c) any member appointed by the Minister under subsection (4).

8 **185 Subsection 65(3)**

9 Omit “other members of the Account Advisory Committee”, substitute  
10 “members of the Committee elected by each Land Council”.

11 **186 At the end of section 65**

12 Add:

13 (4) The Minister may, by writing, appoint 1 or 2 persons to be  
14 members of the Committee.

15 (5) The Minister must not appoint a person as a member under  
16 subsection (4) unless the Minister is satisfied that the person has  
17 professional expertise in:

- 18 (a) land management; or  
19 (b) business or financial management.

20 (6) A member of the Committee may be re-appointed or re-elected.

21 (7) The period of any appointment or election (or any re-appointment  
22 or re-election) must not exceed 3 years.

23 **187 At the end of subsection 67A(1)**

24 Add:

25 Note: Subsection (1) does not apply to certain grants: see section 67B.

26 **188 At the end of subsection 67A(2)**

27 Add:

28 Note: Subsection (2) does not apply to certain grants: see section 67B.

29 **189 Subsection 67A(5)**

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1 Omit “A traditional”, substitute “Subject to subsections (6), (7), (8), (9),  
2 (12), (13) and (17), a traditional”.

3 **190 At the end of paragraphs 67A(5)(a) and (b)**

4 Add “or”.

5 **191 Paragraph 67A(5)(c)**

6 Repeal the paragraph, substitute:

- 7 (c) the Commissioner informs the Minister, in the  
8 Commissioner’s report to the Minister in respect of the claim:  
9 (i) that the Commissioner finds that there are no  
10 Aboriginals who are the traditional Aboriginal owners  
11 of the area of land; or  
12 (ii) that the Commissioner is unable to make a finding that  
13 there are Aboriginals who are the traditional Aboriginal  
14 owners of the area of land; or

15 **192 At the end of section 67A**

16 Add:

17 (6) If:

- 18 (a) an application has been made under section 50 by or on  
19 behalf of Aboriginals claiming to have a traditional land  
20 claim to an area of land; and  
21 (b) either:  
22 (i) the application was made on or after 5 June 1997; or  
23 (ii) subsection 50(2D) applies to the whole or a part of that  
24 land;

25 then:

- 26 (c) if subparagraph (b)(i) applies—the traditional land claim is  
27 taken to have been finally disposed of; and  
28 (d) if subparagraph (b)(ii) applies—the traditional land claim, to  
29 the extent to which subsection 50(2D) applies, is taken to  
30 have been finally disposed of.

31 Note: Subparagraph (b)(i) relates to subsection 50(2A), which prevents  
32 Commissioners considering applications relating to traditional land  
33 claims made after the expiration of 10 years after the commencement  
34 of that subsection. That subsection commenced on 5 June 1987.

35 (7) If:

- 1 (a) an application has been made under section 50 by or on  
2 behalf of Aboriginals claiming to have a traditional land  
3 claim to an area of land; and  
4 (b) after the commencement of this subsection, the  
5 Commissioner requests the applicants, in writing, to provide  
6 further information in relation to the application within a  
7 period specified in the request (which must be at least 6  
8 months from the making of the request) and the  
9 Commissioner determines in writing that the further  
10 information is not provided within that period;  
11 the traditional land claim is taken to have been finally disposed of.

12 (8) If:

- 13 (a) an application has been made under section 50 by or on  
14 behalf of Aboriginals claiming to have a traditional land  
15 claim to an area of land; and  
16 (b) paragraphs 50(2B)(b) and (c) are satisfied but the  
17 Commissioner has not made a finding under paragraph  
18 50(2B)(d), (e) or (f) in relation to common land (within the  
19 meaning of subsection 50(2B)); and  
20 (c) after the commencement of this subsection, either:  
21 (i) the Commissioner determines in writing that the  
22 Commissioner is satisfied that there are not sufficient  
23 grounds for the making of such a finding; or  
24 (ii) the Commissioner requests the applicants, in writing, to  
25 provide further information in relation to the application  
26 within 6 months of the making of the request and the  
27 Commissioner determines in writing that the further  
28 information is not provided within that period;  
29 the traditional land claim, in so far as it relates to the common land,  
30 is taken to have been finally disposed of.

31 (9) If:

- 32 (a) an application has been made under section 50 by or on  
33 behalf of Aboriginals claiming to have a traditional land  
34 claim to an area of land; and  
35 (b) the Commissioner is prevented, because of the operation of  
36 subsection 50(2C), from performing, or continuing to  
37 perform, a function under paragraph 50(1)(a) in relation to  
38 the application as it relates to land (the *held land*) in respect

- 1 of which an estate or interest is held by or on behalf of  
2 Aboriginals; and  
3 (c) after the commencement of this subsection, either:  
4 (i) the Commissioner determines in writing that the  
5 Commissioner is satisfied that the consent referred to in  
6 subsection 50(2C) has been refused; or  
7 (ii) the Commissioner requests the applicants, in writing, to  
8 provide the consent referred to in subsection 50(2C)  
9 within 6 months of the making of the request and the  
10 Commissioner determines in writing that the consent is  
11 not provided within that period;  
12 the traditional land claim, in so far as it relates to the held land, is  
13 taken to have been finally disposed of.
- 14 (10) The Commissioner must provide a copy of a determination referred  
15 to in subsection (7), (8) or (9) to the applicants concerned and to  
16 the Chief Minister of the Northern Territory.
- 17 (11) A determination under subsection (7), (8) or (9) is not a legislative  
18 instrument.
- 19 (12) If:  
20 (a) an application has been made under section 50 by or on  
21 behalf of Aboriginals claiming to have a traditional land  
22 claim to qualifying land (whether or not recommendations of  
23 the kind referred to in subparagraph 50(1)(a)(ii) have been  
24 made and whether or not the application covers other land);  
25 and  
26 (b) at the commencement of this subsection, the whole or a part  
27 of the qualifying land is neither contiguous with Aboriginal  
28 land nor contiguous with an area of land the subject of  
29 another application referred to in paragraph 50(1)(a);  
30 then the traditional land claim, in so far as it relates to that whole  
31 or part of the qualifying land, is taken to have been finally disposed  
32 of.
- 33 (13) If:  
34 (a) an application has been made under section 50 by or on  
35 behalf of Aboriginals claiming to have a traditional land  
36 claim to qualifying land (whether or not recommendations of  
37 the kind referred to in subparagraph 50(1)(a)(ii) have been

1                   made and whether or not the application covers other land);  
2                   and  
3                   (b) at the commencement of this subsection, the whole or a part  
4                   of the qualifying land is contiguous with an area of land the  
5                   subject of another application referred to in paragraph  
6                   50(1)(a); and  
7                   (c) the traditional land claim in relation to the area of land the  
8                   subject of the other application is later taken to have been  
9                   finally disposed of (other than as a result of the operation of  
10                  paragraph (5)(b) of this section);  
11                  then the traditional land claim referred to in paragraph (a) of this  
12                  subsection, in so far as it relates to that whole or part of the  
13                  qualifying land, is also taken to have been finally disposed of.

14                  (14) In subsections (12) and (13):

15                         ***qualifying land*** means one or more of the following:

- 16                         (a) land between the high and low water marks;  
17                         (b) the whole or a part of either or both banks of one or more  
18                         rivers or creeks;  
19                         (c) the whole or a part of the bed of one or more rivers or creeks;  
20                         (d) one or more islands in one or more rivers or creeks.

21                  (15) For the purposes of subsections (12) and (13), if:

- 22                         (a) the traditional land claim covers the whole or a part of either  
23                         or both banks of a river or creek; and  
24                         (b) the land claim also covers:  
25                                 (i) the whole or a part of the bed of the river or creek; or  
26                                 (ii) the whole or a part of the bed of the river or creek and  
27                                 one or more islands in the river or creek; and  
28                         (c) at the commencement of this subsection, the whole or a part  
29                         of the claimed bank or banks is contiguous with Aboriginal  
30                         land (the ***applicable land***) or with an area of land (also the  
31                         ***applicable land***) the subject of another application referred to  
32                         in paragraph 50(1)(a);

33                         then:

- 34                                 (d) if the whole or a part of the claimed bed is contiguous with  
35                                 the contiguous bank or banks—that whole or part of the  
36                                 claimed bed is taken to be contiguous with the applicable  
37                                 land; and

- 1 (e) if a claimed island is contiguous with the contiguous bed—  
2 the island is taken to be contiguous with the applicable land;  
3 and  
4 (f) if:  
5 (i) the land claim covers the whole or a part of both banks  
6 of a river or creek; and  
7 (ii) the whole or a part of only one of the banks is  
8 contiguous with the applicable land; and  
9 (iii) the whole or a part of the other bank is contiguous with  
10 the contiguous bed;  
11 that whole or part of the other bank is taken to be contiguous  
12 with the applicable land.

13 (16) In subsection (15):

14 *contiguous bank or banks* means the whole or the part of the  
15 claimed bank or banks that is contiguous with the applicable land.

16 *contiguous bed* means the whole or the part of the claimed bed that  
17 is taken to be contiguous with the applicable land.

18 (17) This subsection applies in relation to the application:

19 (a) that was made under section 50 before the commencement of  
20 this subsection by the Northern Land Council on behalf of  
21 Aboriginals claiming to have a traditional land claim to  
22 unalienated Crown land in the Coomalie Shire/Deepwater  
23 Area; and

24 (b) that was given the land claim number 238.

25 The traditional land claim is taken to have been finally disposed of  
26 to the extent that it relates to the following land:

27 (c) Section 200 of the Hundred of Playford;

28 (d) Section 201 of the Hundred of Playford;

29 (e) Section 202 of the Hundred of Playford;

30 (f) Section 210 of the Hundred of Howard.

31 Note: Subsection (12) or (13) may apply to other parts of the traditional land  
32 claim.

33 **193 After section 67A**

34 Insert:

1     **67B Certain estates or interests may be granted while land subject**  
2     **to traditional land claim**

3             *Conditions for grants of estates or interests*

4             (1) Subsections 67A(1) and (2) do not apply to a grant of an estate or  
5             interest (other than a grant of an estate in fee simple or a lease in  
6             perpetuity) in the area of land concerned, or in a part of the area of  
7             land concerned, if:

- 8                     (a) the Land Council for the area in which that land, or that part  
9                     of that land, is situated enters into an agreement under  
10                     subsection (2) of this section in relation to that grant; and  
11                     (b) for a grant the term of which exceeds 40 years—the Minister,  
12                     by written notice, gives his or her consent to the grant.

13             Note:         Grants of estates or interests in land in respect of which a traditional  
14                             land claim has been made may be subject to the provisions of the  
15                             *Native Title Act 1993*.

16             *Written agreements*

17             (2) A Land Council may enter into a written agreement with a person  
18             in relation to a grant of an estate or interest in an area of land, or in  
19             a part of an area of land, specifying the terms and conditions on  
20             which the proposed grant is to be made.

21             (3) A Land Council must not enter into an agreement under  
22             subsection (2) unless it is satisfied that:

- 23                     (a) the traditional Aboriginal owners of the relevant land  
24                     understand the nature and purpose of the proposed grant and,  
25                     as a group, consent to it; and  
26                     (b) any Aboriginal community or group that may be affected by  
27                     the proposed grant has been consulted and has had adequate  
28                     opportunity to express its view to the Council; and  
29                     (c) the terms and conditions on which the proposed grant is to be  
30                     made are reasonable.

31             (4) An agreement entered into by a Land Council under subsection (2)  
32             is binding on any successors to the Council.

33             (5) If a Land Council fails to comply with subsection (3) in entering  
34             into an agreement under subsection (2), that failure does not  
35             invalidate the Council's entry into that agreement.

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*Payments*

- (6) If a Land Council receives a payment under an agreement entered into under subsection (2), the Council must, within 6 months after receiving the payment:
  - (a) apply the payment in accordance with the agreement; or
  - (b) if the agreement makes no provision in relation to the application of the payment—apply the payment to or for the benefit of the Aboriginals claiming to have the traditional land claim.
  
- (7) If:
  - (a) a Land Council receives a payment as mentioned in subsection (6); and
  - (b) the payment is made by the Commonwealth, the Northern Territory or an Authority; and
  - (c) the payment is of a kind prescribed by the regulations for the purposes of this subsection; and
  - (d) under subsection (6), the Land Council pays an amount equal to that payment to a person;the Land Council must, at the time it pays that amount, advise the person in writing that the amount is an accountable amount.

Note 1: Sections 35B and 35C impose requirements on a body corporate in relation to accountable amounts.

Note 2: The activities or operations of a body corporate or other person receiving an accountable amount may be evaluated or audited: see paragraph 193X(1)(cb) of the *Aboriginal and Torres Strait Islander Act 2005*.

*Commissioner to continue to assess land claim application*

- (8) To avoid doubt, if a grant of an estate or interest in land is made after the relevant requirements of subsection (1) have been satisfied, the Commissioner must continue to perform the function mentioned in paragraph 50(1)(a) in relation to that land.

*Estates or interests preserved*

- (9) If the Governor-General executes a deed of grant of an estate in fee simple in the area (the *claim area*) of land concerned, or in an area of land that includes the claim area, under section 12, any estate or interest granted in the claim area after the relevant requirements of

1 subsection (1) of this section have been satisfied is preserved as an  
2 estate or interest in the claim area after the deed is executed.

3 *Consent of Minister not a legislative instrument*

4 (10) A notice under paragraph (1)(b) is not a legislative instrument.

5 **194 Subsection 69(1) (penalty)**

6 Repeal the penalty, substitute:

7 Penalty:

8 (a) for an individual—200 penalty units or imprisonment for 12  
9 months; or

10 (b) for a body corporate—1,000 penalty units.

11 **195 Subsection 69(3)**

12 After “he”, insert “or she”.

13 **196 Subsection 69(4)**

14 After “he” (wherever occurring), insert “or she”.

15 **197 Paragraph 69(4)(a)**

16 After “his”, insert “or her”.

17 **198 Paragraph 69(4)(b)**

18 After “him”, insert “or her”.

19 **199 Subsection 70(1) (penalty)**

20 Repeal the penalty, substitute:

21 Penalty: 10 penalty units.

22 **200 After subsection 70(2A)**

23 Insert:

24 (2B) In proceedings for an offence against subsection (1), it is a defence  
25 if the person enters or remains on the land in accordance with an  
26 authorisation in force under subsection 19(13) (about Land Trust  
27 authorisations).

28 Note: A defendant bears an evidential burden in relation to the matter in  
29 subsection (2B) (see subsection 13.3(3) of the *Criminal Code*).

1 (2C) In proceedings against a person for an offence against  
2 subsection (1), it is a defence if:

3 (a) the land (the *relevant land*) the person entered or remained  
4 on is part of land (the *leased land*) that is leased under  
5 section 19A; and

6 (b) the person entered or remained on the relevant land for any  
7 purpose that is related to the use or enjoyment, of an estate or  
8 interest in the whole or a part of the leased land, by the owner  
9 of the estate or interest.

10 Note: A defendant bears an evidential burden in relation to the matter in  
11 subsection (2C) (see subsection 13.3(3) of the *Criminal Code*).

## 12 **201 Subsection 76(1)**

13 After “other than” (first occurring), insert “section 19A or”.

## 14 **202 Section 76**

15 Repeal the section, substitute:

### 16 **76 Delegation by Minister**

#### 17 *Delegation—except mining*

18 (1) The Minister may, in writing, delegate to a person any of the  
19 Minister’s functions or powers under Part II, III, V, VI or VII,  
20 except those under section 19A.

#### 21 *Delegation—mining*

22 (2) The Minister may, in writing, delegate to the Northern Territory  
23 Mining Minister any of the Minister’s functions or powers under  
24 Part IV, except those under these provisions:

25 (a) subsection 42(8) (about the consent to the grant of an  
26 exploration licence);

27 (b) subsection 43(6) (about determining an extension for  
28 negotiation in national interest cases);

29 (c) paragraph 45(1)(b) (about the consent to the grant of a  
30 mining interest to an intending miner);

31 (d) paragraph 47(1)(e) (about determining whether the national  
32 interest does not require that exploration works should  
33 proceed);

- 1 (e) paragraph 47(3)(b) (about determining whether the national  
2 interest does not require that mining works or activities  
3 should proceed);
- 4 (f) paragraph 48C(1)(a) (about consenting to the application of  
5 the *Atomic Energy Act 1953* or any other Act in relation to  
6 entry to land);
- 7 (g) subsection 48E(3) (about entry into an agreement on behalf  
8 of a Land Council);
- 9 (h) subsection 48F(1), to the extent that it applies in relation to a  
10 request made under subsection 44(4) (about the appointment  
11 of a Mining Commissioner in national interest cases);
- 12 (i) subsection 48G(1) (about tabling Proclamations).
- 13 (3) If a delegation under subsection (2) is made, the Northern Territory  
14 Mining Minister is taken to have executive authority to perform the  
15 delegated functions or exercise the delegated powers.
- 16 (4) If the Minister delegates the Minister's function under subsection  
17 41(2A) (about deciding extension requests for applications for  
18 consent to the grant of an exploration licence) to the Northern  
19 Territory Mining Minister, the Northern Territory Mining Minister  
20 may, in writing, delegate that function to another person.
- 21 (5) A function that is performed by a person under a delegation under  
22 subsection (4) is taken, for the purposes of this Act, to have been  
23 performed by the Minister.

24 **203 At the end of subsection 77(1)**

25 Add:

- 26 ; and (c) a member of the Account Advisory Committee referred to in  
27 section 65.

28 **204 Section 78**

29 Omit "a fine of \$200", substitute "a fine of 6 penalty units".

30 **205 At the end of the Act**

31 Add:

32 **Schedule 6—Anindilyakwa Land Trust**

33 Note: See subsection 4(2A).

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3 **1 Anindilyakwa Land Trust**

4                   The boundaries of the land to be held by the Anindilyakwa Land  
5                   Trust are the areas of Groote Eylandt and Bickerton Island and  
6                   every other island wholly within the area bounded by the lines  
7                   commencing at a point latitude 13 degrees 30 minutes south and  
8                   longitude 136 degrees 15 minutes east; thence east by the parallel  
9                   of latitude 13 degrees 30 minutes south to its intersection with the  
10                  meridian of longitude 137 degrees east; thence south by the  
11                  meridian of longitude 137 degrees east to its intersection with the  
12                  parallel of latitude 14 degrees 30 minutes south; thence west by the  
13                  parallel of latitude 14 degrees 30 minutes south to its intersection  
14                  with the meridian of longitude 136 degrees 20 minutes east; thence  
15                  north westerly to a point of latitude 13 degrees 47 minutes 30  
16                  seconds south and longitude of 136 degrees 3 minutes east; thence  
17                  north easterly to the point of commencement.

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2 **Part 2—Application and transitional provisions**

3 **206 Application—audit reports**

4 *Land Councils*

5 (1) Paragraph 193X(1)(ca) of the *Aboriginal and Torres Strait Islander Act*  
6 *2005*, as inserted by item 1, applies in relation to the activities or  
7 operations of a Land Council carried out after the commencement of  
8 that item.

9 *Persons receiving certain amounts under section 35 of the*  
10 *Aboriginal Land Rights (Northern Territory) Act 1976*

11 (2) Paragraph 193X(1)(cb) of the *Aboriginal and Torres Strait Islander Act*  
12 *2005*, as inserted by item 1, applies in relation to amounts received by a  
13 body corporate or other person after the commencement of that item  
14 (including amounts received under a determination made before that  
15 commencement).

16 (3) However, for amounts received under subsection 35(3) of the  
17 *Aboriginal Land Rights (Northern Territory) Act 1976* in accordance  
18 with an agreement mentioned in that subsection, the agreement must  
19 also have been made after that commencement.

20 *Persons receiving amounts under subsection 64(4) of the*  
21 *Aboriginal Land Rights (Northern Territory) Act 1976*

22 (4) Paragraph 193X(1)(cc) of the *Aboriginal and Torres Strait Islander Act*  
23 *2005*, as inserted by item 1, applies in relation to amounts received by  
24 an individual or organisation after the commencement of that item.

25 **207 Application—renewal of mining interests**

26 The amendment made by item 6 applies in relation to renewals after the  
27 commencement of that item.

28 **208 Application—transfers of land between Land Trusts**

29 The amendments made by items 42 and 49 apply in relation to transfers  
30 made after the commencement of those items.

1 **209 Application—Land Trust grants of estates or interests in**  
2 **land**

3 *Ministerial consent for grants of estate or interests by Land Trust*

- 4 (1) The amendment made by item 43 applies in relation to grants of estates  
5 or interests after the commencement of that item.

6 *Land Trust authorisations*

- 7 (2) The amendment made by item 45 applies in relation to grants of estates  
8 or interests either before or after the commencement of that item.

9 **210 Application—entry into contracts**

10 The amendment made by item 60 applies in relation to contracts entered  
11 into after the commencement of that item.

12 **211 Transitional—Land Council delegations**

- 13 (1) For the purposes of subsection 28(1) of the *Aboriginal Land Rights*  
14 *(Northern Territory) Act 1976*, the power of a Land Council to give  
15 consent under section 40 of that Act (as in force immediately before the  
16 commencement of the *Aboriginal Land Rights (Northern Territory)*  
17 *Amendment Act (No. 3) 1987*) is not delegable under that subsection.

- 18 (2) For the purposes of subsection 28(3) of the *Aboriginal Land Rights*  
19 *(Northern Territory) Act 1976*, the power of a Land Council to give  
20 consent under section 40 of that Act (as in force immediately before the  
21 commencement of the *Aboriginal Land Rights (Northern Territory)*  
22 *Amendment Act (No. 3) 1987*) is delegable under that subsection.

23 **212 Application—disclosure of pecuniary interests by Land**  
24 **Council members**

25 The amendment made by item 67 applies in relation to interests arising  
26 before or after the commencement of that item.

27 **213 Application—Land Council committees**

28 *Appointments*

- 29 (1) The amendments made by item 68 and item 70 (in so far as it inserts  
30 subsections 29A(2) and (3) of the *Aboriginal Land Rights (Northern*

1            *Territory) Act 1976*) apply in relation to committees appointed after the  
2 commencement of those items.

3            ***Minutes***

4            (2)        Subsection 29A(6) of the *Aboriginal Land Rights (Northern Territory)*  
5            *Act 1976* and subsection 29A(7) of that Act (in so far as it relates to  
6            minutes of committee meetings), as inserted by item 70, apply in  
7            relation to meetings held after the commencement of that item.

8            **214 Application—minutes of Land Council meetings**

9                       The amendment made by item 73 applies in relation to meetings held  
10            after the commencement of that item.

11            **215 Application and transitional—Land Council may charge**  
12            **fees for services**

13            (1)        The amendment made by item 74 applies in relation to services  
14            provided after the commencement of that item.

15            (2)        Despite the repeal of subsection 48J(5) of the *Aboriginal Land Rights*  
16            *(Northern Territory) Act 1976* made by item 162, that subsection  
17            continues to apply after the commencement of that item in relation to a  
18            payment made after that commencement under an agreement made  
19            before that commencement.

20            **216 Application—estimates of Land Council costs**

21            (1)        The amendments made by items 75, 77 and 80 apply in relation to  
22            estimates submitted after the commencement of those items.

23            (2)        The amendments made by items 78 and 79 apply in relation to financial  
24            years beginning on or after the commencement of those items.

25            **217 Application—application of moneys of Land Council**

26                       The amendments made by items 81, 84, 89, 93, 95, 98 and 181 apply in  
27            relation to financial years beginning on or after the commencement of  
28            those items.

29            **218 Transitional—amounts held in trust under subsection**  
30            **35(7) of the *Aboriginal Land Rights (Northern Territory)***  
31            ***Act 1976***

- 1 (1) If, immediately before the commencement of this item, an amount is  
2 held by a Land Council in trust under subsection 35(7) of the *Aboriginal*  
3 *Land Rights (Northern Territory) Act 1976*, the Council must, as soon  
4 as practicable after that commencement, pay the amount to the bodies  
5 concerned.
- 6 (2) Subsection 35(11) of that Act applies in relation to the payment (which  
7 is about the payment of interest).
- 8 (3) Subitem (1) applies despite subsection 35(9) of that Act.

9 **219 Transitional—amounts held in trust for a body covered**  
10 **by subsection 35(12) of the *Aboriginal Land Rights***  
11 ***(Northern Territory) Act 1976***

- 12 (1) If, immediately before the commencement of this item, an amount is  
13 held by a Land Council in trust under section 35 of the *Aboriginal Land*  
14 *Rights (Northern Territory) Act 1976* for a body covered by subsection  
15 35(12) of that Act, the Council must, as soon as practicable after that  
16 commencement, pay the amount to the body.
- 17 (2) Subsection 35(11) of that Act applies in relation to the payment (which  
18 is about the payment of interest).
- 19 (3) Subitem (1) applies despite subsection 35(9) of that Act.

20 **220 Application—Land Council determinations under**  
21 **section 35 of the *Aboriginal Land Rights (Northern***  
22 ***Territory) Act 1976***

23 Section 35A of the *Aboriginal Land Rights (Northern Territory) Act*  
24 *1976*, as inserted by item 101, applies in relation to determinations  
25 made after the commencement of that item.

26 **221 Transitional—old Land Council determinations under**  
27 **section 35 of the *Aboriginal Land Rights (Northern***  
28 ***Territory) Act 1976* of limited effect**

29 A determination of a Land Council:

- 30 (a) made under subsection 35(2) or (3) of the *Aboriginal Land*  
31 *Rights (Northern Territory) Act 1976* before this item  
32 commences; and
- 33 (b) that is in force immediately before the end of the period of 5  
34 years beginning on the day on which this item commences;
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1           has no effect after the end of that period in relation to moneys paid to  
2           the Council after the end of that period.

3           **222 Application—spending of money received from Land**  
4           **Council under the *Aboriginal Land Rights (Northern***  
5           ***Territory) Act 1976***

- 6           (1)   Sections 35B and 35C of the *Aboriginal Land Rights (Northern*  
7           *Territory) Act 1976*, as inserted by item 101, apply in relation to  
8           amounts received by a body corporate after the commencement of that  
9           item (including amounts received under a determination made before  
10          that commencement).
- 11          (2)   However, for amounts received under subsection 35(3) of that Act in  
12          accordance with an agreement mentioned in that subsection, the  
13          agreement must also have been made after that commencement.

14          **223 Application—Land Council annual report**

15                 Section 37 of the *Aboriginal Land Rights (Northern Territory) Act*  
16                 *1976*, as inserted by item 102, applies in relation to financial years  
17                 ending after the commencement of that item.

18          **224 Application and transitional—mining**

19                 *Applications for consent to grant of exploration licence*

- 20          (1)   The amendments made by items 104, 108, 109 and 119 apply in relation  
21          to applications made under subsection 41(1) of the *Aboriginal Land*  
22          *Rights (Northern Territory) Act 1976* after the commencement of those  
23          items.
- 24          (2)   The amendment made by item 111 applies in relation to decisions made  
25          by a Land Council after the commencement of that item.
- 26          (3)   The amendment made by item 117 applies in relation to decisions made  
27          by the Minister after the commencement of that item.
- 28          (4)   If:
- 29                   (a) within the period of 12 months before the commencement of  
30                   this item, an application was made under section 41 of the  
31                   *Aboriginal Land Rights (Northern Territory) Act 1976*; and

**Schedule 1** Amendments

**Part 2** Application and transitional provisions

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1 (b) immediately before that commencement, the Land Council  
2 had not made a decision in relation to the application under  
3 subsection 42(1) of that Act;

4 then subsections 42(13) to (20) of that Act, as inserted by this Act, are  
5 taken to apply in relation to the application.

6 (5) If:

7 (a) outside the period of 12 months before the commencement of  
8 this item, an application was made under section 41 of the  
9 *Aboriginal Land Rights (Northern Territory) Act 1976*; and

10 (b) before that commencement, the applicant and the Land  
11 Council concerned had agreed to a period (the *agreed period*)  
12 under paragraph 42(13)(b) of that Act; and

13 (c) the day before that commencement was within the agreed  
14 period and before the end of that day the Land Council had  
15 not made a decision in relation to the application under  
16 subsection 42(1) of that Act;

17 then:

18 (d) subject to paragraph (e), subsections 42(13) to (20) of that  
19 Act, as inserted by this Act, are taken to apply in relation to  
20 the application; and

21 (e) on the day this item commences, the applicant and the Land  
22 Council concerned are taken to have agreed (under paragraph  
23 42(13)(b) of that Act as inserted by this Act) to a 2 year  
24 extension beginning on the day this item commences.

25 (6) If:

26 (a) outside the period of 12 months before the commencement of  
27 this item, an application was made under section 41 of the  
28 *Aboriginal Land Rights (Northern Territory) Act 1976*; and

29 (b) before that commencement, the Minister had determined a  
30 period (the *determined period*) under paragraph 42(13)(c) of  
31 that Act; and

32 (c) the day before that commencement was within the  
33 determined period and before the end of that day the Land  
34 Council had not made a decision in relation to the application  
35 under subsection 42(1) of that Act;

36 then:

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- 1 (d) subject to paragraph (e), subsections 42(13) to (20) of that  
2 Act, as inserted by this Act, are taken to apply in relation to  
3 the application; and  
4 (e) on the day this item commences, the applicant and the Land  
5 Council concerned are taken to have agreed (under paragraph  
6 42(13)(c) of that Act as inserted by this Act) to a 12 month  
7 extension beginning on the day this item commences.

8 *Consent to negotiate*

- 9 (7) The amendments made by items 106 and 107 apply in relation to  
10 consents given by the Northern Territory Mining Minister (referred to in  
11 subsection 41(1) of the *Aboriginal Land Rights (Northern Territory) Act*  
12 *1976*) after the commencement of those items.

13 *Notification of decisions to consent or refuse to consent to grant*  
14 *of exploration licence*

- 15 (8) The amendment made by item 112 applies in relation to consents, or  
16 refusals to consent, to the grant of an exploration licence that occur after  
17 the commencement of that item.

18 *Cancellation of exploration licence*

- 19 (9) Subsection 47(1) of the *Aboriginal Land Rights (Northern Territory)*  
20 *Act 1976*, as inserted by item 132, applies to consents given before or  
21 after the commencement of that item.

- 22 (10) If:

- 23 (a) a Land Council had given a notice under paragraph 47(1)(b)  
24 of the *Aboriginal Land Rights (Northern Territory) Act 1976*  
25 (as in force before the commencement of this item); and  
26 (b) immediately before the commencement of this item, the  
27 Minister had not made a decision as to whether subsection  
28 47(2) of that Act applied;

29 then:

- 30 (c) the Minister is taken to have received a notice from the Land  
31 Council under paragraph 47(1)(b) of that Act (as in force  
32 after the commencement of this item); and  
33 (d) the Minister is taken to have received the notice on the day  
34 the Minister received it under paragraph 47(1)(b) of that Act  
35 (as in force before the commencement of this item).

1                    *Cancellation of mining interest*

2            (11)    If:

- 3                    (a) an intending miner had sent a statement to the Minister under  
4                    subsection 46(2) of the *Aboriginal Land Rights (Northern*  
5                    *Territory) Act 1976* (as in force before the commencement of  
6                    this item); and  
7                    (b) immediately before the commencement of this item, the  
8                    Minister had not made a decision as to whether subsection  
9                    47(4) of that Act applied;

10           then:

- 11                    (c) the Minister is taken to have received a statement from the  
12                    intending miner as mentioned in subsection 47(3) of that Act  
13                    (as in force after the commencement of this item); and  
14                    (d) the Minister is taken to have received the statement on the  
15                    day the Minister received it under subsection 46(2) of that  
16                    Act (as in force before the commencement of this item).

17                    *Refusals to consent to grant of exploration licence*

18            (12)    The amendments made by items 134, 136, 137, 139, 140, 142 and 144  
19                    apply in relation to refusals to consent to the grant of an exploration  
20                    licence that occur after the commencement of those items.

21            **225 Application—acting Aboriginal Land Commissioner**

22                    The amendment made by item 171 applies in relation to appointments  
23                    made either before or after the commencement of that item.

24            **226 Application and transitional—Aboriginals Benefit**  
25                    **Account**

26                    *Payments from the Account*

- 27            (1)    The amendments made by items 173 and 174 apply in relation to  
28                    determinations made under subsection 64(1) of the *Aboriginal Land*  
29                    *Rights (Northern Territory) Act 1976* in a financial year beginning on or  
30                    after the commencement of those items.  
31            (2)    The amendment made by item 179 applies in relation to payments made  
32                    under subsection 64(4) of the *Aboriginal Land Rights (Northern*  
33                    *Territory) Act 1976* after the commencement of that item.

1                    *Transitional*

- 2            (3)     If, before the commencement of this item, a Land Council submitted  
3                    estimates, under subsection 34(1) of the *Aboriginal Land Rights*  
4                    (*Northern Territory*) *Act 1976*, for a financial year beginning on or after  
5                    that commencement, paragraph 64(1)(b) of that Act does not apply to  
6                    determinations of the Minister under subsection 64(1) of that Act in that  
7                    year in relation to the Council.

8            **227 Application—Account Advisory Committee**

9                    Subsection 65(6) of the *Aboriginal Land Rights (Northern Territory)*  
10                    *Act 1976*, as inserted by item 186, applies in relation to appointments or  
11                    elections made after the commencement of that item.

12            **228 Application—traditional land claims**

- 13            (1)     Subparagraph 67A(6)(b)(ii) and subsections 67A(7), (8), (9), (12) and  
14                    (13) of the *Aboriginal Land Rights (Northern Territory) Act 1976*, as  
15                    inserted by item 192, apply in relation to applications made before the  
16                    commencement of that item.
- 17            (2)     The amendment made by item 193 applies in relation to grants of  
18                    estates or interests made after the commencement of that item in  
19                    relation to applications referred to in paragraph 50(1)(a) of the  
20                    *Aboriginal Land Rights (Northern Territory) Act 1976* made before that  
21                    commencement.

22            **229 Transitional—existing loan conditions continue in**  
23                    **operation**

24                    If:

- 25                            (a) a loan was made under subsection 64(4) of the *Aboriginal*  
26                            *Land Rights (Northern Territory) Act 1976* before the  
27                            commencement of this item; and
- 28                            (b) there are conditions of the loan in force immediately before  
29                            that commencement;

30                    then those conditions continue to apply after that commencement.

31            **230 Transitional—rules for Land Council meetings**

1 Rules of a Land Council made under subsection 31(7) of the *Aboriginal*  
2 *Land Rights (Northern Territory) Act 1976* that were in force  
3 immediately before the commencement of this item continue to have  
4 effect after that commencement as if they had:

- 5 (a) been made under that subsection as in force after that  
6 commencement; and  
7 (b) been approved by the Minister under subsection 31(7B) of  
8 that Act as in force after that commencement.

9 **231 Transitional—Land Council delegations**

10 (1) A delegation of a Land Council in force under subsection 28(1) of the  
11 *Aboriginal Land Rights (Northern Territory) Act 1976* immediately  
12 before the commencement of this item in relation to:

- 13 (a) the Chair or another member of the Council; or  
14 (b) a member of the staff of the Council;

15 has effect, after that commencement, as if it had been made under that  
16 subsection after that commencement.

17 (2) A delegation of a Land Council in force under subsection 28(1) of the  
18 *Aboriginal Land Rights (Northern Territory) Act 1976* immediately  
19 before the commencement of this item, in relation to a committee  
20 appointed under section 29A of that Act, has effect, after that  
21 commencement, as if it had been made under subsection 28(2) of that  
22 Act after that commencement.

23 **232 Transitional—Ministerial delegations**

24 A delegation in force under subsection 76(1) of the *Aboriginal Land*  
25 *Rights (Northern Territory) Act 1976* immediately before the  
26 commencement of this item has effect, after that commencement, as if it  
27 had been made under that subsection after that commencement.

28 **233 Transitional regulations**

29 The Governor-General may make regulations prescribing matters of a  
30 transitional nature (including prescribing any saving or application  
31 provisions) relating to the amendments made by this Act.

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2 **Part 3—Review of mining provisions**

3 **234 Review of mining provisions**

4 (1) The Minister must cause an independent review of the operation of  
5 Part IV of the *Aboriginal Land Rights (Northern Territory) Act 1976* to  
6 be undertaken as soon as practicable after the fifth anniversary of the  
7 commencement of this item.

8 (2) The persons who undertake such a review must give the Minister a  
9 written report of the review.

10 (3) The Minister must cause a copy of the report to be tabled in each House  
11 of the Parliament within 15 sitting days of that House after its receipt by  
12 the Minister.