



# **Local Government (Community Government Areas) Act 2004**

**Reprinted as in force on 31 May 2005**

**Reprint No. 1A**

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This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
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Queensland

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# **Local Government (Community Government Areas) Act 2004**

[as amended by all amendments that commenced on or before 31 May 2005]

**An Act to declare particular parts of Queensland to be local government areas under the *Local Government Act 1993*, establish new local governments for the areas, and apply provisions of that Act to the areas and local governments, and for other purposes**

## **Part 1 Preliminary**

### **Division 1 Introduction**

#### **1 Short title**

This Act may be cited as the *Local Government (Community Government Areas) Act 2004*.

#### **2 Commencement**

This Act, other than section 85, commences on a day to be fixed by proclamation.

### **Division 2 Interpretation**

#### **3 Definitions**

The dictionary in schedule 4 defines particular words used in this Act.

#### **4 Terms defined in Local Government Act 1993**

A term used in this Act that is defined in the *Local Government Act 1993* has the meaning given to it by that Act.

#### **5 Notes in text**

A note in the text of this Act is part of the Act.

## **Part 2 New local government areas and local governments**

### **Division 1 Declaration of new local government areas and establishment of new local governments**

#### **6 Definition for div 1**

In this division—

*column 1 area map* see section 7(1).

#### **7 Declarations**

- (1) Each part of the State shown on a map mentioned in schedule 2, column 1 (the *column 1 area map*) is—
  - (a) declared to be a local government area under the *Local Government Act 1993* (a *new local government area*); and
  - (b) taken to be declared to be a local government area under the *Local Government Act 1993*, section 16.<sup>1</sup>

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<sup>1</sup> *Local Government Act 1993*, section 16 (Declaration of local government areas)



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*Note—*

A part of the State shown on a column 1 area map was a council area under the *Aboriginal Communities (Justice and Land Matters) Act 1984* immediately before the commencement of this section.

- (2) For subsection (1), the external boundaries of an old local government area affected by a declaration under subsection (1) are changed by excluding the part of that area that becomes a new local government area.
- (3) Also, for the *Local Government Act 1993*, it is declared that a new local government area—
  - (a) has the name mentioned in schedule 2, column 2 shown opposite the column 1 area map; and
  - (b) is of the class mentioned in schedule 2, column 3 shown opposite the column 1 area map.
- (4) The *Local Government Act 1993*, chapter 3, part 1<sup>2</sup> does not apply to the following—
  - (a) creating a new local government area under subsection (1);
  - (b) changing the external boundaries of an old local government area by excluding part of the old local government area and including the part in a new local government area under subsection (2);
  - (c) naming a new local government area under subsection (3)(a);
  - (d) deciding the class of a new local government area under subsection (3)(b).
- (5) Each column 1 area map is identified by a map number marked on the map.
- (6) In this section—

***old local government area*** means a local government area under the *Local Government Act 1993* immediately before the commencement of this section.

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<sup>2</sup> *Local Government Act 1993*, chapter 3 (Interaction with the State), part 1 (Reviewable local government matters)

## **8 Establishment of new local governments**

An entity mentioned in schedule 2, column 4 is a local government under the *Local Government Act 1993* for the part of the State shown on the column 1 area map shown opposite the entity.

## **9 Maps must be available for inspection**

- (1) The chief executive must—
  - (a) ensure each local government mentioned in schedule 2, column 4 has a copy of its column 1 area map; and
  - (b) keep a copy of each column 1 area map available for inspection free of charge by anyone, during normal office hours, at the department's head office.
- (2) A local government mentioned in schedule 2, column 4 must keep a copy of its column 1 area map available for inspection free of charge by anyone, during normal office hours, at its public office.

## **Division 2 Community government name**

### **10 Name**

- (1) A community government may be called any of the following—
  - (a) 'Council of the Shire of ... (*insert* name of community government area)';
  - (b) '... (*insert* name of community government area) ... Shire Council';
  - (c) '... (*insert* name of community government area) ... Aboriginal Shire Council'.
- (2) The use of a name for a local government in schedule 2 or 3 does not limit the operation of this section.

## **Division 3                      Application of Local Government Act 1993**

### **11            Provisions of Local Government Act 1993 that apply**

- (1) The *Local Government Act 1993* applies to a community government area and the community government for the area, subject to section 32 and part 8, division 1.<sup>3</sup>
- (2) Without limiting section 20,<sup>4</sup> the following provisions of the *Local Government Act 1993* do not apply to a community government area or the community government for the area—
  - sections 33 and 34<sup>5</sup>
  - section 64(1)(d) and (g) to (k)<sup>6</sup>
  - chapter 4, part 1, division 2 and part 4<sup>7</sup>
  - chapter 5<sup>8</sup>
  - sections 502, 503 and 854.<sup>9</sup>

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3 Section 32 (References in Local Government Act 1993 to Local Government Finance Standards) and part 8 (Transitional provisions), division 1 (Transitional provisions delaying application of certain provisions of Local Government Act 1993)

4 Section 20 (Application of Local Government Act 1993, ss 285 and 286)

5 *Local Government Act 1993*, sections 33 (Number of councillors) and 34 (Local government name)

6 *Local Government Act 1993*, section 64 (Meaning of *reviewable local government matter*)

7 *Local Government Act 1993*, chapter 4 (Local government councillors), part 1 (Membership of local governments), division 2 (Qualifications and disqualifications) and part 4 (Vacancies in membership of local governments)

8 *Local Government Act 1993*, chapter 5 (Local government elections)

9 *Local Government Act 1993*, sections 502 (Issue of standards), 503 (Standards must be complied with) and 854 (Local laws and subordinate local laws about development)

**11A Application of enterprise provisions in Local Government Act 1993**

All enterprises of a community government are taken to be exempt enterprises for the *Local Government Act 1993*, section 495.<sup>10</sup>

**Part 3 Reviewable community government matters**

**Division 1 Preliminary**

**12 Definition for pt 3**

In this part—

*reviewable community government matter* see section 14.

**13 Application of Local Government Act 1993, ch 3, pt 1**

This part applies certain provisions of the *Local Government Act 1993*, chapter 3, part 1<sup>11</sup> in relation to reviewable community government matters.

**14 Meaning of *reviewable community government matter***

(1) The following are *reviewable community government matters*—

- (a) dividing, redividing and abolishing divisions of a community government area;
- (b) changing the boundaries of divisions of a community government area by—

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<sup>10</sup> *Local Government Act 1993*, section 495 (Application of part)

<sup>11</sup> *Local Government Act 1993*, chapter 3 (Interaction with the State), part 1 (Reviewable local government matters)

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- (i) excluding part of a division of a community government area and including the part in another division of the community government area; or
  - (ii) creating a new division of the community government area;
  - (c) assigning and reassigning councillors of a community government to divisions of its community government area;
  - (d) deciding and changing the composition of a community government;
  - (e) recognising indigenous social groupings of a community government area for elections for the community government of the area;
  - (f) assigning and reassigning councillors of a community government to indigenous social groupings;
  - (g) changing the mode of election of the mayor of a community government;
  - (h) another matter relating to a community government declared under a regulation to be a reviewable community government matter.
- (2) A ***reviewable community government matter*** includes—
- (a) any aspect of a matter mentioned in subsection (1); and
  - (b) a particular proposal about a matter, or an aspect of a matter, mentioned in subsection (1).
- (3) In this section—
- indigenous social grouping*** means a group of indigenous persons sharing a common basis of social affiliation, including family relationship, language, traditional land ownership and historical association.

## **Division 2                      Examining and determining reviewable community government matters**

### **15            Application of Local Government Act 1993, ch 3, pt 1**

- (1) The *Local Government Act 1993*, chapter 3, part 1, other than sections 64, 84, 157 and 158<sup>12</sup> of that Act, applies to a community government area and the community government for the area, with any necessary or convenient changes, as if a reviewable local government matter were a reviewable community government matter.
- (2) For subsection (1), any other provision of the *Local Government Act 1993* necessary or convenient for the application of chapter 3, part 1 of that Act also applies with any necessary or convenient changes.

### **16            Minor reference**

If the Minister refers a reviewable community government matter to the commissioner under the *Local Government Act 1993*, section 77,<sup>13</sup> as applied by section 15(1), the commissioner is taken to have declared the reference to be a minor reference under that Act.

### **17            Notice of proposed determination to implement matter and recommendations**

- (1) This section applies if a commission gives a notice to a community government under the *Local Government Act 1993*, section 100(1)(a)(i),<sup>14</sup> as applied by section 15(1).

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12 *Local Government Act 1993*, sections 64 (Meaning of *reviewable local government matter*), 84 (Commissions must have regard to prescribed issues), 157 (Implementation of reviewable local government matter) and 158 (Requirement before implementation)

13 *Local Government Act 1993*, section 77 (Minister may refer certain reviewable local government matters to commissioner)

14 *Local Government Act 1993*, section 100 (Notice of proposed determination to implement matter and recommendations)

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- (2) The community government must, as soon as practicable after receiving the notice, put a copy of the notice on display in a conspicuous place in the public office of the community government.

**18 Commissions must have regard to prescribed issues**

When considering a reviewable community government matter under the *Local Government Act 1993*, chapter 3, part 1, as applied by section 15(1), a commission must have regard to any issues prescribed under a regulation.

**19 Implementing reviewable community government matter**

- (1) Subject to subsection (2), a reviewable community government matter may be implemented by regulation.
- (2) A reviewable community government matter may be implemented only if the commissioner and the commission that determined the matter have complied with the *Local Government Act 1993*, chapter 3, part 1, as applied by section 15(1), in relation to the matter.
- (3) For subsection (2), strict compliance with the *Local Government Act 1993*, chapter 3, part 1, as applied by section 15(1), is not necessary and substantial compliance is sufficient.

**Division 3 Quota requirements for divided community government areas**

**20 Application of Local Government Act 1993, ss 285 and 286**

- (1) The *Local Government Act 1993*, sections 285 and 286<sup>15</sup> apply to a community government area and the community government for the area, with any necessary or convenient

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15 *Local Government Act 1993*, sections 285 (Equitable division of local government areas) and 286 (Quota to be complied with in division of local government area and assignment of councillors)

changes, as if a reviewable local government matter were a reviewable community government matter.

- (2) For subsection (1), any other provision of the *Local Government Act 1993* necessary or convenient for the application of sections 285 and 286 of that Act also applies with any necessary or convenient changes.

## **Part 4                      Financial management**

### **Division 1                Financial controllers**

#### **21            Procedures before appointment of financial controller**

- (1) Before the Governor in Council or Minister exercises a power under section 22 in relation to a community government, the Minister must give notice of the proposed exercise of the power to the community government.
- (2) However, notice need not be given if—
  - (a) the community government has asked for the power to be exercised; or
  - (b) the Minister reasonably considers giving notice—
    - (i) is likely to defeat the purpose of the proposed exercise of the power; or
    - (ii) would serve no useful purpose.
- (3) The notice must state—
  - (a) the reasons for the proposed exercise of the power; and
  - (b) a period within which the community government may make submissions to the Minister about the proposed exercise of the power.
- (4) The reasons stated in the notice are the only reasons that can be relied on in support of the exercise of the power.



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- (5) The Minister must have regard to all submissions made by the community government within the stated period.
- (6) The power may be exercised without further notice to the community government if—
  - (a) the proposed exercise of the power is to proceed despite the community government's submissions; or
  - (b) no submissions of the community government are received by the Minister within the stated period.

## **22 Appointment of financial controller**

- (1) The Governor in Council may, by regulation, appoint a financial controller for a community government.
- (2) The Minister must not recommend the Governor in Council act under subsection (1) unless the Minister is satisfied on reasonable grounds that the community government—
  - (a) has made a disbursement from a fund that is not provided for in the community government's budget; or
  - (b) has made a disbursement from grant moneys for a purpose other than the purpose for which the grant was given; or
  - (c) has contravened section 31<sup>16</sup> or a provision of the *Local Government Act 1993*, chapter 7<sup>17</sup> relating to its budget or another financial matter; or
  - (d) has not implemented suitable financial management strategies for the funds under its control; or
  - (e) has acted, or is about to act, in a way that—
    - (i) caused, or may cause, a significant deterioration in its financial viability; or
    - (ii) will, or may, cause it to become insolvent.

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16 Section 31 (Standards must be complied with)

17 *Local Government Act 1993*, chapter 7 (Financial operation and accountability of local governments)

## **23 Functions of financial controller**

- (1) A financial controller appointed for a community government is responsible for ensuring the community government adheres to its budget.
- (2) Also, the financial controller—
  - (a) may give advice about financial management to the community government, including, for example, advice about the preparation of a plan to address any financial difficulties it may be experiencing; and
  - (b) may undertake other administrative duties requested by the community government; and
  - (c) must undertake other administrative duties directed by the Minister.

## **24 Power of financial controller to revoke or suspend resolution or order**

- (1) A financial controller appointed for a community government may, by notice to the community government's chief executive officer—
  - (a) revoke or suspend the operation of—
    - (i) a resolution of the community government; or
    - (ii) an order of the community government giving effect to a resolution of the community government; and
  - (b) end the suspension of the resolution or order.
- (2) However, the financial controller may revoke or suspend a resolution or order under subsection (1) only if the financial controller reasonably believes—
  - (a) the resolution or order will result in unlawful expenditure by the community government; or
  - (b) the resolution or order will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or

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- (c) the resolution or order will cause the community government to become insolvent.
- (3) The notice must state the reasons for the revocation or suspension.
- (4) The suspension may be for a stated period or indefinite.

## **25 Effect of revocation or suspension**

- (1) A resolution or order of a community government that is revoked under section 24—
  - (a) stops having effect on the day stated for that purpose in the notice to the community government's chief executive officer; or
  - (b) if no day is stated for that purpose—is taken never to have had effect.
- (2) A resolution or order of a community government whose operation is suspended under section 24 does not have effect while it is suspended.
- (3) Neither the State nor the financial controller is legally liable for any loss or expense incurred by a person because of the revocation or suspension of a community government's resolution or order under section 24.

## **26 Countersigning cheques and authorising electronic funds transfers**

- (1) If a financial controller is appointed for a community government, a payment may be made from an account with a financial institution kept by the community government only by a cheque countersigned, or an electronic funds transfer authorised, by the financial controller.
- (2) However, the financial controller may refuse to countersign the cheque, or authorise the electronic funds transfer, only if the financial controller reasonably believes—
  - (a) the payment will result in unlawful expenditure by the community government; or

- (b) the payment will result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given; or
- (c) the payment will cause the community government to become insolvent.

## **27 Community government to cooperate with financial controller**

If a financial controller is appointed for a community government, the community government must cooperate with the financial controller in relation to the performance of the financial controller's functions under section 23.

## **28 Financial controller's employment conditions**

A financial controller appointed for a community government is to be employed under the *Public Service Act 1996*.

## **29 Recovery of amounts from community governments**

- (1) The Governor in Council may direct a community government for which a financial controller is appointed to pay to the Minister a stated amount for the costs and expenses of the financial controller.
- (2) The stated amount may include salary and allowances payable to the financial controller as a public service officer.
- (3) The direction may state a time for payment.
- (4) The stated amount is a debt payable to the State.

## **Division 2 Finance standards**

### **30 Making of standards**

- (1) The Minister may make standards (*Community Government Finance Standards*) about—

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- (a) the policies and principles to be complied with by community governments in financial management, including, for example, internal audit; and
- (b) the content of financial statements and annual reports by community governments; and
- (c) the policies to be complied with by community governments in relation to the lending of amounts to adult residents of their community government areas; and
- (d) each community government giving the Minister information on an annual basis about the payment of notional GST that may affect the distribution, under the *Local Government Act 1993*, section 200,<sup>18</sup> of financial assistance to the community government; and
- (e) requirements for full cost pricing and their application to significant business activities of community governments under the *Local Government Act 1993*, chapter 8, part 5;<sup>19</sup> and
- (f) commercialisation and its application to community governments' commercial business units under the *Local Government Act 1993*, chapter 8, part 6;<sup>20</sup> and
- (g) corporatisation and its application to corporatised corporations of community governments under the *Local Government Act 1993*, chapter 8, part 7;<sup>21</sup> and
- (h) a code of competitive conduct for application of competitive neutrality principles to community governments' business activities, roads business activities and building certification business activities

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18 *Local Government Act 1993*, section 200 (Distribution of financial assistance amount)

19 *Local Government Act 1993*, chapter 8, (National competition reform of significant business activities), part 5 (Full cost pricing for significant business activities)

20 *Local Government Act 1993*, chapter 8 (National competition reform of significant business activities), part 6 (Commercialisation of significant business activities)

21 *Local Government Act 1993*, chapter 8 (National competition reform of significant business activities), part 7 (Local government owned corporations)

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- under the *Local Government Act 1993*, chapter 9;<sup>22</sup> and
- (i) facilitating the implementation of the *Local Government Act 1993*, chapter 10,<sup>23</sup> including—
    - (i) charging arrangements for, and bases of operation of, relevant business activities providing water and sewerage services; and
    - (ii) providing how the following are to be applied—
      - (A) consumption as the basis for utility charges for water services;
      - (B) full cost recovery for water and sewerage services;
      - (C) identification and disclosure of cross-subsidies between classes of consumers and community service obligations in the provision of water and sewerage services;
      - (D) disclosure of the classes of consumers who are provided with water or sewerage services at an amount below full cost and the amount; and
  - (j) any other matter that is required or permitted by an Act to be prescribed by a standard made under this subsection.
- (2) Before making a standard, the Minister must—
    - (a) consult with the auditor-general about the standard; and
    - (b) have regard to relevant standards made by appropriate professional bodies.
  - (3) The standards may include practice statements if the Minister considers a uniform standard of practice or procedure is necessary or desirable.

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<sup>22</sup> *Local Government Act 1993*, chapter 9 (Conduct of competitive business activities)

<sup>23</sup> *Local Government Act 1993*, chapter 10 (Reform of certain water and sewerage services)

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- (4) A standard about the content of a policy mentioned in subsection (1)(c) may include—
  - (a) a model lending policy; or
  - (b) model provisions of a lending policy.
- (5) A standard made under subsection (1) is subordinate legislation.

**31 Standards must be complied with**

A community government must comply with the Community Government Finance Standards.

**32 References in Local Government Act 1993 to Local Government Finance Standards**

A reference in the *Local Government Act 1993* to the Local Government Finance Standards is taken to be a reference to the Community Government Finance Standards.

**Division 3 Inspection of accounting records**

**33 Definitions for div 3**

In this division—

*authorised person* see section 34(1).

*authorised powers* means the powers mentioned in section 35.

**34 Authorised person**

- (1) The chief executive may, in writing, authorise a person (an *authorised person*) to exercise the authorised powers in relation to a stated community government.
- (2) Before authorising a person under subsection (1), the chief executive must be satisfied the person has the necessary expertise or experience to exercise the authorised powers.

### **35 Powers of authorised person**

- (1) An authorised person may, in relation to the relevant community government, enter any premises of the community government open for carrying on the functions of local government.
- (2) For exercising the power mentioned in subsection (1), an authorised person may enter the community government area of the community government.
- (3) However, an authorised person may not enter premises under subsection (1) if the premises are premises where an individual resides.
- (4) After entering premises under subsection (1), the authorised person may—
  - (a) search any part of the premises for accounting records of the community government; or
  - (b) inspect accounting records of the community government at the premises; or
  - (c) take an extract from, or copy, an accounting record of the community government at the premises.

### **36 Restriction on exercise of powers**

- (1) An authorised person may, in relation to the relevant community government, exercise the authorised powers only if the authorised person first produces to the community government's chief executive officer a copy of the written authority for the exercise of the powers.
- (2) However, an authorised person need not comply with subsection (1) if the authorised person believes on reasonable grounds that complying with subsection (1) could frustrate the authorised person's effective exercise of the authorised powers.



## **Division 4                    Other financial provisions**

### **37            Approved forms for financial statements**

A community government's financial statements must be prepared—

- (a) in the approved form relevant to a cash accounting system format; or
- (b) in the approved form relevant to an accrual accounting system format.

### **38            Power of a community government to lend an amount to an adult resident**

- (1) A community government may lend an amount to an adult resident of its community government area only if—
  - (a) it does so under a lending policy adopted by it by resolution (an *adopted lending policy*); and
  - (b) the adopted lending policy has been approved by the Minister under subsection (3).
- (2) The Minister must approve an adopted lending policy submitted to the Minister for approval unless the Minister is satisfied on reasonable grounds the policy does not comply with the Community Government Finance Standards.
- (3) The Minister must decide whether or not to approve an adopted lending policy submitted to the Minister for approval as soon as practicable after receiving the policy and must give the community government that submitted the policy notice of the decision.
- (4) If the Minister decides not to approve the policy, the notice must state how the policy does not comply with the Community Government Finance Standards.

**39 Power of community government to make and levy charge on resident**

- (1) A community government may, by resolution, make and levy a charge on residents of residential premises in its community government area.
- (2) However, the community government may exempt a resident from payment of the charge.
- (3) Despite subsection (2), the community government may give an exemption if another amount is payable to the community government in relation to the premises.

**40 Special accounting provision for particular payments**

- (1) A community government must keep separate accounting records for payments made to it under the *Indigenous Communities Liquor Licences Act 2002*, section 9.<sup>24</sup>
- (2) The community government must ensure the amounts paid to it are used only for—
  - (a) funding programs or services for the benefit of residents of its community government area; or
  - (b) if an implementation regulation under the *Indigenous Communities Liquor Licences Act 2002*, section 34,<sup>25</sup> states this paragraph applies—for making a payment relating to the community government's liabilities stated in the regulation.

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24 *Indigenous Communities Liquor Licences Act 2002*, section 9 (Payments to be made to indigenous councils)

25 *Indigenous Communities Liquor Licences Act 2002*, section 34 (Regulation for implementing transfer)



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- (2) Subsection (1) does not limit the power of a community government to make a delegation under the *Local Government Act 1993*, section 472.
- (3) A power mentioned in the *Local Government Act 1993*, section 472(3) may not be delegated under subsection (1).
- (4) A delegation made by a community government under subsection (1) must be recorded in the community government's register of delegations mentioned in the *Local Government Act 1993*, section 472(4).

#### **44 Revocation of delegation**

- (1) This section applies if a community government proposes making a resolution revoking a resolution made under section 43(1).
- (2) The community government must publish a notice (the *revocation notice*) about the proposed resolution in a newspaper circulating in the community government area of the community government at least 2 weeks before the day of the meeting of the community government at which it is proposed to make the resolution.
- (3) Also, the community government must—
  - (a) put a copy of the revocation notice on display in a conspicuous place in its public office on the day on which the revocation notice is published under subsection (2); and
  - (b) keep the copy of the revocation notice on display, under paragraph (a), until after the meeting.
- (4) The revocation notice must state the following—
  - (a) the proposed resolution;
  - (b) the reasons for the proposed resolution;
  - (c) the day and time of the meeting;
  - (d) that anyone may make a written submission to the community government about the proposed resolution until the day before the day of the meeting.

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- (5) A person may, until the day before the day of the meeting, make a written submission to the community government about the proposed resolution.
- (6) The community government must, before making the proposed resolution, take into account any submissions made under subsection (5) about the proposed resolution.

**45 Application of Local Government Act 1993, s 237**

- (1) The *Local Government Act 1993*, section 237<sup>26</sup> applies to a member of a local services committee as if a reference in that section to an advisory committee of a local government includes a reference to a local services committee of a community government.
- (2) For subsection (1), any other provision of the *Local Government Act 1993* necessary or convenient for the application of section 237 of that Act also applies with any necessary or convenient changes.

**46 Application of Local Government Act 1993, ss 244–250**

- (1) The *Local Government Act 1993*, sections 244 to 250<sup>27</sup> apply to a member of a local services committee as if a reference in the sections to a councillor, councillor of a local government or local government councillor includes a reference to a member of a local services committee who is not a councillor.
- (2) For subsection (1), any other provision of the *Local Government Act 1993* necessary or convenient for the application of sections 244 to 250 of that Act also applies with any necessary or convenient changes.

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26 *Local Government Act 1993*, section 237 (Remuneration for service on local government and advisory committees)

27 *Local Government Act 1993*, sections 244 (Exclusion from meeting of councillor with material personal interest), 245 (Removal of disability), 246 (Penalty for contravening exclusion from meeting), 247 (Registers of interests), 248 (Access to registers), 249 (Queries on contents of register) and 250 (Improper use of information by councillors)

**47 Non-application of Local Government Act 1993,  
ss 454–457**

The *Local Government Act 1993*, sections 454 to 457<sup>28</sup> do not apply to a local services committee.

**48 References in Local Government Act 1993 to committee**

- (1) The *Local Government Act 1993*, sections 458 to 463, 469(3) and 473<sup>29</sup> apply to a local services committee of a community government in the same way as they apply to other committees of the community government.
- (2) For subsection (1), any other provision of the *Local Government Act 1993* necessary or convenient for the application of sections 458 to 463, 469(3) and 473 of that Act also applies with any necessary or convenient changes.

## Part 6 Superannuation

**49 Superannuation liability for permanent employees**

Despite the *Local Government Act 1993*, section 1182(2)<sup>30</sup> the yearly contributions for a permanent employee of a community government are calculated—

- (a) for the year starting 1 July 2005—at a rate of 12% of the employee’s salary; or
- (b) for the year starting 1 July 2006—at a rate of 15% of the employee’s salary; or

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28 *Local Government Act 1993*, sections 454 (Delegate members of committees), 455 (Quorum), 456 (Chairperson of committee) and 457 (Committee meetings)

29 *Local Government Act 1993*, sections 458 (Reports), 459 (Minutes must be kept unless committee exempted), 460 (Division applies to local governments and their committees), 461 (Minutes), 462 (Meetings in public unless otherwise resolved), 463 (Closed meetings), 469 (Inspection of records by members) and 473 (Preservation of proceedings)

30 *Local Government Act 1993*, section 1182 (Local governments’ liability for permanent employees)

- (c) for each later year—at a rate of 18% of the employee's salary.

## **50 Permanent employees' liability for superannuation contribution**

Despite the *Local Government Act 1993*, section 1183(1),<sup>31</sup> the yearly contributions for a permanent employee of a community government are calculated—

- (a) for the year starting 1 July 2005—at a rate of 2% of the employee's salary; or
- (b) for the year starting 1 July 2006—at a rate of 4% of the employee's salary; or
- (c) for each later year—at a rate of 6% of the employee's salary.

## **Part 7 Miscellaneous**

### **51 Approval of forms**

The chief executive may approve forms for use under this Act.

### **52 Review of Act**

The Minister must review the efficacy and efficiency of this Act within 4 years of its commencement.

### **53 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—

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<sup>31</sup> *Local Government Act 1993*, section 1183 (Permanent employees' liability for contributions)

- (a) the membership of community governments;
- (b) the qualifications, and disqualifications, for membership of community governments;
- (c) elections and by-elections for community governments, including the application of the *Local Government Act 1993*, chapter 5<sup>32</sup> to the elections and by-elections;
- (d) the appointment, powers and duties of returning officers for elections and by-elections for community governments;
- (e) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.

## **Part 8                      Transitional provisions**

### **Division 1                      Transitional provisions delaying application of certain provisions of Local Government Act 1993**

#### **54            Keeping registers of interests—councillor and councillor’s relatives**

Despite the *Local Government Act 1993*, section 247(1),<sup>33</sup> a community government’s chief executive officer is not required to keep registers of interests until 1 July 2005.

#### **55            Keeping register of community government delegations**

Despite the *Local Government Act 1993*, section 472(4),<sup>34</sup> a community government’s chief executive officer is not required to keep a register of delegations until 1 July 2005.

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32 *Local Government Act 1993*, chapter 5 (Local Government elections)

33 *Local Government Act 1993*, section 247 (Registers of interests)

34 *Local Government Act 1993*, section 472 (Delegation by local government)



## **56 Keeping register of enterprises**

Despite the *Local Government Act 1993*, section 501(1),<sup>35</sup> a community government is not required to keep a register relating to enterprises until 1 July 2005.

## **57 Preparation and adoption of corporate plan**

Despite the *Local Government Act 1993*, section 504,<sup>36</sup> a community government is not required to prepare and adopt a corporate plan for a period that includes a period before 1 July 2007.

## **58 Preparation and adoption of operational plan**

Despite the *Local Government Act 1993*, section 508,<sup>37</sup> a community government is not required to prepare and adopt an operational plan for a financial year ending before 1 July 2007.

## **59 Preparation and adoption of revenue policy**

Despite the *Local Government Act 1993*, section 513A,<sup>38</sup> a community government is not required to prepare and adopt a revenue policy for a financial year ending before 1 July 2006.

## **60 Adoption of revenue statement**

Despite the *Local Government Act 1993*, section 518,<sup>39</sup> a community government is not required to adopt a revenue statement for a financial year ending before 1 July 2006.

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35 *Local Government Act 1993*, section 501 (Register of enterprises)

36 *Local Government Act 1993*, section 504 (Preparation and adoption of corporate plan)

37 *Local Government Act 1993*, section 508 (Preparation and adoption of operational plan)

38 *Local Government Act 1993*, section 513A (Preparation and adoption of revenue policy)

39 *Local Government Act 1993*, section 518 (Adoption of budget and revenue statement)

**61 Budget for financial year ending 30 June 2006**

A community government's budget for the financial year ending 30 June 2006, or any amendment of the budget, is not required to comply with the *Local Government Act 1993*, sections 519(2) and 520.<sup>40</sup>

**62 Content of annual report**

A community government's annual report for a financial year ending before 1 July 2007 need not contain the information mentioned in the *Local Government Act 1993*, sections 533 and 534.<sup>41</sup>

**63 Keeping register of regulatory fees**

Despite the *Local Government Act 1993*, section 1071E(1),<sup>42</sup> a community government is not required to keep a register of its regulatory fees until 1 July 2005.

**64 Having corporate structure**

Despite the *Local Government Act 1993*, section 1127(1),<sup>43</sup> a community government is not required to have a corporate structure appropriate for the conduct of its affairs until 1 July 2005.

**65 Deciding resources for staff**

Despite the *Local Government Act 1993*, section 1128,<sup>44</sup> a community government is not required until 1 July 2005 to

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40 *Local Government Act 1993*, sections 519 (Requirements of budgets) and 520 (Content of operating fund budgets)

41 *Local Government Act 1993*, sections 533 (Content of report about implementing corporate and operational plans) and 534 (Content of report about other issues of public interest)

42 *Local Government Act 1993*, section 1071E (Register of regulatory fees)

43 *Local Government Act 1993*, section 1127 (Corporate structure)

44 *Local Government Act 1993*, section 1128 (Resources for staff)

decide the resources to be allocated to the employment of staff.

## **66 Keeping register of chief executive officer delegations**

Despite the *Local Government Act 1993*, section 1132(3),<sup>45</sup> a community government's chief executive officer is not required to keep a register of delegations until 1 July 2005.

## **67 Keeping registers of interests—employees**

- (1) Despite the *Local Government Act 1993*, section 1139(1),<sup>46</sup> a community government's mayor is not required to keep registers of interests until 1 July 2005.
- (2) Despite the *Local Government Act 1993*, section 1139(2), a community government's chief executive officer is not required to keep registers of interests until 1 July 2005.

## **68 Superannuation**

- (1) Despite the *Local Government Act 1993*, section 1181(2),<sup>47</sup> an employee of a community government is not required to be a member of the scheme before 1 July 2005.
- (2) Despite the *Local Government Act 1993*, section 1182(1),<sup>48</sup> a community government is not required to pay the scheme yearly contributions for a permanent employee of the community government for a period before 1 July 2005.

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45 *Local Government Act 1993*, section 1132 (Delegation by chief executive officer)

46 *Local Government Act 1993*, section 1139 (Registers of interests)

47 *Local Government Act 1993*, section 1181 (Membership of scheme)

48 *Local Government Act 1993*, section 1182 (Local governments' liability for permanent employees)

## **Division 2                    Other transitional provisions**

### **69        Definitions for div 2**

In this division—

*Aboriginal council* means an Aboriginal council under the *Aboriginal Communities (Justice and Land Matters) Act 1984* in existence immediately before the commencement.

*commencement* means commencement of this section.<sup>49</sup>

### **70        Aboriginal council is continued in existence**

- (1) An Aboriginal council mentioned in schedule 3, column 1 is continued in existence as the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) Sections 72 and 73 do not limit subsection (1).

### **71        References to Aboriginal council, council area, by-law or subordinate by-law**

- (1) A reference in an Act or document to an Aboriginal council mentioned in schedule 3, column 1 may, if the context permits, be taken as a reference to the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) A reference in an Act or document to the council area of an Aboriginal council mentioned in schedule 3, column 1 may, if the context permits, be taken as a reference to the local government area of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (3) A reference in an Act or document to a by-law of an Aboriginal council mentioned in schedule 3, column 1 may, if the context permits, be taken as a reference to a local law of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

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<sup>49</sup> Section 69 commenced 1 January 2005 (see 2004 SL No. 266).

- (4) A reference in an Act or document to a subordinate by-law of an Aboriginal council mentioned in schedule 3, column 1 may, if the context permits, be taken as a reference to a subordinate local law of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

## **72 Assets and liabilities etc.**

On the commencement—

- (a) the assets and liabilities of an Aboriginal council mentioned in schedule 3, column 1 become assets and liabilities of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council; and
- (b) any contracts entered into by or on behalf of an Aboriginal council mentioned in schedule 3, column 1 and all guarantees, undertakings and securities given by or on behalf of or to the Aboriginal council, in force immediately before the commencement, are taken to have been entered into or given by or to the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council and may be enforced against or by the local government; and
- (c) any property that, immediately before the commencement, was held on trust, or subject to a condition, by an Aboriginal council mentioned in schedule 3, column 1 continues to be held by the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council on the same trust or subject to the same condition.

## **73 Proceedings**

A proceeding that could have been started or continued by or against an Aboriginal council mentioned in schedule 3, column 1 before the commencement may be started or continued by or against the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

#### **74 Membership of new local government**

From the commencement, a member of an Aboriginal council mentioned in schedule 3, column 1 is taken to be a councillor of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

#### **75 Mayor and deputy mayor of new local government**

- (1) From the commencement, the chairperson of an Aboriginal council mentioned in schedule 3, column 1 is taken to be the mayor of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) From the commencement, the deputy chairperson of an Aboriginal council mentioned in schedule 3, column 1 is taken to be the deputy mayor of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

#### **76 Chief executive officer of new local government**

From the commencement, the clerk of an Aboriginal council mentioned in schedule 3, column 1 is taken to be the chief executive officer of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

#### **77 Local laws and subordinate local laws of new local government**

- (1) A by-law of an Aboriginal council mentioned in schedule 3, column 1, other than a by-law mentioned in repealed section 166, is taken to be a local law of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) A subordinate by-law of an Aboriginal council mentioned in schedule 3, column 1 is taken to be a subordinate local law of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

(3) A by-law made under repealed section 166, effective immediately before the commencement, stops being effective on the commencement.

(4) In this section—

***repealed section 166*** means the *Aboriginal Communities (Justice and Land Matters) Act 1984*, section 166 as in force before its repeal by this Act.

## 78 Budget

The budget of an Aboriginal council mentioned in schedule 3, column 1 for the financial year ending 30 June 2005 is taken to be the budget of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council for that financial year.

## 79 Adopted lending policy

(1) An adopted lending policy of an Aboriginal council mentioned in schedule 3, column 1 is taken to be an adopted lending policy under section 38<sup>50</sup> of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

(2) An adopted lending policy of an Aboriginal council mentioned in schedule 3, column 1, that is approved under repealed section 48 is taken to be approved under section 38 for the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

(3) In this section—

***adopted lending policy***, of an Aboriginal council, means a lending policy adopted by the Aboriginal council under repealed section 48.

***repealed section 48*** means the *Aboriginal Communities (Justice and Land Matters) Act 1984*, section 48 as in force before its repeal by this Act.

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<sup>50</sup> Section 38 (Power of a community government to lend an amount to an adult resident)

**80 Decision, order or action with ongoing operation or effect**

- (1) A decision or order made, or other action taken, by or in relation to an Aboriginal council mentioned in schedule 3, column 1 that immediately before the commencement had an ongoing operation or effect is taken to be a decision or order made, or action taken, by or in relation to the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) A person who immediately before the commencement was an Aboriginal police officer under the *Aboriginal Communities (Justice and Land Matters) Act 1984* for a council area of an Aboriginal council mentioned in schedule 3, column 1 is taken to be an Aboriginal police officer under that Act for the local government area of the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

**81 Resolution with ongoing operation or effect**

- (1) A resolution made by an Aboriginal council mentioned in schedule 3, column 1 that immediately before the commencement had an ongoing operation or effect is taken to be a resolution properly made under the *Local Government Act 1993*, or this Act, by the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) However, a resolution mentioned in subsection (1) authorising the payment or provision of remuneration to a councillor of an Aboriginal council stops having effect at the end of 30 June 2005.

**82 Financial controller for Aboriginal council**

- (1) An appointment under repealed section 19 of a financial controller for an Aboriginal council mentioned in schedule 3, column 1, effective immediately before the commencement, is taken to be an appointment under section 22 of a financial controller for the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.
- (2) In this section—



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**repealed section 19** means the *Aboriginal Communities (Justice and Land Matters) Act 1984*, section 19 as in force before its repeal by this Act.

### 83 Administrator for Aboriginal council etc.

(1) An appointment under repealed section 22 of an administrator for an Aboriginal council mentioned in schedule 3, column 1, effective immediately before the commencement, is taken to be an appointment under the *Local Government Act 1993*, section 178<sup>51</sup> of an administrator for the local government mentioned in schedule 3, column 2 shown opposite the Aboriginal council.

(2) A committee appointed under repealed section 25, in existence immediately before the commencement, is taken to be a committee appointed under the *Local Government Act 1993*, section 181.<sup>52</sup>

(3) In this section—

**repealed section 22** means the *Aboriginal Communities (Justice and Land Matters) Act 1984*, section 22 as in force before its repeal by this Act.

**repealed section 25** means the *Aboriginal Communities (Justice and Land Matters) Act 1984*, section 25 as in force before its repeal by this Act.

### 84 Transitional regulation-making power

(1) A regulation (a **transitional regulation**) may make provision of a saving or transitional nature for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition, under this Act, of an Aboriginal council to the status of a local government; and
- (b) this Act does not make provision or sufficient provision.

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51 *Local Government Act 1993*, section 178 (When administrator may be appointed)

52 *Local Government Act 1993*, section 181 (Committee to help administrator)

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- (2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the commencement.

## **Schedule 2      Declaration of new local government areas**

sections 7 and 8

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Map</b>	<b>New local government area</b>	<b>Class</b>	<b>Local government</b>
LGB151 edition 1	Cherbourg	Shire	Cherbourg Shire Council
LGB152 edition 1	Doomadgee	Shire	Doomadgee Shire Council
LGB153 edition 1	Hope Vale	Shire	Hope Vale Shire Council
LGB154 edition 1	Injinoo	Shire	Injinoo Shire Council
LGB155 edition 1	Kowanyama	Shire	Kowanyama Shire Council
LGB156 edition 1	Lockhart River	Shire	Lockhart River Shire Council
LGB157 edition 1	Mapoon	Shire	Mapoon Shire Council
LGB158 edition 1	Napranum	Shire	Napranum Shire Council
LGB159 edition 1	New Mapoon	Shire	New Mapoon Shire Council
LGB160 edition 1	Palm Island	Shire	Palm Island Shire Council
LGB161 edition 1	Pormpuraaw	Shire	Pormpuraaw Shire Council
LGB162 edition 1	Umagico	Shire	Umagico Shire Council

Schedule 2 (continued)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Map</b>	<b>New local government area</b>	<b>Class</b>	<b>Local government</b>
LGB163 edition 1	Woorabinda	Shire	Woorabinda Shire Council
LGB164 edition 1	Wujal Wujal	Shire	Wujal Wujal Shire Council
LGB165 edition 1	Yarrabah	Shire	Yarrabah Shire Council

## **Schedule 3      Local governments that Aboriginal councils become**

sections 70 to 83

### **Column 1**

#### **Aboriginal council**

Cherbourg Aboriginal Council  
 Doomadgee Aboriginal Council  
 Hope Vale Aboriginal Council  
 Injinoo Aboriginal Council  
 Kowanyama Aboriginal Council  
 Lockhart River Aboriginal Council  
 Mapoon Aboriginal Council  
 Napranum Aboriginal Council  
 New Mapoon Aboriginal Council  
 Palm Island Aboriginal Council  
 Pormpuraaw Aboriginal Council  
 Umagico Aboriginal Council  
 Woorabinda Aboriginal Council  
 Wujal Wujal Aboriginal Council  
 Yarrabah Aboriginal Council

### **Column 2**

#### **Local government**

Cherbourg Shire Council  
 Doomadgee Shire Council  
 Hope Vale Shire Council  
 Injinoo Shire Council  
 Kowanyama Shire Council  
 Lockhart River Shire Council  
 Mapoon Shire Council  
 Napranum Shire Council  
 New Mapoon Shire Council  
 Palm Island Shire Council  
 Pormpuraaw Shire Council  
 Umagico Shire Council  
 Woorabinda Shire Council  
 Wujal Wujal Shire Council  
 Yarrabah Shire Council

## Schedule 4      Dictionary

### section 3

***Aboriginal council***, for part 8, division 2, see section 69.

***approved form*** means a form approved by the chief executive under section 51.

***authorised person***, for part 4, division 3, see section 33.

***authorised powers***, for part 4, division 3, see section 33.

***column 1 area map***, for part 2, division 1, see section 6.

***commencement***, for part 8, division 2, see section 69.

***community government*** means the local government for a community government area.

***community government area*** means—

- (a) a part of the State declared under section 7 to be a local government area under the *Local Government Act 1993*; or
- (b) if the external boundaries of the local government area are, after the commencement of section 7, changed under the *Local Government Act 1993*—the local government area, as changed.

***Community Government Finance Standards*** see section 30(1).

***local government*** means a local government under the *Local Government Act 1993*.

***local services committee*** see section 41(1).

***notice*** means written notice.

***reviewable community government matter***, for part 3, see section 12.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 31 May 2005. Future amendments of the Local Government (Community Government Areas) Act 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 January 2005	
1A	2005 Act No. 26	31 May 2005	

## 5 List of legislation

### **Local Government (Community Government Areas) Act 2004 No. 37**

date of assent 27 October 2004

ss 1–2, 85 commenced on date of assent (see s 2)

remaining provisions commenced 1 January 2005 (2004 SL No. 266)

amending legislation—

### **Local Government Legislation Amendment Act 2005 No. 26 pts 1, 4**

date of assent 31 May 2005

commenced on date of assent

## 6 List of annotations

### **Application of enterprise provisions in Local Government Act 1993**

s 11A ins 2005 No. 26 s 25

### **Meaning of “reviewable community government matter”**

s 14 amd 2005 No. 26 s 26

### **Commissions must have regard to prescribed issues**

s 18 amd 2005 No. 26 s 27

### **PART 9—AMENDMENT OF ACTS**

pt 9 (ss 85–86) om R1 (see RA ss 7(1)(k) and 40)

### **SCHEDULE 1—CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS**

om R1 (see RA s 40)