



Aboriginal Land Rights (Northern Territory) Amendment (Economic Empowerment) Act 2021

No. 132, 2021

An Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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No. 132, 2021

An Act to amend the *Aboriginal Land Rights (Northern Territory) Act 1976*, and for related purposes

[Assented to 13 December 2021]

The Parliament of Australia enacts:

No. 132, 2021

*Aboriginal Land Rights (Northern Territory) Amendment
(Economic Empowerment) Act 2021*

1

1 Short title

This Act is the *Aboriginal Land Rights (Northern Territory) Amendment (Economic Empowerment) Act 2021*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 December 2021
2. Schedule 1, Part 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	15 November 2022 (F2022N00275)
3. Schedule 1, Part 2	The day after this Act receives the Royal Assent.	14 December 2021
4. Schedule 2	The day after this Act receives the Royal Assent.	14 December 2021
5. Schedule 3, Parts 1, 2 and 3	The day after this Act receives the Royal Assent.	14 December 2021
6. Schedule 3, Part 4	The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent.	13 December 2022
7. Schedule 4	The day after this Act receives the Royal Assent.	14 December 2021

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Northern Territory Aboriginal Investment Corporation

Part 1—Establishment of the Northern Territory Aboriginal Investment Corporation

Aboriginal Land Rights (Northern Territory) Act 1976

1 Subsection 3(1)

Insert:

Finance Minister means the Minister who administers the *Public Governance, Performance and Accountability Act 2013*.

2 Subsection 33(3)

Repeal the subsection.

3 Section 63A

Omit “or 64A”, substitute “, 64A or 64AA”.

4 After section 64A

Insert:

64AA Debit of additional amounts from the Account for the purposes of the NTAI Corporation

- (1) There must be debited from the Account and paid by the Commonwealth to the Northern Territory Aboriginal Investment Corporation (*NTAI Corporation*) a single amount of \$500 million, in accordance with subsection (2).
- (2) The payment must be made within 30 days after the first strategic investment plan for the NTAI Corporation, developed under section 65C, is laid before a House of the Parliament.
- (3) There must be debited from the Account and paid by the Commonwealth to the NTAI Corporation the following amounts:

- (a) \$60 million, to be paid within 6 months after the commencement of this section;
 - (b) \$60 million, to be paid on the first 1 July that occurs after that commencement;
 - (c) \$60 million, to be paid on the second 1 July that occurs after that commencement.
- (4) There must be debited from the Account, and paid by the Commonwealth to the NTAI Corporation such amounts as the Minister directs from time to time, having regard to:
- (a) the most recent estimates of the NTAI Corporation's expenditure, to meet its administrative costs and capital costs, approved by the Minister under subsection 65D(1); and
 - (b) the most recent estimates (if any) of the NTAI Corporation's expenditure, approved by the Minister under subsection 65DA(1), to meet its costs of making:
 - (i) payments to or for the benefit of Aboriginal people living in the Northern Territory; and
 - (ii) investments of the kind mentioned in paragraph 65BB(b); and
 - (c) the sustainability of debits and payments from the Account.

5 Section 65

Repeal the section.

6 After Part VI

Insert:

Part VIA—Northern Territory Aboriginal Investment Corporation

Division 1—Definitions

65A Definitions

Definitions—general

- (1) In this Part:
-

Board means the Board of the NTAI Corporation.

Board member means a member of the Board (including the Chair).

borrow: see subsection 65BJ(7).

CEO means the Chief Executive Officer of the NTAI Corporation.

derivative means a derivative (within the meaning of Chapter 7 of the *Corporations Act 2001*) that is a financial asset.

financial asset: see subsection (5).

investment: see subsection (4).

Note: **Invest** has a corresponding meaning: see section 18A of the *Acts Interpretation Act 1901*.

Land Council Board member means a Board member who is appointed by a Land Council under subsection 65EB(1).

NTAI Corporation (short for Northern Territory Aboriginal Investment Corporation) means the body established by subsection 65B(1).

NTAI Corporation rules means the rules made under section 65JE.

paid work means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

responsible entity for a Board member means:

- (a) for a Land Council Board member—the Land Council that appointed the Board member under subsection 65EB(1); or
- (b) for a Board member referred to in paragraph 65EA(b)—the Minister; or
- (c) for a Board member referred to in paragraph 65EA(c)—the Finance Minister; or
- (d) for a Board member referred to in paragraph 65EA(d)—the Board.

strategic investment plan means a strategic investment plan developed under section 65C, and includes a strategic investment plan as revised under that section.

subsidiary of the NTAI Corporation means a subsidiary of the NTAI Corporation for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

wholly-owned subsidiary of the NTAI Corporation means a subsidiary of the NTAI Corporation none of whose members is a person other than:

- (a) the NTAI Corporation; or
- (b) a nominee of the Corporation; or
- (c) a subsidiary of the Corporation, being a subsidiary none of whose members is a person other than:
 - (i) the NTAI Corporation; or
 - (ii) a nominee of the Corporation; or
- (d) a nominee of such a subsidiary.

References to the NTAI Corporation

- (2) For all purposes, if an expression defined in subsection (1) contains “NTAI Corporation”, the expression when used as so defined may also be referred to by replacing “NTAI Corporation” with any name or acronym specified in the NTAI Corporation rules for the purposes of subsection 65B(2).
- (3) Subsection (2) does not limit subsection 65B(2).

Investments and financial assets

- (4) For the purposes of this Part, an **investment** is any mode of application of money or financial assets for the purpose of gaining a return (whether by way of income, capital gain or any other form of return).
- (5) A reference in this Part to a **financial asset** is a reference to:
 - (a) an asset that, in accordance with GFS Australia, is treated as a financial asset for the purposes of the GFS system in Australia; or
 - (b) an asset specified in the NTAI Corporation rules for the purposes of this paragraph;but does not include a reference to an asset that, under the NTAI Corporation rules, is taken to be a non-financial asset for the purposes of this Part.

- (6) The following expressions have the same meaning when used in subsection (5) as they have in the *Future Fund Act 2006*:
- (a) asset;
 - (b) GFS Australia;
 - (c) GFS system.

Division 2—Northern Territory Aboriginal Investment Corporation

Subdivision A—Establishment and functions

65B Establishment

- (1) The Northern Territory Aboriginal Investment Corporation (the *NTAI Corporation*) is established by this subsection.
- (2) The NTAI Corporation may also be known by one or more names or acronyms specified in the NTAI Corporation rules.

Note: See also subsections 65E(2) and 65G(2).

- (3) The NTAI Corporation:
- (a) is a body corporate; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the NTAI Corporation. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

- (4) The NTAI Corporation's seal is to be kept in such custody as the Board directs and must not be used except as authorised by the Board.
- (5) All courts, judges and persons acting judicially must:
- (a) take judicial notice of the imprint of the seal of the NTAI Corporation appearing on a document; and
 - (b) presume that the document was duly sealed.

65BA Purposes of the NTAI Corporation

The NTAI Corporation is established:

- (a) to promote the self-management and economic self-sufficiency of Aboriginal people living in the Northern Territory; and
- (b) to promote social and cultural wellbeing of Aboriginal people living in the Northern Territory.

65BB NTAI Corporation's functions

The NTAI Corporation has the following functions:

- (a) to make payments to or for the benefit of Aboriginal people living in the Northern Territory;
- (b) to make investments for the purposes mentioned in paragraphs 65BA(a) and (b);
- (c) to provide financial assistance (other than payments or investments of the kind mentioned in paragraphs (a) and (b) of this section), whether on commercial terms or otherwise, to or for the benefit of Aboriginal people living in the Northern Territory;
- (d) any other functions that are prescribed by the NTAI Corporation rules for the purposes of this paragraph;
- (e) any other functions conferred on the NTAI Corporation by this Act or any other Commonwealth law;
- (f) to do anything incidental to, or conducive to, the performance of the above functions.

Note: For paragraph (b), see subsection 65A(4) and section 65BH.

65BC General rules about performance of functions

In performing its functions, the NTAI Corporation must:

- (a) have regard to its purposes under section 65BA; and
- (b) have regard to the strategic investment plan that is in force at the relevant time; and
- (c) act in accordance with sound business principles whenever it performs its functions on a commercial basis; and
- (d) maximise the employment of Aboriginal people living in the Northern Territory; and

- (e) maximise the use of goods and services provided by businesses owned or controlled (whether directly or indirectly) by Aboriginal people living in the Northern Territory.

Subdivision B—Powers

65BD Powers

- (1) The NTAI Corporation has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) The NTAI Corporation's powers include, but are not limited to, the following powers:
 - (a) to accept gifts, grants, bequests and devises made to it;
 - (b) to act as trustee of money and other property vested in it on trust;
 - (c) to borrow money, subject to section 65BJ;
 - (d) to make loans of money (whether secured or unsecured);
 - (e) to give guarantees, subject to section 65BK;
 - (f) to enter into arrangements;
 - (g) to develop sponsorship, marketing and other commercial activities relating to the NTAI Corporation's functions;
 - (h) to form, and participate in the formation of, companies and other bodies corporate;
 - (i) to enter into partnerships;
 - (j) to enter into joint ventures and arrangements for the sharing of profits;
 - (k) to charge fees for the provision of services by it.
- (3) For the purposes of paragraph (2)(f), an **arrangement** includes a contract, agreement, deed or understanding.
- (4) The powers of the NTAI Corporation may be exercised within or outside Australia.
- (5) A fee charged under paragraph (2)(k) must not be such as to amount to taxation.

65BE Payments etc. may be made subject to terms and conditions

- (1) The NTAI Corporation may make payments or loans, or give guarantees, subject to such terms and conditions as the NTAI Corporation determines.
- (2) Subsection (1) does not limit paragraph 65BD(2)(f) (which deals with the power to enter into arrangements).

65BF Payments repayable if conditions breached etc.

- (1) The NTAI Corporation may give written notice to an individual or body to whom a payment or loan has been made under this Part stating that the NTAI Corporation is satisfied that the individual or body has failed to fulfil a term or condition of the payment or loan.
- (2) An individual or body who is given notice under subsection (1) in relation to a payment is liable to pay to the NTAI Corporation an amount equal to:
 - (a) the amount of the payment; or
 - (b) so much of that payment as the NTAI Corporation specifies in the notice.
- (3) An individual or body who is given notice under subsection (1) in relation to a loan is liable to pay to the NTAI Corporation, immediately, an amount equal to the sum of:
 - (a) so much of the amount of the loan as has not yet been repaid; and
 - (b) any accrued interest that has not been paid;or so much of that amount as the NTAI Corporation specifies in the notice.

65BG Investment of surplus money

- (1) The NTAI Corporation may invest relevant money (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) for which the NTAI Corporation is responsible and that is not immediately required for the performance of the NTAI Corporation's functions (subject to section 65BH and subsection (4) of this section).

Note: For *invest*, see subsection 65A(1).

- (2) Section 59 of the *Public Governance, Performance and Accountability Act 2013* (which deals with investment by corporate Commonwealth entities) does not apply to the NTAI Corporation.
- (3) Subsection (1) of this section and paragraph 65BB(b) do not limit each other.
- (4) An investment under subsection (1) must not be inconsistent with the terms of any trust that applies to the money concerned.

65BH Investment limit

- (1) The NTAI Corporation must not make a particular investment that has a value of more than the amount applicable under subsection (2) without the written agreement of the Minister.
- (2) For the purposes of subsection (1), the amount is:
 - (a) unless paragraph (b) applies—\$100 million; or
 - (b) if the NTAI Corporation rules specify a higher amount for the purpose of this paragraph—that higher amount.
- (3) A failure to comply with subsection (1) does not affect the validity of any transaction.
- (4) The NTAI Corporation rules may prescribe a method for working out the value of an investment for the purposes of subsections (1) and (2).
- (5) The Minister must not make NTAI Corporation rules for the purposes of subsection (4) without the written agreement of the Finance Minister.

65BI Loans

- (1) The NTAI Corporation rules may prescribe limits or conditions on the making of loans by the NTAI Corporation.
- (2) The Minister must not make NTAI Corporation rules for the purposes of subsection (1) without the written agreement of the Finance Minister.

65BJ Borrowing

- (1) The NTAI Corporation must not borrow money for a purpose in connection with the NTAI Corporation's functions unless the borrowing is authorised by subsection (2) or under section 57 of the *Public Governance, Performance and Accountability Act 2013*.
 - (2) The NTAI Corporation rules may prescribe:
 - (a) circumstances in which the NTAI Corporation may borrow money for a purpose in connection with the NTAI Corporation's functions; and
 - (b) limits or conditions on the borrowing of such money.
 - (3) The Minister must not make NTAI Corporation rules for the purposes of subsection (2) without the written agreement of the Finance Minister.
 - (4) NTAI Corporation rules made for the purposes of subsection (2) prevail over the following, to the extent of any inconsistency:
 - (a) a written authorisation by the Finance Minister under paragraph 57(1)(b) of the *Public Governance, Performance and Accountability Act 2013*;
 - (b) rules made for the purposes of paragraph 57(1)(c) of that Act.
- Note: Section 57 of the *Public Governance, Performance and Accountability Act 2013* deals with borrowing by a corporate Commonwealth entity.
- (5) A wholly-owned subsidiary of the NTAI Corporation may borrow money from the NTAI Corporation (and the borrowing need not comply with subsection (2)).
 - (6) Section 86 of the *Public Governance, Performance and Accountability Act 2013* (which deals with subsidiaries of corporate Commonwealth entities) does not apply to the NTAI Corporation in relation to borrowings by subsidiaries authorised by subsection (5) of this section.
 - (7) For the purposes of this Part, **borrow** includes raising money or obtaining credit, including by any of the following ways:
 - (a) dealing in securities;
 - (b) obtaining an advance on overdraft;

- (c) obtaining credit by way of credit card or credit voucher.

65BK Guarantees

- (1) The NTAI Corporation may guarantee repayment of a loan (including interest on the loan) made to a person or body only if the loan is one that could have been made by the NTAI Corporation in performing its functions.
- (2) A subsidiary of the NTAI Corporation must not give a guarantee.
- (3) The NTAI Corporation rules may prescribe requirements relating to the granting of guarantees by the NTAI Corporation.
- (4) The Minister must not make NTAI Corporation rules for the purposes of subsection (3) without the written agreement of the Finance Minister.
- (5) NTAI Corporation rules made for the purposes of subsection (3) prevail over any rules made for the purposes of section 61 of the *Public Governance, Performance and Accountability Act 2013* to the extent of any inconsistency.

Note: Rules made under the *Public Governance, Performance and Accountability Act 2013* may prescribe requirements relating to the granting of indemnities, guarantees or warranties by corporate Commonwealth entities: see section 61 of that Act.

65BL Derivatives

- (1) The NTAI Corporation may only acquire a derivative for the purpose of:
 - (a) protecting the value of an investment of the NTAI Corporation (other than a derivative); or
 - (b) protecting the return on an investment of the NTAI Corporation (other than a derivative); or
 - (c) achieving indirect exposure to financial assets (other than derivatives) for a purpose in connection with the NTAI Corporation's function of making investments; or
 - (d) achieving transactional efficiency for a purpose in connection with the NTAI Corporation's function of making investments;

but must not acquire a derivative for the purpose of:

- (e) speculation; or
 - (f) leverage.
- (2) The acquisition of a derivative under subsection (1) must be consistent with the strategic investment plan in force at the time of the acquisition.
- (3) A subsidiary of the NTAI Corporation must only acquire derivatives for a purpose for which the Corporation may do so under subsection (1).

Subdivision C—Miscellaneous

65BM NTAI Corporation does not have privileges and immunities of the Crown

The NTAI Corporation does not have the privileges and immunities of the Crown in right of the Commonwealth.

65BN Exemption from taxation

- (1) For the purposes of section 50-25 of the *Income Tax Assessment Act 1997*, the NTAI Corporation is taken to be a public authority constituted under an Australian law.

Note: This means the NTAI Corporation is exempt from income tax.

- (2) The NTAI Corporation is not subject to taxation under a law of a State or Territory if the Commonwealth is not subject to the taxation.

Division 3—Strategic investment plan

65C Strategic investment plan

Development and approval of strategic investment plan

- (1) The Board must:
- (a) develop a strategic investment plan for the NTAI Corporation; and

- (b) ensure that a strategic investment plan is in force at all times after the end of 18 months starting on the commencement of this section.
- (2) A strategic investment plan must:
 - (a) relate to a period of 3, 4 or 5 financial years; and
 - (b) state the NTAI Corporation's priorities and principal objectives for the period in relation to:
 - (i) the performance of its functions under paragraphs 65BB(a) and (c); and
 - (ii) the making of investments, whether in the performance of its function under paragraph 65BB(b) or in the exercise of its power under subsection 65BG(1).
- (3) A strategic investment plan must be approved by the Board at least 6 months before the start of the period to which it relates.
- (4) A strategic investment plan approved by the Board is in force for the period to which the plan relates.
- (5) The NTAI Corporation rules may prescribe matters that must be included in a strategic investment plan.
- (6) In developing a strategic investment plan, the Board must:
 - (a) consult with:
 - (i) Aboriginal people living in the Northern Territory; and
 - (ii) Aboriginal organisations based in the Northern Territory; and
 - (b) have regard to any advice provided by the investment committee referred to in section 65FA in relation to the plan.

Tabling and publishing strategic investment plan

- (7) The Board must give the Minister a copy of a strategic investment plan within 30 days after the Board approves the plan.
- (8) The Minister must cause a copy of a strategic investment plan to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the plan.

- (9) The Board must cause a copy of a strategic investment plan to be published on the internet as soon as practicable after the plan is laid before a House of the Parliament.

Revising strategic investment plan

- (10) The Board may review a strategic investment plan for a period, and approve a revised strategic investment plan for the period, at any time.
- (11) If the Board reviews a strategic investment plan, then:
- (a) subsections (5) and (6) apply in relation to any revision of the plan in the same way as they apply in relation to the development of the plan; and
 - (b) subsections (7), (8) and (9) apply in relation to any revised strategic investment plan approved under subsection (10) in the same way as they apply in relation to a strategic investment plan approved under subsection (3).

Division 4—Financial arrangements

65D Administrative and capital expenditure to be in accordance with approved estimates

- (1) The NTAI Corporation must:
- (a) prepare estimates, in such form and for such periods as the Minister directs, of its expenditure to meet its administrative costs and capital costs; and
 - (b) submit those estimates to the Minister for the Minister's approval not later than such date as the Minister directs.

Note: The Minister must have regard to approved estimates in directing that an amount is to be debited from the Account under subsection 64AA(4).

- (2) A period directed under paragraph (1)(a) may be wholly or partly concurrent with another period directed under that paragraph.
- (3) Subject to subsection (4), if the Minister has directed under paragraph (1)(a) that the NTAI Corporation prepare estimates for a period, money of the NTAI Corporation must not be spent to meet its administrative costs or capital costs in respect of the period

otherwise than in accordance with estimates of expenditure approved by the Minister.

- (4) The amount of expenditure by the NTAI Corporation, in relation to the matter or matters covered by an item in the estimates approved by the Minister under subsection (1), may exceed the amount specified in the item by an amount not exceeding 20% of the amount so specified.
- (5) The NTAI Corporation must not spend amounts, in relation to matters covered by estimates approved by the Minister under subsection (1), that exceed the total amount of expenditure provided for by those estimates.
- (6) Nothing in this section affects a requirement under section 36 of the *Public Governance, Performance and Accountability Act 2013* to prepare budget estimates.

65DA NTAI Corporation may submit estimates of beneficial payments and investments

- (1) The NTAI Corporation may:
 - (a) prepare estimates of its expenditure for a period to meet its costs of making:
 - (i) payments to or for the benefit of Aboriginal people living in the Northern Territory; and
 - (ii) investments of the kind mentioned in paragraph 65BB(b); and
 - (b) submit those estimates to the Minister for the Minister's approval.

Note: The Minister must have regard to approved estimates in directing that an amount is to be debited from the Account under subsection 64AA(4).

- (2) Estimates prepared under subsection (1) must be in the form (if any) and for such periods (if any) as the Minister directs.
 - (3) A period for which the NTAI Corporation prepares estimates under subsection (1) may be wholly or partly concurrent with another period for which the NTAI Corporation prepares estimates under that subsection.
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- (4) Nothing in this section affects a requirement under section 36 of the *Public Governance, Performance and Accountability Act 2013* to prepare budget estimates.

Division 5—Board of the Northern Territory Aboriginal Investment Corporation

Subdivision A—Establishment and functions

65E Establishment and functions of the Board

- (1) There is to be a Board of the NTAI Corporation.
- (2) The Board may also refer to itself, and be referred to, by replacing “NTAI Corporation” with any name or acronym that is specified in the NTAI Corporation rules for the purposes of subsection 65B(2).
- (3) The functions of the Board are:
- (a) to ensure the proper, efficient and effective performance of the NTAI Corporation’s functions; and
 - (b) to develop and revise strategic investment plans for the NTAI Corporation; and
 - (c) any other functions conferred on the Board by this Act.
- (4) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (5) Anything done in the name of, or on behalf of, the NTAI Corporation by the Board, or with the authority of the Board, is taken to have been done by the NTAI Corporation.
- (6) If a function or power of the NTAI Corporation is dependent on the opinion, belief or state of mind of the NTAI Corporation in relation to a matter, the function or power may be exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (5) in relation to that matter.

65EA Membership

The Board consists of the following members:

- (a) for each Land Council—2 persons appointed by the Land Council under subsection 65EB(1);
- (b) a person appointed by the Minister under subsection 65EC(1); and
- (c) a person appointed by the Finance Minister under subsection 65EC(2); and
- (d) 2 persons appointed by the Board under subsection 65ED(1).

Subdivision B—Appointment of Board members

65EB Appointment of Board members by Land Councils

(1) A Land Council must, by written instrument, appoint 2 persons to be Board members under paragraph 65EA(a).

(2) A person is not eligible for appointment under subsection (1) unless the person is a member of the Land Council.

Note: See section 29 (which deals with membership of Land Councils).

(3) A person is not eligible for appointment under subsection (1) if:

- (a) the person has previously been appointed to the Board; and
- (b) that appointment was suspended under subsection 65EO(1) or (2) without the suspension being revoked under subsection 65EO(8) before the expiry of the period of the appointment.

Note: See also subsection 65EG(2) for term limits.

(4) A Land Council must conduct an election for the purposes of making an appointment under subsection (1). The Land Council may determine the manner in which the election is to be conducted.

(5) Subject to subsections (2), (3) and (4), nothing prevents the Chair or Deputy Chair of a Land Council from being appointed by the Land Council under subsection (1).

65EC Appointment of Board members by Commonwealth Ministers

(1) The Minister must, by written instrument, appoint one person to be a Board member under paragraph 65EA(b).

(2) The Finance Minister must, by written instrument, appoint one person to be a Board member under paragraph 65EA(c).

- (3) A person is not eligible for appointment under subsection (1) or (2) unless the relevant Minister is satisfied that the person has expertise in either or both of the following:
- (a) land, water or environmental management;
 - (b) business or financial management.

Note: See also subsection 65EG(2) for term limits.

65ED Appointment of independent Board members by the Board

- (1) The Board must, by written instrument, appoint 2 persons to be Board members under paragraph 65EA(d).
- (2) In appointing persons under subsection (1), the Board must have regard to:
- (a) the desirability of reflecting a diversity of expertise, experience and gender among the Board; and
 - (b) the independence of such persons from:
 - (i) Land Councils; and
 - (ii) the Government of the Commonwealth; and
 - (iii) the Government of the Northern Territory; and
 - (c) whether such persons have material personal interests that may conflict, or be perceived to conflict, with the duties or interests of a Board member appointed under subsection (1).
- (3) A person is not eligible for appointment as a Board member under subsection (1) unless the Board is satisfied that the person has expertise in either or both of the following:
- (a) land, water or environmental management;
 - (b) business or financial management.
- (4) A person is not eligible for appointment as a Board member under subsection (1) if the person:
- (a) is a member of a Land Council; or
 - (b) has been a member of a Land Council in the 12 months before the proposed appointment; or
 - (c) is a member of staff of a Land Council; or
 - (d) has been a member of staff of a Land Council in the 12 months before the proposed appointment.

Note: See also subsection 65EG(2) for term limits.

- (5) A person appointed as a Board member under this section:
- (a) must not be present while the matter of the person's reappointment is being considered by the Board; and
 - (b) must not vote on the matter.

65EE Basis on which Board members hold office

A Board member holds office on a part-time basis.

65EF Chair

- (1) The Board must, at its first meeting, elect a Chair from among its members.
- (2) At any other meeting of the Board, the Board must elect a new Chair if there is a vacancy in the office of Chair.

65EG Term of appointment

- (1) A Board member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (2) A person must not be appointed as a Board member for a period if the sum of the following exceeds 9 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as a Board member.

65EH Acting appointments

- (1) The responsible entity for a Board member may, by written instrument, appoint a person to act as the Board member:
 - (a) during a vacancy in the office of the Board member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when that Board member:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
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Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

- (2) A person is not eligible to be appointed by a Land Council to act as a Land Council Board member if the person would be ineligible for appointment by the Land Council under subsection 65EB(1) (assuming the office of Land Council Board member were vacant).

Subdivision C—Terms and conditions of appointment

65EI Disclosure of interests—Board members other than independent members

- (1) A disclosure, under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests), by a Land Council Board member, or a Board member appointed under subsection 65EC(1) or (2), must be made to the responsible entity for the Board member.
- (2) Subsection (1) applies in addition to any rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*.
- (3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the Board member is taken not to have complied with section 29 of that Act if the Board member does not comply with subsection (1) of this section.

65EJ Remuneration and allowances

- (1) A Board member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by the NTAI Corporation rules.
- (2) A Board member is to be paid the allowances that are prescribed by the NTAI Corporation rules.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

- (4) Despite subsection (1) and the *Remuneration Tribunal Act 1973*, if a person who is the Chair of a Land Council is also a Land Council Board member, the person must not be paid remuneration as a Land Council Board member.

65EK Leave of absence

The responsible entity for a Board member may grant leave of absence to the Board member on the terms and conditions that the responsible entity determines.

65EL Resignation of Board members

- (1) A Board member may resign the member's appointment or election by giving the responsible entity for the Board member a written resignation.
- (2) The Board member must also give a copy of the written resignation to the Board (except for a Board member referred to in paragraph 65EA(d)).
- (3) The resignation takes effect on the day it is received by the responsible entity or, if a later day is specified in the resignation, on that later day.

65EM Board code of conduct

- (1) The Board must, in writing, determine a code of conduct for the Board.

Note: Breach of the code of conduct may lead to termination or suspension of a Board member's appointment: see paragraphs 65EN(2)(c) and 65EO(2)(c).

- (2) The Board must cause the code of conduct to be published on the internet.

65EN Termination of appointments

- (1) The responsible entity for a Board member may terminate the member's appointment:
- (a) for misbehaviour; or

- (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.
- (2) The responsible entity for a Board member may terminate the member's appointment if:
- (a) the member:
- (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with member's creditors; or
 - (iv) makes an assignment of member's remuneration for the benefit of member's creditors; or
- (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
- (c) the member engages in conduct that constitutes a serious breach of any code of conduct determined by the Board; or
- (d) for a Board member appointed under subsection 65ED(1)—the Board becomes aware of circumstances in relation to the matters mentioned in paragraph 65ED(2)(b) or (c) that, had the Board been aware of those circumstances when the member was appointed, would have resulted in the member not being appointed.
- (3) Section 30 of the *Public Governance, Performance and Accountability Act 2013* applies in relation to a person appointed as a Board member under subsection 65ED(1) as if the Board were a person.
- Note: The appointment of any Board member may be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).
- (4) A person appointed as a Board member under subsection 65ED(1):
- (a) must not be present while the matter of the termination of the person's appointment is being considered by the Board; and
 - (b) must not vote on the matter.
- (5) A Land Council Board member's appointment is terminated by force of this subsection if, because of subsection 29(4), the Board

member ceases to be a member of the Land Council that appointed the Board member under subsection 65EB(1).

Note: Subsection 29(4) provides that a person ceases to be a member of a Land Council if a disqualifying event happens in relation to the person. Subsection 29(5) sets out the relevant disqualifying events.

- (6) A Land Council must terminate the appointment of a Land Council Board member appointed by the Land Council under subsection 65EB(1) if the Land Council is satisfied that the Board member has ceased to be a member of the Land Council (otherwise than because of subsection 29(4)).

65EO Suspension of Land Council Board members

- (1) The Board may suspend the appointment of a Land Council Board member:
- (a) for misbehaviour; or
 - (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.
- (2) The Board may suspend the appointment of a Land Council Board Member if:
- (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with member's creditors; or
 - (iv) makes an assignment of member's remuneration for the benefit of member's creditors; or
 - (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
 - (c) the member engages in conduct that constitutes a serious breach of any code of conduct determined by the Board; or
 - (d) the member fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.
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- (3) A Land Council Board member's appointment is suspended under subsection (1) or (2) only if the question of the suspension is agreed to by a majority of the Board, including:
- (a) at least one member appointed under subsection 65EC(1) or (2); and
 - (b) at least one member appointed under subsection 65ED(1).
- (4) The Land Council Board member:
- (a) must not be present while the matter is being considered by the Board; and
 - (b) must not vote on the matter.
- (5) If the Board suspends the appointment of a Land Council Board member in accordance with this section:
- (a) the Board must give written notice of the suspension to the Land Council that appointed the member; and
 - (b) for the purposes of section 65EH, and the *Acts Interpretation Act 1901*, the office of the Land Council Board member is taken to be vacant until the earlier of the following:
 - (i) the period of the appointment expires;
 - (ii) the Board revokes the suspension under subsection (6) of this section.
- Note: If the Board suspends the appointment of a Land Council Board member in accordance with this section, the Land Council may:
- (a) terminate the appointment of the Board member under section 65EN and appoint another Board member under subsection 65EB(1); or
 - (b) appoint an acting Board member under subsection 65EH(1).
- (6) The Board may revoke the suspension of the appointment of a Land Council Board member.
- (7) Subsections (3) and (4) apply in relation to the revocation of a suspension in the same way as they apply in relation to a suspension.
- (8) If the Board revokes the suspension of the appointment of a Land Council Board member, the Board must give written notice of the revocation to the Board member and the Land Council that appointed the Board member.

65EP Other terms and conditions of Board members

A Board member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

Subdivision D—Meetings of the Board

65EQ Convening meetings

- (1) The Board must hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chair:
 - (a) may convene a meeting at any time; and
 - (b) must convene at least 3 meetings each calendar year; and
 - (c) must convene a meeting within 30 days after receiving a written request to do so from another Board member.
- (3) The Minister may convene a meeting of the Board if:
 - (a) either:
 - (i) the Chair is on leave of absence; or
 - (ii) there is a vacancy in the office of Chair; or
 - (iii) the Chair is unable to convene a meeting for any other reason; and
 - (b) the Minister considers that the circumstances require it.

65ER Presiding at meetings

- (1) The Chair must preside at all meetings at which the Chair is present.
- (2) If the Chair is not present at a meeting, the other Board members present must appoint one of themselves to preside.

65ES Quorum

- (1) At a meeting of the Board, a quorum is constituted by:
 - (a) half of the Land Council Board members for the time being holding office; and

- (b) one Board member appointed under subsection 65EC(1) or (2); and
 - (c) one Board member appointed under subsection 65ED(1), if there is such a member; and
 - (d) one other Board member, whether appointed under section 65EB, 65EC or 65ED.
- (2) However, if:
- (a) a Board member is required by:
 - (i) subsection 65ED(5), 65EN(4) or 65EO(4); or
 - (ii) rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*; not to be present during the deliberations, or to take part in any decision, of the Board with respect to a particular matter; and
 - (b) when the member leaves the meeting concerned there is no longer a quorum present;
- the remaining members at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

65ET Voting at meetings

- (1) A question arising at a meeting of the Board is to be determined by a majority of the votes of the Board members present and voting.
- (2) The person presiding at a meeting of the Board has a deliberative vote but does not have a casting vote.

65EU Observers

The Chief Executive Officer (however described) of each Land Council is entitled to attend meetings of the Board, but may not vote at such meetings.

65EV Conduct of meetings

The Board may, subject to this Part, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which Board members may participate in meetings.

65EW Minutes

The Board must keep minutes of its meetings.

65EX Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the Board members entitled to vote on the proposed decision indicate agreement with the decision; and
 - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (2); and
 - (c) all the Board members were informed of the proposed decision, or reasonable efforts were made to inform all the members of the proposed decision.
- (2) Subsection (1) applies only if the Board:
 - (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which Board members are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a Board member is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Board.
- (4) The Board must keep a record of decisions made in accordance with this section.

Division 6—Committees

65F Establishment of committees

The Board may establish committees to advise or assist in the performance of the NTAI Corporation's functions or the Board's functions.

65FA Investment committee

- (1) The Board must ensure that the NTAI Corporation has an investment committee.
- (2) The investment committee has the following functions:
 - (a) providing advice to the Board on the entering into, management and disposal of investments;
 - (b) providing advice to the Board on the development and revision of strategic investment plans;
 - (c) any other functions relating to the investment of the NTAI Corporation's money.
- (3) The investment committee must consist of at least 4 members.
- (4) At least 2 investment committee members must be individuals:
 - (a) who are not Board members; and
 - (b) who the Board is satisfied have expertise in business or financial management.
- (5) The investment committee must include:
 - (a) the Board member appointed by the Finance Minister under subsection 65EC(2); and
 - (b) at least one Board member appointed by the Board under subsection 65ED(1).

65FB Audit committee must include independent Board member

The NTAI Corporation's audit committee must include at least one Board member appointed under subsection 65ED(1).

Note: See section 45 of the *Public Governance, Performance and Accountability Act 2013* (which deals with audit committees for Commonwealth entities).

65FC Remuneration and allowances

- (1) A member of a committee is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by the NTAI Corporation rules.

- (2) A member of a committee is to be paid the allowances that are prescribed by the NTAI Corporation rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

65FD Committee members are officials of the NTAI Corporation

For the purposes of the *Public Governance, Performance and Accountability Act 2013*, a member of a committee is an official (within the meaning of that Act) of the NTAI Corporation.

Division 7—Chief Executive Officer of the NTAI Corporation

65G Chief Executive Officer of the NTAI Corporation

- (1) There is to be a Chief Executive Officer of the NTAI Corporation.
- (2) The CEO of the NTAI Corporation may also refer to himself or herself, and be referred to, by replacing “NTAI Corporation” with any name or acronym that is specified in the NTAI Corporation rules for the purposes of subsection 65B(2).

65GA Functions of the CEO

- (1) The CEO is responsible for the day-to-day administration of the NTAI Corporation.
- (2) The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of the CEO’s duties.
- (3) The CEO is to act in accordance with policies determined, and any directions given, by the Board.
- (4) All acts and things done in the name of, or on behalf of, the NTAI Corporation by the CEO, or with the authority of the CEO, are taken to have been done by the NTAI Corporation.
- (5) If a function or power of the NTAI Corporation is dependent on the opinion, belief or state of mind of the NTAI Corporation in relation

to a matter, the function or power may be exercised upon the opinion, belief or state of mind of a person or body acting as mentioned in subsection (4) in relation to that matter.

- (6) If a policy or direction under subsection (3) is in writing, the policy or direction is not a legislative instrument.

65GB Appointment

- (1) The CEO is to be appointed by the Board with the written agreement of the Minister.
- (2) The CEO is to be appointed:
- (a) by written instrument; and
 - (b) on a full-time basis.

Note: The CEO may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (3) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (4) A person is not eligible to be appointed as the CEO if the person is:
- (a) a Board member; or
 - (b) a member of a Land Council; or
 - (c) a member of staff of a Land Council.

65GC Acting appointments

- (1) The Board may, by written instrument and with the written agreement of the Minister, appoint a person to act as the CEO:
- (a) during a vacancy in the office of CEO (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the CEO:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

- (2) A person is not eligible to be appointed to act as the CEO if the person is:
- (a) a Board member; or
 - (b) a member of a Land Council; or
 - (c) a member of staff of a Land Council.

65GD Other paid work

The CEO must not engage in paid work outside the duties of the CEO's office without the Board's approval.

65GE Remuneration and allowances

- (1) The CEO is to be paid the remuneration that is determined by the Board.
- (2) The CEO is to be paid the allowances that are determined by the Board.
- (3) The office of CEO is not a public office for the purposes of the *Remuneration Tribunal Act 1973*.

65GF Leave of absence

- (1) The CEO has the recreation leave entitlements that are determined by the Board.
- (2) The Board may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Board determines.

65GG Resignation

- (1) The CEO may resign the CEO's appointment by giving the Board a written resignation.
- (2) The CEO must also give a copy of the written resignation to the Minister.
- (3) The resignation takes effect on the day it is received by the Board or, if a later day is specified in the resignation, on that later day.

65GH CEO code of conduct

- (1) The Board must, in writing and with the written agreement of the Minister, determine a code of conduct for the CEO.

Note: Breach of the code of conduct may lead to termination of the CEO's appointment: see paragraph 65GI(2)(e).

- (2) The Board must cause the code of conduct to be published on the internet.

65GI Termination of appointment

- (1) The Board may, with the written agreement of the Minister, terminate the appointment of the CEO:
- (a) for misbehaviour; or
 - (b) if the CEO is unable to perform the duties of the CEO's office because of physical or mental incapacity.
- (2) The Board may, with the written agreement of the Minister, terminate the appointment of the CEO if:
- (a) the CEO:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with the CEO's creditors; or
 - (iv) makes an assignment of the CEO's remuneration for the benefit of the CEO's creditors; or
 - (b) the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) the CEO engages, except with the Board's approval, in paid work outside the duties of the CEO's office (see section 65GD); or
 - (d) the CEO fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section; or
 - (e) the CEO engages in conduct that constitutes a serious breach of any code of conduct determined by the Board under section 65GH.

65GJ Disclosure of interests

- (1) A disclosure by the CEO under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Board.
- (2) The CEO must also give a copy of any disclosure under subsection (1) to the Minister.
- (3) Subsections (1) and (2) apply instead of any rules made for the purposes of that section.
- (4) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the CEO is taken not to have complied with section 29 of that Act if the CEO does not comply with subsections (1) and (2) of this section.

65GK Other terms and conditions

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Board.

Division 8—Staff and consultants

65H Staff

- (1) The CEO may, on behalf of the NTAI Corporation, employ such persons as are necessary for the performance of the NTAI Corporation's functions and the exercise of its powers.
- (2) An employee is to be employed on the terms and conditions that the CEO determines in writing.
- (3) The CEO may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*) or with a body established for a public purpose by a law of the Commonwealth for the services of officers or employees of the Agency or body to be made available to the NTAI Corporation.

- (4) The CEO may enter into an arrangement with the appropriate authority of a State or Territory for the services of officers or employees of the Public Service of the State or Territory, or of a State or Territory statutory authority, to be made available to the NTAI Corporation.

65HA Consultants

- (1) The CEO may, on behalf of the NTAI Corporation, engage consultants to assist in the performance of the NTAI Corporation's functions.
- (2) A consultant is to be engaged on the terms and conditions that the CEO determines in writing.

Division 9—Miscellaneous

65J Delegation by NTAI Corporation

- (1) The NTAI Corporation may, in writing under its seal, delegate all or any of its powers or functions to:
 - (a) a Committee mentioned in section 65F, 65FA or 65FB; or
 - (b) the CEO.
- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the NTAI Corporation.

65JA Delegation by Board

- (1) The Board may, in writing, delegate all or any of its powers or functions under this Act, other than under Division 7, to:
 - (a) a Committee mentioned in section 65F, 65FA or 65FB; or
 - (b) the CEO.
- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the Board.

65JB Delegation by CEO

- (1) The CEO may, in writing, delegate any of the CEO's powers or functions under this Act to a member of the staff referred to in section 65H.
- (2) In exercising any powers or performing any functions under the delegation, the delegate must comply with any directions of the CEO.
- (3) Before delegating under subsection (1) a power or function to a member of the staff referred to in section 65H, the CEO must have regard to:
 - (a) if the power or function is to be delegated to a person holding, occupying, or performing the duties of, a specified office or position—whether the office or position is sufficiently senior for the person to exercise the power or perform the function; or
 - (b) otherwise—whether the person has appropriate qualifications or expertise to exercise the power or perform the function.

65JC Annual report

The annual report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include any matter specified in the NTAI Corporation rules for the purposes of this section.

65JD Review of operation of this Part

- (1) The Minister must cause a review of the operation of this Part to be undertaken as soon as possible after the end of 7 years after the commencement of this Part.
 - (2) The persons undertaking the review must give the Minister a written report of the review. The report must not include information that is commercially sensitive.
 - (3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.
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65JE NTAI Corporation rules

- (1) The Minister may, by legislative instrument, make rules (*NTAI Corporation rules*) prescribing matters:
 - (a) required or permitted by this Part to be prescribed by the NTAI Corporation rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) To avoid doubt, the NTAI Corporation rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) NTAI Corporation rules that are inconsistent with the regulations have no effect to the extent of the inconsistency, but NTAI Corporation rules are taken to be consistent with the regulations to the extent that the NTAI Corporation rules are capable of operating concurrently with the regulations.

7 Subsection 76(1)

After “VI”, insert “, VIA”.

8 Subsection 76(1)

Omit all the words after “except”, substitute:

those under the following provisions:

- (a) section 19A (about Land Trusts granting headleases over townships);
- (b) subsection 65EC(1) (about the Minister appointing a Board member of the NTAI Corporation);
- (c) subsection 65EH(1) (about acting Board members of the NTAI Corporation);

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- (d) subsection 65EN(1) or (2) (about the termination of the appointment of a Board member of the NTAI Corporation);
- (e) subsection 65GB(1) (about the appointment of the CEO of the NTAI Corporation);
- (f) subsection 65GC(1) (about the appointment of an acting CEO of the NTAI Corporation);
- (g) subsection 65GH(1) (about the code of conduct for the CEO of the NTAI Corporation);
- (h) subsection 65GI(1) or (2) (about the termination of the appointment of the CEO of the NTAI Corporation);
- (i) section 65JE, in relation to the making of rules for the purposes of the following provisions:
 - (i) paragraph 65BB(d) (about the conferral of additional functions on the NTAI Corporation);
 - (ii) section 65BH (about the investment limit for the NTAI Corporation);
 - (iii) 65BI (about loans by the NTAI Corporation);
 - (iv) 65BJ (about borrowing by the NTAI Corporation);
 - (v) 65BK (about guarantees given by the NTAI Corporation).

9 Paragraph 77(1)(b)

Omit “; and”, substitute “.”.

10 Paragraph 77(1)(c)

Repeal the paragraph.

Part 2—Transitional arrangements for the Northern Territory Aboriginal Investment Corporation

11 Definitions

In this Part:

Interim Board of the NTAI Corporation means:

- (a) the persons appointed under subsection 65EB(1) of the principal Act before the Interim Board commencement day as Land Council Board members in accordance with subitem 12(1); and
- (b) the persons appointed under subsections 65EC(1) and (2) of the principal Act before the Interim Board commencement day as members of the Board of the NTAI Corporation in accordance with subitem 12(2) or (3); and
- (c) if a person has been appointed, before the end of the transition period, as a member of the Board of the NTAI Corporation in accordance with subitem 14(1) and subsection 65ED(1) of the principal Act—that person.

Interim Board commencement day means the day determined by the Minister under subitem 12(4).

NTAI Corporation commencement day means the day Part 1 of this Schedule commences.

principal Act means the *Aboriginal Land Rights (Northern Territory) Act 1976*.

transition period means the period:

- (a) beginning on the day this Part commences; and
- (b) ending immediately before the NTAI Corporation commencement day.

12 Making Land Council and Ministerial Board appointments before Interim Board commencement day

Land Council appointments

- (1) A Land Council must, before the Interim Board commencement day and in accordance with section 4 of the *Acts Interpretation Act 1901*,

appoint 2 persons under subsection 65EB(1) of the principal Act as members of the Board of the NTAI Corporation.

Ministerial appointments

- (2) The Minister must, before the Interim Board commencement day and in accordance with section 4 of the *Acts Interpretation Act 1901*, appoint a person under subsection 65EC(1) of the principal Act as a member of the Board of the NTAI Corporation.
- (3) The Finance Minister must, before the Interim Board commencement day and in accordance with section 4 of the *Acts Interpretation Act 1901*, appoint a person under subsection 65EC(2) of the principal Act as a member of the Board of the NTAI Corporation.

Interim Board commencement day

- (4) The Minister must, by notifiable instrument, determine a day during the transition period to be the Interim Board commencement day.

13 Interim Board—first meeting and election of interim Chair

- (1) The Minister must convene a meeting of the Interim Board of the NTAI Corporation as soon as practicable after the Interim Board commencement day.
- (2) The meeting is to be held at such a time during the transition period, and in such a manner, as the Minister directs.
- (3) The Interim Board must, at the meeting, elect an interim Chair.
- (4) The Minister may appoint a member of the Interim Board to preside at the meeting until the election of the Interim Chair.
- (5) The Interim Chair holds office for the period that:
 - (a) starts when the interim Chair is elected; and
 - (b) ends when a Chair is first elected under section 65EF of the principal Act after the NTAI Corporation commencement day.
- (6) The interim Chair may convene such meetings of the Interim Board as the interim Chair considers necessary for the Interim Board to perform its functions under items 14, 15 and 16.

- (7) The interim Chair must preside at all meetings at which the interim Chair is present. If the interim Chair is not present at a meeting, the other members of the Interim Board present must appoint one of themselves to preside.
- (8) At a meeting of the Interim Board, a quorum is constituted by:
- (a) half of the persons appointed as Land Council Board members in accordance with subitem 12(1); and
 - (b) one person appointed as a Board member in accordance with subitem 12(2) or (3); and
 - (c) one other person appointed as a Board member in accordance with item 12 or 14.

14 Interim Board to appoint independent Board members before the NTAI Corporation commencement day

- (1) The Interim Board of the NTAI Corporation must, before the NTAI Corporation commencement day, appoint 2 persons to be members of the Board of the NTAI Corporation under subsection 65ED(1) of the principal Act.
- (2) An appointment made under subitem (1) takes effect for the purposes of subsection 65ED(1) of the principal Act on the NTAI Corporation commencement day as if the appointment had been made by the Board of the NTAI Corporation on that day.

Note: A person appointed in accordance with subitem (1) will also be a member of the Interim Board: see paragraph (c) of the definition of that expression in item 11.

15 Interim Board to establish investment committee

- (1) The Interim Board of the NTAI Corporation must, after appointing at least one person in accordance with item 14 and before the NTAI Corporation commencement day:
- (a) establish an investment committee for the NTAI Corporation; and
 - (b) appoint members of the committee.
- (2) A thing done by the Interim Board under subitem (1) takes effect on the NTAI Corporation commencement day as if the thing had been done by the Board of the NTAI Corporation on that day.

- (3) Subsections 65FA(3) to (5) of the principal Act apply in relation to an appointment made under subitem (1) as if:
- (a) the reference in paragraph 65FA(4)(a) of that Act to “Board members” included a reference to persons appointed in accordance with item 12 or 14 before the NTAI Corporation commencement day; and
 - (b) the reference in paragraph 65FA(4)(b) of that Act to “the Board” were a reference to the Interim Board; and
 - (c) the reference in paragraph 65FA(5)(a) of that Act to “the Board member appointed by the Finance Minister under subsection 65EC(2)” included a reference to the person appointed in accordance with subitem 12(3) before the Interim Board commencement day; and
 - (d) the reference in paragraph 65FA(5)(b) of that Act to “Board member appointed by the Board under subsection 65ED(1)” included a reference to a person appointed in accordance with item 14 before the NTAI Corporation commencement day.
- (4) An appointment made under subitem (1) takes effect on the NTAI Corporation commencement day as if the appointment had been made by the Board of the NTAI Corporation on that day.

16 Appointment of acting CEO

- (1) The Interim Board of the NTAI Corporation may appoint a person to act as the CEO of the NTAI Corporation on and after the NTAI Corporation commencement day.
- (2) An appointment may be made under subitem (1) only:
- (a) with the written agreement of the Minister; and
 - (b) after the Interim Board has appointed at least one person in accordance with item 14; and
 - (c) before the NTAI Corporation commencement day.
- (3) An appointment under subitem (1) is to be made by written instrument.
- (4) An appointment made under subitem (1) takes effect on the NTAI Corporation commencement day as if the appointment had been made under subsection 65GC(1) of the principal Act by the Board of the NTAI Corporation on that day.
-

17 Remuneration and allowances for Interim Board members

- (1) A member of the Interim Board is to be paid the remuneration determined by the Minister by legislative instrument.
- (2) A member of the Interim Board is to be paid the allowances determined by the Minister by legislative instrument.
- (3) Despite subitem (1), if a person who is the Chair of a Land Council is also a member of the Interim Board, the person must not be paid remuneration as a member of the Interim Board.
- (4) The purposes of the Aboriginals Benefit Account are taken to include paying amounts that are required or permitted to be paid under this item.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

18 Development of first strategic investment plan

- (1) The first strategic investment plan under section 65C of the principal Act must be approved by the Board before the end of 18 months starting on the NTAI Corporation commencement day.
- (2) Despite subsection 65C(4) of the principal Act, the first strategic investment plan for the NTAI Corporation:
 - (a) comes into force on the day the Board approves the plan; and
 - (b) remains in force until the end of the period to which the plan relates.

19 Minister may request progress reports on strategic investment plans

- (1) The Minister may, during the 3 year period starting on the NTAI Corporation commencement day, request the Board of the NTAI Corporation to prepare a progress report in relation to a strategic investment plan that is in force under section 65C of the principal Act.
- (2) The request:
 - (a) must be in writing; and
 - (b) must specify the date by which the progress report must be given to the Minister; and

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(c) may specify matters that the report is to address.

- (3) The date specified under paragraph (2)(b) must be at least 2 months after the request is given to the Board.
- (4) The Minister must cause to be published on the internet any progress report given to the Minister.
- (4A) The Minister must table a copy of any progress report given to the Minister in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.
- (5) This item does not limit the operation of section 19 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to keep the responsible Minister and Finance Minister informed).

20 Abolition of the Account Advisory Committee

Despite the repeal of section 65 of the principal Act by this Schedule, the Minister may have regard to any advice provided by the Account Advisory Committee, before that repeal, in connection with debiting the Aboriginals Benefit Account for the purposes of making a payment under subsection 64(4) of that Act after that repeal.

Schedule 2—Mining

Part 1—Amendments

Aboriginal Land Rights (Northern Territory) Act 1976

1 Subsection 3(1) (paragraph (a) of the definition of exploration licence)

Repeal the paragraph.

2 Subsection 3(1) (after paragraph (c) of the definition of exploration licence)

Insert:

(ca) a mineral exploration licence granted under the *Mineral Titles Act 2010* (NT); and

(cb) a geothermal exploration permit granted under the *Geothermal Energy Act 2009* (NT); and

3 Subsection 3(1) (subparagraph (d)(ii) of the definition of exploration licence)

Omit “1989.”, substitute “1989;”.

4 Subsection 3(1) (at the end of the definition of exploration licence)

Add “but does not include an extractive mineral exploration licence granted under the *Mineral Titles Act 2010* (NT).”.

5 Subsection 3(1) (definition of exploration retention licence)

Repeal the definition, substitute:

exploration retention licence means an exploration retention licence granted under a law of the Northern Territory relating to mining for minerals and includes the following:

(a) a retention licence granted under the *Petroleum Act 1984* (NT);

(b) a geothermal retention licence granted under the *Geothermal Energy Act 2009* (NT);

- (c) a mineral exploration licence in retention issued under the *Mineral Titles Act 2010* (NT);
but does not include any of the following granted under the *Mineral Titles Act 2010* (NT):
- (d) an extractive mineral exploration licence;
 - (e) an extractive mineral lease;
 - (f) an extractive mineral permit.

6 Subsection 3(1)

Insert:

geothermal energy resources has the meaning given by section 4 of the *Geothermal Energy Act 2009* (NT).

mine includes extract.

7 Subsection 3(1) (definition of *minerals*)

After “includes water”, insert “and geothermal energy resources”.

8 Subsection 3(1) (definition of *miner’s right*)

Repeal the definition.

9 Subsection 3(1) (paragraph (a) of the definition of *mining interest*)

Omit “the mining or development of”, substitute “exploration for, or the mining or development of”.

10 Subsection 3(1)

Insert:

NT mining authority means an authority, issued under a law of the Northern Territory relating to mining for minerals, that empowers the holder to take possession of, mine or occupy land, or take any other action in relation to land, for any purpose in connection with mining.

11 Paragraph 3(2)(ba)

Omit “the mining or development of”, substitute “exploration for, or the mining or development of”.

12 Paragraph 3(2)(c)

Omit “a miner’s right”, substitute “an NT mining authority”.

13 Paragraph 19(11)(a)

Omit “the mining or development of”, substitute “exploration for, or the mining or development of,”.

14 Section 40

Omit “shall”, substitute “must”.

15 Paragraph 40(a)

Repeal the paragraph, substitute:

- (a) the Land Council for the area in which the land is situated gives consent under subsection 42(1) to the grant of the licence; or

16 Subsection 41(1)

Omit “shall”, substitute “may”.

17 Subsection 41(3)

Omit “shall be deemed”, substitute “is taken”.

18 After subsection 41(3)

Insert:

- (4) The Land Council must notify the Northern Territory Mining Minister of the day on which the Land Council receives the application.

19 Subsection 41(5)

Omit “shall cause a copy of the application to be sent to the Minister”, substitute “must cause a copy of the application to be sent to the Minister and the Northern Territory Mining Minister”.

20 Subsection 41(6)

Omit “shall”, substitute “must”.

21 Subsection 41(6A)

Repeal the subsection, substitute:

- (7) The Land Council must determine whether it is satisfied the application complies substantially with subsection (6) and give the following written notice of the Council's determination:
 - (a) the applicant;
 - (b) the Minister;
 - (c) the Northern Territory Mining Minister.
- (8) If the Land Council determines it is not satisfied the application complies substantially with subsection (6), the application is taken not to be a valid application.
- (9) The Land Council may, by written notice, request the applicant to give the Land Council specified information, in the form (if any) and within a period of at least 14 days specified in the notice, for the purpose of making the determination.
- (10) If the Land Council has concerns about whether the application complies substantially with subsection (6), the Land Council may give the applicant a written notice that:
 - (a) specifies the concerns; and
 - (b) invites the applicant to vary the application to address the concerns; and
 - (c) specifies a period of at least 14 days after the date of the notice within which the applicant may give the Land Council the varied application.
- (11) The applicant may vary the application in response to the invitation by giving the Land Council the varied application before the end of the period specified under paragraph (10)(c).
- (12) If the Land Council determines that it is satisfied the application complies substantially with subsection (6), the applicant may request, in writing, the Land Council to agree to a variation of the application in so far as it sets out the comprehensive proposal. The request must be accompanied by a copy of the application as proposed to be varied.

- (13) The application is varied under this subsection if the Land Council agrees to the request by written notice given to the applicant. The Land Council may agree to the request only if it is satisfied that the application as proposed to be varied complies substantially with subsection (6).
- (14) If the application is varied under subsection (11) or (13), the applicant must give the Minister and the Northern Territory Mining Minister:
- (a) a copy of the varied application and the notice given by the Land Council under subsection (10) or (13) (as the case requires); and
 - (b) for a variation under subsection (11)—written notice of the date on which the varied application was given to the Land Council.

22 Subsections 42(1), (2) and (3)

Omit “shall”, substitute “must”.

23 Subsections 42(4) to (5A)

Repeal the subsections, substitute:

- (4) To facilitate consultation between the Land Council and the traditional Aboriginal owners, the Land Council must:
- (a) subject to subsection (4A), convene such meetings with them, after the Land Council determines under subsection 41(7) that it is satisfied the application complies substantially with subsection 41(6), as the Land Council considers appropriate for the purposes of considering the exploration proposals and the terms and conditions; and
 - (b) give reasonable notice to:
 - (i) the applicant before any meeting the applicant is entitled to attend; and
 - (ii) the Minister before any meeting a person authorised under subsection (4D) is entitled to attend.
- (4A) The following matters must be discussed at a meeting convened in accordance with paragraph (4)(a), unless the applicant notifies the Land Council that the applicant does not wish its representatives to attend such a meeting to discuss the matter:

- (a) the substantive content of the exploration program;
 - (b) the terms and conditions.
- (4B) To avoid doubt, subsection (4A) does not require a meeting to be convened in relation to the application after it is varied under subsection 41(13) if the matters were discussed at one or more meetings convened in accordance with paragraph (4)(a) of this section before the variation.
- (4C) The representatives of the applicant may attend:
 - (a) so much of the first meeting (if any) at which the matter mentioned in paragraph (4A)(a) is discussed as is appropriate for the purposes of presenting and explaining the exploration proposals (including any information required to be given to the Northern Territory Mining Minister); and
 - (b) so much of the first meeting (if any) at which the matter mentioned in paragraph (4A)(b) is discussed as is appropriate for the purposes of outlining the applicant's views concerning the terms and conditions; and
 - (c) so much of any subsequent meeting as is appropriate for any of the purposes referred to in paragraph (a) or (b) of this subsection unless the traditional Aboriginal owners, as a group, decide and, through the Land Council, notify the applicant, that the representatives may not attend.
- (4D) The Minister may, in writing, authorise a specified person or any person included in a specified class of persons to attend a meeting in accordance with subsection (5).
- (5) A person authorised by the Minister under subsection (4D) may attend:
 - (a) a meeting referred to in paragraph (4C)(a) or (b); and
 - (b) any subsequent meeting, unless the traditional Aboriginal owners, as a group, decide and, through the Land Council, notify the Minister, that the person may not attend.

24 Subsection 42(6)

Omit "shall", substitute "must".

25 Subsections 42(8), (8A), (9) and (10)

Repeal the subsections.

26 Subsection 42(12)

Omit “shall” (wherever occurring), substitute “must”.

27 Subsection 42(13)

Omit “application is received” (wherever occurring), substitute “application is first received”.

28 Paragraph 42(17)(c)

Omit “later application is substantially the same as the comprehensive proposal set out in the original application”, substitute “later application as first received by the Land Council is substantially the same as the comprehensive proposal set out in the original application (including as varied under subsection 41(11) or (13))”.

29 Subsection 42(18)

Omit “application is received”, substitute “application is first received”.

30 Paragraph 42(18A)(b)

Omit “any necessary meetings of the kind referred to in subsection (4) were”, substitute “the matters mentioned in paragraphs (4A)(a) and (b) were discussed at one or more meetings”.

31 Paragraph 44(1)(a)

Repeal the paragraph, substitute:

- (a) a Land Council is taken to have consented to the grant of an exploration licence in respect of the land under subsection 42(7) (arbitration of terms and conditions by agreement); or

32 Subsection 44(2)

Omit “Where subsection 42(7)”, substitute “If paragraph (1)(a)”.

33 Subsections 44(3) to (10)

Omit “shall” (wherever occurring), substitute “must”.

34 Subsection 44(11)

Omit “shall be” (first occurring), substitute “is”.

35 Subsection 44(11)

Omit “shall be deemed”, substitute “is taken”.

36 Subsection 44A(1)

Repeal the subsection, substitute:

- (1) The terms and conditions agreed under section 42 or 43, or determined under section 44, must include terms and conditions requiring the applicant to pay compensation for damage or disturbance caused to the relevant Aboriginal land, and to the traditional Aboriginal owners of the land, by exploration activities undertaken on the land.
- (1A) Without limiting subsection (1), the terms and conditions may require the applicant to pay compensation for one or more of the following:
 - (a) the value of minerals removed or proposed to be removed from the land;
 - (b) deprivation of the use of the land or a part of the land;
 - (c) deprivation of the use of improvements on the land as permitted by the agreement;
 - (d) severance of the land from other land having the same traditional Aboriginal owners as the land concerned.
- (1B) To avoid doubt, the terms and conditions must not require the applicant to pay any amount as consideration for giving consent to the grant of the exploration licence.

37 Subsection 44A(2)

Omit “shall”.

38 Subsection 44A(3)

Repeal the subsection.

39 Subparagraph 47(1)(b)(i)

After “application for that consent”, insert “(including the application as varied under subsection 41(11) or (13))”.

40 Paragraph 47(2)(a)

After “Land Council”, insert “, the Northern Territory Mining Minister”.

41 Before paragraph 47(3)(a)

Insert:

(aa) consult the Northern Territory Mining Minister; and

42 Subparagraph 47(3)(a)(i)

After “the application relating to the relevant exploration licence”, insert “(including the application as varied under subsection 41(11) or (13))”.

43 Paragraph 47(4)(a)

After “Land Council”, insert “, the Northern Territory Mining Minister”.

44 Subsection 48(1A)

Repeal the subsection, substitute:

(1A) Subsections (1) to (4A) have 3 separate applications as follows:

- (a) the first application is in relation to petroleum and for this purpose those subsections apply as if:
 - (i) a reference to a refusal to consent to the grant of an exploration licence were a reference to a refusal to consent to the grant of an exploration licence in relation to petroleum; and
 - (ii) a reference to an application under section 41 in respect of particular land or an area within that land were a reference to an application under section 41 in relation to petroleum in respect of that land or an area within that land;
- (b) the second application is in relation to geothermal energy resources and for this purpose those subsections apply as if:

- (i) a reference to a refusal to consent to the grant of an exploration licence were a reference to a refusal to consent to the grant of an exploration licence in relation to geothermal energy resources; and
 - (ii) a reference to an application under section 41 in respect of particular land or an area within that land were a reference to an application under section 41 in relation to geothermal energy resources in respect of that land or an area within that land;
- (c) the third application is in relation to minerals other than petroleum or geothermal energy resources and for this purpose those subsections apply as if:
- (i) a reference to a refusal to consent to the grant of an exploration licence were a reference to a refusal to consent to the grant of an exploration licence in relation to minerals other than petroleum or geothermal energy resources; and
 - (ii) a reference to an application under section 41 in respect of particular land or an area within that land were a reference to an application under section 41 in relation to minerals other than petroleum or geothermal energy resources in respect of that land or an area within that land.

45 Paragraph 66(ba)

Omit “the mining or development of”, substitute “exploration for, or the mining or development of”.

46 Paragraph 66(c)

Omit “a miner’s right”, substitute “an NT mining authority”.

47 Section 75 (heading)

Omit “**miner’s right**”, substitute “**NT mining authority**”.

48 Section 75

Omit “A miner’s right”, substitute “An NT mining authority”.

49 Section 75

Omit “the miner’s right”, substitute “the authority”.

50 Paragraph 76(2)(a)

Repeal the paragraph.

51 Paragraphs 76(2)(d) and (e)

Repeal the paragraphs, substitute:

- (d) subsection 47(1) (about determining whether exploration works should proceed);
- (e) subsection 47(3) (about determining whether proposed mining works or related activities should proceed);

Part 2—Application of amendments

52 Prospecting authorities

Despite the repeal of paragraph (a) of the definition of *exploration licence* in subsection 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule:

- (a) the following provisions of that Act continue to apply on and after the commencement of this item as if a reference in the provision to an exploration licence included a reference to a prospecting authority granted before that commencement:
 - (i) subsection 44A(2);
 - (ii) section 46;
 - (iii) subsection 47(3); and
- (b) subsections 48(1) to (4B) of that Act continue to apply on and after that commencement as if a reference in any of those subsections to a refusal to consent to the grant of an exploration licence included a reference to a refusal, before that commencement, to consent to the grant of a prospecting authority; and
- (c) subsections 48(5) to (8) of that Act continue to apply on and after that commencement as if a reference in any of those subsections to the cancellation of an exploration licence included a reference to the cancellation, before that commencement, of a prospecting authority.

53 Land Council consent to exploration licences

Subject to item 54, the amendments of sections 41 and 42 of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule apply in relation to an application under section 41 of that Act that is submitted on or after the commencement of this item.

54 Removal of Ministerial consent to exploration licences

The amendment of paragraph 40(a), and the repeal of subsections 42(8), (8A), (9) and (10), of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule apply in relation to an exploration licence if the Land Council's consent to the grant of the licence is given on or after the commencement of this item, whether the application under section 41 of that Act for the consent is submitted before, on or after that commencement.

55 Determination of conditions of exploration licences

The amendments of subsections 44(1) and (2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule apply in relation to an exploration licence if the Land Council's consent to the grant of the licence is given (including by the operation of subsection 42(7) of that Act) on or after the commencement of this item.

56 Compensation for value of minerals

The amendments of section 44A of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule apply in relation to terms and conditions agreed under section 42 or 43, or determined under section 44, of that Act on or after the commencement of this item.

57 Cancellation of exploration licence

The amendment of paragraph 47(2)(a) of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule applies in relation to notices under paragraph 47(1)(b) of that Act that are received by the Minister on or after the commencement of this item.

58 Refusal or cancellation of mining interests

The amendments of subsections 47(3) and (4) of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule apply in relation to copies of statements of mining proposals that are received by the Minister on or after the commencement of this item.

59 Delegation relating to mining

The amendments of subsection 76(2) of the *Aboriginal Land Rights (Northern Territory) Act 1976* made by this Schedule apply in relation to notices under paragraph 47(1)(b) of that Act, and copies of statements of mining proposals, that are received by the Minister on or after the commencement of this item.

Schedule 3—Land administration

Part 1—Approved entities

Aboriginal Land Rights (Northern Territory) Act 1976

1 Subsection 3(1) (definition of *approved entity*)

Repeal the definition, substitute:

approved entity means a body approved by the Minister:

- (a) under subsection 3AA(1) as an approved entity; or
- (b) under subsection 3AA(2) as an approved entity for an area of land.

2 Subsection 3(1) (definition of *Commonwealth entity*)

Repeal the definition.

3 Subsection 3(1) (definition of *NT entity*)

Repeal the definition.

4 Sections 3AAA and 3AA

Repeal the sections, substitute:

3AA Approved entities

Approval of the Commonwealth and Commonwealth authorities

- (1) For the purposes of paragraph (a) of the definition of *approved entity* in subsection 3(1), the Minister may, by writing, approve any of the following bodies as an approved entity:
 - (a) the Commonwealth;
 - (b) a Commonwealth authority (within the meaning of the *Lands Acquisition Act 1989*).

Approval of Aboriginal and Torres Strait Islander corporations

- (2) For the purposes of paragraph (b) of the definition of *approved entity* in subsection 3(1), the Minister may, by writing, approve an

Aboriginal and Torres Strait Islander corporation as an approved entity for an area of land known by a particular name if the Minister is satisfied that:

- (a) the Land Council for the area in which the area of land is situated has nominated the corporation under subsection (4) to be an approved entity for the area of land known by that name; and
 - (b) a majority of the members of the corporation are either:
 - (i) the traditional Aboriginal owners of land that constitutes, or forms part of, the area of land known by that name; or
 - (ii) Aboriginal people who live in the area of land known by that name; and
 - (c) any conditions determined under subsection (9) for the purposes of this paragraph are satisfied.
- (3) An approval under subsection (2) must specify the name by which the area of land is known, but need not otherwise delineate the area of land.
- (4) A Land Council may nominate an Aboriginal and Torres Strait Islander corporation, that satisfies the condition in paragraph (2)(b), to be an approved entity for an area of land situated in the Council's area.
- (5) A nomination under subsection (4) must:
- (a) be given to the Minister in writing; and
 - (b) specify the name by which the area of land is known; and
 - (c) describe the area of land (but need not delineate the area); and
 - (d) set out the names of the corporation's members; and
 - (e) contain a declaration to the effect that the Land Council is satisfied the corporation satisfies the condition in paragraph (2)(b); and
 - (f) set out a description of any consultation by the Land Council with the following persons in relation to the nomination:
 - (i) traditional Aboriginal owners of land that constitutes, or forms part of, the area of land;
 - (ii) Aboriginal people who live in the area of land;

- (iii) any other Aboriginal community or group that may be affected by the nomination; and
- (g) contain any other information determined under subsection (9) for the purposes of this paragraph.

Matters to which Minister must or may have regard

- (6) In deciding under subsection (1) or (2) whether to approve a body as an approved entity, the Minister:
 - (a) must have regard to any matters determined under subsection (9) for the purposes of this paragraph; and
 - (b) may have regard to:
 - (i) any matters determined under subsection (9) for the purposes of this subparagraph; and
 - (ii) any other matters the Minister considers relevant.

Revoking an approval

- (7) The Minister may, by writing, revoke an approval under subsection (1) or (2) if the Minister considers it appropriate to do so.
- (8) Before revoking an approval under subsection (2) of an Aboriginal and Torres Strait Islander corporation as an approved entity for an area of land, the Minister must consult the Land Council that nominated the corporation under subsection (4) in relation to the area of land.

Legislative instruments determining certain matters

- (9) The Minister may, by legislative instrument, determine:
 - (a) conditions for the purposes of paragraph (2)(c); and
 - (b) information for the purposes of paragraph (5)(g); and
 - (c) matters for the purposes of paragraph (6)(a) or subparagraph (6)(b)(i).

5 After paragraph 19A(1)(b)

Insert:

- ; and (c) if the approved entity is an Aboriginal and Torres Strait Islander corporation—some or all of an area of land for

which the corporation is approved under subsection 3AA(2) falls within the area of the township.

6 After paragraph 19A(8)(b)

Insert:

- ; and (c) in the case where the other approved entity is an Aboriginal and Torres Strait Islander corporation—only if some or all of an area of land for which the corporation is approved under subsection 3AA(2) falls within the area of the township.

7 After section 19A

Insert:

19B Expenditure of approved entities to be in accordance with approved estimates

- (1) An approved entity must:
- (a) prepare estimates, in such form and for such periods as the Minister directs, of its expenditure to meet its costs of:
 - (i) acquiring leases, or administering leases granted or transferred to the approved entity, under section 19A; or
 - (ii) the payment of amounts under leases granted or transferred to the approved entity under section 19A; and
 - (b) submit those estimates to the Minister for the Minister's approval not later than such date as the Minister directs.

Note: The Minister must have regard to approved estimates in directing that an amount be debited from the Account under paragraph 64(4A)(a) or (b).

- (2) A period directed under paragraph (1)(a) for an approved entity may be wholly or partly concurrent with another period directed under that paragraph for the entity.
- (3) Subject to subsection (4), if the Minister has directed under paragraph (1)(a) that an approved entity prepare estimates for a period, money of the approved entity must not be spent to meet its costs referred to in paragraph (1)(a) in respect of the period otherwise than in accordance with estimates of expenditure approved by the Minister.

- (4) The amount of expenditure by an approved entity in relation to the matter or matters covered by an item in the estimates approved by the Minister may exceed the amount specified in the item by an amount not exceeding 20% of the amount so specified.
- (5) An approved entity must not spend amounts, in relation to matters covered by estimates approved by the Minister, that exceed the total amount of expenditure provided for by those estimates.
- (6) An obligation imposed by this section on an approved entity must be fulfilled by the Executive Director of Township Leasing if the approved entity is the Commonwealth.
- (7) Nothing in this section affects a requirement under section 36 of the *Public Governance, Performance and Accountability Act 2013* to prepare budget estimates in relation to an approved entity that is the Commonwealth or a Commonwealth authority (within the meaning of the *Lands Acquisition Act 1989*).

8 Section 19C (heading)

Repeal the heading, substitute:

19C Modification of certain NT laws for a township lease held by an approved entity

9 Paragraphs 19C(1)(a) and (aa)

Omit “a Commonwealth entity”, substitute “an approved entity”.

10 Paragraphs 19C(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) the transfer of a lease to an approved entity in accordance with that section.

11 Subsection 19C(3)

Omit “Commonwealth entity or the NT entity”, substitute “approved entity”.

12 Section 19D (heading)

Omit “a Commonwealth entity”, substitute “an approved entity”.

13 Section 19D

Omit “a Commonwealth entity”, substitute “an approved entity”.

14 Section 19E (heading)

Omit “a Commonwealth entity”, substitute “an approved entity”.

15 Paragraphs 19E(1)(a) and (b)

Omit “a Commonwealth entity”, substitute “an approved entity”.

16 Subsection 19E(4)

Repeal the subsection.

17 After subsection 34(1)

Insert:

(1AA) A period directed under subsection (1) for a Land Council may be wholly or partly concurrent with a financial year or other period directed under that subsection for which the Land Council is required to prepare estimates.

18 After subsection 37(5)

Insert:

Details of approved entities

- (5A) If a lease, granted or transferred to an approved entity under section 19A, of a township in the area of the Land Council is in effect at any time during that period, the report must specify the following for the lease:
- (a) the name of the township;
 - (b) the name of the approved entity;
 - (c) the name of any other party to the lease.

19 After subsection 64(4A)

Insert:

- (4B) In giving a direction to which paragraph (4A)(a) or (b) applies, the Minister must have regard to the most recent estimates approved

by the Minister under subsection 19B(1) in relation to each approved entity.

20 Subsection 70E(15)

Repeal the subsection, substitute:

- (15) If a road to which subsection (1) applies is covered by a lease to an approved entity under section 19A, the following person:
- (a) if the approved entity is the Commonwealth—the Executive Director of Township Leasing referred to in section 20B;
 - (b) in any other case—the approved entity;
- may, by written determination for the purposes of this section, impose temporary restrictions on the entry or remaining on the road for the purpose of protecting public health or safety.

21 Subsection 70F(12)

Repeal the subsection, substitute:

- (12) If a common area to which subsection (1) applies is covered by a lease to an approved entity under section 19A, the following person:
- (a) if the approved entity is the Commonwealth—the Executive Director of Township Leasing referred to in section 20B;
 - (b) in any other case—the approved entity;
- may, by written determination for the purposes of this section, impose temporary restrictions on the entry or remaining on the common area for the purpose of protecting public health or safety.

22 Saving provision—pre-commencement approvals

- (1) A Commonwealth entity approval of either of the following bodies:
- (a) the Commonwealth;
 - (b) a Commonwealth authority (within the meaning of the *Lands Acquisition Act 1989*);
- that was in force immediately before the commencement of this item, continues in force (and may be dealt with) on and after that commencement as if it were a subsection 3AA(1) approved entity approval of the relevant body.
- (2) If:
-

- (a) a Commonwealth entity approval of an Aboriginal and Torres Strait Islander corporation was in force immediately before the commencement of this item; and
- (b) leases of one or more townships were granted or transferred to the corporation under section 19A of the principal Act before that commencement;

then the Commonwealth entity approval continues in force (and may be dealt with) on and after that commencement as if:

- (c) the approval were a separate subsection 3AA(2) approved entity approval of the corporation in relation to each area of land of each of those townships; and
- (d) for each of those subsection 3AA(2) approved entity approvals—the Land Council for the area in which the relevant township is situated had nominated the corporation to be an approved entity for the area of land of the township.

- (3) In this item:

Commonwealth entity approval means an approval under section 3AAA of the principal Act, as in force immediately before the commencement of this item, for the purposes of the definition of **Commonwealth entity** in subsection 3(1) of that Act (as then in force).

principal Act means the *Aboriginal Land Rights (Northern Territory) Act 1976*.

subsection 3AA(1) approved entity approval means an approval under subsection 3AA(1) of the principal Act, as amended by this Part, for the purposes of paragraph (a) of the definition of **approved entity** in subsection 3(1) of that Act (as so amended).

subsection 3AA(2) approved entity approval means an approval under subsection 3AA(2) of the principal Act, as amended by this Part, for the purposes of paragraph (b) of the definition of **approved entity** in subsection 3(1) of that Act (as so amended).

23 Application of amendment—additional Land Council reporting requirement

Subsection 37(5A) of the *Aboriginal Land Rights (Northern Territory) Act 1976*, as inserted by this Part, applies in relation to:

- (a) an annual report for a period in which this item commences; and

(b) annual reports for later periods.

Part 2—Agreements in relation to deeds held in escrow

Aboriginal Land Rights (Northern Territory) Act 1976

24 After subsection 11A(6)

Insert:

- (6A) To avoid doubt, an agreement under subsection (2) does not create an estate or interest in the relevant land that would prevent the relevant land from being granted to the Land Trust.

25 After section 12C

Insert:

12D Land subject of deed in escrow—Land Councils may enter into agreements

- (1) If:
- (a) land is the subject of a deed of grant held in escrow by a Land Council on the condition that the Land Council deliver the deed to a Land Trust when all of the estates and interests in the land held by a person (other than the Crown) have come to an end; and
 - (b) a person (the *proponent*) desires to obtain an estate or interest in the land;
- the proponent may make representations to the Land Council concerning the proponent's plans for the land.
- (2) At any time before the deed is delivered to the Land Trust, the Land Council may agree with the proponent that the Land Council will, if the deed is delivered to the Land Trust, direct the Land Trust to grant the proponent an estate or interest in the land.
- (3) The agreement must specify the terms and conditions on which the proposed grant is to be made.
- (4) The Land Council must not enter into the agreement unless it is satisfied that:
-

- (a) the traditional Aboriginal owners (if any) of the land understand the nature and purpose of the proposed grant and, as a group, consent to it; and
 - (b) any Aboriginal community or group that may be affected by the proposed grant has been consulted and has had adequate opportunity to express its view to the Land Council; and
 - (c) the terms and conditions on which the proposed grant is to be made are reasonable.
- (5) The agreement is binding on any successors to the Land Council.
- (6) The Land Council must, immediately after the deed is delivered to the Land Trust, in writing direct the Land Trust to grant an estate or interest in the land on the terms and conditions set out in the agreement.
- (7) A failure to comply with subsection (4) does not invalidate the agreement.
- (8) To avoid doubt, the agreement does not create an estate or interest in the land that would prevent the deed from being delivered to the Land Trust.
- (9) For the purposes of this section, an estate or interest in land includes a mining interest or licence in respect of the land.

26 Section 13 (heading)

Repeal the heading, substitute:

13 Land subject of deed in escrow—grants of interests by the Crown

27 Subparagraph 23(1)(e)(i)

After “Land Trust”, insert “or is the subject of a deed of grant made to a Land Trust under section 12 that the Land Council holds in escrow”.

Part 3—Miscellaneous amendments

Aboriginal Land Rights (Northern Territory) Act 1976

28 Subsection 3(1)

Insert:

Aboriginal people or *Aboriginal person*: see *Aboriginal*.

29 Subsection 27(3)

Omit “\$1,000,000”, substitute “\$5,000,000”.

30 Subsection 28(3)

Repeal the subsection.

31 Before subsection 28(4)

Insert:

Functions and powers that depend on satisfaction of certain matters

32 Sections 28A to 28F

Repeal the sections.

33 Subsection 37(6)

Repeal the subsection.

34 Section 74

Before “This Act”, insert “(1)”.

35 At the end of section 74

Add:

- (2) Without limiting subsection (1), this Act does not affect the application to Aboriginal land of a law of the Northern Territory that makes:

- (a) an act or omission that is an offence against a provision of this Act; or
 - (b) a similar act or omission;
an offence against the law of the Northern Territory.
- (3) Subsection (2) applies even if the law of the Northern Territory does any one or more of the following:
- (a) provides for a penalty for the offence that differs from the penalty provided for in this Act;
 - (b) provides for a fault element in relation to the offence that differs from the fault elements applicable to the offence under this Act;
 - (c) provides for a defence in relation to the offence that differs from the defences applicable to the offence under this Act.

36 Section 74AA

Repeal the section.

37 Application provision—repeal of limitation on revocation of permits

The repeal of section 74AA of the *Aboriginal Land Rights (Northern Territory) Act 1976* by this Part applies in relation to any permit, whether issued before, on or after the commencement of this item.

38 Transitional—removal of delegation power to Aboriginal and Torres Strait Islander corporations

- (1) Despite the repeal of section 28F of the *Aboriginal Land Rights (Northern Territory) Act 1976* by this Part, that section continues to apply, in relation to a decision made before this item commences by an Aboriginal and Torres Strait Islander corporation under a delegation, as if that repeal had not happened.
- (2) Despite the repeal of subsection 37(6) of the *Aboriginal Land Rights (Northern Territory) Act 1976* by this Part, that subsection continues to apply, in relation to a report for a period that starts before this item commences, as if that repeal had not happened.

Part 4—Amendments with delayed commencement

Division 1—Prescribing township land

Aboriginal Land Rights (Northern Territory) Act 1976

39 Subsection 3AB(2)

Omit “by the regulations”, substitute “by the Minister under subsection (3A)”.

40 Subsection 3AB(3)

Omit “by the regulations”, substitute “by the Minister under subsection (3A)”.

41 After subsection 3AB(3)

Insert:

Minister may prescribe areas in relation to all or particular Land Trusts

- (3A) The Minister may, by legislative instrument, prescribe areas of land in relation to:
- (a) all Land Trusts for the purposes of subsection (2); or
 - (b) a particular Land Trust for the purposes of subsection (3).

42 Subsection 3AB(5)

Omit “(3)”, substitute “(3A)”.

43 Transitional—references in leases to redundant provisions of the regulations

- (1) This item applies in relation to a lease of a township, granted or transferred under section 19A of the *Aboriginal Land Rights (Northern Territory) Act 1976* before the commencement of this item, if:
- (a) the lease refers to or describes an area of land or a township by reference to a provision of the regulations that prescribed an area of land for the purposes of subsection 3AB(3) of that

Act (as in force immediately before the commencement of this item); and

- (b) a provision of a legislative instrument, made under subsection 3AB(3A) of that Act by the Minister on or after that commencement, prescribes the same area of land for the purposes of subsection 3AB(3) of that Act (as in force on and after that commencement).
- (2) The lease has effect, on and after the commencement of the provision of the instrument mentioned in paragraph (1)(b) of this item, as if the reference in the lease to the provision of the regulations were a reference to the provision of the instrument.

Division 2—Penalty for entering or remaining on Aboriginal land

Aboriginal Land Rights (Northern Territory) Act 1976

44 Subsection 70(1) (penalty)

Omit “10 penalty units”, substitute “50 penalty units”.

Schedule 4—Technical amendments relating to the Aboriginals Benefit Account

Aboriginal Land Rights (Northern Territory) Act 1976

1 Subsection 63(5)

Omit “Amounts payable”, substitute “The amounts that must be credited to the Account”.

2 Paragraph 63(5)(a)

Before “such amounts”, insert “amounts equal to”.

3 Paragraph 63(5)(b)

Omit “payable under subsection (4) in respect of particular mining operations—the amounts so determined”, substitute “credited to the Account under subsection (4) in respect of particular mining operations—amounts equal to the amounts so determined”.

4 At the end of section 63

Add:

(8) For the purposes of this section:

- (a) a royalty is taken to include an amount paid on account of a royalty; and
- (b) an amount may be credited to the Account in purported compliance with a requirement to credit an amount to the Account under subsection (4).

5 After section 63

Insert:

63A Purposes of the Account

The purposes of the Account are paying amounts that are required or permitted to be paid under section 64 or 64A.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

6 Subsection 64(3)

Omit “There”, substitute “Subject to subsections (3A) and (3B), there”.

7 After subsection 64(3)

Insert:

- (3A) If an amount (the *debit amount*) that would otherwise be required to be debited from the Account under subsection (3) and paid to a Land Council in respect of a mining interest or mining operations (as the case may be) is higher than the amount that would be debited having regard to:
- (a) an amount paid on account of royalties in respect of the mining interest being higher than the royalties that are later assessed were payable in respect of that mining interest; or
 - (b) an amount that is credited to the Account in purported compliance with subsection 63(4) in respect of the mining operations being higher than the amount that is later determined was required to be credited under that subsection;
- then the Minister may reduce the debit amount by the amount of the excess.
- (3B) If:
- (a) an amount was debited from the Account under subsection (3) and paid to a Land Council in respect of a mining interest or mining operations (as the case may be); and
 - (b) that amount is higher than the amount that would have been debited having regard to either of the following:
 - (i) an amount paid on account of royalties in respect of the mining interest being higher than the royalties that are later assessed were payable in respect of that mining interest;
 - (ii) an amount that is credited to the Account in purported compliance with subsection 63(4) in respect of the mining operations being higher than the amount that is later determined was required to be credited under that subsection;
- then the Minister may offset the whole or part of the excess against the whole or part of one or more future amounts otherwise required

to be debited from the Account under subsection (3) and paid to that Land Council in respect of that mining interest or mining operations (as the case requires).

- (3C) If an amount is reduced under subsection (3A), or offset under subsection (3B), the Minister may reduce (whether by way of a single reduction or a series of reductions) the amount standing to the credit of the Account by an amount not greater than:
- (a) if paragraph (3A)(a) or subparagraph (3B)(b)(i) applies—the difference between the amount paid on account of royalties in respect of the mining interest and the amount of royalties that are later assessed were payable in respect of the mining interest; or
 - (b) if paragraph (3A)(b) or subparagraph (3B)(b)(ii) applies—the difference between the amount that was credited to the Account in purported compliance with subsection 63(4) in respect of the mining operations and the amount that is later determined was required to be credited under that subsection in respect of the mining operations.

*[Minister's second reading speech made in—
House of Representatives on 25 August 2021
Senate on 18 October 2021]*

(116/21)
