



New South Wales

Local Government Amendment Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* so as:

- (a) to introduce a scheme for formulating and implementing proposals for the structural reform of local government areas and councils, and
- (b) to preserve and make amendments to the existing provisions relating to the constitution, dissolution, amalgamation and boundary alterations of local government areas, and
- (c) to amend arrangements regarding the discipline of councillors, council staff and council delegates, including matters connected with the following:
 - (i) codes of conduct,
 - (ii) formal censure of councillors,
 - (iii) suspension of councillors or their remuneration,
 - (iv) surcharges, and

- (d) to make a number of other amendments about the following matters:
 - (i) postponement of local government elections,
 - (ii) altering the number of councillors on a council or the number of wards in an area,
 - (iii) the independence of council staff from direction in certain circumstances,
 - (iv) preliminary enquiries preceding a decision to institute an investigation,
 - (v) proclamations under the *Local Government Act 1993*,
 - (vi) the constitution, procedure and operations of the Local Government Boundaries Commission,
 - (vii) changing the name of the Local Government Pecuniary Interest Tribunal to the Local Government Pecuniary Interest and Disciplinary Tribunal,
 - (viii) savings and transitional matters consequent on the enactment of the proposed Act, and
- (e) to make a number of consequential amendments.

The Bill also amends the *Independent Commission Against Corruption Act 1988* with regard to the jurisdiction of the Independent Commission Against Corruption to deal with conduct that could constitute or involve a substantial breach of a code of conduct applying to a council.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Local Government Act 1993* set out in Schedules 1–4.

Clause 4 is a formal provision giving effect to the consequential amendment to the *Independent Commission Against Corruption Act 1988* set out in Schedule 5.

Schedule 1 Amendments relating to local government areas and structural reform

The Schedule makes the amendments to the *Local Government Act 1993* referred to in paragraphs (a) and (b) of the Overview.

Modification of existing scheme for constitution, dissolution, amalgamation or boundary alteration of areas

Schedule 1 [1] inserts section 209 to enable a proclamation constituting an area to include provisions making determinations about any of the following:

- (a) the division of the area into wards,
- (b) ward boundaries and ward names,
- (c) the number of councillors to be elected at the next ordinary election,
- (d) the popular election of the mayor,
- (e) the initial term of office of the mayor,
- (f) establishing a community consultative committee,
- (g) a scheme for limiting the council's general income for a period of up to 7 years,
- (h) directing the Remuneration Tribunal to make a remuneration determination for the councillors or mayor.

Schedule 1 [2] amends section 212 to enable the dissolution of an area without a public inquiry if the Boundaries Commission recommends the dissolution of the area.

Schedule 1 [3] amends section 213 to enable the inclusion in a proclamation constituting or dissolving an area of provisions authorising the Minister to make determinations about the transfer or apportionment of assets, rights and liabilities and the transfer of staff, rather than these matters being specified in detail in the proclamation.

Schedule 1 [4] amends section 215 to authorise the Director-General of the Department of Local Government to make proposals for the constitution of areas to the Minister. At present, these proposals can only be made by the Minister, a council or a minimum number of electors.

Schedule 1 [5] amends section 218 to provide an express power to make a proclamation to implement a proposal for the constitution of an area.

Schedule 1 [6] amends section 218C to provide that a proclamation implementing an amalgamation proposal or boundaries proposal may contain provisions of the kind referred to in section 209 (see Schedule 1 [1]), and in addition may include provisions for any of the following:

- (a) redetermining ward boundaries and ward names,
- (b) abolishing all wards.

Schedule 1 [7] amends section 218D as a consequence of the proposed scheme relating to structural reform proposals.

Schedule 1 [8] amends section 218E to authorise the Director-General to make amalgamation proposals and boundaries proposals to the Minister. At present, these proposals can only be made by the Minister, a council or a minimum number of electors.

Schedule 1 [9] omits section 218F and substitutes sections 218EA–218F, in order to set out clearly and to revise the process of dealing with an amalgamation proposal or boundaries proposal that has been made by or to the Minister, as follows:

- Proposed section 218EA makes it a requirement that a proposal must address and address adequately the matters listed in section 263 (which are the matters the Boundaries Commission is required to address).
- Proposed section 218EB substantially re-enacts the current provisions of section 218F (1) and requires a proposal that is proceeding to be referred to the Boundaries Commission, or (except in the case of a proposal made by the Director-General himself or herself) to the Director-General, for examination and report.
- Proposed section 218EC deals with a proposal that is referred to the Boundaries Commission. Subsections (2) and (3) require the Commission to publish a notice advertising the proposal, calling for submissions and specifying a 28-day period in which submissions must be lodged. Subsection (4) requires the Commission to consider submissions received within the 28-day period. Subsection (5) requires the Commission to disregard a late submission, unless the Commission accepts it and is satisfied that consideration of the submission will not delay finalisation of the report. Subsection (6) requires the Commission to finalise the matter within 42 days after the 28-day period, but the Minister may approve an extension of 28 days if requested. Subsection (7) authorises the Commission to recommend modifications to the proposal, unless they would constitute a new proposal.
- Proposed section 218ED deals with a proposal that is referred to the Director-General. Subsection (2) substantially re-enacts section 218F (2) and applies to the Director-General provisions that apply in an amended form to the Boundaries Commission. Subsections (3) and (4) require the Director-General to publish a notice advertising the proposal, calling for submissions and specifying a period in which submissions must be lodged. Subsection (5) requires the Director-General to consider submissions received within the specified period. Subsection (6) requires the Director-General to disregard a late submission, unless he or she accepts it and is satisfied that consideration

of the submission will not delay finalisation of the report. Subsection (7) authorises the Director-General to recommend modifications to the proposal, unless they would constitute a new proposal. Subsection (8) substantially re-enacts current section 218F (7) and provides that the Director-General's report on a proposal referred to the Director-General must be furnished to the Boundaries Commission for comment, except in the case of a boundaries proposal that is supported by the affected councils.

- The process contained in proposed sections 218EC and 218ED does not authorise the Boundaries Commission or Director-General to hold public meetings or to conduct postal surveys, opinion polls or formal polls.
- New section 218F deals with the process to be followed after the Minister receives the report on a proposal from the Boundaries Commission or Director-General. Subsections (2) and (4) substantially re-enact the current section 218F (7) and (8) and permit the Minister to recommend implementation of the proposal, with such modifications (if any) as do not constitute a new proposal. Subsection (3) provides an express power to make a proclamation to implement the proposal.

Schedule 1 [10] repeals Division 2C of Part 1 of Chapter 9 (sections 218G–218K). This Division deals with the postponement of elections where amalgamation proposals are being formulated or have been made to the Minister. This matter is covered by proposed Part 6A of Chapter 10 (see Schedule 3).

Role of Boundaries Commission regarding amalgamation proposals and boundaries proposals

As mentioned above, Schedule 1 [9] omits section 218F and does not re-enact the provisions of section 218F (3) and (4) that currently require the Boundaries Commission (or the Director-General) to hold public meetings or to conduct postal surveys, opinion polls or formal polls.

Schedule 1 [11] amends section 263 so that the Boundaries Commission may hold a public meeting if the Minister so approves, must hold a public meeting if the Minister so directs, and may not otherwise hold a public meeting. The same arrangement continues to apply with regard to inquiries.

Schedule 1 [12] omits section 263 (2A), which currently requires the Boundaries Commission to hold an inquiry in relation to an amalgamation proposal.

Schedule 1 [13] amends section 263 to empower the Boundaries Commission to recommend the dissolution of the whole or part of an area when making a report or furnishing comments. In these circumstances, a proclamation may be made under section 212 without the need for a public inquiry (see Schedule 1 [2]).

Schedule 1 [14] amends section 265 to provide that the power of the Boundaries Commission to conduct opinion surveys or polls under that section does not apply in the case of an amalgamation proposal or boundaries proposal supported by the affected councils.

New scheme for structural reform

Schedule 1 [15] inserts a new Part 4 into Chapter 9 containing sections 265A–265G, and sets out a new scheme for local government structural reform, as follows:

- Proposed section 265A authorises the Director-General to formulate a structural reform proposal, which may include any of the following, namely, an amalgamation proposal, a boundaries proposal, a proposal that may be included in an amalgamation proposal or boundaries proposal, or a proposal about the exercise of council functions about management or organisational matters.
- Proposed section 265B permits the Minister to call for structural reform submissions for the purpose of assisting in the formulation of a structural reform proposal. Submissions will not be considered unless they are lodged within a 28-day period specified in the call for submissions.
- Proposed section 265C empowers the Director-General to appoint an independent facilitator to conduct a regional review for the purpose of making recommendations that may form the basis for the making of a structural reform proposal. The facilitator is required to have regard to the factors that the Boundaries Commission is required to take into account when it is considering an amalgamation proposal or boundaries proposal, and may consult widely with a view to ensuring that any recommended reforms will assist in providing adequate, equitable and appropriate services to residents, ratepayers and other persons.
- Proposed section 265D authorises the Director-General to present a structural reform proposal to the Minister. So far as the proposal includes an amalgamation proposal or boundaries proposal, the proposal is to be dealt with under the other provisions of Chapter 9 (that is, the Boundaries Commission becomes involved), unless the Director-General certifies that the structural reform proposal was formulated in that respect on the basis of recommendations made by a facilitator following a regional review.
- Proposed section 265E authorises the Minister to recommend the implementation of a structural reform proposal.
- Proposed section 265F states how implementation of a structural reform proposal may be effected.

- Proposed section 265G authorises inclusion of ancillary provisions in a proclamation implementing a structural reform proposal.

Schedule 1 [16] inserts sections 738A and 738B:

- Proposed section 738A provides that a proclamation constituting or dissolving an area or implementing an amalgamation proposal, boundaries proposal or structural reform proposal is not invalid because of any non-compliance with Chapter 9 or the rules of natural justice.
- Proposed section 738B provides protection from legal challenge for functions exercised in connection with those matters.

Schedule 2 Amendments relating to discipline

The Schedule makes the amendments to the *Local Government Act 1993* referred to in paragraph (c) of the Overview.

Schedule 2 [1] substitutes section 248A. The proposed section provides the express prohibition on payment of remuneration to a councillor who is suspended from civic office or whose right to receive remuneration is suspended.

Schedule 2 [2] amends section 435 to remove the requirement that the negligence for which a councillor or a member of council staff can be surcharged has to be “culpable” negligence.

Schedule 2 [3] substitutes section 440. The proposed section empowers the regulations to prescribe a model code of conduct (which may done be by reference to a code identified in the regulations), and indicates what may be included in it. A council is required to adopt the model code, and the adopted code may include supplementary provisions. The adopted code has no effect to the extent that it is inconsistent with the model code as in force for the time being. Councillors, council staff and council delegates are bound by the council’s adopted code, and by the model code to the extent the adopted code is inconsistent with the model code or the model code contains provisions not included in the adopted code.

Schedule 2 [4] inserts a new Division 3 of Part 1 of Chapter 14 containing sections 440F–440Q, as follows:

- Proposed section 440F defines “misbehaviour” of a councillor as a contravention of the *Local Government Act 1993* or the regulations under that Act, a failure to comply with the council’s code of conduct, or an act of disorder at a council or committee meeting, but not including a contravention of disclosure requirements (which are dealt with differently under existing provisions).

- Proposed section 440G allows a council to pass a resolution formally censuring a councillor for misbehaviour.
- Proposed sections 440H–440Q provide a system for the suspension of a councillor from civic office for misbehaviour. Provision is made for suspension to be ordered by the Director-General for a period of up to one month or for the referral of a matter to the Pecuniary Interest and Disciplinary Tribunal for it to consider and impose suspension on a councillor for a period of up to 6 months.
- Proposed section 440H provides that the process of suspension can be initiated by the council concerned, by a request by the Director-General for a report or by a report of the Independent Commission Against Corruption or the Ombudsman.
- Proposed section 440I specifies the grounds on which a councillor can be suspended.
- Proposed section 440J provides for departmental investigations and reports when the process of suspension has been initiated.
- Proposed section 440K authorises the Director-General to suspend a councillor for a period of up to one month after consideration of a departmental report or following a report of the Independent Commission Against Corruption or the Ombudsman.
- Proposed section 440L deals with the start of a period of suspension.
- Proposed section 440M enables a councillor to appeal to the Pecuniary Interest and Disciplinary Tribunal against suspension ordered by the Director-General.
- Proposed section 440N enables the Director-General to refer matters to the Pecuniary Interest and Disciplinary Tribunal for possible imposition of suspension of a councillor.
- Proposed section 440O allows the Director-General in appropriate cases to take no action regarding suspension, or to refer a case back to the council concerned with appropriate recommendations.
- Proposed section 440P provides for the council concerned to bear the costs of the suspension process if initiated by the council.
- Proposed section 440Q requires the Director-General to give reasons for suspending a councillor or taking other action.

Schedule 2 [5] amends the heading to Division 2 of Part 3 of Chapter 14 in consequence of the amendment made by Schedule 2 [6].

Schedule 2 [6] inserts a new Division containing sections 470A and 470B, as follows:

- Proposed section 470A empowers the Pecuniary Interest and Disciplinary Tribunal to decide whether to conduct proceedings into a misbehaviour matter referred to it by the Director-General.
- Proposed section 470B provides that the Tribunal may determine any such proceedings without a hearing in certain cases.

Schedule 2 [7]–[11] make consequential amendments.

Schedule 2 [12] amends section 482 to enable the Pecuniary Interest and Disciplinary Tribunal to impose suspension of a councillor’s right to remuneration for up to 6 months for pecuniary interest matters, as an alternative to suspension from civic office.

Schedule 2 [13] inserts a new section 482A, which empowers the Pecuniary Interest and Disciplinary Tribunal, when dealing with a misbehaviour matter, to counsel or reprimand the councillor, or suspend the councillor from civic office for up to 6 months, or suspend the councillor’s right to remuneration for up to 6 months.

Schedule 2 [14] makes a consequential amendment.

Schedule 2 [15] provides that an appeal does not lie to the Supreme Court from a decision of the Pecuniary Interest and Disciplinary Tribunal in an appeal to the Tribunal concerning a suspension imposed by the Director-General.

Schedule 2 [16] inserts a new section 485A, which requires the costs of the Pecuniary Interest and Disciplinary Tribunal and Department of Local Government to be reimbursed by the council concerned when a councillor is dealt with by the Tribunal and the process was initiated by the council.

Schedule 2 [17] inserts a new Part 5 of Chapter 14 containing sections 490A and 490B, as follows:

- Proposed section 490A defines “act of disorder” for the purposes of Chapter 14 and Schedule 6A as anything done by a councillor at a council or committee meeting that is prescribed as an act of disorder by the regulations.
- Proposed section 490B makes it clear that nothing in Chapter 14 affects any regulations made under other provisions regarding the keeping of order at council or committee meetings.

Schedule 2 [18] amends section 674 to provide that the power of the Land and Environment Court to make orders to remedy or restrain breaches of the *Local Government Act 1993* does not extend to matters relating to the formal censure or suspension of councillors.

Schedule 2 [19] inserts a new Schedule 6A, which lists matters that may be dealt with in a code of conduct.

Schedule 3 Other amendments

The Schedule makes the amendments to the *Local Government Act 1993* referred to in paragraph (d) of the Overview.

Schedule 3 [1] inserts a new section 262A, which allows the Director-General to provide people to assist the Boundaries Commission in the exercise of its functions.

Schedule 3 [2] inserts a new Part 5 of Chapter 9 containing sections 265H–265J:

- Proposed section 265H enables the Minister to approve a reduction in the number of councillors of a council if the council applies for a reduction. Public notice must be given of the application and submissions may be made to the Minister concerning it by interested members of the public.
- Proposed section 265I enables the Minister, on the recommendation of the Boundaries Commission, to change the number of councillors of a council or the number of wards in an area or both.
- Proposed section 265J provides machinery provisions regarding determinations made under Parts 1 and 4 of Chapter 9 in connection with the constitution, amalgamation or boundary alterations of areas or structural reform or made under proposed section 265I in connection with ward boundaries or ward names. The section provides that certain determinations cannot be altered by councils within a period of 12 months, or a longer period specified in the relevant proclamation or order, except as provided in the determination or with the concurrence of the Minister.

Schedule 3 [3] inserts a new Part 6A of Chapter 10 containing sections 318A–318C, as follows:

- Proposed section 318A defines “election requirements of this Act” as the requirements of Parts 4 and 5 of Chapter 10 with respect to the holding of an ordinary election or a by-election. These are described in the explanatory note as “election requirements”.
- Proposed section 318B allows the Minister to order the postponement of election requirements in relation to a council in connection with:
 - (a) an amalgamation proposal, boundaries proposal or structural reform proposal affecting the council, or
 - (b) an investigation or public inquiry being held into the council, or

(c) a matter affecting the boundaries of the council's areas that is under consideration by the Boundaries Commission.

- Proposed section 318C allows the Minister to revoke an order postponing election requirements.

Schedule 3 [4] substitutes section 352. The section provides that council staff are not subject to direction by a councillor (as well as a council) as to the content of any advice or recommendation, but this does not prevent the mayor (as well as the council) from directing staff to provide advice or a recommendation.

Schedule 3 [5] inserts a new section 734A, which enables the Director-General to make preliminary enquiries for the purpose of deciding whether to conduct or authorise an investigation under the *Local Government Act 1993*.

Schedule 3 [6] amends section 736 to make it clear that a power exercisable by proclamation may be exercised by one or more proclamations.

Schedule 3 [7]–[10] amend Schedule 2 in relation to the Boundaries Commission, and authorise the appointment of a temporary commissioner for the purposes of a particular examination or inquiry.

Schedule 3 [11] and [12] amend Schedule 4 in relation to the Pecuniary Interest and Disciplinary Tribunal, and authorise the member's deputy to act as the member so that the Tribunal proceedings can be conducted concurrently.

Schedule 3 [13] and [14] amend Schedule 8 in relation to savings and transitional provisions consequent on the enactment of the proposed Act, including the following:

- A provision enables the new arrangements for amalgamation proposals and boundaries proposals to be applied to pending proposals in respect of which no public steps had been taken under the old arrangements.
- A provision empowers the postponement of election requirements for a council that has been the subject of an inquiry or Boundaries Commission consideration at any time since 1 August 2003.
- A provision states that Local Government Pecuniary Interest Tribunal is to be known as the Local Government Pecuniary Interest and Disciplinary Tribunal.

Schedule 4 Consequential amendments

The Schedule makes the amendments to the *Local Government Act 1993* referred to in paragraph (e) of the Overview.

The amendments are mainly consequential on:

- (a) amendments made by Schedule 1 in connection with determinations made in proclamations implementing amalgamation proposals, boundaries proposals and structural reform proposals, and
- (b) amendments made by Schedule 3 in connection with codes of conduct applying to councils, and
- (c) amendments made by Schedule 3 that change the name of the Pecuniary Interest Tribunal.

Schedule 5 Consequential amendment of Independent Commission Against Corruption Act 1988

The Schedule makes the amendment to the *Independent Commission Against Corruption Act 1988* referred to in the Overview.

The amendment is made to section 9 of that Act and provides that a reference to a disciplinary offence in that Act extends to a substantial breach of an applicable requirement of a code of conduct applying to a council. The result is that the Independent Commission Against Corruption will be able to deal with conduct that is corrupt conduct (as defined in section 8 of that Act) and that could constitute or involve a substantial breach of a code of conduct.



New South Wales

Local Government Amendment Bill 2003

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New South Wales

Local Government Amendment Bill 2003

No , 2003

A Bill for

An Act to amend the *Local Government Act 1993* in relation to the structural reform of local government areas and councils and the discipline of councillors, council staff and other persons, and in relation to other matters; to make consequential amendments; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Local Government Amendment Act 2003</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Local Government Act 1993 No 30	7
The <i>Local Government Act 1993</i> is amended as set out in Schedules 1–4.	8 9
4 Amendment of Independent Commission Against Corruption Act 1988 No 35	10 11
The <i>Independent Commission Against Corruption Act 1988</i> is amended as set out in Schedule 5.	12 13

Schedule 1	Amendments relating to local government areas and structural reform	1
		2
	(Section 3)	3
[1] Section 209		4
Insert after section 208:		5
209 Other provisions of proclamations		6
(1) This section applies to a proclamation constituting an area.		7
Note. Other provisions of this Chapter provide that proclamations implementing amalgamation proposals, boundaries proposals or structural reform proposals may include provisions of the same kind as those referred to in this section.		8 9 10 11
(2) The proclamation may do all or any of the following:		12
(a) determine that the area be divided into wards,		13
(b) determine ward boundaries or determine the manner of fixing ward boundaries,		14 15
(c) determine the names of the wards or determine the manner of assigning the names of wards.		16 17
(3) The proclamation may determine the number of councillors to be elected at the next ordinary election of the council in accordance with the limits under section 224 (1).		18 19 20
(4) The proclamation may determine that the mayor of the area be elected by the electors. The determination takes effect in relation to the next ordinary election after the proclamation is published.		21 22 23 24
(5) The proclamation may determine that the first term of office of the mayor of the area first elected (whether by the councillors or by the electors) after the proclamation is published be a term of 2 years. The mayor holds office for that term subject to this Act, and subsequent mayoral terms are to be for terms provided in accordance with other applicable provisions of this Act.		25 26 27 28 29 30
(6) The proclamation may:		31
(a) determine that a community consultative committee is established as a committee of the council, and		32 33

(b)	determine the constitution and functions of the committee, including the persons or classes of persons who are eligible to be members, the manner of their appointment and termination of their appointment, and the period or periods for which they are appointed.	1 2 3 4 5
(7)	The proclamation may determine a scheme for fixing the council's maximum general income during a specified period not exceeding 7 years. Such a scheme may provide for the maximum general income to vary from time to time during that period, and may modify the operation of Part 2 of Chapter 15 in its application to the area.	6 7 8 9 10 11
(8)	The proclamation may include a direction that the Remuneration Tribunal make a determination under section 242 in relation to the councillors or mayor of the area.	12 13 14
(9)	A proclamation referred to in this section may contain such ancillary provisions as are necessary or convenient for the purpose of giving effect to its terms.	15 16 17
	Note. Section 265J contains provisions about determinations under this section.	18 19
[2]	Section 212 Dissolution of areas	20
	Insert after section 212 (2):	21
(3)	Subsection (2) does not apply in relation to a proclamation, if the Boundaries Commission has recommended the dissolution of the area or part concerned under section 263 (3A) and the Commission's recommendation was made within the two years preceding publication of the proclamation.	22 23 24 25 26
[3]	Section 213 Facilitating provisions of proclamations	27
	Insert after section 213 (2):	28
(2A)	Without affecting the generality of subsection (2) (c), such a proclamation may authorise the Minister to make determinations containing provisions for or with respect to the transfer or apportionment of assets, rights and liabilities and the transfer of staff.	29 30 31 32 33

[4] Section 215 Who may initiate a proposal?	1
Insert “by the Director-General,” after “to the Minister” in section 215 (1).	2
[5] Section 218 Referral of proposal for examination and report	3
Insert after section 218 (2):	4
(2A) The proposal is implemented by the making of a proclamation under section 204, with the modifications (if any) referred to in this section.	5 6 7
[6] Section 218C Facilitating provisions of proclamations	8
Insert after section 218C (3):	9
(4) Such a proclamation may also include provisions of the same kind as are referred to in section 209.	10 11
(5) Such a proclamation made in relation to a council may also do any of the following:	12 13
(a) redetermine ward boundaries,	14
(b) redetermine the name of wards,	15
(c) determine that all wards are abolished.	16
[7] Section 218D Exercise of functions under secs 218A and 218B	17
Omit “A function”. Insert instead “Subject to Part 4, a function”.	18
[8] Section 218E Who may initiate a proposal?	19
Insert “by the Director-General,” after “to the Minister” in section 218E (1).	20
[9] Sections 218EA–218F	21
Omit section 218F. Insert instead:	22
218EA Initial assessment of proposals	23
(1) The Minister may reject a proposal made by a council or by electors if satisfied that it does not address a relevant factor at all or does so inadequately.	24 25 26

(2)	However, the Minister may accept a proposal that does not address relevant factors or does so inadequately if satisfied that it is appropriate to do so in the circumstances and that the factors can be addressed when the proposal is being dealt with.	1 2 3 4
(3)	A rejected proposal is, for the purposes of this Chapter, taken not to have been received by the Minister.	5 6
(4)	For the purposes of this section, <i>relevant factor</i> includes a factor specified in section 263 (3) (a)–(e5).	7 8
218EB	Referral of proposal for examination and report	9
	If the Minister decides to continue with a proposal, the Minister must refer it for examination and report to:	10 11
	(a) the Boundaries Commission, or	12
	(b) the Director-General (except in the case of a proposal made by the Director-General).	13 14
218EC	Proposal referred to Boundaries Commission	15
(1)	This section applies where the Minister refers (under section 218EB) a proposal for examination and report to the Boundaries Commission.	16 17 18
(2)	As soon as practicable after the proposal is referred to the Boundaries Commission for examination and report, the Commission is required to publish a notice advertising the proposal and calling for written submissions.	19 20 21 22
(3)	The notice is to be published in a newspaper circulating in the affected areas, and is to specify a period of 28 days in which submissions must be lodged with the Boundaries Commission.	23 24 25
(4)	The Boundaries Commission is required to consider submissions received within the 28-day period.	26 27
(5)	A submission received after that period is to be disregarded by the Boundaries Commission, unless the Commission at its discretion accepts the submission and is satisfied that consideration of the submission will not delay finalisation of the examination and report.	28 29 30 31 32
(6)	The Boundaries Commission must finalise its examination and submit its report to the Minister within:	33 34
	(a) the period of 42 days after the 28-day period, or	35

(b)	a further period of 28 days after the 42-day period if approved by the Minister at the request of the Commission.	1 2 3
(7)	The Boundaries Commission may in its report recommend modifications to the proposal, but may do so only if the report states that the Commission is of the opinion that the modifications do not constitute a new proposal.	4 5 6 7
218ED	Proposal referred to Director-General	8
(1)	This section applies where the Minister refers (under section 218EB) a proposal for examination and report to the Director-General.	9 10 11
(2)	The provisions of:	12
(a)	section 263, other than subsections (3A) and (6), and	13
(b)	sections 264 and 265,	14
	apply to the examination of a proposal by the Director-General in the same way as they apply to the examination of a proposal by the Boundaries Commission.	15 16 17
(3)	As soon as practicable after the proposal is referred to the Director-General for examination and report, the Director-General is required to publish a notice advertising the proposal and calling for written submissions.	18 19 20 21
(4)	The notice is to be published in a newspaper circulating in the affected areas, and is to specify a period in which submissions must be lodged with the Director-General.	22 23 24
(5)	The Director-General is required to consider submissions received within that period.	25 26
(6)	A submission received after that period is to be disregarded by the Director-General, unless the Director-General at his or her discretion accepts the submission and is satisfied that consideration of the submission will not delay finalisation of the examination and report.	27 28 29 30 31
(7)	The Director-General may in his or her report recommend modifications to the proposal, but may do so only if the report states that he or she is of the opinion that the modifications do not constitute a new proposal.	32 33 34 35

(8) If the proposal is an amalgamation proposal, or is a boundaries proposal that is not supported by one or more of the councils affected by it:	1 2 3
(a) the Director-General must furnish his or her report to:	4
(i) the Minister, and	5
(ii) the Boundaries Commission for review and comment, and	6 7
(b) the Boundaries Commission must review the report and send its comments to the Minister.	8 9
218F What happens after the Minister receives the report?	10
(1) This section applies where the Minister has in connection with a proposal received:	11 12
(a) a report of the Boundaries Commission under section 218EC, or	13 14
(b) a report of the Director-General under section 218ED and (if applicable) the comments of the Boundaries Commission on that report.	15 16 17
(2) The Minister may recommend to the Governor that the proposal be implemented:	18 19
(a) with such modifications (if any) as arise out of:	20
(i) the report of the Boundaries Commission, or	21
(ii) the report of the Director-General and (if applicable) the comments of the Boundaries Commission on that report, and	22 23 24
(b) with such other modifications (if any) as the Minister determines,	25 26
but may not do so if of the opinion that the modifications constitute a new proposal.	27 28
(3) The proposal is implemented by the making of a proclamation under:	29 30
(a) section 218A in the case of an amalgamation proposal, or	31 32
(b) section 218B in the case of a boundaries proposal, with the modifications (if any) referred to in this section.	33 34

(4)	The Minister may decline to recommend to the Governor that the proposal be implemented.	1 2
[10]	Chapter 9, Part 1, Division 2C (sections 218G–218K)	3
	Omit the Division.	4
[11]	Section 263 Functions of the Boundaries Commission	5
	Insert “or public meeting” after “inquiry” wherever occurring in section 263 (2).	6 7
[12]	Section 263 (2A)	8
	Omit the subsection.	9
[13]	Section 263 (3A)	10
	Insert after section 263 (3):	11
	(3A) The Boundaries Commission may in a report or comments furnished under this Act, recommend that the whole or part of an affected area be dissolved, whether or not it makes any other recommendations or comments.	12 13 14 15
	Note. Section 212 (3) provides that the Minister may recommend the making of a proclamation to dissolve the whole or part of an area without a public inquiry if the Boundaries Commission recommends the dissolution under section 263 (3A).	16 17 18 19
[14]	Section 265 Boundaries Commission may conduct survey or poll	20
	Insert after section 265 (3):	21
	(4) Subsections (1)–(3) do not apply in the case of a proposal that is an amalgamation proposal or boundaries proposal and that is supported by the councils affected by the proposal.	22 23 24

[15] Chapter 9, Part 4	1
Insert after section 265:	2
Part 4 Structural reform	3
265A Formulation of structural reform proposals	4
(1) The Director-General may formulate proposals (<i>structural reform proposals</i>) for the structural reform of one or more areas.	5 6 7
(2) A structural reform proposal may include any one or more of the following:	8 9
(a) an amalgamation proposal,	10
(b) a boundaries proposal,	11
(c) a proposal regarding any of the matters that may be included under Part 1 in a proclamation implementing an amalgamation proposal or a boundaries proposal,	12 13 14
(d) a proposal for determinations regarding any functions of a council concerning management or organisational matters (being determinations in the nature of decisions that would apart from this Part be decisions that the council could make).	15 16 17 18 19
(3) A proposal referred to in subsection (2) (c) or (d) may be included whether or not there is a proposal of the kind referred to in subsection (2) (a) or (b).	20 21 22
(4) A structural reform proposal may include any matters that are incidental to any of the proposals contained in it, including any matters that are authorised by this Chapter to be included in a proclamation implementing a structural reform proposal.	23 24 25 26
(5) Nothing in this Part affects the power of the Director-General to make a proposal under section 218E.	27 28
265B Submissions	29
(1) The Minister may call for submissions (<i>structural reform submissions</i>) for the purpose of assisting in the formulation of a structural reform proposal.	30 31 32

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- (2) A call for structural reform submissions may relate to a specified part of the State (by reference, for example, to the whole or part of one or more areas) or may be made without reference to geographical limits. 1
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- (3) A call for structural reform submissions may be made in any manner the Minister considers appropriate. 5
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- (4) The Minister must specify in a call for structural reform submissions a period of 28 days within which submissions must be lodged with the Minister in response to the call for submissions. 7
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- (5) Any person may make a written submission in response to a call for structural reform submissions and lodge it with the Minister. 11
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- (6) The Minister may refer to the Director-General for consideration any submissions lodged under this section. 14
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- (7) The Minister may disregard submissions lodged after the 28-day period. 16
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- 265C Regional reviews** 18
- (1) The Director-General may appoint a person as a facilitator to conduct a regional review for the purpose of making recommendations that may form the basis for the making of a structural reform proposal. 19
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- (2) The facilitator cannot currently be a member of the staff of the Department, but may be assisted by members of the staff of, and other resources provided by, the Department. 23
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- (3) The facilitator may conduct the review in such manner as he or she thinks appropriate, subject to any guidelines established by the Director-General under subsection (4). 26
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- (4) The Director-General may establish guidelines for the conduct of regional reviews generally or for any particular review or class of reviews, and may vary, revoke or replace any such guidelines. 29
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- (5) For the purposes of, or in connection with conducting, the review, the facilitator: 33
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- (a) must have regard to such of the factors specified in section 263 (3), and such other factors, as the facilitator 35
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	considers relevant to the provision of efficient and effective local government in the region concerned, and	1 2
(b)	may consult councils, the community, government agencies, businesses and other organisations and interested persons with a view to ensuring that any recommended reforms will assist in providing adequate, equitable and appropriate services to residents, ratepayers and other persons in the region concerned, and	3 4 5 6 7 8 9
(c)	without limiting paragraph (b) but subject to the guidelines, may invite public submissions or arrange public meetings or both.	10 11 12
(6)	The facilitator may make recommendations to the Director-General that may form the basis for the formulation of one or more structural reform proposals.	13 14 15
(7)	One or more regional reviews may be conducted at the same time.	16 17
(8)	Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> does not apply to or in respect of a facilitator.	18 19
(9)	A facilitator is entitled to receive such remuneration as is approved by the Director-General.	20 21
265D	Presentation to Minister of structural reform proposal	22
(1)	The Director-General may present to the Minister a structural reform proposal that has been formulated by the Director-General.	23 24 25
(2)	To the extent that a structural reform proposal presented to the Minister consists of or includes an amalgamation proposal or boundaries proposal, the amalgamation proposal or boundaries proposal:	26 27 28 29
(a)	is taken to have been made by the Director-General under section 218E, and	30 31
(b)	cannot be implemented under this Part until the proposal has been the subject of examination and report by the Boundaries Commission as referred to in section 218EB.	32 33 34 35

(3) However, subsection (2) does not apply to an amalgamation proposal or boundaries proposal, if the Director-General certifies to the Minister, in the proposal or in another document, that the structural reform proposal was substantially formulated in that respect on the basis of and in accordance with recommendations made by a facilitator following a regional review.	1 2 3 4 5 6 7
265E Recommendation for implementation of structural reform proposal	8 9
(1) The Minister may recommend to the Governor that a structural reform proposal be implemented with the modifications (if any) referred to in this section.	10 11 12
(2) If the structural reform proposal consists of or includes an amalgamation proposal or boundaries proposal, and the amalgamation proposal or boundaries proposal was referred to the Boundaries Commission, the Minister may recommend to the Governor that the structural reform proposal be implemented:	13 14 15 16 17 18
(a) with such modifications (if any) as arise out of the report of the Boundaries Commission, and	19 20
(b) with such other modifications (if any) as the Minister determines,	21 22
but may not do so if of the opinion that the modifications constitute a new amalgamation proposal or boundaries proposal.	23 24 25
(3) In any other case, the Minister may recommend to the Governor that the structural reform proposal be implemented with such other modifications (if any) as the Minister determines.	26 27 28 29
(4) The Minister may decline to recommend to the Governor that the structural reform proposal be implemented.	30 31
265F Manner of implementation	32
(1) The Governor may make proclamations under this section to implement structural reform proposals.	33 34

(2) A structural reform proposal may be implemented:	1
(a) wholly by the making of a proclamation under this section, or	2 3
(b) partly by the making of a proclamation under this section and partly by the making of a proclamation under section 218A or 218B, or	4 5 6
(c) wholly by the making of a proclamation under section 218A or 218B, in the case of a proposal that consists only of an amalgamation proposal or boundaries proposal.	7 8 9 10
(3) A structural reform proposal may be wholly implemented by the making of a proclamation under this section even though the proposal consists of or includes an amalgamation proposal or boundaries proposal.	11 12 13 14
(4) If an amalgamation proposal is implemented by a proclamation under this section, then, on the date specified in the proclamation as the date on which the areas concerned are to be amalgamated:	15 16 17 18
(a) the areas are dissolved, and	19
(b) the new area or new areas are constituted, and	20
(c) subject to the provisions of the proclamation, the councillors of the former areas cease to hold office.	21 22
Note. Section 265J contains provisions about determinations of the kind referred to in section 265A (2) (d) in proclamations.	23 24
265G Facilitating provisions of proclamations	25
(1) A proclamation referred to in section 265F may contain such provisions as are necessary or convenient to give effect to the structural reform proposal with any modifications as referred to in that section.	26 27 28 29
(2) Without limiting subsection (1), the proclamation may include provisions of the same kind as may be included in a proclamation made for the purposes of Division 2A of Part 1.	30 31 32

[16] Sections 738A and 738B	1
Insert after section 738:	2
738A Validity of proclamations constituting or dissolving areas or implementing amalgamation proposals, boundaries proposals or structural reform proposals	3
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(1) This section applies to a proclamation of the Governor purporting to be made under or for the purposes of a provision of Part 1 or 4 of Chapter 9 and being in its terms within the powers conferred on the Governor.	6
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(2) The proclamation is not invalid because of any non-compliance, by a designated person as defined in section 738B, with:	10
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(a) any requirement of or arising in connection with Chapter 9, or	13
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(b) the rules of natural justice (procedural fairness) so far as they apply to the exercise of functions under that Chapter.	15
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(3) This section does not affect the generality of section 738.	18
738B Protection for functions exercised in connection with constitution, dissolution, amalgamation, boundary alteration or structural reform of areas	19
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	21
(1) This section applies to any function under the provisions of Chapter 9 relating to:	22
	23
(a) the constitution of an area, or	24
(b) the dissolution of the whole or part of an area, or	25
(c) the amalgamation of areas, or	26
(d) the alteration of the boundaries of an area, or	27
(e) any matter to which a structural reform proposal relates or to which a proclamation implementing a structural reform proposal relates.	28
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(2) The exercise by a designated person of any function to which this section applies may not be:	31
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- (a) challenged, reviewed, quashed or called into question before any court of law or administrative review body in any proceedings, or 1
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- (b) restrained, removed or otherwise affected by any proceedings. 4
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- (3) Without limiting subsection (2), the provisions of Chapter 9 and the rules of natural justice (procedural fairness), so far as they apply to the exercise of any function to which this section applies, do not place on a designated person any obligation enforceable in a court of law or administrative review body. 6
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- (4) Accordingly, no court of law or administrative review body has jurisdiction or power to consider any question involving compliance or non-compliance, by a designated person, with those provisions or with those rules so far as they apply to the exercise of any function to which this section applies. 11
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- (5) This section does not affect the generality of section 738 or 738A. 16
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- (6) In this section: 18
- designated person*** means the Minister, the Director-General, a facilitator or the Boundaries Commission or any person assisting or otherwise associated with any of them. 19
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- exercise*** of functions includes the purported exercise of functions and the non-exercise or improper exercise of functions. 22
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- proceedings*** includes proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief. 25
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Schedule 2	Amendments relating to discipline	1
	(Section 3)	2
[1]	Section 248A	3
	Omit the section. Insert instead:	4
	248A Annual fees or other remuneration not to be paid during period of suspension	5
		6
	A council must not at any time pay to a councillor any fee or other remuneration, to which the councillor would otherwise be entitled as the holder of a civic office, during any period during which:	7
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	(a) the councillor is suspended from civic office under this Act, or	11
		12
	(b) the councillor's right to be paid any fee or other remuneration is suspended under this Act,	13
		14
	unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.	15
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[2]	Section 435 Surcharging by Departmental representative	19
	Omit "culpable" from section 435 (2) (a).	20
[3]	Section 440	21
	Omit the section. Insert instead:	22
	440 Codes of conduct	23
	(1) The regulations may:	24
	(a) prescribe a model code of conduct (the <i>model code</i>) applicable to councillors, members of staff of council and delegates of councils, and	25
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		27
	(b) without limiting section 42 of the <i>Interpretation Act 1987</i> , adopt the provisions of a code of conduct identified in the regulations.	28
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- (2) Without limiting what may be included in the model code, the model code may:
- (a) relate to any conduct (whether by way of act or omission) of a councillor, member of staff or delegate in carrying out his or her functions that is likely to bring the council or holders of civic office into disrepute, and
 - (b) in particular, contain provisions for or with respect to conduct specified in Schedule 6A.
- (3) A council must adopt a code of conduct (the *adopted code*) that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code.
- (4) A council's adopted code has no effect to the extent that it is inconsistent with the model code as in force for the time being.
- (5) Councillors, members of staff and delegates of a council must comply with the applicable provisions of:
- (a) the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and
 - (b) the model code as in force for the time being, to the extent that:
 - (i) the adopted code is inconsistent with the model code, or
 - (ii) the model code contains provisions or requirements not included in the adopted code.
- (6) A provision of a council's adopted code is not inconsistent with the model code merely because the provision makes a requirement of the model code more onerous for persons required to observe the requirement.
- (7) A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.
- (8) Nothing in this section or such a code gives rise to, or can be taken into account in, any civil cause of action, but nothing in this section affects rights or liabilities arising apart from this section.

[4] Chapter 14, Part 1, Division 3	1
Insert after section 440E:	2
Division 3 Misbehaviour	3
440F Definitions	4
(1) In this Division:	5
<i>misbehaviour</i> of a councillor means any of the following:	6
(a) a contravention by the councillor of this Act or the regulations,	7 8
(b) a failure by the councillor to comply with an applicable requirement of a code of conduct adopted under this Act,	9 10 11
(c) an act of disorder committed by the councillor at a meeting of the council or a committee of the council,	12 13
but does not include a contravention of the disclosure requirements of Part 2.	14 15
Note. A contravention of the disclosure requirements of Part 2 is dealt with under other provisions of this Chapter.	16 17
(2) A reference in this Division to <i>misbehaviour</i> or an <i>incident of misbehaviour</i> includes a reference to misbehaviour that consists of an omission or failure to do something.	18 19 20
440G Formal censure of councillor for misbehaviour	21
(1) A council may by resolution at a meeting formally censure a councillor for misbehaviour.	22 23
(2) A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with the council's code of meeting practice.	24 25 26
(3) A council may pass a formal censure resolution only if it is satisfied that the councillor has misbehaved on one or more occasions.	27 28 29
(4) The council must specify in the formal censure resolution the grounds on which it is satisfied that the councillor should be censured.	30 31 32

(5)	A motion for a formal censure resolution may, without limitation, be moved on the report of a committee of the council and any such report must be recorded in the minutes.	1 2 3
440H	How is the process for suspension of a councillor for misbehaviour initiated?	4 5
(1)	The process for the suspension of a councillor from civic office is initiated by:	6 7
(a)	a request made by the council by resolution communicated to the Director-General, in which the council states its belief that grounds may exist that warrant the councillor's suspension, or	8 9 10 11
(b)	a request made by the Director-General to the council for a report from the council in relation to the councillor's alleged misbehaviour, or	12 13 14
(c)	a report made by the Independent Commission Against Corruption or the Ombudsman, in which the Commission or the Ombudsman states that the Commission or Ombudsman is satisfied that grounds exist that warrant the councillor's suspension.	15 16 17 18 19
(2)	The council must make a report to the Director-General within the period specified by the Director-General in a request made to the council or any further period allowed by the Director-General.	20 21 22 23
(3)	This section authorises such requests and reports to be made, and a reference in this section to a report made by the Independent Commission Against Corruption or the Ombudsman is a reference to a report made to the Director-General under the authority of this subsection or under any other provisions of this or any other Act.	24 25 26 27 28 29
(4)	Nothing in this section affects any function under any other provisions of this or any other Act that authorise the making of a report or recommendation concerning suspension of a councillor from civic office.	30 31 32 33
440I	What are the grounds on which a councillor may be suspended?	34 35
(1)	The grounds on which a councillor may be suspended from civic office under this Division are that:	36 37

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| (a) | the councillor's behaviour has: | 1 |
| (i) | been disruptive over a period, and | 2 |
| (ii) | involved more than one incident of
misbehaviour during that period, | 3
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| | and the pattern of behaviour during that period is of
such a sufficiently serious nature as to warrant the
councillor's suspension, or | 5
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| (b) | the councillor's behaviour has involved one incident of
misbehaviour that is of such a sufficiently serious nature
as to warrant the councillor's suspension. | 8
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| (2) | The process for the suspension of a councillor from civic office
cannot be initiated by a request made by the council unless: | 11
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| (a) | where subsection (1) (a) applies—the councillor has: | 13 |
| (i) | on two or more occasions been formally
censured for incidents of misbehaviour that
occurred during the period concerned, or | 14
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| (ii) | on at least one occasion been expelled from a
meeting of the council or a committee of the
council for an incident of misbehaviour during
the period concerned, or | 17
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| (b) | where subsection (1) (b) applies—the councillor has: | 21 |
| (i) | been formally censured for the incident of
misbehaviour concerned, or | 22
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| (ii) | been expelled from a meeting of the council or
a committee of the council for the incident of
misbehaviour concerned. | 24
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| (3) | Subsection (2) does not affect the Director-General's power to
initiate the process for the suspension of a councillor from civic
office. | 27
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| (4) | Furthermore, subsection (2) does not prevent the Director-
General from initiating the process for the suspension of a
councillor from civic office as a result of a request or report
referred to in section 440H. | 30
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| 440J | How are requests and reports dealt with? | 34 |
| (1) | The Director-General may arrange for a departmental report to
be prepared into the matters raised by or connected with a
request or report referred to in section 440H. | 35
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(2) The Director-General may authorise a member of the staff of the Department to conduct an investigation into any or all of those matters to assist in the preparation of the departmental report.	1 2 3 4
(3) The preparation of a departmental report is a prerequisite to a decision by the Director-General to suspend the councillor from office, but is not necessary if the Independent Commission Against Corruption or the Ombudsman states in a report that the Commission or Ombudsman is satisfied that grounds exist that warrant the councillor's suspension.	5 6 7 8 9 10
(4) In this Division, <i>departmental report</i> means a report prepared by a person authorised by the Director-General to do so.	11 12
440K Suspension by Director-General for misbehaviour	13
(1) The Director-General may by order in writing suspend a councillor from civic office for a period not exceeding one month:	14 15 16
(a) if the Director-General has considered a departmental report into the matters concerned, or	17 18
(b) if the Independent Commission Against Corruption or the Ombudsman states in a report that the Commission or Ombudsman is satisfied that grounds exist that warrant the councillor's suspension.	19 20 21 22
(2) A copy of the order must be served on the councillor.	23
(3) A councillor, while suspended from civic office under this section:	24 25
(a) is not entitled to exercise any of the functions of the civic office, and	26 27
(b) is not entitled to any fee or other remuneration to which he or she would otherwise be entitled as the holder of the civic office.	28 29 30
440L When does an order of suspension take effect?	31
The period of suspension under an order made by the Director-General commences from a date specified in or determined in accordance with the order, but that date must be after the period of 14 days commencing with the date on which the order is made.	32 33 34 35 36

440M	Appeals against suspension	1
(1)	A councillor against whom an order of suspension is made by the Director-General may appeal against the order to the Pecuniary Interest and Disciplinary Tribunal.	2 3 4
(2)	Such an appeal may not be made more than 28 days after the date on which the councillor was notified of the making of the order.	5 6 7
(3)	The Tribunal may stay the order of suspension until such time as the Tribunal determines the appeal.	8 9
(4)	The Tribunal may:	10
(a)	confirm the order, or	11
(b)	quash the order, or	12
(c)	amend the order consistently with the powers of the Director-General.	13 14
(5)	If the order is quashed, any fee or other remuneration withheld is payable to the councillor.	15 16
(6)	If the order is amended, the order as amended has effect as if it had been made in that form by the Director-General.	17 18
(7)	The regulations may make provision for or with respect to the making, hearing and determination of appeals under this section.	19 20 21
440N	Referral of matters to Pecuniary Interest and Disciplinary Tribunal	22 23
(1)	The Director-General may refer a matter that is the subject of a request or report referred to in section 440H for consideration by the Pecuniary Interest and Disciplinary Tribunal instead of suspending the councillor concerned under this Division.	24 25 26 27
(2)	However, a matter that is the subject of a request by a council may not be referred to the Tribunal unless the councillor concerned has previously been suspended under this Chapter for misbehaviour.	28 29 30 31

(3)	The preparation and consideration of a departmental report is not a prerequisite to a decision by the Director-General to refer a matter to the Tribunal, but the Director-General may take into consideration a departmental report into the matter if one is prepared.	1 2 3 4 5
(4)	A matter is referred to the Tribunal under this section by means of a report presented to the Tribunal by the Director-General. A report may contain or be accompanied by such material and observations as the Director-General thinks fit.	6 7 8 9
(5)	The regulations may make provision for or with respect to the reference of matters to the Tribunal under this section.	10 11
440O	Are there alternatives to suspension or referral to Tribunal?	12
(1)	The Director-General may, after considering a request or report made under section 440H and any relevant departmental report under section 440J, decide to take no further action on the request or report, whether or not a departmental investigation or departmental report has been authorised, started or completed, if satisfied that no further action is warranted.	13 14 15 16 17 18
(2)	The Director-General may, instead of suspending a councillor from civic office under this Division or referring the matter to the Pecuniary Interest and Disciplinary Tribunal, refer the matter to the council with recommendations as to how the council might resolve the matter, by alternative dispute resolution or otherwise.	19 20 21 22 23 24
440P	Costs to be borne by council	25
(1)	The Director-General may assess the costs incurred by or in respect of the Department in considering and dealing with a request made by a council under section 440H, including the costs of any departmental investigation and departmental report into the matters raised by or connected with the request.	26 27 28 29 30
(2)	An amount equal to the costs as so assessed is payable to the Department as a debt by the council concerned, except as determined by the Director-General.	31 32 33
(3)	A reference in this section to costs incurred includes a reference to remuneration paid to departmental staff.	34 35

440Q	Reasons to be given	1
	(1) The Director-General is required to prepare a written statement of reasons for:	2
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	(a) imposing or deciding not to impose a period of suspension, or	4
		5
	(b) referring a matter to the Pecuniary Interest and Disciplinary Tribunal.	6
		7
	(2) The statement of reasons is to be provided to the council and councillor concerned.	8
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[5]	Chapter 14, Part 3, Division 2, heading	10
	Omit “ Tribunal ”.	11
	Insert instead “ and Disciplinary Tribunal—pecuniary interest matters ”.	12
[6]	Chapter 14, Part 3, Division 3	13
	Insert after section 470:	14
	Division 3	15
	Proceedings before the Pecuniary Interest and Disciplinary Tribunal—misbehaviour matters	16
470A	Pecuniary Interest and Disciplinary Tribunal to decide whether or not to conduct proceedings into a referred matter relating to misbehaviour	17
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	(1) After considering a report presented to it under section 440N in relation to a referred matter, the Pecuniary Interest and Disciplinary Tribunal may decide to conduct proceedings into the matter.	20
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	(2) If the Pecuniary Interest and Disciplinary Tribunal decides not to conduct proceedings into a referred matter, it must provide a written statement of its decision, and the reasons for its decision:	24
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	(a) to the councillor to whom the report relates, and	28
	(b) to the council concerned, and	29
	(c) to the Director-General.	30

(3) To avoid doubt, a decision by the Pecuniary Interest and Disciplinary Tribunal not to conduct proceedings into a referred matter is not a decision to which section 484 or 485 applies.	1 2 3
470B Circumstances in which Pecuniary Interest and Disciplinary Tribunal may dispense with hearing	4 5
(1) After considering the report of the Director-General presented to it under section 440N and any other document or other material lodged with or provided to the Tribunal, the Pecuniary Interest and Disciplinary Tribunal may determine the proceedings without a hearing if:	6 7 8 9 10
(a) the Director-General and the councillor to whom the report relates have agreed that the proceedings may be determined without a hearing, and	11 12 13
(b) there are no material facts in dispute between the Director-General and the councillor, and	14 15
(c) in the opinion of the Tribunal, public interest considerations do not require a hearing.	16 17
(2) To avoid doubt, a decision by the Pecuniary Interest and Disciplinary Tribunal to determine proceedings into a referred matter without a hearing is a decision to which sections 484 and 485 apply.	18 19 20 21
[7] Chapter 14, Part 3, Division 4, heading	22
Insert before section 471:	23
Division 4 Proceedings before the Pecuniary Interest and Disciplinary Tribunal—general provisions	24 25
[8] Section 478 Additional complaints	26
Insert after section 478 (4):	27
(5) This section does not apply to proceedings in relation to a matter referred to the Pecuniary Interest and Disciplinary Tribunal under section 440N.	28 29 30

[9] Section 480 Release of information	1
Insert “in the case of proceedings in relation to a complaint—” before “direct” wherever occurring in section 480 (1) (a) and (b).	2 3
[10] Section 480 (1)	4
Insert at the end of section 480 (1) (b):	5
, or	6
(c) in the case of proceedings in relation to a matter referred to the Tribunal under section 440N—direct that all or any of the following matters are not to be published:	7 8 9
• the name and address of any witness	10
• the name and address of the councillor to whom the referred matter relates	11 12
• any specified evidence	13
• the subject-matter of referred matter.	14
[11] Section 480 (3) (b)	15
Insert “or the councillor to whom the referred matter relates,” after “made,”.	16
[12] Section 482 Decision of Pecuniary Interest and Disciplinary Tribunal—pecuniary interest matters	17 18
Insert at the end of section 482 (1) (d):	19
, or	20
(e) suspend the councillor’s right to be paid any fee or other remuneration, to which the councillor would otherwise be entitled as the holder of the civic office, for a period not exceeding 6 months (without suspending the counsellor from civic office for that period).	21 22 23 24 25

[13] Section 482A	1
Insert after section 482:	2
482A Decision of Pecuniary Interest and Disciplinary Tribunal—misbehaviour matters	3 4
(1) This section applies where a matter has been referred to the Pecuniary Interest and Disciplinary Tribunal under section 440N.	5 6 7
(2) The Tribunal may, if it finds that the behaviour concerned warrants action under this section:	8 9
(a) counsel the councillor, or	10
(b) reprimand the councillor, or	11
(c) suspend the councillor from civic office for a period not exceeding 6 months, or	12 13
(d) suspend the councillor’s right to be paid any fee or other remuneration, to which the councillor would otherwise be entitled as the holder of the civic office, for a period not exceeding 6 months (without suspending the councillor from civic office for that period).	14 15 16 17 18
[14] Section 484 Pecuniary Interest and Disciplinary Tribunal to provide details of its decisions	19 20
Insert “(or to the council in the case of a matter that has been referred to the Tribunal under section 440N)” after “complaint” in section 484 (1).	21 22
[15] Section 485 Appeals to Supreme Court	23
Insert “, other than a decision of the Tribunal on appeal to the Tribunal under section 440M” after “the proceeding” in section 485 (1).	24 25

[16] Section 485A	1
Insert after section 485:	2
485A Costs relating to misbehaviour matters to be borne by council	3
(1) The Director-General may assess:	4
(a) the costs incurred by or in respect of the Pecuniary Interest and Disciplinary Tribunal in considering and dealing with a matter referred to the Tribunal under section 440N in relation to a councillor following a request made by the council concerned under section 440H, and	5 6 7 8 9 10
(b) the costs incurred by or in respect of the Department in connection with the referral and with its assistance to and appearances before the Tribunal.	11 12 13
(2) An amount equal to the costs as so assessed is payable to the Department as a debt by the council concerned, except as determined by the Director-General.	14 15 16
(3) A reference in this section to costs incurred includes a reference to remuneration paid to the Tribunal and its staff and to departmental staff.	17 18 19
[17] Chapter 14, Part 5	20
Insert after section 490:	21
Part 5 Miscellaneous	22
490A Acts of disorder	23
For the purposes of this Chapter and Schedule 6A, a councillor commits an <i>act of disorder</i> if the councillor, at a meeting of the council or a committee of the council, does anything that is prescribed by the regulations as an act of disorder for the purposes of this Chapter and Schedule 6A.	24 25 26 27 28

490B	Certain regulations not affected	1
	Nothing in this Chapter affects any regulations made, or the power to make regulations, with respect to the conduct of meetings of a council or a committee of a council, and in particular with respect to:	2
	(a) the keeping of order at any such meetings, or	3
	(b) censuring a councillor in connection with a breach of a council's code of meeting practice.	4
		5
		6
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		8
[18]	Section 674 Remedy or restraint of breaches of this Act—other persons	9
	Insert after the note at the end of section 674 (4):	10
	(5) Subsection (1) does not apply in relation to anything done or omitted to be done under Division 3 of Part 1 of Chapter 14.	11
		12
	Note. Section 440M confers a right of appeal to the Pecuniary Interest and Disciplinary Tribunal against suspension of a councillor under Division 3.	13
		14
[19]	Schedule 6A	15
	Insert after Schedule 6:	16
	Schedule 6A Code of conduct	17
	(Section 440)	18
	1 Conduct that contravenes all or specified provisions of this Act or the regulations in all or specified circumstances	19
		20
	2 Conduct that is detrimental to the pursuit of the charter of a council	21
		22
	3 Improper or unethical conduct	23
	4 Abuse of power, impropriety and other misconduct	24
	5 Action causing, comprising or involving any of the following:	25
	(a) intimidation, harassment or verbal abuse	26
	(b) discrimination, disadvantage or adverse treatment in relation to employment	27
		28
	(c) prejudice in the provision of a service to the community	29
		30

6	Conduct of a councillor causing, comprising or involving any of the following:	1
		2
(a)	directing or influencing, or attempting to direct or influence, a member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate	3
		4
		5
		6
(b)	an act of disorder committed by the councillor at a meeting of the council or a committee of the council	7
		8

Schedule 3 Other amendments	1
(Section 3)	2
[1] Section 262A	3
Insert after section 262:	4
262A Assistance for the Boundaries Commission	5
(1) The Director-General may make available to the Boundaries Commission such persons employed under Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> as may be necessary to assist the Boundaries Commission in the exercise of its functions.	6 7 8 9 10
(2) To the extent that assistance is not reasonably available under subsection (1), the Director-General may engage such other suitably qualified persons as may be necessary to assist the Boundaries Commission in the exercise of its functions.	11 12 13 14
(3) Without limiting subsections (1) and (2), persons whose assistance is provided under those subsections may assist the Boundaries Commission in processing and evaluating reports and preparing reports.	15 16 17 18
[2] Chapter 9, Part 5	19
Insert before Chapter 10:	20
Part 5 Miscellaneous	21
265H Approval to reduce number of councillors	22
(1) A council may resolve to make an application to the Minister to approve a decrease in the number of councillors within the limits under section 224 (1).	23 24 25
(2) The council must give not less than 21 days public notice of its proposed resolution.	26 27

(3) After passing the resolution, the council must forward to the Minister a copy of the resolution, a summary of any submissions received by it and its comments concerning those submissions.	1 2 3 4
(4) The Minister may approve the application without amendment or decline to approve the application.	5 6
(5) If the Minister approves the application, the number of councillors of the council is reduced to the number specified in the application with effect on and from the day appointed for the next ordinary election of councillors after the application is approved.	7 8 9 10 11
265I Alteration of number of councillors or wards	12
(1) The Boundaries Commission may, on application made by the Minister, make either or both of the following recommendations to the Minister:	13 14 15
(a) that the number of councillors of a specified council be changed to a specified number within the limits under section 224 (1),	16 17 18
(b) that the number of wards in a specified area be changed to a specified number.	19 20
(2) If the Minister decides to adopt a recommendation made under this section, the Minister may, by order published in the Gazette, make a determination that implements the recommendation.	21 22 23 24
(3) If a determination changes:	25
(a) the number of councillors of a council—the council is reduced or increased to the number specified in the determination, or	26 27 28
(b) the number of wards in an area—the number of wards is reduced or increased to the number specified in the determination,	29 30 31
with effect on and from the day appointed for the next ordinary election of councillors after publication of the order.	32 33
(4) If a determination changes the number of wards in an area, the order may include provisions for either or both of the following:	34 35 36

	(a) determining ward boundaries or determining the manner of establishing ward boundaries,	1 2
	(b) determining the names of wards or determining the manner of assigning the names of wards.	3 4
(5)	The Minister is authorised to make applications referred to in this section, and may do so at the request of the Director-General or the council concerned or on his or her own initiative. An application may but need not suggest the number to be specified in the recommendation.	5 6 7 8 9
(6)	This section does not affect any functions of the Governor, the Minister, the Director-General, the Boundaries Commission or any other person or body under other provisions of this Act.	10 11 12
265J	Provisions regarding certain determinations under this Part and Parts 1 and 4	13 14
(1)	This section applies to determinations of the kinds referred to in section 209, 218C, 265A (2) (d) or 265I (4).	15 16
(2)	A determination has effect according to its terms, has effect without the need for a constitutional referendum, and must be complied with and implemented by the council concerned.	17 18 19
(3)	A determination is taken to be a decision of the council to the extent that it could be a council decision, but is not affected by any decision of the council made within the period of 12 months after the proclamation or order concerned takes effect, or a longer period specified in the proclamation or order, except:	20 21 22 23 24 25
	(a) as permitted by the proclamation or order, or	26
	(b) with the concurrence of the Minister.	27
(4)	However, a determination has effect subject to the outcome of any subsequent relevant constitutional referendum.	28 29

[3] Chapter 10, Part 6A	1
Insert after section 318:	2
Part 6A Postponement of elections	3
318A Definition	4
In this Part:	5
<i>election requirements of this Act</i> means the requirements of	6
Parts 4 and 5 with respect to the holding of an ordinary election	7
referred to in section 287 or a by-election referred to in section	8
292.	9
318B Postponement of elections	10
(1) The Minister may, by order published in the Gazette, postpone	11
the election requirements of this Act in relation to a specified	12
council if the Minister is satisfied that:	13
(a) an amalgamation proposal, boundaries proposal or	14
structural reform proposal affecting the area or council:	15
(i) is being formulated or is under consideration for	16
formulation, or	17
(ii) has been made by or to the Minister, or	18
(b) the council is the subject of:	19
(i) an investigation under section 430 or any other	20
provision of this Act, or	21
(ii) a public inquiry, or	22
(iii) an investigation by an authority (as defined in	23
the Dictionary for this Act) under any Act, or	24
(c) without limiting anything else in this subsection, a	25
matter affecting the boundaries of the area concerned is	26
under consideration by the Boundaries Commission	27
(whether or not involving an inquiry by the	28
Commission).	29
(2) Without limiting subsection (1), a proposal is under	30
consideration in relation to the area or council during:	31
(a) a period when a regional review is being conducted, or	32
is authorised to be conducted, in relation to the area or	33
council, or	34

(b)	a period when structural reform submissions may be lodged under section 265B in relation to the area or council.	1 2 3
(3)	The latest date to which the election requirements of this Act may be postponed by an order under this section is:	4 5
(a)	the date occurring 12 months after the order is made, or	6
(b)	if the postponement is extended by a further order under this section, 31 December in the calendar year following that in which the first such order was made.	7 8 9
(4)	A further order referred to in subsection (3) (b) may be made, in the case of a proposal that is being formulated but has not been made, only if the Minister is satisfied that substantial progress has been made in the formulation of the proposal.	10 11 12 13
(5)	On the making of an order under this section:	14
(a)	the election requirements of this Act are suspended for the period specified in the order, and	15 16
(b)	the retiring councillors continue in office (subject to this Act) until an election is held.	17 18
(6)	The suspension ceases to have effect if the order is revoked under section 318C.	19 20
(7)	If the suspension ceases to have effect through the passage of time and not through revocation of the order, the provisions of section 318C (other than subsection (1) (a)) apply as if the order had been revoked.	21 22 23 24
(8)	If while an order under this section is in force a casual vacancy occurs in the office of mayor elected by the electors, the casual vacancy is to be filled in accordance with the provisions of section 295 as if it were a casual vacancy in the office of mayor elected by the councillors.	25 26 27 28 29
318C	Revocation of postponement	30
(1)	The Minister may, by order published in the Gazette:	31
(a)	revoke a former order that has been made in relation to a council, and	32 33

(b)	if:	1
(i)	the day on which an election would (but for the former order) have been required to be held has passed, or	2 3 4
(ii)	the day on which an election is required to be held will occur within 3 months after the day on which the order is made,	5 6 7
	appoint a day as the day on which the election is to be held.	8 9
(2)	The day appointed by the order as the day on which an election is to be held is to be a Saturday occurring not less than 3 months, and not more than 6 months, after the day on which the order is made.	10 11 12 13
(3)	On the making of an order under this section:	14
(a)	the suspension by the former order of the election requirements of this Act is terminated, and	15 16
(b)	an election is to be held in accordance with those requirements:	17 18
(i)	on the day ascertained in accordance with those requirements, or	19 20
(ii)	if the order appoints a different day, on the day so appointed.	21 22
(4)	In this section, <i>former order</i> means an order under section 318B.	23 24
[4]	Section 352	25
	Omit the section. Insert instead:	26
	352 Independence of staff for certain purposes	27
(1)	A member of staff of a council is not subject to direction by the council or by a councillor as to the content of any advice or recommendation made by the member.	28 29 30
(2)	This section does not prevent the council or the mayor from directing a member of staff of the council to provide advice or a recommendation.	31 32 33

[5] Section 734A	1
Insert after section 734:	2
734A Preliminary enquiries by Director-General	3
(1) The Director-General may make preliminary enquiries for the purpose of deciding whether to exercise any of his or her powers of investigation under this Act or powers to authorise an investigation under this Act.	4 5 6 7
(2) The enquiries may be made whether or not a complaint has been made under this Act in connection with any matter to which the enquiries relate.	8 9 10
[6] Section 736 Proclamations	11
Insert after section 736 (2):	12
(3) A power of the Governor under this Act that is exercisable by proclamation may be exercised by one or more proclamations. Neither the enactment of this subsection nor its provisions are to be construed as affecting any other power of the Governor under this Act or any power of the Governor under any other Act.	13 14 15 16 17 18
(4) Without limiting the other provisions of this section or any other provisions of this Act:	19 20
(a) the Governor may by later proclamation amend or vary an earlier proclamation made under or for the purposes of any provisions of Part 1 or 4 of Chapter 9, and	21 22 23
(b) the later proclamation may make provision for any of the matters that may be included in proclamations of the kind concerned, whether or not already dealt with in the earlier proclamation.	24 25 26 27

[7] Schedule 2 Membership and procedure of the Boundaries Commission	1
Insert after clause 2:	2
2A Temporary commissioners	3
(1) The Minister may appoint a person (with such qualifications, if any, as are prescribed by the regulations) as a temporary commissioner for the purposes of a particular examination or inquiry, and the Minister may revoke any such appointment.	4 5 6 7
(2) An appointment under this clause is to be with respect to such examination or inquiry as may be specified in the instrument of appointment.	8 9 10
(3) A temporary commissioner has the functions of a commissioner.	11 12
(4) However, a temporary commissioner may not:	13
(a) be counted for the purpose of forming a quorum at a meeting of the Boundaries Commission, or	14 15
(b) vote in connection with the functions of the Boundaries Commission,	16 17
except in the circumstances, if any, specified in the regulations or in the instrument of the person's appointment.	18 19
(5) Circumstances may not be specified under subclause (4) by reference to the manner in which a temporary commissioner is to vote or intends to vote.	20 21 22
[8] Schedule 2, clauses 3–5	23
Omit “or acting commissioner” wherever occurring.	24
Insert instead “, acting commissioner or temporary commissioner”.	25
[9] Schedule 2, clause 5 (1) (g)	26
Omit “or an acting commissioner”.	27
Insert instead “, an acting commissioner or a temporary commissioner”.	28

[10] Schedule 2, clause 10	1
Insert after clause 10 (2):	2
(3) This clause has effect subject to the provisions of clause 2A (4).	3 4
[11] Schedule 4 Local Government Pecuniary Interest and Disciplinary Tribunal	5 6
Insert after clause 2 (2):	7
(2A) If so requested by the member, the member's deputy may, if available, act in the place of the member in connection with a particular matter when the member is not absent. For this purpose, the affairs of the Pecuniary Interest and Disciplinary Tribunal may be conducted concurrently in two divisions.	8 9 10 11 12
[12] Schedule 4, clause 2 (3)	13
Omit "so acting". Insert instead "acting under this clause".	14
[13] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts	15 16
Insert at the end of clause 1 (1):	17
<i>Local Government Amendment Act 2003</i>	18
[14] Schedule 8	19
Insert at the end of the Schedule with appropriate Part and clause numbers:	20
Part Provisions consequent on enactment of Local Government Amendment Act 2003	21 22
Meaning of "amending Act"	23
In this Part, <i>amending Act</i> means the <i>Local Government Amendment Act 2003</i> .	24 25

Proposals referred for examination and report	1
(1) Application of clause to cases where report not yet furnished	2
This clause applies where:	3
(a) an amalgamation proposal or boundaries proposal was referred to the Boundaries Commission or the Director-General for examination and report before the commencement of Schedule 1 [9] to the amending Act (which omits and replaces section 218F), and	4 5 6 7 8
(b) the report had not been furnished to the Minister before that commencement.	9 10
(2) Old arrangements continue where public steps had been taken	11
This Act continues to apply in relation to the proposal as if Schedule 1 to the amending Act had not been enacted, in a case where any public steps had been taken in relation to the proposal under or for the purposes of section 218F (3), 263 (2A) or (2B) or 265.	12 13 14 15 16
(3) New arrangements apply where no public steps had been taken	17
This Act as amended by such of the provisions of Schedule 1 to the amending Act as are in force for the time being applies in relation to the proposal, in a case where no such public steps had been taken in relation to the proposal, and so applies as if the proposal had been referred to the Boundaries Commission or Director-General, as the case requires, on the date of commencement of Schedule 1 [9] to the amending Act.	18 19 20 21 22 23 24
(4) Future public steps	25
This clause does not authorise the taking of public steps with respect to any function under or for the purposes of the provisions specified in subclause (2) for which public steps had not been taken before the commencement of Schedule 1 [9] to the amending Act, unless those steps could be taken under this Act as amended by the amending Act.	26 27 28 29 30 31
(5) Regulations about public steps	32
The regulations may make provision for or with respect to determining what are public steps for the purposes of this clause.	33 34 35

Proposals not referred for examination and report	1
(1) Application of clause	2
This clause applies where:	3
(a) an amalgamation proposal or boundaries proposal was made or received by the Minister before the commencement of Schedule 1 [9] to the amending Act, and was pending at that commencement, and	4 5 6 7
(b) the proposal had not been referred before that commencement to the Boundaries Commission or the Director-General for examination and report.	8 9 10
(2) Direction to proceed under new arrangements	11
The Minister may direct that the proposal be dealt with as having been made to or received by the Minister on the date of commencement of Schedule 1 [9] to the amending Act, and this Act, as amended by such of the provisions of Schedule 1 to the amending Act as are in force for the time being, applies in relation to the proposal.	12 13 14 15 16 17
(3) Direction to proceed under old arrangements	18
The Minister may instead direct that the proposal be dealt with as if Schedule 1 to the amending Act had not been enacted, and this Act continues to apply in relation to the proposal as if that Schedule had not been enacted.	19 20 21 22
Postponement of elections	23
(1) An order in force under section 218H or 218J immediately before the repeal of those sections by the amending Act is taken to have been made under section 318B.	24 25 26
(2) Without limiting section 318B, an order may be made under that section in relation to a council if, in relation to the council or its area:	27 28 29
(a) a public inquiry, or	30
(b) an examination (whether by way of inquiry or otherwise) of a matter by the Boundaries Commission,	31 32
commenced or was being conducted at any time during the period commencing on 1 August 2003 and ending immediately before the commencement of section 318B.	33 34 35

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- (3) The power under subclause (2) may be exercised only during the period of 6 months after the commencement of section 318B. 1
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Surcharging 4

The amendment made to section 435 (2) by the amending Act applies only to alleged negligence or misconduct occurring or committed after the commencement of the amendment. 5
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Local Government Pecuniary Interest and Disciplinary Tribunal 8

On and from the commencement of the amendment made to section 487 by the amending Act: 9
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- (a) the Local Government Pecuniary Interest Tribunal established under section 487 immediately before that commencement continues in existence and is to be known as the Local Government Pecuniary Interest and Disciplinary Tribunal, and 11
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- (b) the person holding office as the Local Government Pecuniary Interest Tribunal immediately before that commencement continues in office, subject to Schedule 4, as the Local Government Pecuniary Interest and Disciplinary Tribunal for the balance of the term of office for which he or she was appointed, and 16
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- (c) a person holding office as the deputy of the member immediately before that commencement continues in office, subject to Schedule 4, on the same terms and conditions as those applicable before that commencement, and 22
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- (d) any matters or proceedings pending before the Local Government Pecuniary Interest Tribunal immediately before that commencement are not affected by the enactment or commencement of the amending Act and are to continue to be dealt with by the Local Government Pecuniary Interest and Disciplinary Tribunal, and 27
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Local Government Amendment Bill 2003

Schedule 3 Other amendments

- (e) a reference in any other Act, in any instrument made 1
 under an Act or in any other document to the Local 2
 Government Pecuniary Interest Tribunal is to be read as 3
 a reference to the Local Government Pecuniary Interest 4
 and Disciplinary Tribunal. 5

Misbehaviour 6

Division 3 of Part 1 of Chapter 14, as inserted by the amending 7
Act, applies to misbehaviour occurring after but not before the 8
earlier of the commencement of that Division or the 9
commencement of the first provisions of that Division to 10
commence. 11

Schedule 4	Consequential amendments	1
	(Section 3)	2
[1]	Section 12 What information is publicly available?	3
	Omit “the council’s code of conduct” from section 12 (1).	4
	Insert instead “any code of conduct applying to the council under this Act”.	5
[2]	Section 16 What matters must be dealt with at a constitutional referendum?	6
	Insert at the end of the section:	7
	Note. A constitutional referendum may not be required in certain circumstances by the operation of other provisions of this Act, including sections 265H, 265I and 265J.	8
		9
		10
		11
[3]	Section 210 Division of area into wards	12
	Insert at the end of the section:	13
	Note. Wards may be affected under other provisions of this Act, including sections 209, 218C, 265G (2) and 265I.	14
		15
[4]	Section 224 How many councillors does a council have?	16
	Insert at the end of the section:	17
	Note. The number of councillors may be affected under other provisions of this Act, including sections 209, 265H and 265I.	18
		19
[5]	Section 228 How is it decided that the mayor be elected by the electors?	20
	Insert at the end of the section:	21
	Note. A proclamation constituting an area or implementing an amalgamation proposal, boundaries proposal or structural reform proposal may provide for the popular election of a mayor.	22
		23
		24
		25
[6]	Section 230 For what period is the mayor elected?	26
	Insert at the end of the section:	27
	Note. A proclamation constituting an area or implementing an amalgamation proposal, boundaries proposal or structural reform proposal may provide for a two-year term for the next election of a mayor.	28
		29
		30

[7] Section 242 Special determinations	1
Insert after section 242 (1):	2
(1A) Such a direction may be included in a proclamation referred to in section 209.	3 4
[8] Section 242 (2) and (3)	5
Insert “or in the proclamation” after “in the Minister’s direction” wherever occurring.	6 7
[9] Section 329 Can the holder of a civic office be dismissed?	8
Insert “and Disciplinary” after “Pecuniary Interest” in section 329 (5).	9
[10] Chapter 14, Introduction note	10
Omit “requires councils to adopt a code of conduct”.	11
Insert instead “provides for the adoption of codes of conduct”.	12
[11] Chapter 14, Introduction note	13
Insert “and Disciplinary” after “Pecuniary Interest”.	14
[12] Sections 465, 468, 469	15
Insert “and Disciplinary” after “Pecuniary Interest” wherever occurring.	16
[13] Section 470 Circumstances in which Pecuniary Interest and Disciplinary Tribunal may dispense with hearing	17 18
Insert “and Disciplinary” after “Pecuniary Interest” wherever occurring in the section and the note to the section.	19 20
[14] Sections 471–486	21
Insert “and Disciplinary” after “Pecuniary Interest” wherever occurring.	22
[15] Chapter 14, Part 3 , Division 2, flowchart (after section 486)	23
Omit “ Tribunal ” from the heading.	24
Insert instead “ and Disciplinary Tribunal—pecuniary interest matters ”.	25

[16]	Chapter 14, Part 3 , Division 2, flowchart	1
	Insert “and Disciplinary” after “Pecuniary Interest” where secondly occurring.	2 3
[17]	Chapter 14, Part 4, heading	4
	Insert “and Disciplinary” after “Pecuniary Interest”.	5
[18]	Sections 487–490	6
	Insert “and Disciplinary” after “Pecuniary Interest” wherever occurring.	7
[19]	Section 505 Application of Part	8
	Insert at the end of the section:	9
	(2) In its application to an area that is the subject of a proclamation referred to in section 209, 218C or 265F, this Part has effect subject to the provisions of the proclamation.	10 11 12
	Note. Those sections enable determinations to be made affecting a council's general income.	13 14
[20]	Section 673 Remedy or restraint of breaches of this Act—the Minister, the Director-General and councils	15 16
	Insert “and Disciplinary” after “Pecuniary Interest” in the note to the section.	17 18
[21]	Section 674 Remedy or restraint of breaches of this Act—other persons	19
	Insert “and Disciplinary” after “Pecuniary Interest” in the note to the section.	20 21
[22]	Schedule 4, heading	22
	Insert “and Disciplinary” after “Pecuniary Interest”.	23
[23]	Schedule 4, clause 1	24
	Insert “and Disciplinary” after “Pecuniary Interest”.	25

[24] Dictionary	1
Insert in alphabetical order:	2
<i>amalgamation proposal</i> means a proposal under Chapter 9 for the amalgamation of two or more areas.	3 4
<i>boundaries proposal</i> means a proposal under Chapter 9 for the alteration of the boundaries of one or more areas.	5 6
<i>structural reform proposal</i> —see section 265A.	7
[25] Dictionary	8
Omit the definition of <i>Pecuniary Interest Tribunal</i> . Insert instead:	9
<i>Pecuniary Interest and Disciplinary Tribunal</i> means the Local Government Pecuniary Interest and Disciplinary Tribunal established under this Act.	10 11 12

Schedule 5	Consequential amendment of Independent Commission Against Corruption Act 1988	1
		2
	(Section 4)	3
Section 9	Limitation on nature of corrupt conduct	4
	Insert after section 9 (5):	5
	(6) A reference to a disciplinary offence in this section and sections 74A and 74B includes a reference to a substantial breach of an applicable requirement of a code of conduct adopted under the <i>Local Government Act 1993</i> , but does not include a reference to any other breach of such a requirement.	6 7 8 9 10