

Northern Territory Law Reform Committee Final Report on the Statutory Immunity from Criminal Liability Provisions in the *Local Government Act 2019* (NT)

Contents

Introduction.....	3
Terms of Reference.....	3
MEMBERS OF THE NORTHERN TERRITORY LAW REFORM COMMITTEE	3
SUBCOMMITTEE	4
1. BACKGROUND TO THE REPORT.....	4
i. The tragic death of Kumanjayi Jurrah	4
ii. The Coroner's Recommendations	5
2. THE NORTHERN TERRITORY <i>LOCAL GOVERNMENT ACT</i> 2019 ("the Act").....	5
i. History of the Legislation – Section 111	5
ii. Section 182 Local Government Act – the current provision.....	6
iii. Underlying principles of the Local Government Act 2019	6
iv. The statutory history of section 182 of the Local Government Act	7
v. Liability provisions in other Northern Territory Acts	10
vi. Discussion	11
vii. Michael Court v Paula Nadas – The death of Kumanjayi Jurrah	12
3. LOCAL GOVERNMENT ACT PROVISIONS IN OTHER JURISDICTIONS IN AUSTRALIA.....	12
i. New South Wales	12
ii. Victoria.....	13
iii. South Australia	13
iv. Western Australia	13
v. Queensland	14
vi. Tasmania	15
vii. Australian Capital Territory	16
4. THE NATURE OF GOOD FAITH PROTECTIONS AND IMMUNITY FROM PROSECUTION	16
I. Section 182 of the Local Government Act 2008.....	16
II. Board of Fire Commissioners (NSW) v Ardouin (1961) 109 CLR 105	17
III. Puntoriero v Water Administration Ministerial Corporation (1999) 199 CLR 575	18
IV. R v Rolfe [2021] HCA 38	22
V. The Tragic Death of Kumanjayi Jurrah	22
VI. The Queen v Michael Glenn Lewis 24 February 2021	25
5. WHETHER THERE ARE UNIQUE CIRCUMSTANCES IN THE NORTHERN	

TERRITORY THAT JUSTIFY THE CURRENT BROAD IMMUNITY FROM CRIMINAL LIABILITY UNDER THE LOCAL GOVERNMENT ACT	26
i. Geographical Dispersion	27
ii. Relatively Small Population Base	27
iii. Policy and other Rationales for Immunity.....	27
6. WHAT REASONS ARE THERE FOR RETAINING THE CRIMINAL IMMUNITY PROVISIONS OF THE LOCAL GOVERNMENT ACT?	29
7. IF NO SUCH CIRCUMSTANCES EXIST TO JUSTIFY BROAD IMMUNITY FROM CRIMINAL LIABILITY UNDER THE ACT WOULD REFORM OF THE LEGISLATION HAVE ANY ADVERSE IMPACTS?	30
8. COST IMPLICATIONS.....	30
9. CONSULTATION	30

Appendix 1: Government Gazette – *Local Government Act 2019*, No.S27

Appendix 2: NT protection from liability provisions

Introduction

On 15 November 2024, the Attorney General the Hon Marie-Clare Boothby received the Coronial Findings from the Territory Coroner, Judge Elisabeth Armitage, regarding the death of the child Kumanjayi Jurrah who died on 2 December 2020.

One of the Coroner's recommendations was a referral of the question of possible reform of section 182 of the *Local Government Act* 2019 to the Northern Territory Law Reform Committee ("the NTLRC") for consideration as to whether the immunity from civil and criminal liability available under that provision should be removed or amended.

Terms of Reference

The matters requested by the Attorney General for the Committee to consider are:

Having regard to the scope and application of section 182 of the Act and the Coroner's recommendations in the Coronial Findings in relation to the death of Kumanjayi Jurrah dated 15 November 2024:

1. Referring to similar provisions in other jurisdictions and taking the Territory's unique circumstances (if any) into consideration, whether there is policy justification for having broad immunity from criminal liability available in the Northern Territory.
2. if the answer to 1. is no, whether subsequent reform to the Act to restrict the immunity to only civil liability can have any adverse impacts.

In undertaking this reference, the Committee should consult with relevant professionals and agencies in both the Territory and in other jurisdictions. The Committee should consider the legislative and policy approaches taken in other jurisdictions but have regard to the unique Territory context in making recommendations. The Committee should also have general regard to the potential cost implications of recommendations.

MEMBERS OF THE NORTHERN TERRITORY LAW REFORM COMMITTEE

Ms. Sue Oliver
Mr. Russell Goldflam
Mr. Nikolai Christrup
Mr. Lloyd Babb SC (until September 2025)
Chief Judge Elizabeth Morris
Mr. Richard Henschke
Mr. Richard Bryson
Mr. Ron Levy
Ms. Erin Morton
Ms. Julianna Marshall
Mr. Oladapo Fabusuyi
Mr. James McMillan
Ms. Georgia Kalyniuk
Ms. Anna Gill

SUBCOMMITTEE

When a reference is given to the NTLRC from the Attorney General, the usual practice is to appoint a subcommittee to draft a report which will then be submitted to all members of the Committee, and then following receipt of comments and suggestions, produce a final report.

A subcommittee has been agreed, and the members of the current subcommittee are:

Ms. Sue Oliver
Mr. Lloyd Babb SC
Mr. Russell Goldflam
Mr. Richard Henschke
Mr. Richard Bryson
Ms. Erin Morton
Mr. James McMillan

The Sub Committee acknowledges the helpful assistance by the Solicitor General, Mr Nikolai Christrup SC, who provided the comparable Local Government Act provisions of the other Australian jurisdictions with respect to criminal and civil liability under that legislation. Mr Lloyd Babb SC ceased to be a member of the subcommittee following his resignation as Northern Territory Director of Public Prosecutions in September 2025.

1. BACKGROUND TO THE REPORT

i. The tragic death of Kumanjayi Jurrah

The background to the request from the Attorney General to consider whether there are policy justifications for having broad immunity from criminal liability under the *Local Government Act* 2019 stems from the Coroner's recommendations arising from the Inquest into the death of Kumanjayi Jurrah in 2020.¹

Kumanjayi was two years old when he drowned at the Kintore swimming pool which was operated by the MacDonnell Regional Council. He had been left inside the pool complex on his own when the other five children and the three childcare workers from the child care centre and the lifeguard had all left the pool. The gate was locked by the lifeguard who also departed the facility.

Her Honour's findings set out what occurred resulting in the child's death.

[7] Kumanjayi had been dropped off at the Kintore "MacKids" Early Learning Centre ("Kintore ELC"), operated by MacDonnell Regional Council ("MRC"). Three childcare workers from the Kintore ELC had taken Kumanjayi, along with five other children from the childcare centre, to the Kintore swimming pool ("Kintore Pool") on a regular (weekly) excursion. The Kintore Pool was also operated by MRC. A lifeguard employed by MRC was present during the excursion to the Kintore Pool that day. As is set out in more detail below, Kumanjayi was locked inside the Kintore Pool

¹ [2024] NTLC 12

complex after everyone else had left. Kumanjayi was found shortly after floating in the adult pool and could not be revived. The cause of death was identified in the autopsy report and was not in issue, little Kumanjayi drowned.

[8] His care had been entrusted to the Kintore ELC, and he was on an excursion to the Kintore Pool, with both of these local government services operated by MRC. Kumanjayi should have returned safely home that day.“

ii. The Coroner’s Recommendations

The Coroner made 7 recommendations following the Inquest into the child’s death. Of relevance to the referral by the Attorney General is recommendation No. 7.

That the Attorney-General refer the question of possible reform of s182 of the Local Government Act 2019 (NT), to the Northern Territory Law Reform Committee for consideration as to whether the immunity from criminal liability available under that provision should be removed or amended.

2. THE NORTHERN TERRITORY LOCAL GOVERNMENT ACT 2019 (“the Act”)

i. History of the Legislation – Section 111

The current *Local Government Act 2019* commenced on 1 July 2021 and replaced the former *Local Government Act 2008*. However, the new Act did not immediately commence. The End Notes to that legislation show

Local Government Act 2019 (Act No. 39, 2019)
Assent date 13 December 2019
Commenced pt 8.6: 1 July 2022; rem: 1 July 2021 (Gaz S27, 30 June 2021)

The Government Gazette notice confirms that commencement and is attached to this report (Appendix 1).

Consequently, the relevant provision with respect to the question of liability in the death of Kumanjayi Jurrah was the then Section 111 of the *Local Government Act 2008* which provided:

Section 111
Immunity from personal liability

(1) No civil or criminal liability attaches to a staff member for an honest act or omission in the performance, or purported performance, of official functions under this or another Act.

(2) A civil liability that would, but for this section, attach to a staff member, attaches instead to the council.

Neither the term “staff member” or “official functions” were defined in the 2008 Act although there were numerous references to each of those terms.

ii. Section 182 Local Government Act – the current provision

The relevant provision for this Report is section 182 of the *Local Government Act* which sits in Chapter 9 Council staff. Chapter 9 sets out the appointment of the CEO and other council staff. It provides for policies in relation to council staff and the benefits and allowances of the CEO and other staff.

Section 182 is in Part 9.6 which provides for the rights and immunities of staff and states:

Section 182 Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of staff of a council.

(2) Any civil liability that would, but for this section, attach to a member of staff of a council, attaches instead to the council.

(2) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

iii. Underlying principles of the Local Government Act 2019

The current Act sets out the underlying principles that apply. Section 4 provides:

Principles

(1) The underlying principles of this Act are as follows:

(a) local government is a distinct and essential sphere of government;

(b) the system of local government:

(i) needs to be flexible and adaptable to the diverse interests and needs of the many communities within the Territory; and

(ii) needs to be comprehensive, democratic, responsive to community needs and accountable both to local communities and the public generally.

(2) Anyone exercising a power or performing a function under this Act must, as far as practicable, uphold the principles.

(3) However, the principles do not affect the operation of any law in force in the Territory.

iv. The statutory history of section 182 of the Local Government Act

Following self-government in 1978 the first amendment to the *Local Government Act* (the pre-self-government LGA) enacted by the Northern Territory Legislative Assembly was the *Local Government Act (No. 4) (No. 7 of 1979)*, which inserted section 489 into the Principal Act, as follows:

“A member or an officer of a community government council is not rendered personally liable for or in respect of –

(a) a matter or thing done, or a contract entered into, by the council in good faith in pursuance of and for the purposes of this Act; or

(b) a matter or thing done, or a contract entered into, by the member or officer in good faith in pursuance of and for the purposes of this Act and for or on behalf of the council.”

The pre self-government Local Government Act was repealed by the *Local Government Act 1985* (the 1985 Act), which included section 81 - Interests of Officers and Employees. The initial subsections prevented an officer or employee of the council from having an interest in any council contracts or using any information acquired by them either to advantage that person or cause detriment to the council and subsection (5) provided a penalty of \$10,000.00 for failing to comply with those provisions. Subsection (7) provided as follows:

“Subject to sub-section (5), an action or proceeding, civil or criminal, shall not lie against a person who is, or who has been, an officer or employee of a council for or in relation to an act or thing done in good faith by the person in his capacity as such an officer or employee.”²

The 1985 Act was then repealed by the *Local Government Act 1993* (“the 1993 Act”). Section 28 provided:

“Protection of Members, Officers, &c., Against Legal Proceedings

(1) No action or proceeding, civil or criminal, shall lie against a person who is, or who has been, a member of a council or a committee for or in relation to an act or thing done in good faith by the person in the person's capacity as a member of the council or committee.

(2) A member of a council or committee, an authorised person or an officer or employee of a council is not personally liable for or in relation to a matter or thing done, or a contract entered into by:

² Section 81(5) established as an offence various types of improper or corrupt conduct.

(a) the council in good faith in pursuance of and for the purposes of this Act;
or

(b) the member, authorised person or officer or employee in good faith in pursuance of and for the purposes of this Act and for or on behalf of the council.”

The 1993 Act was amended by the *Local Government Amendment Act* (No. 2) 1995 (No. 36 of 1995), which inserted the following provision and came into force on 9 February 1996.

“265A Restriction of liability

- (1) No action or proceeding, civil or criminal, shall lie against the Minister, the Chief Executive Officer as defined in the *Public Sector Employment and Management Act*, an employee as defined in the *Public Sector Employment and Management Act* or an inspector of local government (while the person holds, or after he or she has ceased to hold, the relevant office or position) for or in relation to an act or thing done in good faith and with reasonable care by the person, or under his or her direction, in the exercise or performance, or purported exercise or performance, of his or her powers, functions or duties under this Act.
- (2) This section does not apply where a professional disciplinary action is brought against a person referred to in subsection (1), or where an action or other proceeding, civil or criminal, is brought against that person by a person who is or was a client of the first-mentioned person (in his or her capacity as client or former client).”

The 1993 Act was repealed by the *Local Government Act 2008* (“the 2008 Act”), section 111 of which has been referred to above.

“Immunity from personal liability

- (1) No civil or criminal liability attaches to a staff member for an honest act or omission in the performance, or purported performance, of official functions under this or another Act.
- (2) A civil liability that would, but for this section, attach to a staff member attaches instead to the council.”

There is no reference to this provision in the Second Reading Speech for the relevant Bill (Bill 129 of 2008). However, the Explanatory Memorandum states:

“111 Immunity from personal liability

The council is vicariously liable for the authorised actions or inactions of a staff member.

Clause 111 provides that if a staff member does an act with authority and is honestly carrying out the functions given to them by the council and the act incurs some legal civil or criminal liability, then that staff member is not personally legally responsible for that act. The person who suffers any damage by that act must sue the council and not the person who did the act. The same applies for omissions that incur a civil liability. The person who suffers the damage has to sue the council not the person. The clause means the council will pay any damages awarded to the injured person by the Courts.”

The *Local Government Act 2019* (NT) (“the 2019 Act”), with the exception of one Part not relevant for the purposes of this inquiry, came into force on 1 July 2021 and repealed the 2008 Act. Section 182 of the 2019 Act³, which has not been amended since, provides:

“Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of staff of a council.
- (2) Any civil liability that would, but for this section, attach to a member of staff of a council, attaches instead to the council.
- (3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.”

There is no reference to this provision in the Second Reading Speech for the relevant Bill (Bill 107 of 2019).

However, the Explanatory Statement says:

“Clause 182. Protection from liability

Clause 182 provides that if a council staff member performs an act or makes an omission in good faith while carrying out the functions given to them by the council and the act or omission incurs any civil or criminal liability, then that staff member is not personally legally responsible for that act. Any civil liability which would attach to that staff member instead attaches to the council.”

Summary:

The history given above indicates that the scope of the protection from liability accorded to council staff has waxed and waned since self-government.

- The pre-self-government Local Government Act as amended in 1979 provided that a community government council “officer” (a category which apparently

³ The Act also includes section 19A and section 57 which are in the same terms as section 182 but relate instead to a prospective council (s19A) and a member of a council (s57) whereas s182 relates to a member of staff of a council.

includes a council staff member) “is not rendered personally liable” for an act done in good faith for the purposes of the Act.

- The 1985 Act conferred immunity from civil and criminal action against a council employee for an act done in good faith in their capacity as an employee.
- The 1993 Act protected council staff from “personal liability” for things done in good faith for the purposes of the Act.
- In 1996 the protection was extended to include “civil or criminal” proceedings against employees for things done in good faith and with reasonable care in the performance of functions under the Act.
- In 2008 the protection was further extended by removing the proviso that the employee’s conduct be done with reasonable care.
- In 2021, the terminology of the protection was changed (“honest” was replaced by “in good faith”), but the scope of the protection was substantially maintained.

v. Liability provisions in other Northern Territory Acts

Section 182 of the 2019 Act and section 111 of the 2008 Act are also substantially similar to section 148B of the *Police Administration Act*, which provides:

“Protection from liability

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise, of a power, includes purported exercise of a power.

performance, of a function, includes purported performance of the function.”

It is noteworthy that although the current level of immunity from both civil and criminal liability conferred on local government workers dates back to at least 1985, the corresponding level of protection extended to police officers did not come into force until 28 September 2018, until by way of the *Police Administration Act Amendment Act* (No. 30 of 2016).

Up until then, the protection from liability for members of the police force was more limited. Section 148B of the *Police Administration Act* 1978 (as amended by the *Police*

Administration Amendment (Powers and Liability) Act 2005 (NT) (No. 11 of 2005) and a subsequent amendment to correct a typographical error) had provided:

“Protection Of Members from Civil Liability

(1) This section applies to a person who is or has been a member.

(2) The person is not civilly liable for an act done or omitted to be done by the person in good faith in the performance or purported performance of duties as a member.”

Prevalence of similar protections from liability in other Northern Territory Statutes

There are many similar protections from liability in other Northern Territory statutes. Section 182 of the *Local Government Act 2019* is one of at least fifty Northern Territory statutes that confer immunity on a wide range of officers, officials, staff members and other persons who perform statutory functions.

Of those fifty enactments, 43 of them contain immunity provisions in terms that are the same as or substantially similar to Section 182 of the 2019 Act.

The attached table⁴ sets out these provisions. The Acts that are emphasised in bold contain immunity provisions the same as or substantially similar to section 182 of the 2019 Act.

vi. Discussion

The terms, scope and character of the immunity currently conferred by the legislature on Northern Territory local government staff members has remained substantially unchanged since 2008, with roots in broadly similar statutory protection for council workers dating from the earliest days of self-government.

The immunity enjoyed by council staff is typical of and consistent with the immunities enjoyed by officers, employees, members and other persons charged with performing a broad range of statutory functions in the Northern Territory.

To restrict the immunity conferred by s 182 of the 2019 Act without similarly amending dozens of other relevantly similar Acts could disturb the stability and consistency of the statutory framework that protects a broad range of persons who perform statutory functions in the Northern Territory. It is however interesting to note the difference between the approach in the Northern Territory where the exemption from liability provisions expressly provides for exemptions from criminal liability whereas other jurisdictions do not do so.

The Coroner’s observations (*Inquest into the Death of Kumanjayi Jirrah* [2024] NTLC 12⁵) underpinning her recommendation that consideration be given to reforming section 182 of the 2019 Act stems from concerns raised at the inquest regarding the dismissal of charges against a Council worker pursuant to section 111 of the 2008 Act (*Michael Court v Paula Nadas* [2024] NTLC 9).

⁴ See Appendix 2

⁵ At [134] to [139])

However, the discussion in Chapter 4 of this report indicates that although on its face the 2008 Act (like the 2019 Act) confers extraordinarily broad immunity on local government workers, well-established judicial authority provides strong support for the proposition that the scope of this immunity does not, properly construed, extend to immunise conduct such as that engaged in by the defendant in the matter the subject of the inquest.

Chapter 4 of this Report discusses in greater detail the nature of good faith provisions and immunity from prosecution.

vii. Michael Court v Paula Nadas – The death of Kumanjayi Jurrah

In the case of *Michael Court v Paula Nadas* the Local Court considered the liability of the defendant Ms Nadas for the death of Kumanjayi. According to the decision, the defendant was charged “both jointly and separately” for recklessly or negligently causing the death of the child contrary to section 160 of the Criminal Code. Section 160 is the offence of manslaughter, the liability for which is imprisonment for life.

The nature of the charge against Ms Nadas meant that it would be heard in the Local Court only by way of preliminary examination to determine whether there was sufficient evidence for the matter to proceed to the Supreme Court.

This decision is discussed further in this Report.

3. LOCAL GOVERNMENT ACT PROVISIONS IN OTHER JURISDICTIONS IN AUSTRALIA

i. New South Wales

Local Government Act 1993

Section 182

Liability of councillors, employees and other persons

A matter or thing done by the Minister, the Departmental Chief Executive, a council, a councillor, a member of a committee of the council or an employee of the council or any person acting under the direction of the Minister, the Departmental Chief Executive, the council or a committee of the council does not, *if the matter or thing was done in good faith for the purpose of executing this or any other Act, and for and on behalf of the Minister, the Departmental Chief Executive, the council or a committee of the council, subject a councillor, a member, an employee or a person so acting personally to any action, liability, claim or demand.*

(emphasis added)

ii Victoria
Local Government Act 2020

Section 174

Immunity

(1) A member of a Councillor Conduct Panel under this Act *is not personally liable for anything done or omitted to be done in good faith—*

(a) *in the exercise of a power or the discharge of a duty under this Act; or*

(b) *in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act.* (emphasis added)

(2) Any liability resulting from an act or omission that would but for subsection (1) attach to a member of a Councillor Conduct Panel attaches to the Council.

iii. South Australia

Local Government Act 1999

Section 39

Protection of members

(1) No civil liability attaches to a member of a council *for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or council's powers, functions or duties under this or other Acts.* (emphasis added)

(2) A liability that would, but for this section, attach to a member of a council attaches instead to the council.

iv. Western Australia

Local Government Act 1995

Section 8.10

(1) An action in tort does not lie against an authorized person for anything that the person has done, in good faith, in the exercise or purported exercise of a power under this Division.

(2) This section does not relieve the State of any liability that it might have for the doing of anything by an authorized person.

v. **Queensland**

Local Government Act 2009

Section 235

Administrators who act honestly and without negligence are protected from liability

(1) A State administrator or local government administrator is not civilly liable for an act done, or omission made, honestly and without negligence under—

- (a) this Act; or
- (b) the *City of Brisbane Act 2010*; or
- (c) the Local Government Electoral Act.

(2) A *State administrator* is—

- (a) the Minister; or
- (b) the department's chief executive; or
- (c) an authorised officer; or
- (d) the assessor; or
- (e) an investigator; or
- (f) a member of the conduct tribunal; or
- (g) a member of the change commission; or
- (h) a member of the grants commission; or
- (i) a commissioner of the remuneration commission; or
- (j) a person acting under the direction of a person mentioned in paragraph (a), (b), (c), (d) or (e); or
- (k) an advisor or financial controller.

(3) A *local government administrator* is—

- (a) a councillor; or
- (b) a councillor under the *City of Brisbane Act 2010*; or
- (c) the chief executive officer; or
- (d) the chief executive officer under the *City of Brisbane Act 2010*; or
- (e) an authorised person; or
- (f) another local government employee; or
- (g) an interim administrator.

(4) If subsection (1) prevents civil liability attaching to a State administrator, liability attaches instead to the State.

(5) If subsection (1) prevents civil liability attaching to a local government administrator, liability attaches instead to the local government.

(6) A joint local government, or any member of the joint local government, is not civilly liable for an act done under this Act, or omission made under this Act, honestly and without negligence.

(7) If subsection (6) prevents civil liability attaching to a member of a joint local government, liability attaches instead to the local government for which the member is a councillor.

(8) The protection given under this section is in addition to any other protection given under this Act or another Act or law, including, for example, the *Public Interest Disclosure Act 2010* and the *Public Sector Act 2022*.

Note—

For protection from civil liability in relation to prescribed persons under the *Public Sector Act 2022*, section 267, see the *Public Sector Act 2022*, section 269.

vi. Tasmania

Local Government Act 1993

Section 341

Immunity from liability

(1) A person who is –

- (a) a councillor; or
- (b) a member of the Board; or
- (c) the Executive Officer; or
- (d) a member of the Code of Conduct Panel or an audit panel; or
- (e) a member of a Board of Inquiry; or
- (f) a member of a special committee or a controlling authority; or
- (g) a commissioner, or an employee, of a council –

does not incur any personal liability in respect of any act done or omitted to be done by the person in good faith in the performance or exercise, or the purported performance or purported exercise, of any function or power under this or any other Act or in the administration or execution, or purported administration or purported execution, of this Act.

vii. Australian Capital Territory

The ACT does not have a separate local government. The ACT Territorial Government handles the functions that would usually be managed by Local Government.

Summary of the Difference Between the Provisions

As is apparent from the Local Government provisions above, the immunity from liability that attaches to members of a local government council varies between councils.

In some cases, the relevant provision purports to exclude all personal liability for any act done “in good faith” for executing the Local Government Act or any other Act or in the exercise of power or in the reasonable belief the act or omission was in the discharge of a duty. (NSW, Victoria, Tasmania). These provisions appear to express a cover for both civil and criminal liability.

Other jurisdictions, however, limit liability to only civil matters. (South Australia and Western Australia (“an action in tort”) and Queensland).

As noted above, the Northern Territory purports to exclude both civil and criminal liability for Local Government.

4. THE NATURE OF GOOD FAITH PROTECTIONS AND IMMUNITY FROM PROSECUTION

I. Section 182 of the *Local Government Act 2008*

Provisions such as s 182 of the *Local Government Act* that operate to protect public sector employees from civil and criminal liability are commonplace in contexts where the employee is authorised by statute to engage in conduct that may constitute a civil or criminal wrong in fulfilment of their duties, classically including police, fire, and medical services.

An example that employs language reflective of s 182 is s 65(1) of the *Police Act 1988* (SA) which provides:

“A member of SA Police or a police security officer does not incur any civil or criminal liability for an honest act or omission in the exercise or discharge, or the purported exercise or discharge, of a power, function or duty conferred or imposed by or under this Act or any other Act or law”.

Without protections of this nature, those exercising powers for the public benefit would be deterred from doing so lest they open themselves up to civil litigation or criminal prosecution.

These protections are generally limited to circumstances where the actor has acted in “good faith”, “honestly”, or “without malice” (*mala fides*). Different statutory language at different times has been employed across Australian and international jurisdictions.

The following cases consider statutory provisions analogous to section 182

II. *Board of Fire Commissioners (NSW) v Ardouin* (1961) 109 CLR 105

The respondent was a child who had been riding a motorcycle on a public street when he was injured by a motor vehicle being operated by the appellant fire brigade who were responding to a fire. The legislation provided a duty on the appellant to, once an alarm had been raised, proceed “with all speed to the place of fire”. The respondent brought a claim in negligence against the Board in the Supreme Court of New South Wales. The Board sought to rely on s 46 of the *Fire Brigades Act 1909-1956* (NSW) which provided:

“The board, the chief officer or an officer of the board exercising any powers conferred by this Act or the by-laws, shall not be liable for any damage caused in the bona fide exercise of such powers.”

The Full Court of the Supreme Court held that s 46 did not apply to the conduct complained of. The Board appealed. The High Court dismissed the appeal (Dixon CJ, Kitto, Taylor and Windeyer JJ, McTiernan J dissenting).

Dixon CJ’s reasons, reflected in the approach taken in *Puntoriero*, were relevantly as follows:

“The real point in the case is whether, some degree of negligence being assumed, the statute affords a defence. My conclusion can be briefly stated. It appears to me that, on the assumption that the motor vehicle was being driven to the site of a conflagration for the purposes of extinguishing it, the driver and his principal, the Board of Fire Commissioners, were under a duty to exercise such due care for the safety of persons using the road and others likely to be endangered as would be reasonable for persons to exercise although performing that public service. This view is consistent with s 19(1) and s 28 and indeed it may be said to be the ordinary legal consequence of such provisions. S 46, however, was relied upon as meaning that, provided there was good faith, no liability could be imposed on the Board or an officer of the Board by the mere fact that the duty of due care was not exercised and the plaintiff on his motorcycle sustained injury in consequence. In my opinion, upon the proper construction of s 46 it does not cover the use of the roadway by fire brigade vehicles for the purpose of proceeding to a fire nor does it cover performances of functions of such description of the Board of Fire Commissioners by its servants or agents. *When s 46 speaks of the bona fide exercise of the Board's powers it appears to me to be referring primarily to the exercise of powers which of their nature will involve interferences with persons or property. Of such powers s 20 par (e) is perhaps a conspicuous example. This example is conspicuous because it means a plain exercise of statutory power to do what would otherwise be illegal acts. I say that this is primarily the meaning of s 46 because this is not the occasion to attempt the difficult task of defining the kind of power to which s 46 is limited exhaustively. But it may be said generally that once a power is found which depends upon the statute and involves detriment or disadvantage to others, either necessarily or in consequence of its improper or faulty exercise, it appears to me that s 46 is capable of applying: it is not, however, expressed in terms which make it applicable to the doing of things in the course of performing the functions of the Board, which are of an ordinary character involving no invasion of private rights and requiring no special authority.* It is a function of the Board under s 19(1) to attempt to

extinguish a fire, to protect and save life. It is no doubt a duty under s 28 for a brigade, an expression capable of including servants or agents of the Board, to proceed with all speed to the site of a fire and to endeavour to extinguish it and save lives and property. But that involves no specific power to which s 46 would necessarily attach. Probably the decision in *Board of Fire Commissioners v Rowland* (1960) SR (NSW) 322; (1959) 76 WN 538 applying s 46 is to be justified on the ground that on the facts there was but an improper exercise of the power conferred by s 30(c). All I think that can be said in the present case is that s 46 is not concerned with the use of a highway by fire brigade vehicles to reach the site of a fire and does not exclude a liability for negligence in the course of carrying out that duty or function.”

(Emphasis added)

III. *Puntoriero v Water Administration Ministerial Corporation* (1999) 199 CLR 575

Puntoriero v Water Administration Ministerial Corporation (1999) 199 CLR 575 is the last of a line of High Court decisions that meaningfully considered the approach to interpreting statutory provisions analogous to s 182(1) of the *Local Government Act 2008*. The case concerned the extent of immunity from liability provided by the *Water Administration Act 1986* (NSW).

The appellants (Mr and Mrs Puntoriero) drew water from irrigation waters supplied by the respondent (“the Corporation”) to irrigate the potato crop under cultivation on their farm. The crop was damaged, allegedly by chemically polluted water supplied by the respondent. The appellants brought a successful action in the Supreme Court of New South Wales seeking damages for negligence, alleging amongst other things failure to test the water for chemicals and failure to warn the appellants that the water was contaminated. The Court of Appeal (Mason P and Stein JA, Meagher JA dissenting) allowed an appeal on the basis that the Corporation was protected from the liability in question by the immunity conferred by s 19(1) of the *Water Administration Act 1986* (NSW). The High Court (Gleeson CJ, Gummow, McHugh, and Callinan JJ, Kirby J dissenting) allowed the appeal.

Section 19 of the *Water Administration Act* provided:

- (1) Except to the extent that an Act conferring or imposing functions on the [Corporation] otherwise provides, an action does not lie against the [Corporation] with respect to loss or damage suffered as a consequence of the exercise of a function of the [Corporation], including the exercise of a power:
 - (a) to use works to impound or control water, or
 - (b) to release water from any such works.
- (2) Subsection (1) does not limit any other exclusion of liability to which the [Corporation] is entitled.
- (3) No matter or thing done by the [Corporation] or any person acting under the direction of the [Corporation] shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the Minister or a person so acting personally to any action, liability, claim or demand.

Gleeson CJ and Gummow J said

“Accordingly, the principal task is to construe s19(1). This should be done both by looking at the sub-section in the context of the *Administration Act* as a whole and on the footing that the immunity conferred by such a provision should not “be carried further than a jealous interpretation will allow, to repeat a statement by Kitto J in *Board of Fire Commissioners (NSW) v Ardouin*”.

Although consistently, the Courts have construed such provisions as having a limited scope, limited to the exercise of powers or functions which of their nature involve interference with persons or property and which thereby require special authority, protection is not afforded to the exercise of functions or powers of an ordinary character that, while performed or exercised under an Act, do not involve the interference with persons or property.

McHugh J said at [32]-[38]:

[32] The question for decision in this case is whether s19(1) of the Water Administration Act 1986 (NSW) protects the respondent from liability for damage caused by releasing water carrying a phytotoxic substance. S19(1) relevantly provides that “an action does not lie against the Ministerial Corporation with respect to loss or damage suffered as a consequence of the exercise of a function of the Ministerial Corporation, including the exercise of a power ... to release water from any ... works.”

[33] In a number of cases [*Board of Fire Commissioners (NSW) v Ardouin* (1961) 109 CLR 105; *Hudson v Venderheld* (1968) 118 CLR 171; *Australian National Airlines Commission v Newman* (1987) 162 CLR 466], this Court has read limitation provisions such as s19 as not covering a governmental function “of an ordinary character involving no invasion of private rights and requiring no special authority.” In [*Coco v The Queen* (1994) 179 CLR 427 at 436], Mason CJ, Brennan and Gaudron JJ and I said:

“Statutory authority to engage in what otherwise would be tortious conduct must be clearly expressed in unmistakable and unambiguous language. Indeed, it has been said that the presumption is that, in the absence of express provision to the contrary, the legislature did not intend to authorize what would otherwise have been tortious conduct ...”

[34] In principle, there is no reason for construing a statutory provision limiting liability for government action differently from a statutory provision authorising government action. The reasons which require provisions of the latter kind to be read narrowly apply to provisions of the former kind. For that reason, provisions taking away a right of action for damages of the citizen are construed “strictly”, even jealously.

[35] It is one thing to read provisions such as s19, expressed in general language, as intended to protect a government authority from actions in respect of conduct which might be unlawful even when carried out without negligence. Thus, the release of water or entry onto property may be unlawful and tortious because some statutory condition of its exercise was not fulfilled or because it was void for breach of a principle of administrative law. Understandably, the legislature might wish to protect the authority from actions which the statute would otherwise have authorised. It is

another matter to read such provisions as protecting ordinary actions for breach of contract or negligence where the actions can be carried out without the need for specific legislative authority.

[36] In *Coco*, Mason CJ, Brennan and Gaudron JJ and I also said:

"The insistence on express authorization of an abrogation or curtailment of a fundamental right, freedom or immunity must be understood as a requirement for some manifestation or indication that the legislature has not only directed its attention to the question of the abrogation or curtailment of such basic rights, freedoms or immunities but has also determined upon abrogation or curtailment of them. The courts should not impute to the legislature an intention to interfere with fundamental rights. Such an intention must be clearly manifested by unmistakable and unambiguous language. General words will rarely be sufficient for that purpose if they do not specifically deal with the question because, in the context in which they appear, they will often be ambiguous on the aspect of interference with fundamental rights ..."

[37] In terms, s19(1) does not expressly provide that no action in negligence, nuisance, trespass or contract will lie against the respondent. Given the commercial functions of the respondent, it would be astonishing if s19(1) was intended to deprive a citizen of the right to recover damages for the respondent's breach of a contract. It seems unlikely therefore that s19 could have been intended to apply to every action brought against the respondent by a citizen who has suffered loss or damage by reason of the respondent's conduct. While the general terms of s19(1), read literally, cover any action against the respondent, the principles of statutory construction to which I have referred require that the general words of the sub-section be read down so that they do not apply to functions of an ordinary character performed by the respondent and which are done pursuant to agreements with the consent of private citizens.

[38] The respondent supplied the water to the appellants in the present case pursuant to a contract. It did not release the water onto the appellants' property pursuant to a statutory authority and against the will of the appellants. That being so, s19(1) does not cover the case.

(Footnotes omitted).

Callinan J adopted the principles laid down in *Ardouin*:

[111] In *Board of Fire Commissioners (NSW) v Ardouin* the clause to be construed referred to "damage caused in the bona fide exercise of [the] powers [of a fire brigade]." Kitto J said:

"[T]he immunity attaches in respect only of damage resulting from an act which, if it had not been negligent, would have been the very thing, or an integral part of or step in the very thing, which the provisions of the Act other than s46 or the by-laws gave power in the circumstances to do, as distinguished from an act which was merely incidental to, or done by the way in the course of, the exercise of a power."

[112] Dixon CJ in *Ardouin* said that an immunity provision would not be construed to cover a function which was "of an ordinary character involving no invasion of private rights and requiring no special authority."

[113] Both cases demonstrate that to gain a statutory protection against liability for an omission under an immunity provision, the provision should not only ordinarily so provide in express terms, but also that such provisions should generally be strictly construed. (emphasis added)

(Footnotes omitted)

Kirby J, surveying authorities and relevant principles, observed:

[61] Thirdly, a series of decisions of this Court, addressed to statutory immunities, has drawn a distinction between the conferral of an immunity for performing functions which the statutory body in question requires legislation to permit and performing those functions for which no special statutory power is conferred by the Act and for which none is needed because such functions are authorised by the general law. An English case in which this distinction was made was *Marriage v East Norfolk Rivers Catchment Board*. There, Jenkins LJ confined a statutory immunity, which limited a claimant to compensation under the statute rather than to rights at law, to operation only to an injury "the product of an exercise of the board's powers as such, as opposed to the product of some negligent act occurring in the course of some exercise of the board's powers but not in itself an act which the board are authorized to do". His Lordship gave an example, later endorsed and applied by Kitto J in *Ardouin*:

"[A]n injury caused by flooding on one side of the river due to the heightening by the board of the bank on the other side would be a proper subject of compensation, as opposed to action in the courts; but an injury caused by the negligent driving of one of the board's lorries bringing materials to the site would be actionable in the ordinary way."

[62] This distinction became the foundation of the majority view in *Ardouin*. This Court held in that case that s46 of the Fire Brigades Act 1909 (NSW) did not protect the Board of Fire Commissioners from liability for damage resulting from the negligent driving of a fire engine upon a public highway whilst on its way to a fire. For such driving, no specific statutory authority was required. Only in respect of the actionable performance of statutory functions would the statutory immunity provided by Parliament come into play.

[63] The occasional difficulty of classification according to this approach was acknowledged in *Ardouin* [*Board of Fire Commissioners (NSW) v Ardouin* (1961) 109 CLR 105 at 121] by Taylor J. His Honour stated: "[T]he Board owes its existence solely to the statute and every power which it possesses may, in one sense, be said to be conferred by the statute." However, Taylor J insisted on the "significant distinction" between what he called the "general authority and capacity to function as a statutory body" and the "special powers conferred by the Act in relation to the prevention and control of fires". In the end, although this distinction has persisted through later cases in this Court, each case depends, as statutory construction ultimately must, upon the ascertainment of the meaning of the particular immunity provision in question.

(Footnotes omitted)

Summary

A good summary of the principles of statutory interpretation that have been referred to in the above cases can be found in *Colbran v State of Queensland* at [3]-[11] per Williams JA and at [35]-[44] per Jerrard JA.

IV. *R v Rolfe* [2021] HCA 38

In *Rolfe*, the Court (Kiefel CJ, Gageler, Keane, Gordon, Edelman, Steward and Gleeson JJ), citing with approval *Ardouin* at 110 per Dixon CJ, observed at [17]:

“The evident purpose of s 148B is to provide protection from liability, including for a criminal act, provided that the person committing the act does so “in the exercise of a power or performance of a function” (or in the purported exercise or performance) under the PA Act, and does so in good faith. It contemplates that the power exercised or function performed will be of a kind *which may result in the commission of a crime or a civil wrong, which may be contrasted with powers or functions which are of a more general character and do not require any special authority.*”⁷ (emphasis added).

V. The Tragic Death of Kumanjayi Jurrah

The reference from the Attorney General includes asking the Northern Territory Law Reform Committee to consider whether there should be reform of the *Local Government Act* (the Act) as a response to the tragic death of the child Kumanjayi Jurrah.

In the case of *Michael Court v Paula Nadas*⁸ the Local Court considered the liability of the defendant Ms Nadas for the death of Kumanjayi. According to the decision, the defendant was charged “both jointly and separately” for recklessly or negligently causing the death of the child contrary to section 160 of the Criminal Code. Section 160 is the offence of manslaughter, the liability for which is imprisonment for life.

The nature of the charge against Ms Nadas meant that it would be heard in the Local Court only by way of preliminary examination to determine whether there was sufficient evidence for the matter to proceed to the Supreme Court.

The facts given in the Local Court decision are that the defendant Ms Nadas was an employee of the MacDonnell Shire Council as Acting Team Leader of the Kintore Early Learning Centre and that she was responsible for supervising the other 2 staff members.

The three staff members had taken 6 small children from the Kintore Early Learning Centre to the Kintore Swimming Pool. A Lifeguard was on duty while the children were engaged in swimming in a toddler pool at the facility.

⁷ *Board of Fire Commissioners (NSW) v Ardouin* (1961) 109 CLR 105 at 110 per Dixon CJ.

⁸ [2024] NTLC 9

There were only 6 children at the pool with the three staff members and a Lifeguard. No-one conducted a head count on the children leaving the pool and the gate was then locked by the Lifeguard who also then left the area. Kumanjayi had been left locked in the pool grounds.

It was only when the group returned to the Kintore Early Learning Centre that the child Kumanjayi's absence was noticed, not by the defendant or the others, but by the child's aunt. No one present who rushed to the pool was able to unlock the gate as the key had been taken away by the Lifeguard.

A community resident scaled the fence, but the little boy's body was found deceased floating in the pool.

His Honour ruled that the defendant Paula Nadas had immunity under section 111(1) of the *Local Government Act* 2008 for "the commencement and continuation of the criminal prosecution" and dismissed "both charges" on the "criminal file 22116343. The decision in *Nadas* also referred to a "co-accused Rigney". The coronial findings indicate that Mr Rigney was the lifeguard on duty.⁹

His Honour declined to state a case to the Supreme Court on the question of law of the purported immunity.

His Honours view was that the immunity from criminal liability in section 111(1) applied to council staff in the performance of their official functions.

It is noted that there was no mention in the decision of *Court v Nadas* of the provision in Part VI the Criminal Code, "Duties Relating to the Preservation of Human Life in Offences against the Person and Related Matters".

Section 149 provides:

Duty of person in charge of child or others

"It is the duty of every person having charge of a child under the age of 16 years or having charge of any person who is unable to withdraw himself from such charge by reason of age, sickness, unsoundness of mind, detention or other cause and who is unable to provide himself with the necessities of life:

(a) to provide the necessities of life for that child or other person; and

(b) to use reasonable care and take reasonable precautions to avoid or prevent danger to the life, safety or health of the child or other person and to take all reasonable action to rescue such child or other person from such danger."

The approach to a similar provision in *The Queen v Lewis* mentioned below contrasts with the approach taken in *Court v Nadas*. It is noted that *The Queen v Lewis* preceded the decision in *Court v Nadas* but that case does not appear to have been considered by the Local Court.

The immunity provision in the *Local Government Act* has since been amended.

⁹ See [6] that the entrance gate was locked and unable to be opened due to an additional padlock for which "the key was the co-accused Rigney (sic)". Presumably this was meant to be "the key was **with** the co-accused Rigney".

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of staff of a council.

(2) Any civil liability that would, but for this section, attach to a member of staff of a council, attaches instead to the council.

(2) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

In her findings in the inquest into the death of Kumanjayi Jirrah, the Coroner referred to submissions from the North Australian Aboriginal Justice Agency (“NAAJA”).

“In its written submissions NAAJA raised its concern that criminal charges which had been brought against the Team Leader were dismissed pursuant to s 111(1) of the Local Government Act 2008 (NT) (the “2008 Act”). That section provided: No civil or criminal liability attaches to a staff member for an honest act or omission in the performance, or purported performance, of official functions under this or another Act.

The 2008 Act was repealed and replaced by the Local Government Act 2019 (NT) (the “2019 Act”) in 2021, which contains a similar immunity from both civil and criminal liability at s 182(1): A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of staff of a council.

NAAJA’s submissions were to the effect that equivalent provisions in other jurisdictions in Australia only provide protections for civil liability. The Northern Territory is the only jurisdiction which protects against criminal liability.

NAAJA referred me to the statutes and case law in other jurisdictions as well as the second reading speeches and explanatory memoranda for the 2008 and 2019 Acts in the Northern Territory, to support their submission that there is no policy justification for the broad immunity available from criminal liability in the Northern Territory. *Michael Court v [Team Leader]* [2024] NTLC. 38

I agree with NAAJA’s submission that there appears to be no good policy reason for providing immunity from criminal liability in this form in the 2019 Act, and that this provision appears to be somewhat of an anomaly.

I therefore include a recommendation relating to possible law reform of this provision.”

One of the difficulties arising both from the decision of the Local Court Judge and the Coroner’s report is the assumption that there can be no criminal liability for conduct committed by a staff member of the Council. That assumption was of course based on the outcome of the case involving the previous section 111 of the Act.

However, in accordance with High Court authority discussed above immunity provisions such as s111(2) of the *Local Government Act* 2008 (NT) and s182(1) of the *Local Government Act* 2019 (NT) are strictly construed only to operate in relation to conduct that may constitute a civil or criminal wrong in the fulfillment of a public servant's duty where specific legislative authorization is required so as to enable the public servant to fulfill his or her duties. Such immunity provisions are not to be construed as applying to acts of an ordinary character that do not inherently entail interference with persons or property.

VI. *The Queen v Michael Glenn Lewis* 24 February 2021

In an incident very similar to the occurrence of the death of Kumanjayi Jirrah, the defendant Michael Lewis pleaded guilty to manslaughter as a result of a breach of section 286 of the Queensland Criminal Code. Section 286 provided:

Duty of person who has care of child

(1) It is the duty of every person who has care of a child under 16 years to—

- (a) provide the necessities of life for the child; and
- (b) take the precautions that are reasonable in all the circumstances to avoid danger to the child's life, health or safety; and
- (c) take the action that is reasonable in all the circumstances to remove the child from any such danger;

(2) In this section— person who has care of a child includes a parent, foster parent, step parent, guardian or other adult in charge of the child, whether or not the person has lawful custody of the child.

The three year old child known to his family as “Meeky” had been collected by the then childcare centre director Mr Lewis with the Goodstart Early Learning Centre minibus, but he failed to take the child off the bus or sign him in to the centre when the bus arrived there. The child died still buckled into his seat, only two rows behind the driver's seat, and had been left there for many hours resulting in him dying from the extreme heat on the bus. The defendant pleaded guilty to criminal negligence.

Somewhat similar to the absence of checks resulting in the death of Kumanjayi Jirrah, there was a failure to sign the child in on a check list folder on the bus and then off again on arrival at the centre and there was no physical check of the bus conducted to ensure all children were off.

The defendant Mr Lewis was sentenced to six years imprisonment.

The provision under which the defendant was found guilty are not dissimilar to the provisions in the Northern Territory Criminal Code mentioned above. The Supreme Court of Queensland does not appear to have had any difficulty in applying section 286 of the Queensland Criminal Code, noting in particular, the requirement of the duty to provide the necessities of life which likewise is a factor required by section 149 of the Northern Territory Criminal Code.

It is noted that section 235 of the *Local Government Act 2009* (Qd) states that administrators (which includes a local government employee) who acts honestly and without negligence are protected from liability (emphasis added).

Nevertheless, as has been noted above, in contrast to the outcome of a plea to manslaughter in *The Queen v Lewis*, the Local Court in Nadas dismissed the charge of manslaughter on the basis of immunity under the then section 111 of the Local Government Act.

It is however clear that the authorities establish that, as has been explained in Chapter 4 of this Report, that the scope of “performance...of official functions” in provisions such as section 111 (or the current section 182¹⁰) do not extend to cover conduct of the type that was subject of the charge(s) in *Court v Nadas*. The explanatory memorandum to section 111¹¹ clearly envisages that where the performance of an act by a staff member incurs some “legal civil or criminal liability” and a person suffers damage by the act, they are required to sue the council and not the person. That view appears to be inconsistent with the way in which the criminal law operates, particularly in relation to acts or omissions that result in the death of a person.

The view of the Local Court of the then section 111, that the defendant Nadas, acting as a relieving Acting Team Leader at the Kintore Learning Centre as a Council staff employee, was immune from liability because she was carrying out her duties that were within the performance of the objectives and functions of the Council does not seem to be sustainable.

5. WHETHER THERE ARE UNIQUE CIRCUMSTANCES IN THE NORTHERN TERRITORY THAT JUSTIFY THE CURRENT BROAD IMMUNITY FROM CRIMINAL LIABILITY UNDER THE LOCAL GOVERNMENT ACT

Section 182 of the *Local Government Act 2019* (NT) provides immunity from criminal (and civil) liability for a member of staff of a council acting in good faith in the exercise of their powers or functions. As has been discussed above, whilst the provision is broad it is not in fact absolute in excluding all liability for acts or omissions undertaken by staff members of a council.

The question is whether there is a need to include exclusion from criminal liability given that no other jurisdiction expressly does so. The Northern Territory is recognised as having the broadest and most explicit criminal immunity for both local government and public sector employees. As previously noted above, other jurisdictions have either no such provision or only limited forms of immunity, generally confined to civil liability. Are there unique circumstances in the Northern Territory to warrant a broad provision against liability for both civil and criminal liability?

Some other jurisdictions have considered or debated broader immunity, but to date have not enacted provisions as broad as the Northern Territory.

Some of the factors that might be said to support immunity are:

¹⁰ Section 182 refers to the performance of a function not an “official function”.

¹¹ See page 7 of this report.

i. Geographical Dispersion

The Northern Territory covers a vast area (over 1.3 million square kilometres), with many remote and isolated communities across the entire area. Local government staff are often required to make decisions and take actions in challenging, resource-constrained, and sometimes urgent circumstances, often without immediate access to legal or administrative support.

The distances involved may mean that staff may be required to exercise significant discretion and initiative, sometimes in the absence of direct supervision. However, it should be noted that the advancement of technology across Australia means that staff in isolated communities are not always now without the ability to seek advice before acting upon a matter.

The immense geography of the Northern Territory and the difficulties faced by staff in the remote areas is not something that is unique to the Northern Territory. Similar issues and difficulties are faced by staff across the northern regions of Queensland and Western Australia. Indeed, in the many vast rural areas throughout Australia, staff often face similar problems.

ii. Relatively Small Population Base

The Northern Territory has a small and widely dispersed population (approximately 250,000 people), with many small local councils serving remote Aboriginal communities.

The pool of qualified and willing individuals to serve as council staff is perhaps limited. The risk of personal liability could deter capable individuals from taking up or remaining in these roles, exacerbating recruitment and retention challenges.

Councils often operate with limited human resource and administrative capacity, increasing the risk of honest mistakes or omissions in the course of public service.

iii. Policy and other Rationales for Immunity

Although the focus of this report has been on the immunity provision of section 182 it is worth noting that the Local Government Act actually contains 3 identical provisions that are said to provide immunity from both civil and criminal liability.

Section 57 protects a member of a council. Section 182 protects a member of staff of a council and section 194 protects a person appointed to constitute a prospective council.

The question is whether there is a policy rationale for providing protection for those individuals from both civil and criminal liability?

Administrative Efficiency: Immunity provisions allow staff to act decisively in the public interest without fear of personal prosecution for actions taken in good faith, which is essential for effective service delivery in remote and complex environments.

Risk Allocation: By shifting liability to the council as an institution, the Act ensures that the public body, rather than individual staff, bears the risk of litigation, which may be seen as more appropriate given the public nature of local government functions.

Consistency with Other Jurisdictions: All Australian states and territories provide some form of immunity for local government staff for acts done in good faith in the course of their duties. As can be seen in the sections noted above, any civil liability attaches to the council as a body corporate, not to the individual who may have performed or omitted to perform the act in question.

Safeguards

The immunity is not absolute. It only applies to certain categories of acts or omissions done in good faith.

Without such protection, the risk of personal liability could undermine the willingness of individuals to serve, reduce administrative efficiency, and ultimately impair the delivery of essential services to some of Australia's most remote and vulnerable populations.

Facilitates Effective Administration

The immunity provided by the *Local Government Act* is said to allow council staff to perform their statutory duties without fear of personal criminal prosecution for honest mistakes or reasonable actions taken in good faith. This is said to be particularly important in the Northern Territory, where staff often work in remote and challenging environments with limited support.

Encouragement of Public Service

The risk of personal criminal liability could deter qualified individuals from working in local government, especially in small or remote communities where recruitment is already difficult.

Supports Decisive Decision-Making

Staff are more likely to make timely and necessary decisions if they are not concerned about personal criminal repercussions for actions taken in good faith.

Aligns with Public Sector Norms

Similar immunity provisions exist in other areas of public administration, reflecting a broader public policy consensus.

Liability Remains with the Council

The provision does not create a legal vacuum; it shifts civil liability to the council as an institution, ensuring accountability and remedies for aggrieved parties.

i. Short Summary of Criminal Responsibility for a Body Corporate:

A council or body corporate can be held criminally responsible under Northern Territory law.

Division 5 of Part IIAA of the NT Criminal Code (ss 43BK–43BP) sets out the principles of corporate criminal responsibility. These provisions are based on the Model Criminal Code and are substantially similar to the Commonwealth Criminal Code.

Section 43BK provides:

"A body corporate may be found guilty of any offence, including one punishable by imprisonment."

The Code sets out how physical and fault elements of an offence can be attributed to a body corporate, including through the actions of employees, agents, or officers, and through the concept of "corporate culture" (i.e., policies, practices, or tolerances that led to the offence).

Physical elements can be attributed to a corporation if committed by an employee, agent, or officer acting within their actual or apparent authority.

Fault elements (intention, knowledge, recklessness) can be attributed if the corporation expressly, tacitly, or impliedly authorised or permitted the commission of the offence, including through its board, high managerial agents, or corporate culture.

The prosecution must prove the physical and fault elements, which may be established through the acts or omissions of senior officers, employees, or through evidence of a deficient corporate culture.

6. WHAT REASONS ARE THERE FOR RETAINING THE CRIMINAL IMMUNITY PROVISIONS OF THE *LOCAL GOVERNMENT ACT*?

The terms, scope and character of the immunity currently conferred by the Legislature on Northern Territory local government staff members has remained substantially unchanged since 2008, with roots in broadly similar statutory protection for council workers dating from the earliest days of self-government.

The immunity enjoyed by council staff is typical of and consistent with the immunities enjoyed by officers, employees, members and other persons charged with performing a broad range of statutory functions in the Northern Territory.

Section 182 of the *Local Government Act* is one of at least fifty Northern Territory statutes that also confer immunity on a wide range of officers, officials, staff members and other persons who perform statutory functions.

Of those fifty enactments, 43 of them contain immunity provisions in terms that are the same as or substantially similar to section 182 of the *Local Government Act*.

To restrict the immunity conferred by s 182 of the 2019 Act without similarly amending dozens of other relevantly similar Acts would disturb the stability and consistency of the statutory framework that protects a broad range of persons who perform statutory functions in the Northern Territory.

The Coroner's observations (*Inquest into the death of Kumanjayi Jurrah* [2024] NTLC 12 at [134] to [139]) underpinning her recommendation that consideration be given to reforming s 182 of the 2019 Act stem from concerns raised at the inquest regarding the dismissal of charges against a Council worker pursuant to s 111 of the 2008 Act (*Michael Court v Nadas* [2024] NTLC 9).

It is reasonably foreseeable that the removal, weakening or narrowing of the existing levels of protection from liability enjoyed by local government workers, police officers and a broad range of other persons performing official functions in the Northern Territory would add to existing challenges to recruit and retain staff in these sectors of the Northern Territory workforce.

However, an amendment that provides clarity of the meaning and intent of an immunity from liability provision is desirable.

7. IF NO SUCH CIRCUMSTANCES EXIST TO JUSTIFY BROAD IMMUNITY FROM CRIMINAL LIABILITY UNDER THE ACT WOULD REFORM OF THE LEGISLATION HAVE ANY ADVERSE IMPACTS?

As has been discussed so far in this Report, it is a misconception that section 182 of the *Local Government Act* provides total exclusion for liability for criminal acts committed in good faith by members of the Council. If that view was correct, such exclusion would, to the general community, seem extraordinary that a person while acting "in good faith", could negligently commit a serious act or omission and not suffer any consequence as a result.

It may be a desirable reform to amend the current section 182 so that readers are not misled to a view that members of Local Councils have complete immunity with respect to all their actions or omissions.

8. COST IMPLICATIONS

We do not anticipate any increased cost to members of Local Councils or others.

9. CONSULTATION

The Law Reform subcommittee sought the views of the Local Government Councils as to whether there should be an amendment to Section 182 of the *Local Government Act 2019*. The subcommittee's draft report was forwarded to the relevant council bodies.

We were pleased to receive responses from the Local Government Association Northern Territory, the City of Darwin, the Katherine Town Council and the McDonnell Regional Council.

The responses received primarily suggested that no amendment to the Act was necessary as it should be possible for the relevant bodies to develop policies and procedures and provide interpretative guidance for all the councils. It was conceded though that an amendment to the Act might be had to provide clarification that section 182 does not completely absolve members and staff from liability for actions or omissions taken by them.

In the view of the Law Reform Committee, an amendment that provides that clarification is desirable. Whilst no doubt members of the various bodies that have responded are intent on ensuring their staff and members understand how section 182 operates, over a period of time and changes of staff and members that understanding may lapse. It is therefore desirable that there is clarification in the provision in question that it does not completely absolve persons from liability for their actions or omissions.



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Northern Territory of Australia

Local Government Act 2019

Commencement Notice

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, under section 2 of the *Local Government Act 2019* (No. 39 of 2019) (the **Act**):

- (a) fix 1 July 2021 as the day on which the Act, other than Part 8.6, commences; and
- (b) fix 1 July 2022 as the day on which Part 8.6 of the Act commences.

V. S. O'Halloran
Administrator

Dated 15 June 2021

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

1	<i>Agricultural and Veterinary Chemicals (Control of Use) Act 2004</i>	s 108	(1) This section applies to a person who is or has been: (a) the Chemicals Coordinator; (b) a chemical adviser; (c) a person assisting a chemical adviser under section 91; or (d) a member of an Advisory Committee. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
2	<i>Anti-Discrimination Act 1992</i>	s 113	(1) No action or proceedings, whether civil or criminal, shall be commenced or continue against a person for or in relation to an act, omission or thing done in good faith by the person in the performance or exercise, or purported performance or exercise, of a function or power under this Act. (2) No action or proceeding, whether civil or criminal, shall be commenced or continue against a person in respect of any loss or damage suffered by another person by reason only that the person: (a) lodged a complaint; or (b) provided information or evidence to the Commissioner or the Tribunal.
3	<i>Animal Protection Act 2018</i>	s 102	(1) A designated person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act. (2) Subsection (1) does not affect a liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section:

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
4	Associations Act 2003	s 7	(1) This section applies to a person who is or has been the Director or a person administering or enforcing this Act. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
5	Building Act 1993	s 153	(1) No matter or thing done, or omitted to be done, by: (a) the Director; or (b) the Advisory Committee or a member of the Advisory Committee; or (c) the Practitioners Board or a member of the Practitioners Board; or (d) the Appeals Board or a member of the Appeals Board; or (e) a person acting under the direction of the Director, the Practitioners Board or the Appeals Board; subjects the Director, Committee, Practitioners Board, Appeals Board or person to any action, liability, claim or demand, if the matter or thing was done or omitted to be done in good faith for the purpose of performing a function or executing a power under this or any other Act, or the performance or exercise, or intended performance or exercise, of the functions or powers of the member, Director, Board, Committee or person. (2) No matter or thing done or omitted to be done by: (a) a building certifier; or (aa) the Director; or (b) a person performing a function or exercising a power of a building certifier in relation to a public authority;

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			under this Act in good faith or relying on a certificate under section 40 subjects the building certifier, Director or person, or the Territory, to any action, liability, claim or demand. (3) No matter or thing done by a building certifier under this Act subjects the Director or the Territory to any action, liability, claim or demand. (4) No action or other proceedings may be brought against the Director, the Territory or an employee, as defined in the Public Sector Employment and Management Act 1993 with respect to information included in or omitted from a register maintained under this Act.
6	<i>Bushfires Management Ac 2016</i>	s 99	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of the Council or a regional committee. (2) Subsection (1) does not affect any liability that the Territory, the Council or a regional committee would, apart from that subsection, have for the act or omission. (3) A fire control officer, fire warden or authorised bushfire volunteer acting in accordance with a direction given by a person participating in the chain of command at a bushfire is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the course of so acting. (4) A fire warden acting in accordance with a direction given by a fire control officer under section 48(4) is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the course of so acting. (5) Subsection (3) or (4) does not affect any liability that the Territory would, apart from that subsection, have for the act or omission.
7	<i>Business Tenancies (Fair Dealings) Act 2003</i>	s 15	(1) This section applies to a person who is or has been: (a) the Commissioner; or (b) a delegate of the Commissioner; or (c) a person authorised by the Commissioner.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
8	<i>Cancer (Registration) Act 2009</i>	s 19	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act as: (a) the Chief Health Officer; or (b) the Registrar. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: <i>exercise</i>, of a power, includes the purported exercise of the power. <i>performance</i>, of a function, includes the purported performance of the function.
9	<i>Care and Protection of Children Act 2007</i>	s 309	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith: (a) in the exercise or purported exercise of a power as an authorised officer under this Act; or (b) in the performance or purported performance of a function as an authorised officer under this Act. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
10	<i>Children's Commissioner Act 2013</i>	s 48 s 49	(1) A person acting in good faith in making a complaint or providing information to the Commissioner or a member of the Commissioner's staff:

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(a) does not incur any civil or criminal liability in relation to the making of the complaint or provision of information; and (b) cannot be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted standard of conduct in relation to the making of the complaint or provision of the information; and (c) cannot be held to have contravened any Act in relation to the making of the complaint or provision of the information. (2) A civil proceeding may be brought against a person for making a complaint or giving information for this Act only with the leave of the Supreme Court. (3) The Supreme Court may grant the leave only if it is satisfied there is a substantial ground for contending the person has not acted in good faith. (4) This section has effect: (a) whether the complaint made or information provided is true or false; and (b) whether the person provides the information at the request of the Commissioner or a member of the Commissioner's staff or on the person's own initiative; and (c) despite any duty of secrecy or confidentiality or any other restriction on the provision of information applicable to the person. (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
11	Community Justice Centre Act 2005	s 33	(1) This section applies to a person who is or has been any of the following:

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(a) the Director; (b) a mediator; (c) a Centre employee; (d) a Council member; (e) a Committee member. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
12	<i>Constructions Contracts (Security of Payments) Act 2004</i>	s 56	(1) This section applies to a person who is or has been: (a) an appointed adjudicator; or (b) a prescribed appointer; or (c) the Registrar. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
13	<i>Director of Public Prosecutions Act 1990</i>	s 36	The Director, the Deputy Director or any other person acting under this Act: (a) is not liable for anything that in good faith he or she does or refrains from doing for carrying out this Act; and (b) without limiting paragraph (a), is entitled to be indemnified by the Territory for any liability incurred in any proceedings related to the carrying out of this Act.
14	<i>Emergency Management Act 2013</i>	s 113	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(a) a member of an emergency management body; (b) an authorised officer; (c) a member of the NTES. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
15	Environment Protection Act 2019	s 280A	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following: (a) the CEO; (b) a person who is appointed or authorised as an environmental officer under section 159(1); (c) a person who is authorised under section 163(1)(r) to provide assistance to an environmental officer; (d) a person who is authorised under section 251(4) to exercise a power or perform a function under section 251(1) or (2) on the CEO's behalf; (e) a person who is authorised under section 272(4) to exercise a power or perform a function under section 272(1) or (2) on the CEO's behalf. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise of a power includes the purported exercise of the power. performance of a function includes the purported performance of the function.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

16	<i>Fines and Penalties (Recovery) Act 2001</i>	s 99AA	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or performance of a function under this Part as any of the following: (a) an authorised person; (b) an immobilisation officer; (c) an officer of the Fines Recovery Unit. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: <i>exercise or performance</i>, of a function, includes the purported exercise or performance of the function.
17	<i>Fisheries Act 1988</i>	s 33B	(1) The Director and the Territory are not liable to any person for any spoilage or deterioration in the quality of any fish or aquatic life or, subject to reasonable care being taken, any deterioration in any other thing seized under section 33(1). (2) A Fisheries Officer who, at the time of seizure, returns to the water any fish or aquatic life seized under section 33(1) that the Officer believes to be alive, is not liable to the person from whom the fish or aquatic life was seized if: (a) a decision is made not to charge a person with an offence in relation to which the fish or aquatic life was seized; or (b) a person is acquitted of the charge. (3) Subsection (2) has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to the civil liability of a Fisheries Officer who is a police officer.
18	<i>Food Act 2004</i>	s 130	(1) This section applies to a person who is or has been: (a) the Chief Health Officer;

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(b) the chief executive of an enforcement agency or another officer or member of the staff of the enforcement agency; (c) a member of an enforcement agency; (d) an authorised officer; or (e) an approved analyst or a person carrying out analyses under the supervision of an approved analyst. (1) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (2) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. This section has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to the civil liability of an authorised officer who is or has been a member of the Police Force.
19	Gaming Control Act 1993	s 79	(1) An action or proceeding, civil or criminal, shall not lie against the Director, a gaming inspector, a member of the Police Force or a person approved or authorised under this Act acting in the execution or intended execution of this Act or the Regulations on account of anything done or omitted to be done for the purposes of this Act or the Regulations or done or omitted to be done in good faith and purporting to be for the purposes of this Act or the Regulations. (2) Subsection (1) has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to the civil liability of a member of the Police Force.
20	Geothermal Energy Act 2009	s 125	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(a) a geothermal energy officer; (b) a person assisting an officer under this Act; (c) an authorised person mentioned in section 115(2); (d) a person mentioned in section 115(3)(b) who is assisting the Minister or authorised person. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
21	<i>Guardianship of Adults Act 2016</i>	s 75	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as the Public Guardian. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
22	<i>Health Practitioners Act 2004</i>	s 18J	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following: (a) a member of the Pharmacy Committee; (b) a member of an advisory committee; (c) a delegate of the Pharmacy Committee. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
23	Health Services Act 2021	s 27	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in: (a) the exercise of a power or performance of a function under this Act; or (b) giving information or a document to an advisory panel. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise of a power includes the purported exercise of the power. performance of a function includes the purported performance of the function.
24	Higher Education Act 2004	s 58	1) This section applies to a person who is or has been: (a) the Minister; or (b) an authorised person under Part 7. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
25	Independent Commissioner Against Corruption Act 2017	s 99 s 155	(1) A protected person: (Whistleblowers) (a) incurs no civil or criminal liability by taking protected action; and (b) does not become liable to disciplinary action, or other adverse administrative action, for taking protected action.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(2) In an action for defamation, protected action is absolutely privileged. (3) Subsections (1) and (2) apply even if the protected action is taken in breach of an obligation of confidentiality. (4) Despite anything to the contrary in this Part, when a person takes protected action, the person's liability for the person's own conduct (other than conduct consisting of taking the protected action) is not affected. (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith when acting, or purportedly acting, in an official capacity. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) This section does not derogate from Part VIIA of the Police Administration Act 1978. (4) If a person is alleged to have acted in bad faith when acting, or purportedly acting, in an official capacity, a civil or criminal proceeding for the act may only be brought by leave of the Supreme Court. (5) The Supreme Court is not to grant leave unless satisfied there are substantial reasons for believing the person acted in bad faith.
25a	Legal Aid Act 1990	s 56	Liabilities of Commission (1) The Commission has the same liability for acts or omissions by an officer in the course of the performance of the officer's duties as a master has for acts or omissions of his or her servants. (2) A member of the Commission, of a Legal Aid Committee or of a Review Committee is not liable for any act or omission of the member, of the Commission, or of the Committee of which he or she is a member, if the act was done, or the omission occurred, in good faith in the performance of a function under this Act
26	Legal Profession Act 2006	s 369	Protection from liability

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

		s 657	(1)This section applies to a person who is or has been a costs assessor.
		s 667	(2)The person is not civilly or criminally liable for an act done or omitted to be done in good faith for the administration of this Part.
		s 677	(3)Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
		s 682	Protection from liability (1)This section applies to a person who is or has been a member of the Admission Board. (2)The person is not civilly or criminally liable for an act done or omitted to be done in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3)Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. Protection from liability (1)This section applies to a person who is or has been a member of the Funds Management Committee. (2)The person is not civilly or criminally liable for an act done or omitted to be done in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3)In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Committee in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(4) Subsections (2) and (3) do not affect any liability the Territory would, apart from that subsection, have for the act or omission. Protection from liability (1) This section applies to a person who is or has been a member of the Disciplinary Tribunal. (2) The person is not civilly or criminally liable for an act done or omitted to be done in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. Protection from liability (1) This section applies to a person who is or has been the Statutory Supervisor. (2) The person is not civilly or criminally liable for an act done or omitted to be done in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
27	<i>Liquor Act 2019</i>	s 25	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act as any of the following: (a) a member of the Commission; (b) the Director; (c) an inspector;

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(d) an assessor; (e) a police officer. (2) Subsection (1)(e) is subject to Part VIIA of the <i>Police Administration Act 1978</i> and only affects a police officer's civil liability. (3) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (4) In this section: exercise of a power includes the purported exercise of the power. performance of a function includes the purported performance of the function.
27a	<i>Liquor Commission Act 2018</i>	s 39	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of the Commission. (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Commission in the exercise of a power or performance of a function under this Act. (3) Subsections (1) and (2) do not affect any liability the Territory or the Commission would, apart from these subsections, have for the act or omission. (4) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

28	<i>Meat Industries Act 1996</i>	s 62	Where an inspector does an act or makes an omission in good faith: (a) in the exercise or purported exercise of a power; or (b) in the performance or purported performance of a function, under this Act, no action, claim or demand, either civil or criminal, in respect of that act or omission lies, or shall be commenced or allowed, against the Territory, the Chief Inspector or an inspector.
29	<i>Mental Health and Related Services Act 1998</i>	s 164	No proceedings, civil or criminal, may be commenced or continued against a person for anything done in good faith and with reasonable care by the person in reliance on any authority or document apparently given or made in accordance with this Act.
30	<i>National Disability Insurance Scheme (Authorisations) Act 2019</i>	s 29	A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following: (a) the CEO; (b) the Senior Practitioner; (c) an internal reviewer.
			(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise , of a power, includes the purported exercise of the power. performance , of a function, includes the purported performance of the function.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

31	National Disability Insurance Scheme (Workers Clearance) Act 2020	s 60	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
32	Northern Territory Civil and Administrative Tribunal Act 2014	s 147 s 148	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member. (2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Tribunal in good faith in the exercise of a power or performance of a function under this or another Act. (3) Subsections (1) and (2) do not affect any liability the Territory would, apart from those subsections, have for the act or omission. (4) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
			If a person produced a document or other material under a requirement of this Act, the person is not civilly or criminally liable, or in breach of a professional code, for doing so.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

33	Ombudsman Act 2009	s 159	(1) A person is not liable in any civil proceeding in relation to: (a) making a complaint; or (b) giving information for: (i) the making of preliminary inquiries; or (ii) the conciliation or mediation process; or (iii) the police complaints resolution process; or (iv) an investigation. (2) Subsection (1) does not apply if the complaint was made or the information is provided in bad faith. (3) A civil proceeding must not be brought against a person in relation to an act mentioned in subsection (1) without the leave of the Supreme Court. (4) The Court must not grant leave unless it is satisfied there is substantial ground for the contention the person acted in bad faith.
		s 160	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this or another Act as any of the following: (a) an official; (b) a conciliator or mediator acting under Part 6, Division 3 or Part 7, Division 3. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(3) This section has effect subject to Part VIIA of the Police Administration Act 1978 to the extent the section relates to the civil liability of the Commissioner or a Professional Standards Command member. (4) In this section: exercise, of a power, includes the purported exercise of the power. official means: (a) the Ombudsman; or (b) an officer of the Ombudsman's Office; or (c) a consultant or other person employed or engaged to act in an official capacity; or (d) the Commissioner or a Professional Standards Command member. performance, of a function, includes the purported performance of the function
34	Petroleum Act 1984	s 117N	(1) A person is not civilly liable for an act done or omitted to be done by the person in good faith in the exercise of a power or the performance of a function as any of the following: (a) an inspector; (b) a person assisting an inspector under Part III. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise of a power includes the purported exercise of the power. performance of a function includes the purported performance of the function.
35	Police Administration Act 1978	s148B (see also Part VIIA, generally)	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function
36	Ports Management Act 2015	s 146	(1) This section applies to: (a) the Territory; and (b) the Minister; and (c) a regional harbourmaster; and (d) an Agency; and (e) the Competent Authority; and (f) a person acting, within the scope of their employment or engagement, on behalf of the Territory, the Minister, a regional harbourmaster, an Agency or the Competent Authority; and (g) a port operator of a designated port, or a person acting on behalf of such an operator, in doing or omitting to do anything for the purpose of enforcing compliance with a port notice; and (h) a port operator of a designated port, or a person acting on behalf of such an operator, in doing or omitting to do anything for the purposes of Part 5, Division 2 or 3; and (i) a police officer. (2) An entity to which this section applies is not civilly or criminally liable for an act done or omitted to be done by the entity in good faith in the exercise of a function under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3A) This section has effect subject to Part VIIA of the Police Administration Act 1978.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(4) In this section: exercise , of a function, includes the purported exercise of the function.
37	Private Security Act 1995	s 59	(1) In this section official means: (a) the Director; or (b) an inspector; or (c) a person acting under the direction of an inspector. (2) An official does not incur civil liability for an act or omission done honestly and without negligence under this Act. (3) A liability that would, apart from this section, attach to an official attaches instead to the Territory. (4) This section has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to the civil liability of an inspector who is a member of the Police Force.
38	Public and Environmental Health Act 2011	s 131	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following: (a) the CHO; (b) an enforcement agency; (c) an authorised officer, including an authorised officer appointed under section 53(1)(a); (d) a person assisting an authorised officer under section 80(5)(b). (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) This section has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it applies to the civil liability of an authorised officer who is a police officer.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(4) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function.
39	Public Sector Employment and Management Act 1993	s 64A	No civil or criminal proceedings lie against a person: (a) who conducts an investigation under the Act for the Commissioner or a Chief Executive Officer; or (b) who is an employee or former employee; in relation to a report prepared in good faith by the person for this Act or in the course of his or her employment about: (c) the work that has been, is being or is to be performed by an employee; or (d) the work that was performed by a former employee; or (e) the conduct of an employee or former employee. (2) In subsection (1): employee includes the Commissioner and a Chief Executive Officer. former employee includes a former Commissioner and a former Chief Executive Officer.
40	Radiation Protection Act 2004	s 56	(1) This section applies to a person who is or has been: (a) the Chief Health Officer; (b) an authorised officer; or (c) a person assisting an authorised officer under Part 5. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

41	Serious Sex Offenders Act 2013	s 112B	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function by the person under this Act. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission. (3) In this section: exercise of a power includes the purported exercise of the power. performance of a function includes the purported performance of the function.
42	Swimming Pool Safety Act 2004	s 47	(1) This section applies to a person who is or has been: (a) the Chief Executive Officer of the Agency administering this Act; (b) the Authority; or (c) a pool safety adviser. (2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act. (3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
43	Teacher Registration (NT) Act 2004	s 76 s 76A	(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following: (a) the Director; (b) a Board member; (c) a member of a committee, investigation panel or inquiry committee or an investigator; (d) a member of the staff of the Board or a person otherwise engaged by the Board.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Board or a committee, investigation panel or inquiry committee in the exercise of a power or performance of a function under this Act. (3) Subsections (1) and (2) do not affect any liability the Territory or the Board would, apart from those subsections, have for the act or omission. (4) In this section: exercise, of a power, includes the purported exercise of the power. performance, of a function, includes the purported performance of the function. A person who, acting in good faith, gives information or a document or other thing under this Act to a relevant entity is not civilly or criminally liable for giving the information.
44	<i>Telecommunications (Interception) NT Act 2001</i>	s 20	(1) Except as otherwise provided by sections 17A and 18, the Ombudsman, the Inspector or an inspecting officer does not incur any liability in respect of any act done (or omitted to be done) in good faith: (a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or (b) in the administration, or the purported administration, of this Act. (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the Territory.
45	<i>Territory Parks and Wildlife Conservation Act 1976</i>	s 110	(1) No civil or criminal liability is incurred by the Director, a member of the Commission, a conservation officer, an honorary conservation officer or any other officer or employee of the Commission for or in relation to an act or omission on his or her part done or made in good faith in or in connection with the performance or exercise, or purported performance or exercise, of his or her powers or functions under this Act.

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(2) Subsection (1) has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to the civil liability of an honorary conservation officer who is a member of the Police Force.
46	<i>Terrorism (Emergency Powers) Act 2003</i>	s 35	(1) This section applies to a person who is or has been: (a) the Chief Health Officer; (b) a police officer; or (c) a person assisting a police officer. (2) No civil or criminal proceedings lie against a person to whom this section applies in relation to an act done, or an omission made, in good faith in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act or the Regulations. (3) Subsection (2) does not affect any liability that the Territory would, but for that subsection, have for an act or omission. (3A) Subsections (2) and (3) have effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to the civil liability of a person who is or has been a police officer. (4) The Territory is liable for the actions of a person assisting a police officer, in relation to anything done, or omitted to be done, in good faith by the person. (5) The Territory is not to be held liable merely because: (a) there was an irregularity or defect in the giving of an authorisation; or (b) the person who gave an authorisation did not have jurisdiction to do so
47	<i>Tobacco Control Act 2002</i>	s 56	(3) This section applies to a person who is or has been: (a) the Chief Health Officer (b) the Director; or (c) an authorised officer; or

APPENDIX 2: SELECTED NT STATUTORY PROTECTION FROM LIABILITY PROVISIONS

			(d) a person required to assist an authorised officer under section 50(2)(g)(iii) (2) No civil or criminal proceedings lie against a person to whom this section applies in relation to an act done or omission made in good faith in the exercise or purported exercise of a power or the purported exercise of a power or the performance or purported performance of a function under this Act or the Regulations. (3) Subsection (2) does not affect any liability that the Territory would, but for that section, have for an act or omission. (4) This section has effect subject to Part VIIA of the <i>Police Administration Act 1978</i> to the extent it relates to civil liability of an authorised officer who is or has been a member of the Police Force.
48	<i>Treaty Commissioner Act 2020</i>	s 21	(1) A person who is performing functions under this Act is not civilly liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this or any other Act. (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.