

**Legislative Council—No 79**

As received from the House of Assembly and read a first time, 22 February 2023

South Australia

**Local Government (Casual Vacancies) Amendment  
Bill 2023**

A BILL FOR

An Act to amend the *Local Government Act 1999*.

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### Part 1—Preliminary

1 Short title

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2 Amendment of section 54—Casual vacancies

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

5 This Act may be cited as the *Local Government (Casual Vacancies) Amendment Act 2023*.

## Part 2—Amendment of *Local Government Act 1999*

### 2—Amendment of section 54—Casual vacancies

(1) Section 54—after subsection (1) insert:

(1a) Despite subsection (1)(h) but subject to subsection (1b)—

10 (a) the office of a defaulting member will be taken not to be, and never to have been, vacant as a result of the failure by the defaulting member to submit a prescribed return before the expiration of 1 month from the end of the relevant period for the member; and

15 (b) —

(i) nothing done or purportedly done by the defaulting member in the performance or discharge of official functions or duties during the defaulting period is invalid or unlawful; and

20 (ii) no allowance, expense or other entitlement paid or payable to a defaulting member in respect of their office during the defaulting period is to be recovered or withheld,

25 by reason only of the failure referred to in paragraph (a) (and the operation of subsection (1)(h) until the commencement of the *Local Government (Casual Vacancies) Amendment Act 2023*).

- 5 (1b) The office of a defaulting member becomes vacant if the defaulting member fails to submit a prescribed return in accordance with the requirements of Part 14 of the *Local Government (Elections) Act 1999* (other than section 80(3)(b)) before the expiration of 10 business days after the day on which the *Local Government (Casual Vacancies) Amendment Act 2023* commences.
- (1c) Subsection (1b) does not apply to a defaulting member who submitted a prescribed return during the defaulting period.
- 10 (1d) A reference in subsection (4) to a failure to submit a return under Part 14 of the *Local Government (Elections) Act 1999* includes a reference to a failure to submit a prescribed return under subsection (1b).
- 15 (1e) Nothing in subsection (1a) or (1b) affects the operation of Part 14 of the *Local Government (Elections) Act 1999* in relation to the failure by a defaulting member to submit a prescribed return in accordance with the requirements of that Part.
- (1f) No act or proceeding of a council is invalid by reason only of the operation of subsection (1a).
- (2) Section 54(6)—after "subsection (1)" insert:
- 20 or (1b)
- (3) Section 54—after subsection (10) insert:
- (11) In this section—
- 25 **defaulting member** means a member of a council who failed to submit a prescribed return before the expiration of 1 month from the end of the relevant period for the member;
- defaulting period**, in relation to a defaulting member, means the period commencing on the expiration of 1 month from the end of the relevant period for the member and ending on the commencement of the *Local Government (Casual Vacancies) Amendment Act 2023*;
- 30 **prescribed return**, in relation to the periodic elections (within the meaning of section 5 of the *Local Government (Elections) Act 1999*) held in 2022, means the campaign donations return required to be furnished by a member under Part 14 of the *Local Government (Elections) Act 1999* within 30 days after the conclusion of the election (held as part of those periodic elections) at which the member was elected (the **relevant period for a member**);
- 35 **relevant period for a member**—see the definition of **prescribed return**.