

South Australia

Local Government (Implementation) Regulations 1999

under the *Local Government (Implementation) Act 1999*

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Legislative history

1—Short title

These regulations may be cited as the *Local Government (Implementation) Regulations 1999*.

2—Commencement

These regulations will come into operation on 1 January 2000.

3—Preliminary

- (1) In these regulations—
principal Act means the *Local Government (Implementation) Act 1999*;
public place has the meaning given by the 1999 Act.
- (2) These regulations make saving and transitional provisions pursuant to the principal Act.

4—Committees

A council must, with respect to a committee—

- (a) established as a council committee under the 1934 Act and continued as a committee under the 1999 Act (see section 12(1) of the principal Act); or

- (b) established as a controlling authority under section 199 of the 1934 Act and continued in existence as a committee under the 1999 Act (see section 24 of the principal Act),

determine reporting and other accountability requirements that are to apply in relation to the committee under the 1999 Act by 1 September 2000.

5—Single council subsidiaries

If—

- (a) a controlling authority established by a council under section 199 of the 1934 Act and in existence before 1 January 2000 continues in existence as a committee of the council under the 1999 Act; and
- (b) the council after the commencement of these regulations but before 1 September 2000 obtains the approval of the Minister under section 42 of the 1999 Act to constitute a subsidiary of the council as a successor of the committee of the council,

then—

- (c) subject to any variation proposed by the council, the rules of the controlling authority as they existed on 31 December 1999 will be taken to be the charter of the subsidiary; and
- (d) any non-compliance concerning the charter of the subsidiary with Schedule 2 of the 1999 Act may be disregarded until 1 January 2002; and
- (e) subject to any other appointment made by the council, the persons constituting the membership of the committee immediately before obtaining the approval of the Minister under section 42 of the 1999 Act will be taken to constitute the first board of management of the subsidiary.

6—Regional subsidiaries

An application for the approval of the Minister to amend the rules of a controlling authority under section 200 of the 1934 Act received (but not finally dealt with) by the Minister before 1 January 2000 will continue to be dealt with under the 1934 Act but any amendment, if or when approved, will then take effect as if it were an amendment to the charter of the relevant regional subsidiary under the 1999 Act (see section 25 of the principal Act).

7—Meetings

- (1) Subject to the 1999 Act, the procedure to be observed at a meeting of a council will, until the relevant day, be—
 - (a) the procedure prescribed by the *Local Government (Proceedings of Councils) Regulations 1984* immediately before 1 January 2000; or
 - (b) insofar as the procedure is not prescribed by those regulations—as determined by the council.

- (2) Subject to the 1999 Act, the procedure to be observed at a meeting of a council committee, other than a committee to which subregulation (3) applies, will, until the relevant day, be—
 - (a) the procedure prescribed by the *Local Government (Proceedings of Councils) Regulations 1984* immediately before 1 January 2000; or
 - (b) insofar as the procedure is not prescribed by those regulations—as determined by the council; or
 - (c) insofar as the procedure is not prescribed by regulation or determined by the council—as determined by the council committee itself.
- (3) A council committee which, immediately before the commencement of these regulations, existed as a controlling authority established by a council under section 199 of the 1934 Act may, until 1 September 2000 and subject to any determination of the council, continue to observe the practices and procedures that applied in relation to its meetings immediately before 1 January 2000 (and despite the provisions of the 1999 Act).
- (4) If the charter of a regional subsidiary to which section 25(1) of the principal Act applies contains a provision with respect to the proceedings of the subsidiary that is inconsistent with Schedule 2 of the 1999 Act, then the provision of the charter may prevail until 1 September 2000.
- (5) In these regulations—

relevant day means the day on which the *Local Government (Proceedings of Councils) Regulations 1984* are expressly revoked by regulations made under the 1999 Act.

8—Code of practice

An alteration made by a council to its code of practice under section 65AAA of the 1934 Act solely to update references to the 1999 Act (being the code of practice applying under section 92 of the 1999 Act by virtue of section 16 of the principal Act)—

- (a) will not be taken to constitute a review of the code under section 92(2) of the 1999 Act; and
- (b) will not be subject to the operation of section 92(5) of the 1999 Act.

9—Term of appointment of auditors

- (1) An appointment of an auditor for a fixed term in existence immediately before 1 January 2000 is not affected by section 128(6) of the 1999 Act.
- (2) An appointment of an auditor for an indeterminate term in existence immediately before 1 January 2000 will cease to have effect on the completion of the audit for the 1999/2000 financial year.

10—Rates

- (1) Chapter 10 Part 1 Division 5 of the 1999 Act will not apply to a rate declared under the 1934 Act.
- (2) Section 179(1) of the 1999 Act will not, with respect to the 1999/2000 financial year, apply to land that becomes rateable after the rate is declared.

- (3) If an instalment of rates declared under the 1934 Act is not paid on or before the date on which it falls due, the provisions of the 1934 Act will continue to apply with respect to the calculation and imposition of fines and interest subject to the qualification that interest on any such outstanding instalment of rates will, after 30 June 2000, be calculated and imposed in accordance with section 181(8)(c) of the 1999 Act.
- (4) A council is not required to comply with the requirements of any regulation made under section 180(2) of the 1999 Act in relation to any rate or charge declared or imposed for the 1999/2000 or 2000/2001 financial years.

11—Local government land

- (1) Any process commenced under section 459A of the 1934 Act that has not been finally dealt with under that section before 1 January 2000 may be continued and completed under the 1934 Act (and if Ministerial consent is obtained under that section then the land will, if or when it is sold or otherwise disposed of, cease to be a reserve or a portion of a reserve and will be freed from any trusts relating to it).
- (2) Subject to subregulation (3), the following local government land will not, on the commencement of section 193 of the 1999 Act, be taken to be classified as community land:
 - (a) land which is to be transferred or conveyed to another party pursuant to an agreement entered into by the relevant council before 1 January 2000; or
 - (b) land which is subject to an option under which another party is entitled to acquire (or reacquire) an interest in the land pursuant to an agreement entered into by the relevant council before 1 January 2000; or
 - (c) land which is listed for sale on the open market immediately before 1 January 2000; or
 - (d) land which has, before 1 January 2000, been the subject of a public call for expressions of interest about the future use of the land where it is contemplated that the land could be sold or leased by the council; or
 - (e) land which is to be transferred or conveyed to another party pursuant to an arrangement the essential terms and conditions of which were approved by the relevant council before 1 January 2000 (and, for the purposes of this paragraph, disregarding any subsequent variation that may be made to those terms or conditions unless the variation is substantial).
- (3) If—
 - (a) an agreement to which subregulation (2)(a) or (b) applies is cancelled, rescinded or otherwise discharged (otherwise than by performance); or
 - (b) land to which subregulation (2)(c) applies is withdrawn from the open market; or
 - (c) land to which subregulation (2)(d) applies is not sold or leased by the council by 31 December 2000; or
 - (d) an arrangement to which subregulation (2)(e) applies is cancelled, or an essential term or condition of any such arrangement is not met or is substantially varied,

then the land will become subject to the operation of section 193 of the 1999 Act.

- (4) A council is not required to comply with the requirements of section 202(2) of the 1999 Act with respect to a lease or licence if—
- (a) the council decided to enter into the lease or licence before the commencement of these regulations; or
 - (b) in the case of a lease, the entering into of the lease was approved at a meeting of electors in accordance with the provisions of the 1934 Act before the commencement of these regulations; or
 - (c) the lease or licence is granted before 1 January 2001 and is the extension or renewal of, or is otherwise being granted in place of, a lease or licence in existence before the commencement of these regulations; or
 - (d) the lease or licence is required for an event occurring before 1 July 2000 where the date on which the event is to be held is known before the commencement of these regulations; or
 - (e) —
 - (i) the lease or licence is for the purposes of a short-term event; and
 - (ii) the term of the lease or licence is limited to the duration of the event and any period required before the event for setting up or preparing for the event or after the event for dismantling the event or taking action to address the impact of the event; and
 - (iii) the council has not adopted a management plan on account of the operation of section 196(7) of the Act.
- (5) The enactment of section 202 of the 1999 Act does not affect the operation of section 592 of the 1934 Act (and a council may grant rights under that section of the 1934 Act as if the 1999 Act had not been enacted).
- (6) In this regulation—
- short-term event* means an event to be held over or during a period not exceeding three consecutive days.

12—Registers

- (1) A council is not required to have a register under section 207 of the 1999 Act until 1 January 2003.
- (2) A council is not required to have a register under section 231 of the 1999 Act until 1 January 2002.

13—By-laws

- (1) A council may make by-laws for all or any of the following purposes:
- (c) for preventing obstruction of any street or road, or any footway, water-channel, or watercourse in a street or road.
- (3) Unless or until revoked by the council, the following by-laws are preserved:
- (a) By-law No. 3—Council Reserves, made by the District Council of Tumby Bay and published in the Gazette on 10 August 1995;

- (b) By-law No. 2—Streets and Public Places, made by the Corporation of the City of Adelaide and published in the Gazette on 18 December 1997;
 - (c) By-law No. 8—Aqueous Waste, made by the City of Port Adelaide Enfield and published in the Gazette on 7 January 1999.
- (4) A by-law to which this regulation applies will have effect as if made under the 1999 Act.

14—Register of interests—officers

- (1) A return submitted to a council in accordance with regulations made under section 70B of the 1934 Act by a person to whom Division 2 of Part 4 of Chapter 7 of the 1999 Act applies will be taken to be a valid return for the purposes of section 113 or 114, and section 115, of the 1999 Act, and to form part of the Register of Interests required under section 116 of the 1999 Act.
- (2) Subregulation (1) does not affect a requirement to submit an ordinary return under the 1999 Act within 60 days after 30 June 2000.

15—Disputes between councils

Any proceeding commenced under section 721 of the 1934 Act that has not been finally determined before the commencement of these regulations will be continued and completed as if the principal Act had not been enacted.

16—Campaign returns

For the purposes of a campaign donations return under Part 14 of the 1999 Electoral Act in respect of the council elections to be held in May 2000, if the disclosure period under section 81 of that Act for a person would, but for this regulation, be a period commencing before 1 January 2000, then the commencement of that disclosure period will be 1 January 2000.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Expiry of regulations

The *Local Government (Implementation) Regulations 1999* expired on 1.9.2011: see *Subordinate Legislation Act 1978*.

Principal regulations and variations

Year	No	Reference	Commencement
1999	257	<i>Gazette 9.12.1999 p3297</i>	1.1.2000: r 2
2000	42	<i>Gazette 25.5.2000 p2675</i>	1.1.2000: r 2
2000	205	<i>Gazette 31.8.2000 p1041</i>	1.7.2000: r 2
2001	256	<i>Gazette 13.12.2001 p5400</i>	1.1.2002: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 11		
r 11(1)	varied by 42/2000 r 3(a)	1.1.2000
r 11(2)	varied by 42/2000 r 3(b)	1.1.2000
r 11(3)	varied by 42/2000 r 3(c)	1.1.2000
r 11(4)	varied by 42/2000 r 3(d)	1.1.2000
	varied by 205/2000 r 3	1.7.2000
r 11(6)	inserted by 42/2000 r 3(e)	1.1.2000
r 13		
r 13(1)	(a), (b), (d), (e) deleted by 256/2001 r 3(a)	1.1.2002
<i>r 13(2)</i>	<i>deleted by 256/2001 r 3(b)</i>	<i>1.1.2002</i>

Historical versions

Reprint No. 1—1.1.2000

Reprint No. 2—31.8.2000