

South Australia

Local Government (Defaulting Council) (Miscellaneous) (No 2) Amendment Proclamation 2023

under section 273 of the *Local Government Act 1999*

Part 1—Preliminary

1—Short title

This proclamation may be cited as the *Local Government (Defaulting Council) (Miscellaneous) (No 2) Amendment Proclamation 2023*.

2—Commencement

This proclamation comes into operation on 29 March 2023.

Part 2—Amendment of *Local Government (Defaulting Council) Proclamation 2019 (Gazette 24.1.2019 p272)* as varied

3—Substitution of clause 5

Clause 5—delete the clause and substitute:

5—Appointment of administrators

- (1) The following people are appointed to be administrators of the affairs of the Council:
Erika Johanna Vickery
Geoffrey William Sheridan
John Gerard Moyle
- (2) For the purposes of this proclamation, Geoffrey William Sheridan is designated as the principal administrator of the affairs of the Council.

4—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

Schedule 1—Provisions of Acts and regulations excluded or modified (section 273(12) of Act)

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 4(1), definition of <i>integrity provision</i>	After "members" insert: or administrators

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 38(2) and (3)	Delete "principal member" wherever occurring and substitute in each case: principal administrator
Section 39	Delete "a member" wherever occurring and substitute in each case: an administrator Delete "member's" and substitute: administrator's
Section 56	Delete the section
Section 58(1)	Delete "principal member" wherever occurring and substitute in each case: principal administrator Delete "members" and substitute: administrators Delete paragraphs (c) and (d)
Section 58(2)	Delete subsection (2)
Section 59(1)	Delete "a member of a council" and substitute: an administrator of a council Delete "a member of the governing body of the council" and substitute: an administrator of the council Delete "principal member" and substitute: principal administrator Delete paragraphs (a)(iv) and (b)
Section 59(2)	Delete "A member" and substitute: An administrator Delete "principal member's" and substitute: principal administrator's Delete "principal member" and substitute: principal administrator
Section 59(3)	Delete "A member" and substitute: An administrator
Section 61	Delete "A member" and substitute: An administrator Delete "the member" wherever occurring and substitute in each case: the administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 62(1) and (2)	Delete "A member" wherever occurring and substitute in each case: An administrator
Section 62(3) and (4a)	Delete "or former member" wherever occurring and substitute in each case: , former member, administrator or former administrator After "a member" insert: or administrator
Section 62(4)	After "member" wherever occurring insert: or administrator
Section 62(4c)	Delete "A member" and substitute: An administrator
Section 62(4d)	Delete "a member" and substitute: an administrator
Section 62(4e)	Delete "A member" and substitute: An administrator Delete "members" and substitute: administrators
Section 72A(1)	Delete "A member" and substitute: An administrator Delete "the member" wherever occurring and substitute in each case: the administrator
Section 72A(2)	Delete "a member" and substitute: an administrator Delete "the member" and substitute: the administrator
Section 72A(3)	Delete subsection (3)
Section 72A(4)	Delete "members" and substitute: administrators
Section 72A(5) and (6)	Delete "a member" wherever occurring and substitute in each case: an administrator Delete "the member" wherever occurring and substitute in each case: the administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 72A(7)	After "that Schedule" insert: (and any reference to a member of a council in that Schedule is to be taken to be a reference to an administrator of a council)
Section 74(1)	Delete "a member" and substitute: an administrator Delete "the member's" and substitute: the administrator's Delete "the member" and substitute: the administrator
Section 74(2)	Delete "a member" wherever occurring and substitute in each case: an administrator
Section 75	Delete "a member of a council" and substitute: an administrator of a council Delete "the member" wherever occurring and substitute in each case: the administrator After "Schedule 3" wherever occurring insert: , and any reference to a member of a council in that Schedule is to be taken to be a reference to an administrator of a council
Section 75A(1)	Delete subsections (1)(k) and (2) Delete "A member" and substitute: An administrator Delete "the member" wherever occurring and substitute in each case: the administrator Delete "the member's" and substitute: the administrator's
Section 75A(2)	Delete "a member of a council" and substitute: an administrator of a council
Section 75A(2)(a), (c) and (d)	Delete "the member" wherever occurring and substitute in each case: the administrator Delete "a member" and substitute: an administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75A(2)(e)	Delete "the member" and substitute: the administrator
Section 75A(3)	Delete subsection (3)
Section 75B	Delete "a member" wherever occurring and substitute in each case: an administrator Delete "the member" wherever occurring and substitute in each case: the administrator Delete "the member's" wherever occurring and substitute in each case: the administrator's Delete "members" and substitute: administrators
Section 75C	Delete "a member" wherever occurring and substitute in each case: an administrator Delete "the member" wherever occurring and substitute in each case: the administrator Delete "the member's" wherever occurring and substitute in each case: the administrator's Delete subsection (1)(b) and substitute: <ul style="list-style-type: none">(b) leave the meeting (by leaving the meeting room or by disconnecting from the meeting by electronic means, as the case requires) such that the administrator cannot view or hear any discussion or voting at the meeting in respect of the matter; and(c) not view or listen to the discussion or voting at the meeting in respect of the matter via any live stream or recording of the meeting. Delete "members" and substitute: administrators

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75D	After "as if" wherever occurring insert: there were no exclusions of, or modifications to, the provisions of this Subdivision under section 273(12) and as if
Section 75E(3)	After "A member" insert: or administrator After "standards" insert: (and any reference to a member of a council in the behavioural standards is to be taken to be a reference to an administrator of a council)
Section 75F	Delete "members" wherever occurring and substitute in each case: administrators Delete "A member" and substitute: An administrator Delete subsection (7) and substitute: (7) The council must consider whether it should adopt behavioural support policies by 30 June 2023.
Section 75G(1)	Delete "A member" and substitute: An administrator Delete "the member's" wherever occurring and substitute in each case: the administrator's Delete "other members" wherever occurring and substitute in each case: other administrators Delete "the member" and substitute: the administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75G(2)	Delete "principal member" wherever occurring and substitute in each case: <p style="text-align: center;">principal administrator</p> Delete "the deputy or another member chosen by the council" wherever occurring and substitute in each case: <p style="text-align: center;">another administrator</p> Delete "another member or the chief executive officer" and substitute: <p style="text-align: center;">another administrator or the chief executive officer</p>
Section 75G(3) to (5) (inclusive)	Delete "a member" wherever occurring and substitute in each case: <p style="text-align: center;">an administrator</p>
Section 80	Delete "every member" and substitute: <p style="text-align: center;">every administrator</p> Delete "a member" and substitute: <p style="text-align: center;">an administrator</p> Delete "members" and substitute: <p style="text-align: center;">administrators</p>
Section 80A	Delete the section
Section 82(1)(a)	Delete "principal member" and substitute: <p style="text-align: center;">principal administrator</p>
Section 85(1)	Delete "members" wherever occurring and substitute in each case: <p style="text-align: center;">administrators</p>
Section 85(2)	Delete subsection (2)
Section 86(1)	Delete "principal member" and substitute: <p style="text-align: center;">principal administrator</p>
Section 86(2)	Delete subsection (2) and substitute: <p style="text-align: center;">(2) If the principal administrator is absent from a meeting of the council, an administrator chosen by those present will preside.</p>
Section 86(3)	Delete paragraph (a) Delete "a member" and substitute: <p style="text-align: center;">an administrator</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 86(4)	Delete subsection (4) and substitute: <ul style="list-style-type: none"> (4) Subject to this Act, a question arising for decision at a meeting of a council will be decided in accordance with section 273(10).
Section 86(5)	Delete "member" and substitute: administrator
Section 86	After subsection (5) insert: <ul style="list-style-type: none"> (5a) For the purposes of this section, a person will be taken to be present at a meeting, and to form part of any quorum for the meeting, if they are— <ul style="list-style-type: none"> (a) physically present at the meeting; or (b) they attend the meeting remotely using 1 or both (including a combination) of the following means of communication: <ul style="list-style-type: none"> (i) audio visual; (ii) audio, <p>even if the person is not physically present at the same place as another person participating in the meeting.</p>
Section 86(6)	Delete subsection (6)
Section 86(6a)	Delete "A member" and substitute: An administrator
	Delete "another member" and substitute: another administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 86(6b)	Delete "a member" and substitute: an administrator Delete "presiding member" wherever occurring and substitute in each case: presiding administrator Delete ", in accordance with the regulations," Delete "the member" wherever occurring and substitute in each case: the administrator
Section 86(6c)	Delete "A member" and substitute: An administrator Delete "and any requirements of the regulations"
Section 86(6d)	Delete "a member" and substitute: an administrator
Section 86(6e)	Delete subsection (6e)
Section 86(8)	Delete subsection (8) and substitute: (8) Subject to this Act, the procedure to be observed at a meeting of a council will be as determined by the council.
Section 90	After subsection (1) insert: (1a) A council meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more of the administrators participates in the meeting by electronic means provided that— (a) the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a live stream of the meeting on a website determined by the chief executive officer and ensures that members of the public can hear via the live stream the administrators and any discussion between the

Provision of Act or regulations Exclusion or modification to apply

Local Government Act 1999

administrators and any person invited by the administrators to speak at the meeting; or

(b) if the chief executive officer (or a person nominated in writing by the chief executive officer) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the chief executive officer and ensures that members of the public can hear via the recording the administrators and any discussion between the administrators and any person invited by the administrators to speak at the meeting.

- (1b) If the chief executive officer (or a person nominated in writing by the chief executive officer) has taken reasonable steps to comply with subsection (1a) but is unable to comply—
- (a) the chief executive officer (or a person nominated in writing by the chief executive officer) must publish on a website determined by the

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<i>Local Government Act 1999</i>	
Section 262B	<p>Delete subsection (1) and substitute:</p> <p>(1) The Council must prepare and adopt a policy relating to the management of behaviour of administrators of the council (a <i>behavioural management policy</i>) by 30 June 2023.</p> <p>Before subsection (2)(a) insert:</p> <p>(a1) provisions requiring the council to nominate 1 or more persons at the council to be authorised to receive complaints;</p> <p>After subsection (2)(b) insert:</p> <p>(ba) provisions requiring the council to nominate an independent person or body (with the agreement of the person or body) to inquire into complaints;</p> <p>Delete subsection (2)(d)</p> <p>Delete "the member" and substitute:</p> <p>the administrator</p> <p>Delete "A member" and substitute:</p> <p>An administrator</p>
Section 262B(2)(c)	<p>Delete "the council" wherever occurring and substitute in each case:</p> <p>the nominated independent person or body</p>
Section 262C	<p>Delete "the member" wherever occurring and substitute in each case:</p> <p>the administrator</p> <p>Delete "the member's" and substitute:</p> <p>the administrator's</p> <p>Delete "a member" wherever occurring and substitute in each case:</p> <p>an administrator</p> <p>Delete "office of member" and substitute:</p> <p>office of administrator</p>
Section 262E	<p>Delete "a member" wherever occurring and substitute in each case:</p> <p>an administrator</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 262Q	Delete "a member" and substitute: an administrator Delete "principal member" and substitute: principal administrator Delete paragraph (c)
Section 262W(1)	Delete "the member" wherever occurring and substitute in each case: the administrator Delete "the member's" and substitute: the administrator's Delete "a member" wherever occurring and substitute in each case: an administrator Delete "office of member" wherever occurring and substitute in each case: office of administrator Delete "an allowance" and substitute: remuneration Delete paragraph (h)
Section 262W(3)	Delete "a member" and substitute: an administrator After "matter to the council" insert: and the Minister Delete "the member" and substitute: the administrator Delete "the member's" and substitute: the administrator's
Section 262W(4)	Delete subsection (4)
Section 263A	After "member" wherever occurring insert: or administrator
Section 263B(1)(a)	After "requiring the council" insert: or, in the case of a complaint against an administrator, the Minister
Section 263B(1)(a)(i) and (ii)	After "member" wherever occurring insert: or administrator After "an allowance" insert: or, in the case of an administrator, remuneration

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 263B(1)(a)(iii)	Before "ensure" insert: in the case of a complaint against a member—
Section 263B(1)(b)	After "member" insert: or administrator
Section 263B(3)	Delete "A council is" and substitute: The Minister and a council are
Section 290(1)	After "signed by" insert: the principal administrator of a council,
<i>Local Government (Elections) Act 1999</i>	
Sections 6 to 8 (inclusive)	Delete the sections
<i>Local Government (General) Regulations 2013</i>	
Regulation 7	Delete "A member" wherever occurring and substitute in each case: An administrator Delete "office of member" and substitute: office of administrator Delete "the member" wherever occurring and substitute in each case: the administrator
Regulation 35	Delete "members" wherever occurring and substitute in each case: administrators Delete "a member" wherever occurring and substitute in each case: an administrator
<i>Public Sector Act 2009</i>	
Section 74	After subsection (1) insert: (1a) This section does not apply to a person appointed by the Governor to be an administrator of the affairs of a council under section 273 of the <i>Local Government Act 1999</i> .

Made by the Governor

with the advice and consent of the Executive Council
on 9 March 2023