

South Australia

Local Government (Defaulting Council) (Miscellaneous) 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) Amendment Proclamation 2023*.

2—Commencement

This proclamation comes into operation on 2 February 2023.

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

3—Amendment of clause 5—Appointment of administrator

Clause 5—delete "Timothy Robert Sandford Jackson" and substitute:

Colin John Davies

4—Amendment of clause 6—Application of provisions of Acts and regulations

Delete "and the *Local Government (Elections) Act 1999*" and substitute:

, the *Local Government (Elections) Act 1999* and the *Public Sector Act 2009*

5—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
Section 38(2) and (3)	Delete "principal member" wherever occurring and substitute in each case: administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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" and substitute: administrator Delete "as leader of the council" Delete paragraphs (b) to (d) (inclusive)
Section 59(1)	Delete "a member of a council" and substitute: the administrator of a council Delete "a member of the governing body of the council" and substitute: the administrator of the council Delete paragraphs (a)(iii), (a)(iv) and (b)
Section 59(2)	Delete subsection (2)
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
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

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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
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 "discussed" and substitute: considered Delete "the member's" and substitute: the administrator's Delete "the member" and substitute: the administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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 "discussed" and substitute: considered 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 Delete subsections (1)(k) and (2)
Section 75A(1)	Delete "A member" and substitute: An administrator Delete "discussed" and substitute: considered 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 Delete "discussed" and substitute: considered
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
Section 75A(2)(e)	Delete "the member" and substitute: the administrator
Section 75A(3)	Delete subsection (3)

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75B(1)	Delete "a member" and substitute: an administrator Delete "discussed" and substitute: considered Delete "the member" wherever occurring and substitute in each case: the administrator Delete "inform the meeting" and substitute: inform the Minister Delete "the member's" wherever occurring and substitute in each case: the administrator's Delete "participate in the meeting in relation to the matter" wherever occurring and substitute in each case: make a decision on the matter at the meeting Delete "vote on" and substitute: make a decision on Delete "participating (and, if relevant, voting) in relation to" and substitute: making a decision on
Section 75B(2)	Delete subsection (2)
Section 75B(3)	Delete "a member" and substitute: an administrator Delete "discussed" and substitute: considered Delete "the member's" and substitute: the administrator's Delete "the member" wherever occurring and substitute in each case: the administrator Delete paragraphs (d) and (e)

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75B(4)	Delete "a member" and substitute: an administrator Delete "the member" and substitute: the administrator Delete "discussed" and substitute: considered or decided
Section 75C(1)	Delete "a member" and substitute: an administrator Delete "discussed" and substitute: considered Delete "the member" and substitute: the administrator Delete "inform the meeting" and substitute: inform the Minister Delete "the member's" and substitute: the administrator's Delete paragraph (b)
Section 75C(2)	Delete "a member" and substitute: an administrator Delete "taking part in the meeting" and substitute: making a decision on a matter Delete "the member" and substitute: the administrator
Section 75C(3)	Delete "a member of the council to take part in the meeting" and substitute: the administrator of the council to make a decision on a matter Delete paragraph (a)

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75C(5)	Delete "a member" and substitute: an administrator Delete "discussed" and substitute: considered Delete "the member's" and substitute: the administrator's Delete "the member" and substitute: the administrator Delete paragraph (c) and substitute: (c) if the administrator made a decision in respect of the matter under an approval under subsection (3), the fact that the decision was made under the approval.
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 to 75G (inclusive)	Delete the sections
Section 80	Delete "every member" and substitute: an administrator Delete "a member" and substitute: an administrator Delete "members" and substitute: administrators
Section 80A	Delete the section
Section 82(1)(a)	Delete "the principal member" and substitute: the administrator
Section 85	Delete the section
Section 86(1)	Delete "principal member" and substitute: administrator
Section 86(2) and (3)	Delete subsections (2) and (3)
Section 86(4)	Delete "a majority of the votes cast by the members present at the meeting and entitled to vote on the question" and substitute: the administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 86	<p>After subsection (4) insert:</p> <p>(4a) For the purposes of this section, a person will be taken to be present at a meeting if they are—</p> <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(5) to (6e)	Delete subsections (5) to (6e) (inclusive)
Section 86(8)	Delete subsection (8) and substitute: <ul style="list-style-type: none"> (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	<p>After subsection (1) insert:</p> <p>(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 the administrator participates in the meeting by electronic means provided that—</p> <ul style="list-style-type: none"> (a) the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a live

Provision of Act or regulations **Exclusion or modification to apply**

Local Government Act 1999

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 administrator and any person invited by the administrator 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 administrator and any person invited by the

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	<p>administrator to speak at the meeting.</p> <p>(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—</p> <p>(a) the chief executive officer (or a person nominated in writing by the chief executive officer) must publish on a website determined by the chief executive officer the steps taken to comply with subsection (1a); and</p> <p>(b) subsections (1) and (1a) are suspended.</p>
Section 90(3)(e) and (4)(a)	After "members" wherever occurring insert: <p>, administrators</p>
Section 90(6)	After "member" insert: <p>or administrator</p> <p>Before "the council committee" insert: <p>a member of</p> </p>
Section 252(7)	Delete "principal member" and substitute: <p>administrator</p>
Section 263A	After "member" wherever occurring insert: <p>or administrator</p>
Section 263B(1)(a)	After "requiring the council" insert: <p>or, in the case of a complaint against an administrator, the Minister</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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
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: an 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
<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 2 February 2023