

South Australia

Local Government (Transitional Provisions) (Stage 2) Variation Regulations 2021

under the *Local Government Act 1999*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Local Government (Transitional Provisions) Regulations 2021*

- 4 Variation of regulation 8—General
 - 5 Insertion of regulation 11A
 - 11A Principal member of council
 - 6 Insertion of regulations 13 to 15
 - 13 Financial accountability
 - 14 Council audit and risk committees—membership
 - 15 Auditor
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Local Government (Transitional Provisions) (Stage 2) Variation Regulations 2021*.

2—Commencement

- (1) Subject to subregulation (2), these regulations come into operation on the day on which section 87(3) of the *Statutes Amendment (Local Government Review) Act 2021* comes into operation.
- (2) Regulation 5 comes into operation on the day on which section 17 of the *Statutes Amendment (Local Government Review) Act 2021* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Local Government (Transitional Provisions) Regulations 2021*

4—Variation of regulation 8—General

Regulation 8—delete "section 92(5)" and substitute:

sections 12(7) and 92(5)

5—Insertion of regulation 11A

After regulation 11 insert:

11A—Principal member of council

- (1) In connection with section 147(2) and (3) of the Amendment Act, a council constituted on the basis that the principal member is to be chosen by the members of the council from amongst their own number must conduct a review of its composition under Chapter 3 Part 1 of the Act so as to ensure that the appointment or election of a mayor required by section 51(1) of the Act (as amended by section 17 of the Amendment Act) takes effect from polling day for the second periodic election held after the commencement of section 17.
- (2) Despite subregulation (1), section 12 of the Act applies to a relevant council required to conduct a review of its composition under Chapter 3 Part 1 of the Act in accordance with that subregulation as follows:
 - (a) section 12(3) to (11e) (inclusive) do not apply if the relevant council prepares a report on matters relating to the change in the basis on which the principal member of the council is to be determined, including any action that is required to be taken in order to give effect to the change;
 - (b) section 12(12) to (16) (inclusive) and (18) to (25) (inclusive) apply as if—
 - (i) a reference to a report were a reference to a report under paragraph (a); and
 - (ii) a reference to a proposal were a reference to a proposal set out in a report under paragraph (a); and
 - (iii) a reference to a failure to undertake a review in accordance with the requirements of section 12 were a reference to a failure to undertake such a review as modified by this regulation;
 - (c) section 12(17) does not apply.

- (3) In this regulation—

relevant council means a council to which subregulation (1) applies that commenced a review of its composition under Chapter 3 Part 1 of the Act after the conclusion of the periodic election held in 2018 and completed the review before the commencement of this regulation.

6—Insertion of regulations 13 to 15

After regulation 12 insert:

13—Financial accountability

Until the commencement of section 79(1) of the Amendment Act, the requirement under section 122(1e)(b) of the Act (as inserted by section 79(2) of the Amendment Act) for a council to provide the designated authority with all relevant information on revenue sources outlined in the funding plan referred to in subsection (1a)(a) (of section 122 of the Act) will be taken to be satisfied if the council provides the designated authority with all relevant information on the intended sources of the council's projected total revenue for the period to which its long-term financial plan relates (such as revenue from rates, grants and other fees and charges).

14—Council audit and risk committees—membership

On and after the commencement of section 84(5) of the Amendment Act and despite paragraphs (a) and (b) of section 126(2) of the Act (as in force after that commencement)—

- (a) a member of a council audit and risk committee holding office immediately before the commencement of section 84(5) of the Amendment Act will continue to hold office for the remainder of their term of office; and
- (b) paragraphs (a) and (b) of section 126(2) of the Act do not apply to the membership of the committee for any period during which the continuation in office of a member of the council audit and risk committee under paragraph (a) results in the membership of the committee not being in accordance with those paragraphs.

15—Auditor

If, immediately before the commencement section 87(3) of the Amendment Act, a firm comprising at least 1 registered company auditor holds office as auditor of a council under a contract entered into by the council, section 128(6) of the Act (as in force after the commencement of section 87(3)) does not apply to the council until the end of the term of the contract.

Editorial note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

after consultation with the Local Government Association and with the advice and consent of
the Executive Council
on 23 December 2021

No 197 of 2021