

South Australia

Local Government (Transitional Provisions) Regulations 2021

under the *Local Government Act 1999*

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Part 1—Preliminary

1—Short title

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

2—Commencement

- (1) Subject to subregulation (2), these regulations come into operation on the day on which section 4 of the *Statutes Amendment (Local Government Review) Act 2021* comes into operation.
- (2) Part 3 comes into operation on the day on which section 92 of the *Statutes Amendment (Local Government Review) Act 2021* comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Local Government Act 1999*;

Amendment Act means the *Statutes Amendment (Local Government Review) Act 2021*.

Part 2—Initial transitional provisions relating to *Statutes Amendment (Local Government Review) Act 2021*

4—General

- (1) A reference to Chapter 5 Part 4 Division 1 Subdivision 2 in section 55A(6) of the Act (as inserted by section 20 of the Amendment Act) will be taken to be a reference to Chapter 5 Part 4 Division 2 of the Act until the commencement of section 28 of the Amendment Act.
- (2) Section 99A(10) of the Act (as inserted by section 60 of the Amendment Act) does not apply to a council until the day on which the first determination made by the Remuneration Tribunal for the purposes of that section takes effect.
- (3) The amendments to section 184 of the Act effected by section 99(1), (3) or (4) of the Amendment Act do not apply to or in relation to the sale of land under section 184 if the notice under section 184(2) for the purposes of that sale is given before the commencement of those amendments.
- (4) For the avoidance of doubt, the operation of section 184(1) of the Act (including the calculation of any period of 3 years or more for which an amount payable by way of rates in respect of land has been in arrears) is not affected by subregulation (3) (or the amendments effected by section 99 of the Amendment Act).

5—Mobile food vending businesses

- (1) A permit granted under section 222 of the Act for the purposes of a mobile food vending business and in force immediately before the commencement of section 108(1) of the Amendment Act continues in force for the term stated in the permit subject to the conditions applying to the permit and the provisions of sections 222, 224 and 225 of the Act as in force after the commencement of section 108(1) apply to such a permit.
- (2) If a review has been commenced but not finally determined by the Small Business Commissioner under section 225B of the Act before the repeal of that section by section 114 of the Amendment Act, the review may be continued and completed by the Commissioner under section 225B of the Act as if the repeal had not been effected.

6—Certain resolutions

The amendments to section 234A of the Act effected by section 119 of the Amendment Act do not apply to or in relation to a resolution passed under section 234A before the commencement of section 119.

7—Elections—method of counting

The amendments to section 48 of the *Local Government (Elections) Act 1999* effected by section 173 of the Amendment Act apply in relation to an election the close of voting for which occurs on or after the day on which section 173 commences.

Part 3—Further transitional provisions relating to *Statutes Amendment (Local Government Review) Act 2021*

8—General

Until the commencement of section 16 of the Amendment Act, the requirement in section 92(5) of the Act for a council to undertake public consultation will be taken to be satisfied if the council follows the relevant steps set out in its public consultation policy.

9—Chief executive officer provisions

- (1) The amendments to section 97 of the Act effected by section 57 of the Amendment Act do not apply to or in relation to the termination of a chief executive officer's appointment on a ground or circumstance that arose before the commencement of section 57.
- (2) The amendments to section 98 of the Act effected by section 58 of the Amendment Act do not apply to or in relation to a vacancy in the office of chief executive officer that occurs before the commencement of section 58.
- (3) The requirement under section 102A(1)(b) of the Act (as inserted by section 61 of the Amendment Act) that a council review the performance of its chief executive officer before their reappointment does not apply to or in relation to a reappointment taking effect before 1 February 2022.

10—By-laws

- (1) The amendment to section 249(1) of the Act effected by section 122(1) of the Amendment Act does not apply to or in relation to a proposal to make a by-law under section 249 if the copies of the proposed by-law have been made available under existing section 249(1)(a) and a notice relating to the proposed by-law has been published in accordance with existing section 249(1)(b) before the commencement of section 122(1).
- (2) In this regulation—
existing section 249(1)(a) means section 249(1)(a) of the Act as in force immediately before the commencement of section 122(1) of the Amendment Act;
existing section 249(1)(b) means section 249(1)(b) of the Act as in force immediately before the commencement of section 122(1) of the Amendment Act.

11—Review of decisions

- (1) The amendments to section 270 of the Act effected by section 135 of the Amendment Act do not apply to or in relation to a review in respect of an application received by a council before the commencement of section 135.

- (2) Without limiting subregulation (1), section 270(4a)(a)(i) of the Act (as inserted by section 135(4) of the Amendment Act) does not apply to or in relation to the policies, practices and procedures of a council established under section 270 until the commencement of section 16 of the Amendment Act.

12—Elections

- (1) Without limiting regulation 7, an amendment effected by a provision of Part 3 of the Amendment Act does not apply to or in relation to an election if the vacancy giving rise to the election occurs before the commencement of the relevant provision of Part 3.
- (2) Until the commencement of section 196(12) of the Amendment Act—
- (a) the reference in Schedule 1 clause 18(1) of the *City of Adelaide Act 1998* to the twenty first day before polling day will be taken to be a reference to the twenty eighth day before polling day; and
 - (b) the reference in Schedule 1 clause 18(1) of the *City of Adelaide Act 1998* to 14 days before polling day will be taken to be a reference to 21 days before polling day.

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 Administrator

after consultation with the Local Government Association and with the advice and consent of the Executive Council
on 16 September 2021

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