

South Australia

Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022

under the *Local Government Act 1999*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement

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

- 3 Amendment of regulation 11—Review of decisions
 - 4 Insertion of Part 4
- Part 4—Transitional provisions relating to conduct
- 16 Council behavioural management policies
 - 17 Repeated misbehaviour
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Local Government (Transitional Provisions) (Conduct) Amendment Regulations 2022*.

2—Commencement

These regulations come into operation on the day on which section 147(6) of the *Statutes Amendment (Local Government Review) Act 2021* comes into operation.

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

3—Amendment of regulation 11—Review of decisions

Regulation 11(2)—delete "section 16" and substitute:
section 5(1)

4—Insertion of Part 4

After Part 3 insert:

Part 4—Transitional provisions relating to conduct

16—Council behavioural management policies

- (1) The following provisions apply in relation to behavioural management policies of councils under section 262B of the Act (as inserted by section 126 of the Amendment Act):
 - (a) a reference in an Act, statutory instrument or other instrument or document to a council's behavioural management policy will be taken to be a reference to the LGA's model behavioural management policy until the council adopts its behavioural management policy under section 262B;
 - (b) a council need not adopt a behavioural management policy under section 262B(1) until the designated day.
- (2) For the purposes of subregulation (1)—
 - (a) the LGA is declared to be a prescribed body under section 303(6)(a) of the Act; and
 - (b) the principal office of the LGA (at 148 Frome Street, Adelaide, 5000 or, if the LGA moves its principal office, at that new address) is specified for the purposes of section 303(7)(c) of the Act.
- (3) In this regulation—

designated day means the day designated by the Minister by notice in the Gazette for the purposes of this regulation;

LGA's model behavioural management policy means the document entitled "Model behavioural management policy" published by the LGA on its website, as in force from time to time.

17—Repeated misbehaviour

In determining whether a failure by a member of a council to comply with Chapter 5 Part 4 Division 2 of the Act is a second or subsequent such failure for the purposes of the definition of *repeated misbehaviour* in section 262E of the Act (as inserted by section 126 of the Amendment Act), a previous failure by the member to comply with Part 2 of the code of conduct to be observed by members of councils under section 63 of the Act (as in force immediately before its repeal by section 27 of the Amendment Act) may be taken into account (and may be treated as if it were a first failure to comply with Chapter 5 Part 4 Division 2).

Note—

A complaint alleging repeated misbehaviour by a member of a council can only be referred to the Behavioural Standards Panel if at least 1 failure by the member to comply with Chapter 5 Part 4 Division 2 of the Act occurred on or after 17 November 2022, being the day on which Chapter 13 Part A1 Division 2 Subdivision 3 was inserted into the Act (see section 147(6) of the *Statutes Amendment (Local Government Review) Act 2021*).

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments 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 17 November 2022

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