

South Australia

Local Government (Defaulting Council) Proclamation 2019

under section 273 of the *Local Government Act 1999*

1—Short title

This proclamation may be cited as the *Local Government (Defaulting Council) Proclamation 2019*.

3—Interpretation

In this proclamation, unless the contrary intention appears—

Act means the *Local Government Act 1999*;

Council means the District Council of Coober Pedy.

4—Defaulting council

The Council is declared to be a defaulting council.

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.

6—Application of provisions of Acts and regulations

- (1) Subject to this clause, the provisions of the Act (including regulations made under those provisions), the *Local Government (Elections) Act 1999* and the *Public Sector Act 2009* are declared to apply while the Council is a defaulting council, subject to the exclusions and modifications set out in Schedule 1.
- (2) The *Local Government (Procedures at Meetings) Regulations 2013* do not apply while the Council is a defaulting council.

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: 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
Section 59(2)	Delete paragraphs (a)(iv) and (b) 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

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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
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

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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 "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 Delete subsections (1)(k) and (2)
Section 75A(1)	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

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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)
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

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75C	<p>Delete "a member" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">an administrator</p> <p>Delete "the member" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">the administrator</p> <p>Delete "the member's" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">the administrator's</p> <p>Delete subsection (1)(b) and substitute:</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(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.</p> <p>Delete "members" and substitute:</p> <p style="padding-left: 40px;">administrators</p>
Section 75D	<p>After "as if" wherever occurring insert:</p> <p style="padding-left: 40px;">there were no exclusions of, or modifications to, the provisions of this Subdivision under section 273(12) and as if</p>
Section 75E(3)	<p>After "A member" insert:</p> <p style="padding-left: 40px;">or administrator</p> <p>After "standards" insert:</p> <p style="padding-left: 40px;">(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)</p>
Section 75F	<p>Delete "members" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">administrators</p> <p>Delete "A member" and substitute:</p> <p style="padding-left: 40px;">An administrator</p> <p>Delete subsection (7) and substitute:</p> <p style="padding-left: 40px;">(7) The council must consider whether it should adopt behavioural support policies by 30 June 2023.</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75G(1)	<p>Delete "A member" and substitute:</p> <p style="padding-left: 40px;">An administrator</p> <p>Delete "the member's" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">the administrator's</p> <p>Delete "other members" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">other administrators</p> <p>Delete "the member" and substitute:</p> <p style="padding-left: 40px;">the administrator</p>
Section 75G(2)	<p>Delete "principal member" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">principal administrator</p> <p>Delete "the deputy or another member chosen by the council" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">another administrator</p> <p>Delete "another member or the chief executive officer" and substitute:</p> <p style="padding-left: 40px;">another administrator or the chief executive officer</p>
Section 75G(3) to (5) (inclusive)	<p>Delete "a member" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">an administrator</p>
Section 80	<p>Delete "every member" and substitute:</p> <p style="padding-left: 40px;">every administrator</p> <p>Delete "a member" and substitute:</p> <p style="padding-left: 40px;">an administrator</p> <p>Delete "members" and substitute:</p> <p style="padding-left: 40px;">administrators</p>
Section 80A	Delete the section
Section 82(1)(a)	<p>Delete "principal member" and substitute:</p> <p style="padding-left: 40px;">principal administrator</p>
Section 85(1)	<p>Delete "members" wherever occurring and substitute in each case:</p> <p style="padding-left: 40px;">administrators</p>
Section 85(2)	Delete subsection (2)
Section 86(1)	<p>Delete "principal member" and substitute:</p> <p style="padding-left: 40px;">principal administrator</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 86(2)	Delete subsection (2) and substitute: <ul style="list-style-type: none">(2) If the principal administrator is absent from a meeting of the council, an administrator chosen by those present will preside.
Section 86(3)	Delete paragraph (a) Delete "a member" and substitute: an administrator
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,even if the person is not physically present at the same place as another person participating in the meeting.
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)	<p>Delete "a member" and substitute: an administrator</p> <p>Delete "presiding member" wherever occurring and substitute in each case: presiding administrator</p> <p>Delete ", in accordance with the regulations,"</p> <p>Delete "the member" wherever occurring and substitute in each case: the administrator</p>
Section 86(6c)	<p>Delete "A member" and substitute: An administrator</p> <p>Delete "and any requirements of the regulations"</p>
Section 86(6d)	<p>Delete "a member" and substitute: an administrator</p>
Section 86(6e)	Delete subsection (6e)
Section 86(8)	<p>Delete subsection (8) and substitute:</p> <p>(8) Subject to this Act, the procedure to be observed at a meeting of a council will be as determined by the council.</p>
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 1 or more of the administrators participates in the meeting by electronic means provided that—</p> <p>(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 administrators and any person invited by the administrators to speak at the meeting; or</p> <p>(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</p>

Provision of Act or regulations

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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 chief executive officer the steps taken to comply with subsection (1a); and

(b) subsections (1) and (1a) are suspended.

Section 90(3)(e) and (4)(a)

After "members" wherever occurring insert:

, administrators

Section 90(6)(a)

After "member" insert:

or administrator

Before "the council committee" insert:

a member of

Section 90A(1)

Delete "member of the council or a council committee" and substitute:

administrator of the council or member of a council committee

Section 252(7)

Delete "principal member" and substitute:

principal administrator

Section 262A(1)

Delete "a member" and substitute:

an administrator

Provision of Act or regulations	Exclusion or modification to apply
<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>
	Delete subsection (2)(d)
	Delete "the member" and substitute:
	the administrator
	Delete "A member" and substitute:
	An administrator
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>
	Delete "the member's" and substitute:
	the administrator's
	<p>Delete "a member" wherever occurring and substitute in each case:</p> <p>an administrator</p>
	Delete "office of member" and substitute:
	office of administrator
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> .

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this proclamation (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal proclamation and variations

New entries appear in bold.

	Reference	Commencement
s 273	<i>Gazette 24.1.2019 p272</i>	24.1.2019: cl 2
s 273	<i>Gazette 2.2.2023 p198</i>	2.2.2023: cl 2
s 273	<i>Gazette 9.3.2023 p493</i>	29.3.2023: cl 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>cl 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>2.2.2023</i>
cl 5	amended by 2.2.2023 p198 cl 3 substituted by 9.3.2023 p 493 cl 3	2.2.2023 29.3.2023
cl 6		
cl 6(1)	amended by 2.2.2023 p198 cl 4	2.2.2023
Sch 1	substituted by 2.2.2023 p198 cl 5 substituted by 9.3.2023 p 493 cl 4	2.2.2023 29.3.2023

Historical versions

2.2.2023