

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 administrator

Colin John Davies is appointed to be the 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: 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
Section 62(4d)	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(4e)	<p>Delete "A member" and substitute: An administrator</p> <p>Delete "members" and substitute: administrators</p>
Section 72A(1)	<p>Delete "A member" and substitute: An administrator</p> <p>Delete "the member" wherever occurring and substitute in each case: the administrator</p>
Section 72A(2)	<p>Delete "a member" and substitute: an administrator</p> <p>Delete "the member" and substitute: the administrator</p>
Section 72A(3)	Delete subsection (3)
Section 72A(4)	<p>Delete "members" and substitute: administrators</p>
Section 72A(5) and (6)	<p>Delete "a member" wherever occurring and substitute in each case: an administrator</p> <p>Delete "the member" wherever occurring and substitute in each case: the administrator</p>
Section 72A(7)	<p>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)</p>
Section 74(1)	<p>Delete "a member" and substitute: an administrator</p> <p>Delete "discussed" and substitute: considered</p> <p>Delete "the member's" and substitute: the administrator's</p> <p>Delete "the member" and substitute: the administrator</p>
Section 74(2)	Delete "a member" wherever occurring and substitute in each case: an administrator

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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)	<p>Delete "a member" and substitute: an administrator</p> <p>Delete "discussed" and substitute: considered</p> <p>Delete "the member" wherever occurring and substitute in each case: the administrator</p> <p>Delete "inform the meeting" and substitute: inform the Minister</p> <p>Delete "the member's" wherever occurring and substitute in each case: the administrator's</p> <p>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</p> <p>Delete "vote on" and substitute: make a decision on</p> <p>Delete "participating (and, if relevant, voting) in relation to" and substitute: making a decision on</p>
Section 75B(2)	Delete subsection (2)
Section 75B(3)	<p>Delete "a member" and substitute: an administrator</p> <p>Delete "discussed" and substitute: considered</p> <p>Delete "the member's" and substitute: the administrator's</p> <p>Delete "the member" wherever occurring and substitute in each case: the administrator</p> <p>Delete paragraphs (d) and (e)</p>
Section 75B(4)	<p>Delete "a member" and substitute: an administrator</p> <p>Delete "the member" and substitute: the administrator</p> <p>Delete "discussed" and substitute: considered or decided</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
Section 75C(1)	<p>Delete "a member" and substitute:</p> <p>an administrator</p> <p>Delete "discussed" and substitute:</p> <p>considered</p> <p>Delete "the member" and substitute:</p> <p>the administrator</p> <p>Delete "inform the meeting" and substitute:</p> <p>inform the Minister</p> <p>Delete "the member's" and substitute:</p> <p>the administrator's</p> <p>Delete paragraph (b)</p>
Section 75C(2)	<p>Delete "a member" and substitute:</p> <p>an administrator</p> <p>Delete "taking part in the meeting" and substitute:</p> <p>making a decision on a matter</p> <p>Delete "the member" and substitute:</p> <p>the administrator</p>
Section 75C(3)	<p>Delete "a member of the council to take part in the meeting" and substitute:</p> <p>the administrator of the council to make a decision on a matter</p> <p>Delete paragraph (a)</p>
Section 75C(5)	<p>Delete "a member" and substitute:</p> <p>an administrator</p> <p>Delete "discussed" and substitute:</p> <p>considered</p> <p>Delete "the member's" and substitute:</p> <p>the administrator's</p> <p>Delete "the member" and substitute:</p> <p>the administrator</p> <p>Delete paragraph (c) and substitute:</p> <p>(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.</p>
Section 75D	<p>After "as if" wherever occurring insert:</p> <p>there were no exclusions of, or modifications to, the provisions of this Subdivision under section 273(12) and as if</p>

Provision of Act or regulations	Exclusion or modification to apply
<i>Local Government Act 1999</i>	
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
Section 86	After subsection (4) insert: (4a) For the purposes of this section, a person will be taken to be present at a meeting if they are— (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: (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(5) to (6e)	Delete subsections (5) to (6e) (inclusive)
Section 86(8)	Delete subsection (8) and substitute: (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	After subsection (1) insert: (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— (a) the chief executive officer (or a person

Provision of Act or regulations	Exclusion or modification to apply
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<i>Local Government Act 1999</i>	
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	<p>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 administrator and any person invited by the administrator 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 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 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)	<p>After "members" wherever occurring insert:</p> <p>, administrators</p>
Section 90(6)	<p>After "member" insert:</p> <p>or administrator</p> <p>Before "the council committee" insert:</p> <p>a member of</p>
Section 252(7)	<p>Delete "principal member" and substitute:</p> <p>administrator</p>
Section 263A	<p>After "member" wherever occurring insert:</p> <p>or administrator</p>

Provision of Act or regulations Exclusion or modification to apply

Local Government Act 1999

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
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,

Local Government (Elections) Act 1999

Sections 6 to 8 (inclusive)	Delete the sections
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Local Government (General) Regulations 2013

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
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Public Sector Act 2009

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> .
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Legislative history

Notes

- 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

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>	2.2.2023
cl 5	amended by 2.2.2023 p198 cl 3	2.2.2023
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	2.2.2023