



TASMANIA

**LOCAL GOVERNMENT AMENDMENT (CODE OF
CONDUCT) ACT 2023**

No. 23 of 2023

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LOCAL GOVERNMENT AMENDMENT (CODE OF CONDUCT) ACT 2023

No. 23 of 2023

An Act to amend the *Local Government Act 1993*

[Royal Assent 29 September 2023]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Local Government Amendment (Code of Conduct) Act 2023*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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3. Principal Act

In this Act, the *Local Government Act 1993** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *code of conduct* and substituting the following definition:

code of conduct means the code of conduct made by the Minister, and in force, under section 28R;

- (b) by inserting the following definition after the definition of *Director, MPES*:

dispute resolution process, in relation to a council, means the process of resolving a dispute that is performed in accordance with the dispute resolution policy adopted by the council in accordance with section 28JA;

- (c) by inserting the following definition after the definition of *GST law*:

initial assessor, in relation to a code of conduct complaint, means the person appointed under

*No. 95 of 1993

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section 28ZA(1AA) to be the
initial assessor for the complaint;

- (d) by inserting the following definition after
the definition of *issuing place*:

investigating Panel, in respect of a
code of conduct complaint,
means the panel convened under
section 28L to investigate and
determine the complaint;

- (e) by omitting the definition of *model code
of conduct*;

- (f) by inserting the following definition after
the definition of *polling period*:

prohibited conduct means –

- (a) discrimination, or
prohibited conduct, within
the meaning of the *Anti-
Discrimination Act 1998*
that is not the subject to
an exception or
exemption under Part 5 of
that Act; or
- (b) such other conduct, or
behaviour, that is
prescribed as prohibited
conduct;

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5. Part 3, Division 3AA inserted

After section 28J of the Principal Act, the following Division is inserted in Part 3:

Division 3AA – Dispute resolution procedures

28JA. Dispute resolution policies

- (1) A council must adopt a dispute resolution policy.
- (2) A dispute resolution policy adopted by a council under subsection (1) is to specify the processes to be followed if there is a dispute as to matters that may be the subject of a code of conduct complaint.
- (3) A dispute resolution policy is to –
 - (a) contain the prescribed information; and
 - (b) include the processes to be followed in respect of prescribed matters.
- (4) The general manager of a council must ensure that a copy of the council's dispute resolution policy is available –
 - (a) on the website of the council; and
 - (b) on the request of a person.
- (5) In resolving, or attempting to resolve, disputes in respect of a council, each of

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the following persons involved in the dispute resolution is to comply with the provisions of the dispute resolution policy adopted by the council under this section:

- (a) the general manager of the council;
 - (b) a councillor of the council;
 - (c) a council employee of the council;
 - (d) if the complainant participates in the dispute resolution process of the council, the complainant.
- (6) Each council must adopt a dispute resolution policy under this section within 12 months after this section commences.

6. Section 28K amended (Code of Conduct Panel)

Section 28K(2)(b) of the Principal Act is amended by omitting “councillors or employees of any council and have not been such councillors or employees within the immediately preceding 2 years” and substituting “current councillors or employees of any council”.

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7. Section 28K further amended (Code of Conduct Panel)

Section 28K of the Principal Act is amended by inserting after subsection (5) the following subsection:

- (6) Without limiting the conditions of appointment that may be included in an instrument of appointment under subsection (5), a member of the Code of Conduct Panel must undergo such training in respect of diversity and inclusion as is specified in the instrument of appointment.

8. Section 28L amended (Investigating Panel)

Section 28L of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “panel convened to investigate and determine the complaint”;
- (b) by inserting in subsection (1) “of the Code of Conduct Panel who are” after “members”;
- (c) by omitting from subsection (2) “Code of Conduct Panel” and substituting “panel convened under subsection (1)”;
- (d) by inserting the following subsection after subsection (2):

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- (3) In constituting a panel under subsection (1) in respect of a code of conduct complaint, the Executive Officer is to consider the training that has been completed by each panel member and may be relevant to the complaint.

9. Section 280A inserted

After section 280 of the Principal Act, the following section is inserted in Subdivision 1:

280A. Disclosure of interest

- (1) If a member of the Code of Conduct Panel has an actual, potential or perceived conflict of interest in a matter, the member must notify the Executive Officer, as soon as practicable, if the matter is relevant to the investigation and determination of a code of conduct complaint.
- (2) A notification by a member under subsection (1), in relation to a conflict of interest, is to –
- (a) specify –
- (i) the nature of the conflict of interest; and
- (ii) how the conflict of interest is relevant to the

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investigation and
determination of the
relevant code of conduct
complaint; and

- (b) include a statement from the member as to whether the member believes that the conflict of interest prevents, or does not prevent, the member from acting fairly in respect of the investigation and determination of the relevant code of conduct complaint.
- (3) The Executive Officer must not appoint a member of the Code of Conduct Panel to be the initial assessor or a member of the investigating Panel, in respect of a code of conduct complaint, if the member –
 - (a) has notified the Executive Officer, under subsection (1), of a conflict of interest that is relevant to the complaint; and
 - (b) has made a statement, under subsection (2)(b), that the conflict of interest would prevent the member from acting fairly in respect of the complaint.
- (4) A member of the Code of Conduct Panel who has been appointed as the initial assessor or a member of the investigating Panel, in respect of a code of conduct

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complaint, must resign from the appointment if the member –

- (a) has notified the Executive Officer, under subsection (1), of a conflict of interest that is relevant to the complaint; and
 - (b) has made a statement, under subsection (2)(b), that the conflict of interest would prevent the member from acting fairly in respect of the complaint.
- (5) The majority of members of an investigating Panel for a code of conduct complaint may remove a member from the Panel (the *relevant member*) if the majority of members believe that the relevant member has an actual, potential or perceived conflict of interest that is relevant to the complaint.
- (6) If the relevant member of an investigating Panel has been removed from the Panel under subsection (5), the most senior remaining member of the investigating Panel is to notify the Executive Officer in writing of the relevant member's removal from the Panel.
- (7) If a member of the Code of Conduct Panel has resigned under subsection (4) from his or her appointment as the initial assessor or a member of the investigating

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Panel, or has been removed as a member of the investigating Panel under subsection (5), in respect of a code of conduct complaint, the Executive Officer is to –

- (a) appoint another member of the Code of Conduct Panel to the relevant position; and
- (b) notify the complainant of the appointment of a replacement member; and
- (c) if the member has resigned or has been removed as a member of the investigating Panel, notify the other members of that Panel of the appointment of a replacement member to the Panel.

10. Section 28R amended (Code of conduct)

Section 28R of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “model”;
- (b) by omitting from subsection (2) “model”;
- (c) by omitting from subsection (3) “model” first occurring;
- (d) by omitting from subsection (3) “model” second occurring.

11. Section 28S amended (Contents of code of conduct)

Section 28S of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “model” first occurring;
- (b) by omitting from subsection (1)(e) “model”;
- (c) by inserting the following paragraph after paragraph (e) in subsection (1):
 - (ea) that a councillor is not to engage in prohibited conduct in the councillor’s relationships with the community, other councillors and council employees;
- (d) by omitting from subsection (2) “model”;
- (e) by inserting the following subsection after subsection (2):
 - (3) The general manager of a council is to make a copy of the code of conduct available –
 - (a) for public inspection, free of charge, at the public office of the council during ordinary office hours and on its website; and
 - (b) for purchase at a reasonable charge.

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12. Section 28T repealed

Section 28T of the Principal Act is repealed.

13. Section 28U amended (Compliance with code of conduct)

Section 28U of the Principal Act is amended by omitting “council’s”.

14. Section 28V amended (Making code of conduct complaint against councillor)

Section 28V of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “relevant council’s”;
- (b) by omitting from subsection (2) “relevant council’s”;
- (c) by omitting from subsection (3)(d) “relevant”;
- (d) by inserting the following paragraphs after paragraph (fb) in subsection (3):
 - (fc) if the complainant completed the council’s dispute resolution process in respect of the complaint –
 - (i) contain details of the outcome of that process; and

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- (ii) include the reasons why the complainant is not satisfied with that outcome; and
- (fd) if the complainant did not commence or complete the council's dispute resolution process in respect of the complaint, contain details of –
 - (i) the attempts made by the complainant, as part of the attempted dispute resolution process, to resolve the issue that is the subject of the complaint; or
 - (ii) why the complainant believes that the dispute resolution process is not appropriate in respect of the complaint; and
- (e) by inserting the following subsections after subsection (5):
 - (6) If a complaint is made under this section by the Director, the Minister may appoint another person to perform the functions, and exercise the powers, of the Director in respect of that complaint.

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- (7) For the avoidance of doubt, a complainant has complied with subsection (3)(a) if the complainant causes the relevant complaint to be in writing.

15. Section 28W amended (Withdrawal of or from code of conduct complaint)

Section 28W of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (1) “Code of Conduct Panel” second occurring and substituting “investigating Panel”;
- (c) by omitting from subsection (2) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (d) by omitting from subsection (2) “Code of Conduct Panel” second occurring and substituting “investigating Panel”;
- (e) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;

- (f) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

16. Section 28X amended (Amendment of code of conduct complaint)

Section 28X of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (1) “Code of Conduct Panel” second occurring and substituting “investigating Panel”;
- (c) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (d) by omitting from subsection (2) “a code of conduct” and substituting “the”;
- (e) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (f) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

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17. Section 28Y amended (Initial assessment of complaint by general manager)

Section 28Y of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “On receiving” and substituting “Within 14 days after receiving”;
- (b) by inserting in subsection (3) “and within 14 days after receiving the complaint” after “writing”.

18. Section 28Z amended (Referral of code of conduct complaint by general manager)

Section 28Z of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “On” and substituting “Within 14 days after both”;
- (b) by omitting from subsection (1) “after”;
- (c) by inserting the following subsection after subsection (1):
 - (1A) A referral by the general manager under subsection (1) in respect of a code of conduct complaint is to include copies of all of the documentation held by the council in relation to the dispute resolution process undertaken by

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the council in respect of the complaint.

- (d) by omitting from subsection (5) “as soon as practicable” and substituting “within 14 days after being notified of the refusal under subsection (2)”;
- (e) by omitting paragraphs (b) and (c) from subsection (6) and substituting the following paragraph:
 - (b) appoint an initial assessor for the complaint in accordance with section 28ZA.

19. Section 28ZA amended (Initial assessment of code of conduct complaint)

Section 28ZA of the Principal Act is amended as follows:

- (a) by inserting the following subsection before subsection (1):
 - (1AA) As soon as practicable after receiving a code of conduct complaint referred to the Code of Conduct Panel, the Executive Officer is to –
 - (a) appoint a member of the Panel, who is an Australian lawyer, to be the initial assessor for the complaint; and

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- (b) provide a copy of the complaint to the person so appointed.
- (b) by omitting from subsection (1) “receiving a code of conduct complaint, the chairperson of the Code of Conduct Panel” and substituting “being appointed to be the initial assessor of a code of conduct complaint, the initial assessor”;
- (c) by omitting from subsection (2) “chairperson of the Code of Conduct Panel” and substituting “initial assessor”;
- (d) by omitting from subsection (3) “receiving the code of conduct complaint, the chairperson of the Code of Conduct Panel” and substituting “an initial assessor is appointed under this section in respect of a code of conduct complaint, the initial assessor”;
- (e) by inserting in subsection (3)(a) “the Director,” after “notify”;
- (f) by omitting from subsection (3)(b) “chairperson” and substituting “initial assessor”;
- (g) by omitting from subsection (3)(b) “the Code of Conduct Panel” first occurring and substituting “an investigating Panel”;
- (h) by omitting subparagraph (iii) from subsection (3)(b) and substituting the following subparagraph:

- (iii) provide a copy of the initial assessment of the complaint to the Executive Officer.

20. Section 28ZB amended (Dismissal of code of conduct complaint on initial assessment)

Section 28ZB of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for a code of conduct complaint”;
- (b) by inserting the following paragraphs after paragraph (ab) in subsection (1):
 - (ac) the dispute resolution process of the council is a reasonable mechanism to resolve the dispute, but the complainant has not participated, or has not participated satisfactorily, in the dispute resolution process; or
 - (ad) it is not in the public interest for an investigating Panel to be convened under section 28L to investigate the complaint; or
- (c) by omitting from subsection (1)(b) “of the relevant council”;

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- (d) by omitting from subsection (1)(c)(i) “chairperson” and substituting “initial assessor”;
- (e) by omitting from subsection (1)(c)(ii) “Code of Conduct Panel” and substituting “investigating Panel, for the complaint,”;
- (f) by inserting the following subsection after subsection (1):
 - (1A) An initial assessor may consider, but is not limited to considering, the following matters when determining under subsection (1)(ad) if it is in the public interest for an investigating Panel to be convened:
 - (a) the nature and seriousness of the alleged conduct to which the complaint relates;
 - (b) the time that has elapsed since the alleged conduct occurred;
 - (c) the availability of evidence and the recollection of any witnesses;
 - (d) the likely degree of culpability, in connection

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with the alleged conduct,
of the councillor to whom
the complaint relates;

- (e) whether the alleged
conduct could be of
significant public
concern;
 - (f) whether the alleged
conduct has been, or is
being, investigated and
dealt with appropriately;
 - (g) the sanctions available to
deal with the alleged
conduct;
 - (h) whether the alleged
conduct may be indicative
of, and may expose,
entrenched or systemic
behaviour.
- (g) by omitting from subsection (2)
“chairperson of the Code of Conduct
Panel” and substituting “initial assessor
for a code of conduct complaint”;
 - (h) by omitting from subsection (2)
“chairperson” second occurring and
substituting “initial assessor”;
 - (i) by inserting the following subsection
after subsection (2):

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- (3) If the initial assessor for a code of conduct complaint dismisses the complaint, or part of it, on the grounds referred to in subsection (1)(ac), the initial assessor, in the notice provided under section 28ZA(3), may direct the complainant not to make a further complaint in relation to the same matter until –
 - (a) the complainant has participated satisfactorily in the dispute resolution process of the council in relation to the complaint; and
 - (b) the complainant has taken and completed the actions, specified in the notice, as necessary to have participated satisfactorily in the dispute resolution process.

21. Section 28ZC amended (Referral of code of conduct complaint on initial assessment)

Section 28ZC of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “chairperson of the Code of Conduct

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Panel” and substituting “initial assessor for a code of conduct complaint”;

- (b) by omitting from subsection (1) “chairperson considers appropriate if the chairperson” and substituting “initial assessor considers appropriate if the initial assessor”;
- (c) by omitting from subsection (2)(b) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for the code of conduct complaint”;
- (d) by omitting from subsection (3) “the chairperson of the Code of Conduct Panel” and substituting “initial assessor for the code of conduct complaint”;
- (e) by omitting from subsection (5) “chairperson of the Code of Conduct Panel” and substituting “initial assessor for the code of conduct complaint”;
- (f) by omitting from subsection (6)(a) “chairperson” and substituting “initial assessor”;
- (g) by omitting from subsection (6)(b) “chairperson” first occurring and substituting “initial assessor”;
- (h) by omitting from subsection (6)(b) “chairperson” second occurring and substituting “initial assessor”;

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- (i) by omitting from subsection (6)(b) “chairperson” third occurring and substituting “initial assessor”.

22. Section 28ZCA inserted

After section 28ZC of the Principal Act, the following section is inserted in Subdivision 3:

28ZCA. Convening of investigating Panel for complaint

- (1) If the Executive Officer receives a copy of an initial assessment of a code of conduct complaint under section 28ZA(3)(b)(iii), the Executive Officer is to –
 - (a) convene an investigating Panel under section 28L in respect of the complaint; and
 - (b) provide a copy of the complaint, and the initial assessment of the complaint under section 28ZA, to each member of the investigating Panel.
- (2) A person must not be selected to be a member of an investigating Panel convened under section 28L in respect of a code of conduct complaint if the person was the initial assessor in respect of the complaint.

23. Section 28ZD amended (Time for investigating and determining code of conduct complaint)

Section 28ZD of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (b) by omitting from subsection (1) “a code of conduct complaint” and substituting “the complaint”;
- (c) by omitting from subsection (1)(a) “chairperson of the Panel” and substituting “initial assessor for the complaint”;
- (d) by inserting the following paragraph after paragraph (a) in subsection (1):
 - (ab) if the initial assessor for the complaint has determined under section 28ZA to investigate and determine part of the complaint and dismiss the rest of the complaint, within 90 days after that determination; or
- (e) by omitting from subsection (1)(b) “chairperson of the Panel” and substituting “initial assessor for the complaint”;

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- (f) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (g) by omitting from subsection (2) “a code of conduct complaint” twice occurring and substituting “the complaint”.

24. Section 28ZE amended (Conduct of investigations generally)

Section 28ZE of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (c) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (d) by inserting the following subsection after subsection (3):
 - (3A) All of the reasonable costs and expenses incurred, in respect of the investigation of a code of conduct complaint, by the investigating Panel for the complaint are payable by the

relevant council in respect of the complaint.

- (e) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (f) by omitting from subsection (5)(b) “Code of Conduct Panel” and substituting “investigating Panel for the relevant code of conduct complaint”;
- (g) by omitting from subsection (6) “Code of Conduct Panel” first occurring and substituting “investigating Panel for the relevant code of conduct complaint”;
- (h) by omitting from subsection (6) “Code of Conduct” second occurring.

25. Section 28ZF amended (Investigation of multiple code of conduct complaints against same councillor or multiple councillors)

Section 28ZF of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsections:
 - (1) If there are a number of code of conduct complaints against the same councillor or different councillors of the same council and the complaints relate to the same contravention of the code of

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conduct, the Executive Officer may appoint a single initial assessor to do a single initial assessment of all of the complaints.

- (1A) If a single initial assessor is appointed under subsection (1) in respect of a number of code of conduct complaints, the initial assessor may make a recommendation to the Executive Officer, as part of the initial assessment of the complaints, that a joint investigation of the complaints be conducted by a single investigating panel.
- (b) by omitting from subsection (2) “Code of Conduct Panel may only make a determination” and substituting “initial assessor for a code of conduct complaint may only make a recommendation under subsection (1A)”;
- (c) by omitting subsection (3) and substituting the following subsection:
- (3) If an initial assessor for a number of code of conduct complaints makes a recommendation to the Executive Officer under subsection (1A) for a joint investigation to be conducted into the complaints, the Executive Officer –

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- (a) may convene an investigating Panel under section 28L to conduct a joint investigation into all the complaints, if –
 - (i) the complaints are against less than half of the councillors of the relevant council; or
 - (ii) the complaints have been referred to the Director under paragraph (b) and the Director has not accepted the referral; and
- (b) is to refer the complaints to the Director, if the complaints are against half, or more than half, of the councillors of the relevant council.
- (d) by omitting from subsection (4) “Code of Conduct Panel” and substituting “Executive Officer”;
- (e) by omitting from subsection (4) “Panel” second occurring and substituting “Executive Officer”;

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- (f) by omitting from subsection (5) “Code of Conduct Panel” and substituting “Executive Officer”.

26. Section 28ZG amended (When hearing is to be held)

Section 28ZG of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (b) by omitting from subsection (1) “a code of conduct” and substituting “the”;
- (c) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (d) by omitting from subsection (2) “a code of conduct” and substituting “the”;
- (e) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (f) by omitting from subsection (4) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”.

27. Section 28ZH amended (Hearings)

Section 28ZH of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the Code of Conduct Panel” and substituting “an investigating Panel”;
- (b) by omitting from subsection (2)(a) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (c) by omitting from subsection (2)(a) “code of conduct”;
- (d) by omitting from subsection (3) “Code of Conduct Panel” and substituting “investigating Panel for the code of conduct complaint”;
- (e) by omitting from subsection (4) “Code of Conduct Panel” first occurring and substituting “investigating Panel for a code of conduct complaint”;
- (f) by omitting from subsection (4)(b) “Code of Conduct”;
- (g) by omitting from subsection (5) “Code of Conduct Panel” and substituting “investigating Panel for a code of conduct complaint”;
- (h) by omitting from subsection (6) “Code of Conduct Panel” and substituting

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“investigating Panel for a code of
conduct complaint”.

**28. Section 28ZI amended (Determination of code of
conduct complaint)**

Section 28ZI of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1) “Code of
Conduct Panel” and substituting
“investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of
Conduct Panel” and substituting
“investigating Panel for the complaint”;
- (c) by omitting from subsection (3) “Code of
Conduct Panel” and substituting
“investigating Panel for the complaint”.

29. Section 28ZJ amended (Determination report)

Section 28ZJ of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1) “Code of
Conduct Panel” first occurring and
substituting “investigating Panel for the
complaint”;
- (b) by omitting from subsection (1)(b)
“Code of Conduct”;
- (c) by omitting from subsection (1)(c) “Code
of Conduct”;

- (d) by omitting from subsection (1)(d) “Code of Conduct”;
- (e) by omitting from subsection (1)(e) “Code of Conduct”;
- (f) by omitting from subsection (1)(f) “Code of Conduct”;
- (g) by inserting the following subsection after subsection (1):
 - (1A) In the determination report made under subsection (1) in respect of a code of conduct complaint, the investigating Panel for the complaint may recommend that the Director considers making a recommendation to the Minister, under section 214L(1), in respect of matters raised with the investigating Panel during the investigation of the complaint.
- (h) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

30. Section 28ZK amended (Notification of determination of code of conduct complaint)

Section 28ZK of the Principal Act is amended as follows:

- (a) by omitting “Code of Conduct Panel” from the definition of *determination*

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report in subsection (1) and substituting
“investigating Panel for the complaint”;

- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting
“investigating Panel for the complaint”;
- (c) by omitting from subsection (3) “Code of Conduct Panel” and substituting
“investigating Panel for a code of conduct complaint”;
- (d) by omitting subsection (6) and substituting the following subsection:
 - (6) Subsections (4) and (5) do not apply in respect of a determination report until –
 - (a) the expiry of the period during which a person may apply to the Magistrates Court (Administrative Appeals Division) for a review of the determination to which the determination report relates; and
 - (b) if an application for such a review is made –
 - (i) the review is completed or dismissed; or

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- (ii) the application is withdrawn.
- (e) by inserting the following paragraph after paragraph (a) in subsection (9):
 - (ab) the disclosure of a copy of the determination report with the addendum solely for the purpose of arranging for the report and addendum to be included within an item on the agenda for a meeting of the relevant council; or
- (f) by inserting the following subsections after subsection (9):
 - (10) A person must not disclose a document or report, or any information, if –
 - (a) the document, report or information –
 - (i) relates to a code of conduct complaint or the matters to which a code of conduct complaint relates; and
 - (ii) has been provided to a person by the Executive Officer or an investigating Panel; and

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(b) the person would not have knowledge, or possession, of the document, report or information had it not been provided to a person referred to in paragraph (a)(ii); and

(c) at the time of the disclosure, the determination report, to which the document, report or information relates, has not been included within an item on the agenda for a meeting of the relevant council.

Penalty: Fine not exceeding 50 penalty units.

(11) Subsections (7) and (10) do not apply to the disclosure of a document, report or information that relates to a determination report if the disclosure is solely for the purpose of arranging for the determination report to be included on the agenda for a meeting of the council.

31. Section 28ZL amended (Effect of third suspension)

Section 28ZL of the Principal Act is amended as follows:

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- (a) by omitting the definition of *third suspension* from subsection (1) and substituting the following definition:

third suspension means the third, or a subsequent, suspension of a councillor if –

- (c) the suspension is imposed, during the prescribed period –
- (i) by an investigating Panel under section 28ZI(2)(e); or
- (ii) by the Minister under section 214O; and
- (d) the suspension relates, directly or indirectly, to a code of conduct complaint (whether in relation to a contravention of the same provision or different provisions of a code of conduct, or of the same or a different code of conduct).
- (b) by omitting from subsection (2) “the Code of Conduct Panel” and substituting “an investigating Panel”.

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32. Section 28ZM amended (Councillor to comply with sanction imposed for contravention of code of conduct)

Section 28ZM of the Principal Act is amended as follows:

- (a) by omitting “Code of Conduct Panel” from the definition of *determination report* in subsection (1) and substituting “investigating Panel for the complaint”;
- (b) by omitting from subsection (2) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (c) by omitting from subsection (3) “is to notify the general manager that he or she has done so.” and substituting “is to –”;
- (d) by inserting the following paragraphs after subsection (3):
 - (a) notify the Executive Officer that the councillor has complied with the sanction; and
 - (b) provide evidence, to the Executive Officer, of that compliance.
- (e) by inserting the following subsections after subsection (3):
 - (3A) As soon as practicable after being notified by a councillor under subsection (3) in respect of

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compliance with a sanction, the Executive Officer is to –

(a) notify the Director, in writing, that the councillor has notified the Executive Officer, under subsection (3), in respect of compliance with the sanction; and

(b) specify, in the notice, the evidence provided by the councillor under that subsection.

(3B) After being notified by the Executive Officer under subsection (3A) in respect of a councillor's compliance with a sanction, the Director may require the councillor to provide further evidence, to the satisfaction of the Director, of the councillor's compliance with the sanction.

(f) by omitting from subsection (4) “relevant general manager” and substituting “Executive Officer”.

33. Section 28ZNA amended (Costs of training to be borne by council)

Section 28ZNA(1) of the Principal Act is amended by omitting “Code of Conduct Panel”

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from the definition of *determination report* and substituting “investigating Panel for the complaint”.

34. Section 28ZO amended (Refund of fee accompanying lodgement of code of conduct complaint)

Section 28ZO of the Principal Act is amended as follows:

- (a) by renumbering the text of the section as subsection (1);
- (b) by omitting from paragraph (a) “by the general manager”;
- (c) by omitting from paragraph (b) “by the chairperson of the Code of Conduct Panel”;
- (d) by omitting from paragraph (c) “by the general manager”;
- (e) by omitting from paragraph (c) “section 28Z(1)” and substituting “section 28Z(1)(a)”;
- (f) by omitting from paragraph (d) “Code of Conduct Panel” and substituting “investigating Panel for the complaint”;
- (g) by inserting the following subsection after subsection (1):
 - (2) A refund under subsection (1) is to be made within 30 days after

the circumstances, specified in that subsection, that resulted in the refund being payable under this section.

35. Part 3, Division 3A, Subdivision 4: Heading amended

Subdivision 4 of Division 3A of Part 3 of the Principal Act is amended by omitting “*Reviews of Code of Conduct Panel decisions*” from the heading to that Subdivision and substituting “*Reviews of investigating Panel decisions*”.

36. Section 28ZP amended (Review of investigating Panel decision)

Section 28ZP of the Principal Act is amended by omitting “Code of Conduct Panel” and substituting “investigating Panel for the complaint”.

37. Section 349C inserted

After section 349B of the Principal Act, the following section is inserted in Division 3:

349C. Transitional provisions consequent on *Local Government Amendment (Code of Conduct) Act 2023*

(1) In this section –

commencement day means the day on which this section commences.

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- (2) A complaint received by a general manager before the commencement day but not finalised before that day is to be dealt with under this Act as in force immediately before the commencement day.
- (3) For the avoidance of doubt, a complaint received by a general manager on or after the commencement day is to be dealt with in accordance with this Act, as in force on or after the commencement day, regardless of whether the complaint relates to behaviour that occurred before the commencement day.

38. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commences.

*[Second reading presentation speech made in:–
House of Assembly on 11 May 2023
Legislative Council on 1 June 2023]*