

Authorised Version

Local Government (Moirra Shire Council) Act 2023

No. 3 of 2023

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**Local Government (Moirā Shire
Council) Act 2023[†]**

No. 3 of 2023

[Assented to 9 March 2023]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose

The purpose of this Act is—

- (a) to dismiss the Moira Shire Council; and
- (b) to provide for the appointment of an administrator or a panel of administrators for the Moira Shire Council; and
- (c) to provide for the expiry of the Order in Council; and

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- (d) to provide for a second general election for the Moira Shire Council; and
- (e) to make consequential amendments to the **Local Government Act 2020**.

2 Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.

3 Definition

In this Act—

Order in Council means the first Order in Council made under section 6 and any further Order in Council made under that section.

4 Construction of Act

This Act must be read and construed as if it was part of the **Local Government Act 1989** and the **Local Government Act 2020**.

Part 2—Dismissal of Moira Shire Council

5 Dismissal of Moira Shire Council

- (1) The Moira Shire Council is dismissed.
- (2) The persons holding office as Councillors of the Moira Shire Council cease to hold office.
- (3) Nothing in this Act affects the continuity of the Moira Shire Council as constituted under this Act by the administrator or panel of administrators appointed under the Order in Council.

6 Order in Council

The Governor in Council, on the recommendation of the Minister, may by Order in Council published in the Government Gazette, do any or all of the following—

- (a) appoint an administrator or panel of administrators for the Moira Shire Council;
- (b) if a panel of administrators is appointed, appoint one of the administrators to be the Chairperson of the panel of administrators;
- (c) appoint a person to fill a vacancy in the office of an administrator;
- (d) appoint a temporary administrator in the place of an administrator to act in the administrator's absence or incapacity to act.

7 Provisions applying in respect of an administrator or panel of administrators appointed under section 6

The following provisions apply in respect of the appointment of an administrator or a panel of administrators of the Moira Shire Council under section 6—

- (a) the administrator or the panel of administrators constitutes the Moirā Shire Council and, subject to any conditions of the administrator's appointment or administrators' appointments, must perform all the functions, powers and duties of the Moirā Shire Council, which must be treated as if they were performed by the Moirā Shire Council;
- (b) subject to any conditions of an administrator's appointment, an administrator must perform all the functions, powers and duties of a Councillor of the Moirā Shire Council, which must be treated as if they were performed by a Councillor of the Moirā Shire Council;
- (c) subject to any conditions of the administrator's appointment, the administrator or, if a panel of administrators is appointed, the Chairperson of the panel of administrators, must perform all the functions, powers and duties of the Mayor of the Moirā Shire Council, which must be treated as if they were performed by the Mayor of the Moirā Shire Council;
- (d) an administrator's appointment and anything done by an administrator is not invalid only by reason of a defect in relation to the appointment;
- (e) an administrator is entitled to be paid the remuneration and allowances and is employed on the conditions which are fixed by the Minister and the remuneration and allowances are to be paid by the Moirā Shire Council;

- (f) an administrator—
 - (i) must not, without the Minister's consent, directly or indirectly engage in any paid employment outside the duties of the office of administrator; and
 - (ii) may resign by a written notice of resignation addressed to the Governor in Council;
- (g) the office of an administrator becomes vacant if the administrator—
 - (i) becomes bankrupt; or
 - (ii) dies; or
 - (iii) is removed or resigns from office; or
 - (iv) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence; or
 - (v) becomes incapable of performing the duties of the office.

8 Effect of Order in Council

The first Order in Council made under section 6 takes effect on the date specified in the Order in Council.

9 Construction of provisions in any Act or document

If provision is made in any Act, regulation, rule, by-law, local law, instrument or document for the Mayor or a Councillor of the Moirā Shire Council or the Chairperson or a member of a committee of the Moirā Shire Council to be a member of, or to be represented on, a board, Council, committee, commission or other body, or to be a trustee, or to be a member or director of a company, that provision has effect while the Order in Council is in force as if it provided for an administrator, or some other person appointed by the administrator or the panel of administrators, to be that member, representative, trustee or director.

10 Second general election

- (1) Despite section 257(1)(b) of the **Local Government Act 2020**, a second general election of Councillors for the Moirā Shire Council is to be held on the fourth Saturday in October 2028.
- (2) The Chief Executive Officer must summon a meeting of the Moirā Shire Council within 14 days after the day the election manager for the second general election publicly declares the result of the second general election.
- (3) The Order in Council expires when that meeting of the Moirā Shire Council starts.

Part 3—Consequential amendment of Local Government Act 2020

11 Entitlements relating to enrolment

For section 240(12) of the **Local Government Act 2020** substitute—

- "(12) For the purposes of the following elections the Chief Executive Officer or the VEC under an agreement with the Chief Executive Officer, must not later than 30 days before the close of the roll, send a notice which includes the information prescribed by the regulations to each person who was enrolled on the previous voters' roll under section 243—
- (a) the second general election to be conducted under section 257(1)(b);
 - (b) the general election of Councillors for the Whittlesea City Council to be held on the fourth Saturday in October 2024;
 - (c) the general election of Councillors for the Casey City Council to be held on the fourth Saturday in October 2024;
 - (d) the second general election of Councillors for the Moira Shire Council to be held on the fourth Saturday in October 2028.

Notes

1. Section 10(1) of the **Local Government (Whittlesea City Council) Act 2020** and section 10(1) of the **Local Government (Casey City Council) Act 2020** provide that a general election for the Whittlesea City Council and Casey City Council is to be held on the fourth Saturday in October 2024.

2. Section 10(1) of the **Local Government (Moira Shire Council) Act 2023** provides that a second general election for the Moira Shire Council is to be held on the fourth Saturday in October 2028."

12 Voting is compulsory

- (1) For section 266(2) of the **Local Government Act 2020** substitute—

"(2) Subject to subsection (4), for the purposes of the following elections, it is compulsory for a person who is enrolled under Division 1 on the voters' roll to vote in any election for the ward in respect of which the person is enrolled—

- (a) the second general election to be conducted under section 257(1)(b);
- (b) the general election of Councillors for the Whittlesea City Council or the Casey City Council to be held on the fourth Saturday in October 2024;
- (c) the second general election of Councillors for the Moira Shire Council to be held on the fourth Saturday in October 2028;
- (d) each general election conducted after the second general election or the elections specified in paragraphs (b) and (c).

Notes

1. Section 10(1) of the **Local Government (Whittlesea City Council) Act 2020** and section 10(1) of the **Local Government (Casey City Council) Act 2020** provide that a general election for the Whittlesea City Council and Casey City Council is to be held on the fourth Saturday in October 2024.

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Part 3—Consequential amendment of Local Government Act 2020

2. Section 10(1) of the **Local Government (Moirā Shire Council) Act 2023** provides that a second general election for the Moirā Shire Council is to be held on the fourth Saturday in October 2028."

13 Repeal of this Part

This Part is **repealed** on the first anniversary of its commencement.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 7 March 2023

Legislative Council: 7 March 2023

The long title for the Bill for this Act was "A Bill for an Act to dismiss the Moira Shire Council, to provide for a second general election for the Moira Shire Council, to make consequential amendments to the **Local Government Act 2020** and for other purposes."