

South Australia

## **Education Regulations 2012**

under the *Education Act 1972*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Education Regulations 2012*.

### 3—Interpretation

In these regulations—

*Act* means the *Education Act 1972*;

*approved* means approved by the Minister or by the Director-General;

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*medical certificate* means a medical certificate from a legally qualified medical practitioner, or where a teacher does not reside in the vicinity of a medical practitioner, such other evidence as the Director-General requires;

*premises* means any land, building or structure;

*responsible officer* means a person employed in the Department from time to time directed by the Director-General to carry out a duty ascribed to the responsible officer under these regulations;

*school* means a Government school;

*school council* means a school council established under Part 8 of the Act;

*special school, centre or class* means a school, centre or class for the education and training of children with disabilities;

*spouse*—a person is the spouse of another if they are legally married;

*transport route* in relation to any school means a route followed by vehicles provided by the Minister for the purpose of conveying students to that school partially or wholly at the expense of the Government.

## Part 2—School buildings and grounds

### 4—Use of school premises for other than school purposes

The head teacher shall have power to grant the use of school premises to school bodies and, after consultation and agreement with the school council, to organisations not connected with the school, under such conditions as the Minister may determine.

### 5—Regulation of traffic on Departmental property

- (1) The head teacher in consultation and agreement with the school council may, subject to the approval in writing of the Director-General, set aside a portion of the school grounds for the parking of vehicles.

- (2) No person driving a vehicle shall enter school grounds except for a purpose connected with the business and operation of the school.
- (3) A person driving a vehicle on school grounds shall, where there is an area in the grounds reserved for the parking of vehicles and defined by appropriate markings and/or a notice erected in that area, park the vehicle in that defined area and in no other place.
- (4) Any person parking a vehicle anywhere on school premises shall do so at his or her own risk or where such person is not the owner of the vehicle then at the risk of the owner of the vehicle.
- (5) A person shall not drive a vehicle within the school grounds without due care or attention or without reasonable consideration for other persons who are on the school premises. He or she shall drive at a speed no greater than 20 kilometres per hour, except where notices indicate otherwise.
- (6) The driver of a vehicle when on school grounds shall obey all signs erected for controlling vehicular traffic on those grounds and shall comply with any reasonable instruction given to him or her by the head teacher or a person authorised by the head teacher for the purpose of regulating vehicular or pedestrian traffic or otherwise maintaining order within the school grounds.
- (7) The driver and/or the registered owner of a vehicle shall make good any damage caused by the use of that vehicle to property of the Minister and shall indemnify and keep harmless the Minister against any claim for damages for injuries to a student or any person caused by the driver's negligent driving of that vehicle on the school premises.
- (8) A person who contravenes any provision of this regulation, whether by act or omission, shall be guilty of an offence.

Maximum penalty: \$100.

Expiation fee: \$25.

## **Part 3—Control of trespass and misbehaviour on school premises etc**

### **6—Definitions**

- (1) In this Part—

***authorised person***, in relation to a school, means—

- (a) a member of the police force; or
- (b) an officer of the teaching service; or
- (c) a person appointed under section 9(4) or 101B of the Act to teach at the school; or
- (d) a person authorised by the Minister for the purposes of this Part;

***prohibition notice***—see regulation 10.

- (2) For the purposes of this Part, a person trespasses on school premises if—
- (a) the person is on school premises between the hours of 12.00 midnight and 7.00 a.m. unless the person—
    - (i) carries a security pass issued by the Director-General authorising the person to be on those premises at that time; or
    - (ii) carries a security pass issued by the Commissioner of Police authorising the person to be on those premises at that time; or
    - (iii) carries the written permission of the head teacher to be on the premises at that time; or
  - (b) the person fails to provide sufficient reason for being on the premises after being requested to do so by an authorised person.
- (3) For the purposes of this Part, a person misbehaves on school premises or premises used in connection with a school if the person, while on the premises—
- (a) uses offensive language; or
  - (b) puts or threatens to put at risk the safety or welfare of another person; or
  - (c) behaves in an offensive, disorderly, intimidating or violent manner or threatens to behave in such a manner.

## **7—Application of Part**

- (1) This Part does not apply to a person employed at a school in relation to the premises of the school or premises used in connection with the school.
- (2) This Part other than regulation 12(a) does not apply to a student enrolled at a school in relation to the premises of the school or premises used in connection with the school.

## **8—Offence to trespass or misbehave on school premises etc**

A person who trespasses on school premises or misbehaves on school premises or premises used in connection with a school is guilty of an offence.

Maximum penalty: \$200

Expiation fee: for an offence not involving violence—\$50.

## **9—Power to request person to leave school premises etc**

- (1) If an authorised person reasonably suspects a person of—
- (a) trespassing on school premises; or
  - (b) misbehaving on school premises or premises used in connection with a school; or
  - (c) committing or threatening to commit any other offence on school premises or premises used in connection with a school,

the authorised person may request the person to leave the premises.

- (2) A person who has been requested to leave premises under subregulation (1) must not remain on the premises or return or attempt to return to the premises within 24 hours.

Maximum penalty: \$200.

Expiation fee: \$50.

## 10—Power to bar person from school premises etc

- (1) If a head teacher is satisfied that a person has—
  - (a) trespassed on school premises; or
  - (b) misbehaved on school premises or premises used in connection with a school; or
  - (c) committed or threatened to commit any other offence on school premises or premises used in connection with a school,

the head teacher may, with the approval of the Director-General, issue the person with a *prohibition notice*, being a notice in writing served on the person personally or at his or her last known address, barring the person, unconditionally or subject to conditions, from entering or remaining on the premises specified in the notice for a period not exceeding 3 months specified in the notice.

- (2) A person who contravenes or fails to comply with a prohibition notice is guilty of an offence.

Maximum penalty: \$200.

Expiation fee: \$50.

## 11—Minister may review prohibition notice

- (1) A person who is barred from premises under a prohibition notice for a period exceeding 2 weeks may apply to the Minister for a review of the notice.
- (2) The Minister may, on the hearing of an application for a review of a prohibition notice, confirm, vary or revoke the notice.
- (3) A prohibition notice continues to apply pending a determination by the Minister of an application for review of the notice.

## 12—Power to restrain, remove or refuse entry

An authorised person may, if necessary, use reasonable force—

- (a) to restrain on school premises or premises used in connection with a school any person who, in the opinion of the authorised person, is posing an immediate threat to the safety of another person, so as to prevent the person from causing harm to that other person; or
- (b) to remove from school premises or premises used in connection with a school any person who, in the opinion of the authorised person, is posing an immediate threat to the safety of another person on the premises; or
- (c) to remove from premises, or prevent the entry to premises of, any person who has been requested to leave the premises under this Part during the previous 24 hours or who is barred from the premises under a prohibition notice.

## Part 4—The teaching service

### Division 1—Appointment to the teaching service

#### 13—Application for employment

- (1) Every applicant for appointment to the teaching service must have undertaken a prescribed course of teacher education or have obtained such other qualifications as the Minister, on the recommendation of the Director-General, approves.
- (2) A person who has not completed the requirements prescribed by subregulation (1) may be employed as a temporary teacher on a yearly basis if the Director-General is satisfied that he or she has the educational attainment and teaching ability to justify the proposed appointment.
- (3) The Minister may require any applicant to supply—
  - (a) an approved certified birth extract from an official register of births or such other evidence as to his or her age as is satisfactory to the Minister; and
  - (b) documentary evidence of his or her experience and qualifications or other evidence satisfactory to the Minister as to his or her suitability to perform the duties he or she would be required to undertake if appointed; and
  - (c) a certificate from an approved legally qualified medical practitioner that the applicant is of sound health and free from any physical or mental defect likely to impair his or her efficiency in the performance of the duties he or she would be required to undertake if appointed.
- (4) Every applicant shall furnish true and complete information in answer to all questions asked by the Minister, an officer of the Department or any approved medical practitioner, and where an applicant furnishes information which is false or misleading in any material particular he or she shall be guilty of an offence and liable to a penalty not exceeding \$100.
- (5) Before appointment as a teacher an applicant shall undertake in writing to serve if required in any part of the State at any period of his or her service.

### Division 2—Classification and promotion of teachers

#### 14—Definition of promotional classification levels

For the purposes of the definition of *promotional level* in section 5(1) of the Act, a classification level other than Teacher or Advanced Skills Teacher Level 1 is declared to be a promotional level for a position in the teaching service.

#### 15—Limit on reclassification applications

For the purposes of section 28(1) of the Act, an officer may not make an application for reclassification to the classification Advanced Skills Teacher Level 1.



## **16—Categories of schools**

- (1) The Director-General shall divide all schools into the following categories:
  - (a) primary schools including aboriginal schools, correspondence schools, junior primary schools;
  - (b) rural schools;
  - (c) area schools;
  - (d) community schools;
  - (e) secondary schools.
- (2) The Minister may on the recommendation of the Director-General declare that the lower grades of any primary school shall be organised as a junior primary school in the charge of a separate teacher.

## **17—Number of AST Level 1 officers and promotional level positions**

The number of officers classified at Advanced Skills Teacher Level 1 and the number of positions classified at promotional levels that are to be made available from time to time with respect to any category of school shall be determined by the Minister on the recommendation of the Director-General after consultation between the Director-General and the Australian Education Union (SA Branch).

## **18—Promotional level positions—reviews**

- (1) An application for a review under section 53 of the Act must be made within 14 days after the officer receives notice of the decision giving rise to the right of review (or such longer period (not exceeding 7 days) as SAET may allow).
- (2) An application must be accompanied by a written submission setting out the grounds on which the application is made.
- (3) SAET will consider the submission furnished under subregulation (2) and may—
  - (a) dismiss the application where, in the opinion of SAET, the submission has not disclosed sufficient grounds for further enquiry; or
  - (b) hear the applicant in person and the Director-General where, in the opinion of SAET, the submission has disclosed sufficient grounds for further enquiry.

## **19—Acting appointments**

- (1) A teacher appointed by the Director-General to a position classified at a promotional level in an acting capacity will, if the teacher occupies the position for a period of more than 1 week, be entitled to receive salary and increments, as from the date of the acting appointment and while the teacher occupies the position, as if the teacher had been appointed to the position by the Minister under Part 3 of the Act.
- (2) If a teacher, while acting in a position as referred to in subregulation (1), is appointed to the position by the Minister under Part 3 of the Act, the period for which the teacher acted in the position up until the appointment by the Minister will, for all purposes, be added to and taken to form part of the period for which the teacher occupies the position as a result of the appointment by the Minister.

## Division 3—Leave of absence for teachers

### 20—Absence to be reported

Every teacher absent from duty shall apply to the Director-General for leave of absence through the head teacher on the form provided by the Department for that purpose, provided that, where circumstances make it impossible for that teacher to apply for leave of absence, the head teacher shall make application on his or her behalf.

### 21—Leave of absence on the ground of illness

- (1) Subject to this Division the Director-General may grant leave of absence with pay on the ground of illness to a teacher for a period not exceeding the leave standing to the credit of that teacher.
- (2) Subject to regulation 26, the leave standing to the credit of a teacher, whether appointed before or after the commencement of the Act, shall be—
  - (a) 10 school days on appointment; and
  - (b) 10 school days on each first day of January succeeding his or her day of appointment,

and in each case deducting from the total so obtained the number of school days in respect of which leave has been taken under this regulation or under the repealed regulations.

- (3) For the purpose of this regulation where a teacher is retired under section 17 of the Act or any other corresponding enactment and is subsequently reappointed as a teacher, his or her continuous service before retirement and his or her continuous service after reappointment shall be taken into account as though that service was continuous.
- (4) For the purpose of this regulation where a person, who has previously been in prescribed employment as defined in section 24 of the Act, is appointed a teacher under the Act and his or her service in the prescribed employment is continuous with his or her service as a teacher, the sick leave credit to which he or she shall be entitled under this regulation shall be determined on the basis that his or her service in the prescribed employment is service in the teaching service; provided that where the amount of sick leave taken by the teacher in the prescribed employment is not accurately known, the Minister shall determine the leave to stand to the credit of that teacher.
- (5) If the period of absence of a teacher on the ground of illness exceeds three days at any time the application for leave shall be accompanied by a medical certificate.
- (6) Notwithstanding subregulation (5), the Director-General may, if he or she thinks it necessary, require a teacher to produce evidence satisfactory to the Director-General of the existence of the illness of that teacher where his or her leave of absence on the ground of illness is 3 days or less.
- (7) Where a medical certificate or other evidence satisfactory to the Director-General is not produced by a teacher as required by this regulation the leave shall be without pay.

- (8) Where a teacher who is on long-service leave produces a medical certificate satisfactory to the Director-General that he or she has been confined to a residence or to a hospital for a period of at least 14 days while on that leave he or she may, with the approval of the Director-General, elect to convert that portion of his or her long-service leave during which he or she was so confined to a debit against his or her sick-leave credits; provided that no such conversion shall be granted to a teacher who has received payment for long-service leave on his or her retirement, resignation, retrenchment or termination of services.

## **22—Special leave with pay**

- (1) The Director-General may, where reasonable cause exists, grant to a teacher special leave with pay for any period or periods not exceeding a total of 15 school days in any 1 year.
- (2) The Minister may, on the recommendation of the Director-General, grant to a teacher special leave with pay or with part pay for such period and upon such conditions as he or she may determine.
- (3) Special leave granted under this regulation shall be in addition to any other leave that a teacher may be entitled to under these regulations.

## **23—Infectious diseases and special leave**

- (1) Where a teacher is absent from duty and produces a medical certificate that he or she is suffering from one of the diseases set out in subregulation (3), and that certificate is supported by a statement from the head teacher that in all probability the disease was contracted by the teacher while on duty, as a result of his or her contact with the children or staff of the school, the teacher will be granted special leave with pay not debited to sick leave credits.
- (2) The leave granted under this regulation shall not exceed 52 weeks, either at one time or in broken periods, for a particular disease.
- (3) The diseases accepted for the purpose of this regulation are chicken pox, diphtheria, erysipelas, glandular fever, hepatic whitlow, infectious hepatitis, infectious mononucleosis, measles, meningitis, mumps, poliomyelitis, rubella, scarlet fever, staphylococcal infection, typhoid, whooping cough, and such other diseases as the Minister may determine by publication in the Education Gazette.

## **24—Special leave without pay**

The Minister may, where reasonable cause exists, grant to a teacher special leave without pay for any period and upon such conditions as he or she may determine.

## **25—Absence from duty**

- (1) The Director-General shall have the power to direct that where a teacher has absented himself or herself from his or her place of work during his or her ordinary hours of duty (or other hours as directed) or has not discharged his or her duties as a result of or in the furtherance of industrial action taken by that teacher, the salary of that teacher may be reduced by such an amount as is equal to—
  - (a) one-tenth of the teacher's fortnightly salary for each full day of absence or failure to discharge duty; or

- (b) one-twentieth of the teacher's fortnightly salary for each half day of absence or failure to discharge duty; or
  - (c) one seventy-fifth of the teacher's fortnightly salary for each hour (or part thereof) of absence or failure to discharge duty where the absence or failure to discharge duty is less than one half day.
- (2) Any direction made by the Director-General pursuant to subregulation (1) shall be given effect to.
- (3) For the purposes of this regulation, the fortnightly salary of a teacher who is appointed to the teaching service on a part-time basis is the fortnightly salary that teacher would be entitled to receive if he or she were appointed to the teaching service on a full-time basis.

## **26—Leave and continuity of service**

- (1) The continuity of service of a teacher shall not be deemed to be broken by leave under this Part and—
- (a) leave of absence in respect of which a teacher is paid his or her full salary shall count as service for sick leave entitlement; and
  - (b) the Minister may determine to what extent, if any, leave of absence taken without pay or on part pay shall be counted as service for sick leave entitlement, and the determination shall have effect according to its terms.
- (2) Where by the terms of the determination of the Minister a period of leave does not count as service for sick leave entitlements the credit of 10 school days in each year provided for in regulation 21 of this Division shall be reduced by 1 day for each complete 4 weeks of that period of leave, to a maximum of 10 school days in any 1 year.

## **26A—Skills and experience retention leave entitlement**

- (1) For the purposes of section 19(3a) of the Act—
- (a) the amount of \$180 (indexed) for each working day of skills and experience retention leave accrued during a particular financial year (which will be reduced on a *pro rata* basis in relation to a part of a working day and in relation to part-time work) is fixed by these regulations; and
  - (b) an entitlement to such leave may be converted to the amount fixed under paragraph (a) if an election is made to the Director-General, in a manner determined by the Director-General, by 31 August immediately following the financial year in which the entitlement accrues; and
  - (c) an amount payable on account of an election under paragraph (b) will be paid to the officer at a time, and in a manner, determined by the Director-General for the purposes of this paragraph; and
  - (d) an amount payable in relation to a part of a working day or part-time work will be determined in a manner determined by the Director-General.

- (2) The amount of \$180 (indexed) referred to in subregulation (1)(a) is to be adjusted on an annual basis (commencing in relation to days accrued in the 2013/2014 financial year) by multiplying that amount by a proportion obtained by dividing the Consumer Price Index for the March quarter in the immediately preceding financial year by the Consumer Price Index for the March quarter, 2012 (with an adjustment applying according to when a leave entitlement accrues rather than when a payment is made).
- (2a) An amount determined under subregulation (2) is to be rounded up or down to the nearest \$1 (and if the amount to be rounded is 50 cents, then the amount is to be rounded up).

- (3) In this regulation—

*Consumer Price Index* means the *Consumer Price Index (All groups index for Adelaide)* published by the Australian Bureau of Statistics.

## 27—Long service leave on half pay

Notwithstanding anything elsewhere contained in this Division, when a teacher takes a period of long-service leave on half pay under the provisions of section 20 of the Act he or she shall, for the purposes of long-service leave and sick-leave credits, be deemed to be on full pay for the first half of such period and on leave without pay for the remainder of that period.

## 28—Accouchement leave

- (1) A teacher who is pregnant may apply for accouchement leave commencing at any time during her pregnancy and ending not more than 12 months after the date of birth of the child.
- (2) The Director-General must grant accouchement leave in accordance with the application of a teacher and may vary the period of such leave on application by the teacher.
- (3) Accouchement leave is leave without pay provided that—
- (a) a teacher who is entitled to long service leave may, at her discretion, use all or part of that entitlement during the period of accouchement leave;
  - (b) where the teacher suffers a sickness or injury that is, in the opinion of the Director-General—
    - (i) unconnected with the pregnancy; or
    - (ii) is a significant abnormal medical condition arising out of the pregnancy or the birth of the child,

the teacher must be granted sick leave with pay for a period not exceeding the period, if any, standing to the credit of the teacher.

- (4) A teacher who has been granted accouchement leave must give the Director-General at least 4 weeks notice in writing of the date on which she intends to resume duty.
- (5) If it is not possible to offer a teacher on accouchement leave a suitable appointment at the cessation of the period for which the leave has been granted, the leave may be extended until the end of the vacation period following the end of the school year during which notice of intention to resume duty was given.

## **29—War service sick leave**

War service sick leave may be granted by the Director-General to officers who submit evidence that they are absent because of a disability accepted by the Commonwealth Repatriation Commission as due to war service in accordance with the following provisions:

- (a) A non-accumulative credit of 9 weeks—

As from 1 July 1955 or the date of joining the teaching service, whichever is the later, each ex-serviceman is granted a special non-accumulative war service sick leave credit of nine weeks, ie 45 working days.

- (b) An accumulative credit of 3 weeks annually—

- (i) On and from 1 July 1964 or the date of joining the teaching service, whichever is the later, each ex-serviceman may be granted an additional 3 weeks war service sick leave credit annually, ie 15 working days.
- (ii) This entitlement will accumulate for 3 years, ie 45 working days, and re-accumulate if any portion thereof is used, so that the maximum credit which may be accumulated is 45 working days inclusive of existing accumulated credit.
- (iii) This accumulative credit can be utilised only when the non-accumulative credit in paragraph (a) has been exhausted.

## **Division 4—Salaries and allowances for teachers**

### **30—Commencing salary above minimum**

Where an appointment is made which—

- (a) is the first appointment of a person as a teacher; or
- (b) involves transfer of a teacher from one position to another,

the Minister may, on the recommendation of the Director-General, approve a commencing salary within the range of the scale provided for the new position at a rate higher than the rate fixed for the minimum of that position, and that salary shall be paid accordingly.

### **31—Positions not covered in an award**

For special work performed in a temporary capacity by a teacher to which no award applies, the Minister may determine what remuneration may be paid to that teacher in respect of that special work.

### **32—Deduction from salaries of rents for Departmental residences**

Where a teacher occupies for the purpose of residence any building or part of a building owned or leased by the Minister, rent at an approved rate shall be deducted from that teacher's salary fortnightly.

### **33—Minister may recover salary paid to teacher in certain circumstances**

Where for any cause a teacher receives salary or allowances or both to which he or she is not entitled under the Act, whether such salary or allowances are in respect of a vacation period or not, the Minister may require the teacher to repay to the Minister such salary or allowances or both, and in the event of the Minister's so requiring the money may be recovered by the Minister by action in a court of competent jurisdiction as a debt due and owing to the Minister.

### **34—Travelling expenses**

Teachers undertaking approved travel in connection with their duties shall be reimbursed for expenses reasonably and actually incurred at the same rates as apply to a Public Service employee provided that the Minister may, on the recommendation of the Director-General, approve of reimbursement at a higher rate than prescribed in this regulation if it appears necessary to recoup the teacher concerned for his or her reasonable, out-of-pocket expenses.

### **35—Removal expenses**

- (1) Any teacher who—
  - (a) is transferred to another school on promotion or for Departmental reasons; or
  - (b) is transferred to another school at his or her own request after not less than 3 years of satisfactory service at 1 school; or
  - (c) moves without transfer from a non-departmental residence to a Departmental residence or from 1 Departmental residence to another,shall have household furniture and effects moved at Departmental expense under arrangements made or approved by the Director-General, and in addition shall be paid:
  - (d) a packing allowance, the amount of which shall be determined by the Director-General; and
  - (e) the cost of fares paid for the teacher and his or her family; and
  - (f) on the production of proper vouchers, such other expenses as the Director-General may determine, provided that such other expenses are, in the opinion of the Director-General, necessarily and reasonably incurred by the teacher and his or her family in connection with that transfer or removal.
- (2) A person on first appointment as a teacher to a school whose place of residence is:
  - (a) in South Australia, shall be paid allowances as provided in subregulation (1), such allowances to be determined by the distance from his or her place of residence to the school;
  - (b) not in South Australia, shall be paid such expenses as may be negotiated in the terms of his or her contract of employment.
- (3) Where a teacher retires, he or she, or where a teacher dies, his or her surviving spouse or domestic partner, shall be paid allowances as provided in subregulation (1). Such allowances will be determined by the distance between the school at which that teacher was stationed and the future place of residence of the family, if in South Australia. If the future place of residence of the family is not in South Australia the Director-General shall determine the allowance which will apply.

- (4) The Director-General may authorise the payment to a teacher on removal of an approved allowance to cover depreciation of and necessary replacements to his or her household furniture and effects, provided that this allowance shall not be paid where a teacher with less than 3 years of satisfactory service at one school is transferred at his or her own request.
- (5) In every case where travelling expenses are payable pursuant to this regulation the Director-General may grant an allowance to the teacher in lieu of payment of actual expenses.
- (6) Notwithstanding anything in this regulation, the Minister may approve, on the recommendation of the Director-General, the payment of an allowance greater than that provided for in this regulation, or may pay wholly or in part the removal expenses and depreciation allowance of teachers who are debarred by this regulation from claiming the same, if reasonable cause exists to justify the said payment.

## **Division 5—Appeals and disciplinary provisions for teachers**

### **36—Complaint against a Departmental officer**

- (1) If a teacher at any time considers that he or she has just cause of complaint against any officer of the Department when that officer is acting in the course of his or her duties, the teacher may appeal in writing to the Director-General for consideration of his or her case, and the Director-General shall notify the teacher in writing of his or her determination in that matter.
- (2) Where the teacher is not satisfied with the determination of the Director-General notified to him or her in writing pursuant to subregulation (1), he or she may, within 14 days of the receipt of that notification, apply to SAET under Part 3 Division 1 of the *South Australian Employment Tribunal Act 2014* for a review of the determination of the Director-General.

### **37—Selection of panel members for particular SAET proceedings**

If the President of SAET determines under section 54(2) of the Act that SAET is to sit with supplementary panel members for the purposes of particular proceedings, the President must not select a person who—

- (a) performed the action or made the decision, determination, recommendation or provisional appointment to which the proceedings relate; or
- (b) is employed in that division or group of the Department of which the applicant in the proceedings is a member.

### **38—General time limit for commencing proceedings**

Except where otherwise provided by the Act or these regulations, any application to SAET must be commenced within 14 days after the applicant in the proceedings receives written notice of the act, decision, determination or appointment to which the proceedings relate.

### **40—Delay of proceedings by Director-General**

If SAET is hearing review proceedings brought by a teacher on any matter, the Director-General must delay any action against that teacher in respect of that matter until SAET has made a determination in those proceedings.



**41—Criminal offences by teachers**

- (1) Where a teacher is charged with a criminal offence any proceedings which may have been commenced by the Director-General or before SAET in connection with the facts concerning that offence shall be stayed.
- (2) Nothing in subregulation (1) shall be deemed to affect a suspension which may have been imposed on the teacher pursuant to section 27 of the Act.

**Division 6—Duties of teachers****42—Responsibilities of teachers**

- (1) A head teacher of a school is answerable to the Director-General and—
  - (a) in the case of a school with a governing council, is jointly responsible with the council for the governance of the school;
  - (b) in any case, is responsible for—
    - (i) providing educational leadership in the school;
    - (ii) the management of the day-to-day operations of the school;
    - (iii) the welfare and development of the students;
    - (iv) the establishment and maintenance of a social and educational environment within the school favourable to—
      - (A) learning; and
      - (B) acceptable forms of behaviour; and
      - (C) the development within students of self-control, self-discipline and a respect for other persons and their property;
    - (v) the provision, and the day-to-day management of the provision, of instruction in the school in accordance with the curriculum determined by the Director-General under Part 7 of the Act;
    - (vi) ensuring that staff, students and parents are consulted about, and informed of, the disciplinary rules governing students' behaviour both inside and outside the classroom;
    - (vii) the administration of discipline within the school;
    - (viii) promoting the continuing professional development of the staff of the school;
    - (ix) encouraging staff of the school to participate in processes for determining policies for the school and resolving problems;
    - (x) the conduct of regular staff meetings—
      - (A) as an integral part of decision making and communication within the school; and
      - (B) in a manner providing full opportunity for staff involvement;
    - (xi) keeping the school council informed of relevant educational and other policies;

- (xii) fostering community participation in school programs and in educational developments generally;
  - (xiii) the proper care and safekeeping of school property belonging to the Minister.
- (2) A teacher of a school is answerable to the head teacher of the school and is responsible for—
- (a) being actively concerned with the welfare and development of the students in the teacher's care;
  - (b) attending staff meetings (subject to the acceptance of non-attendance on grounds similar to those applying to absence from other teaching duties or for reasons acceptable to the head teacher);
  - (c) participating in processes for determining school policies and properly implementing those policies;
  - (d) assisting in the general management of the school as required by the head teacher.

#### **43—School control of students**

- (1) Having regard to the rights and duties of students, parents and teachers, head teachers may impose such moderate and reasonable controls on the behaviour of students, and sanctions for offences against those rules, as they consider necessary or as are permitted by these regulations.
- (2) Subject to these regulations, head teachers may delegate their disciplinary authority, including the imposition of appropriate sanctions on students for breaches of school rules, to such members of their staffs as they determine. This delegation shall not prevent head teachers from exercising directly their own power to impose sanctions on students where they consider it necessary or advisable to do so.
- (3) A teacher may, in addition to imposing on a student any sanction that is in accordance with school policy, detain a student during the luncheon interval or after school hours subject to any conditions determined by the Minister.

#### **44—Suspension of students**

- (1) The head teacher of a school may suspend a student from attendance at the school for a period specified by the head teacher if the head teacher believes on reasonable grounds that—
  - (a) the student has threatened or perpetrated violence; or
  - (b) the student has acted in a manner that threatens the safety or well being of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
  - (c) the student has acted illegally; or
  - (d) the student has interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or

- (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour; or
  - (f) the student shows persistent and wilful inattention or indifference to school work.
- (2) However—
- (a) a student cannot be suspended from attendance at the school under this regulation on any 1 occasion for more than 5 consecutive school days; and
  - (b) a student cannot, without the authorisation of the responsible officer, be suspended from attendance at the school under this regulation—
    - (i) for more than 15 school days in a calendar year; or
    - (ii) on more than 4 separate occasions in a calendar year.

#### 45—Exclusion of students

- (1) The head teacher of a school may exclude a student from attendance at the school for a period specified by the head teacher if the head teacher believes on reasonable grounds that—
- (a) the student has threatened or perpetrated violence; or
  - (b) the student has acted in a manner that threatens the safety or well being of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
  - (c) the student has acted illegally; or
  - (d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
  - (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour.
- (2) However—
- (a) a student cannot be excluded from attendance at the school under this regulation on any one occasion for—
    - (i) less than 4 consecutive weeks, unless the exclusion is for the remainder of the school term during which the student is excluded and that period is less than 4 weeks; or
    - (ii) more than—
      - (A) 10 consecutive weeks; or
      - (B) the remainder of the school term or, in the case of a student above compulsory school age, semester,(whichever is the longer period);

- (b) a student cannot, without the authorisation of the responsible officer, be excluded from attendance at the school under this regulation for more than 20 weeks in a calendar year.
- (3) Before excluding a student under this regulation, the head teacher must first suspend the student from attendance at the school for a period not exceeding 5 consecutive school days.
- (4) A student must obey the reasonable written directions of the responsible officer in relation to undertaking education, work or other relevant activity during the period of an exclusion.
- (5) If a student contravenes or fails to comply with directions given under subregulation (4), the student is guilty of an offence.  
Maximum penalty: \$200.
- (6) The head teacher of a school may extend the exclusion of a student from attendance at the school for a further period not exceeding the limits fixed by subregulation (2) if satisfied that the extension is justified in the circumstances.

#### **46—Expulsion of students from particular school**

- (1) The head teacher of a school may expel a student above compulsory school age from a school for a period specified by the head teacher if the head teacher believes on reasonable grounds that—
  - (a) the student has threatened or perpetrated violence; or
  - (b) the student has acted in a manner that threatens the safety or well being of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
  - (c) the student has acted illegally; or
  - (d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction.
- (2) However, a student cannot be expelled from the school under this regulation on any one occasion for—
  - (a) less than 6 consecutive months, unless the expulsion is for the remainder of the school semester during which the student is expelled and that period is less than 6 months; or
  - (b) more than 18 consecutive months.
- (3) Before expelling a student under this regulation, the head teacher must first suspend the student from attendance at the school for a period not exceeding 20 consecutive school days.

**47—Expulsion of students from all schools and other educational facilities**

- (1) The Director-General may, on the recommendation of the head teacher of a school at which a student above compulsory school age is enrolled, expel the student from all schools and other specified facilities used by the Department for educational purposes for a period specified by the Director-General if satisfied on reasonable grounds that—
  - (a) the student has threatened or perpetrated violence; or
  - (b) the student has acted in a manner that threatens the safety or well being of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
  - (c) the student has acted illegally.
- (2) However, a student cannot be expelled under this regulation on any one occasion for—
  - (a) less than 1 year, unless the expulsion is for the remainder of the school year during which the student is expelled; or
  - (b) more than 5 years.
- (3) Before making a recommendation to the Director-General under this regulation, the head teacher of the school at which the student is enrolled must suspend the student from attendance at the school for a period not exceeding 30 consecutive school days.

**48—Grounds for decision as to whether to suspend, exclude or expel**

A decision as to whether a student should be suspended, excluded or expelled under these regulations must be made having regard to—

- (a) the severity and frequency of the misbehaviour of the student; and
- (b) the student's prior record of behaviour and response to previous sanctions (if any); and
- (c) any other relevant matter.

**49—Offence for suspended, excluded or expelled students to be on school grounds**

- (1) A student who has been suspended or excluded from attendance at a school or expelled from a school under these regulations must not, during the period of the suspension, exclusion or expulsion, enter or remain on the school premises except with the written approval or at the written request of the head teacher of the school.  
Maximum penalty: \$200.
- (2) A student who has been expelled under these regulations from all schools and specified facilities used by the Department for educational purposes must not, during the period of the expulsion, enter or remain on any school premises or the premises of a specified facility except with the written approval or at the written request of the Director-General or the head teacher or person in charge of the school or facility concerned.  
Maximum penalty: \$200.

## **50—Appeal**

- (1) An appeal to the relevant authority may be made against—
  - (a) a decision of the head teacher of a school to exclude a student from attendance at the school or to expel a student from the school under these regulations; or
  - (b) a decision of the Director-General to expel a student from all schools and other specified facilities used by the Department for educational purposes under these regulations,by—
  - (c) the student; or
  - (d) a parent of the student; or
  - (e) an adult acting at the request of the student or parent of the student.
- (2) A decision of the head teacher of a school to suspend a student from attendance at the school under these regulations is not subject to appeal.
- (3) An appeal must be instituted—
  - (a) in the case of an appeal against a decision to exclude a student from attendance at a school—within 5 school days after notification of the decision to the student;
  - (b) in any other case—within 10 school days after notification of the decision to the student.
- (4) The relevant authority may dispense with the requirement that an appeal be instituted within the period fixed by subregulation (3).
- (5) An appeal must be instituted by lodging a notice in a form approved by the Director-General—
  - (a) in the case of an appeal to a panel established under subregulation (9)—with the responsible officer; or
  - (b) in any other case—with the relevant authority.
- (6) An appeal must be heard within 2 weeks after it is instituted.
- (7) The person who made the original decision being appealed against, or the relevant authority, may stay the operation of the decision until the appeal is determined, withdrawn or struck out.
- (8) A stay cannot be granted if its effect would be to create a danger to person or property or to allow a danger to person or property to continue.
- (9) The responsible officer must, from time to time for the purposes of hearing an appeal under this regulation, establish a panel constituted of—
  - (a) the responsible officer; and
  - (b) a head teacher of a school (other than the head teacher against whose decision the appeal has been instituted) nominated by the responsible officer; and
  - (c) a person with experience in the administration of equal opportunity matters nominated by the Director-General.

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- (10) A decision carried by a majority of the votes of the members of the panel is a decision of the panel.
- (11) The relevant authority may, on the hearing of an appeal—
- (a) affirm, vary or quash the decision appealed against or substitute, or make in addition, any decision that the authority thinks appropriate; and
  - (b) make recommendations as to actions to be taken in relation to the student.
- (12) In this regulation—
- relevant authority* means—
- (a) in relation to a decision of the head teacher of a school to exclude a student from attendance at a school—the panel established by the responsible officer under subregulation (9);
  - (b) in relation to a decision of the head teacher of a school to expel a student from the school—the Director-General;
  - (c) in relation to a decision of the Director-General—the Minister.

### **51—Impartiality of instruction**

If in the course of their duties teachers find it necessary to discuss contentious issues with their students, it is incumbent upon them to present those issues fairly and reasonably.

### **52—Compliance with the regulations**

- (1) Teachers are required to comply with these regulations and with such Departmental instructions as are authorised in writing by the Minister or the Director-General.
- (2) The head teacher is responsible for the proper keeping of all school records and for the prompt preparation and forwarding of all Departmental returns.

### **53—Certain specific prohibitions**

A teacher shall not—

- (a) seek political intervention in order to obtain an unfair advantage concerning his or her promotion or transfer in the teaching service; or
- (b) take any office, perform any duties or receive any remuneration which in the opinion of the Director-General may interfere with the proper discharge of his or her duties to the Department.

### **54—Not to incur liability on behalf of the Government**

- (1) Except as provided in subregulation (2) or elsewhere in these regulations, teachers shall not incur or attempt to incur any liability on behalf of the Government or of the Minister, nor make, or attempt to make or alter any contract on behalf of the Government or of the Minister, without the written authority of the Director-General.

- (2) Where any student attending a school becomes indisposed or sustains an injury, a teacher may, if he or she considers such action necessary, obtain the services of a legally qualified medical practitioner and/or hire a suitable conveyance to convey the student to a place suitable for treatment. Any costs or expenses so incurred in respect to the indisposition of or injury to that student may be recovered by the Minister from the parent or guardian of the student and if on request the cost is not met by the parent or guardian of the student, it may be recovered by the Minister from the parent or guardian by action in a court of competent jurisdiction.

### **55—Liability of the Government in certain circumstances**

Where legal proceedings are taken against a teacher which arise from any alleged action of that teacher against a student of the school at which that teacher is employed, and that alleged action was stated to have occurred during the course of that teacher's employment as a member of the teaching service, the teacher shall, without delay, forward a full report in writing of the circumstances to the Director-General.

### **56—Power of head teacher to require certain payments**

Where a student enrolled at a school damages school equipment or property the head teacher may require that student to meet the cost of repairing that damage and if, on request, the cost is not met by that student, it may be recovered by the Minister by action in a court of competent jurisdiction.

## **Division 7—Resignation and retirement of teachers**

### **57—Resignation of teachers**

- (1) The Minister may issue administrative instructions containing rules governing the notice to be given by teachers seeking to resign or to retire.
- (2) The Minister may, in special circumstances, exempt a teacher from compliance with rules governing notice of resignation or retirement.
- (3) If a teacher ceases duties as a teacher without proper authority or notice of resignation or retirement, the teacher will, if the Director-General so determines, be treated as having resigned from the teaching service unless the teacher has reached the age of retirement, in which case the teacher will be treated as having retired from the teaching service.
- (4) If a teacher—
- (a) resigns or retires otherwise than in accordance with the rules governing notice of resignation or retirement; or
  - (b) is treated under this regulation as having resigned or retired,

the Minister may recover from the former teacher an amount determined by the Minister, but not exceeding 6 week's salary by action in a court of competent jurisdiction as a debt due and owing to the Crown.

### **58—Resignation to contest an election**

- (1) A teacher resigning pursuant to this regulation shall give the Director-General written notice of resignation as provided in regulation 57.



- (2) Where the Minister is satisfied that—
- (a) a person who was a teacher—
    - (i) resigned from the teaching service in order to become a candidate for election as a member of a House of Parliament of the State or Commonwealth; and
    - (ii) was a candidate at that election; and
    - (iii) failed to be elected; and
  - (b) the resignation took effect not earlier than 1 month before the date on which nominations for the election closed,
- the Minister shall, on the written application of that person within 4 weeks after the declaration of the results of that election, reappoint that person to the teaching service at a status and salary appropriate to the position which he or she held immediately prior to his or her resignation.
- (3) A person reappointed under this regulation shall be deemed to have continued in the teaching service as if he or she had not resigned, but had been on leave of absence without pay during the period from the day on which his or her resignation became effective to and including the day immediately preceding the day on which he or she was reappointed.

### **59—Cessation of duty without notice**

A teacher who ceases duty with the Department without giving written notice of resignation as required under the preceding provisions of this Division—

- (a) shall be deemed to have resigned from the teaching service on the day on which he or she was last on active duty; and
- (b) may be required to pay to the Minister a sum determined by the Minister and not exceeding 6 weeks salary of that teacher and the money may be recovered by the Minister by action in a court of competent jurisdiction as a debt due and owing to the Minister.

## **Part 5—Students**

### **Division 1—Enrolment, attendance and participation**

#### **60—Rules and criteria for determining where child to be enrolled**

- (1) This regulation applies in respect of all children of compulsory school age or compulsory education age, other than a child who is—
- (a) the subject of a direction of the Director-General under section 75(3) of the Act; or
  - (b) entitled to be enrolled, and is enrolled, at a correspondence school; or
  - (c) enrolled at a non-Government school.

- (2) For the purposes of section 75(7)(a) of the Act, the following rules and criteria are to be applied in relation to determining at which school a child to which this regulation applies is to be enrolled:
- (a) the enrolment of the child at a particular school should, as far as is reasonably practicable, be consistent with any policy published from time to time by the Minister by notice in the Gazette for the purposes of this paragraph;
  - (b) the location of the school at which the child is to be enrolled should, as far as is reasonably practicable, minimise any difficulties arising from the location of the child's primary place of residence;
  - (c) the enrolment of the child at a particular school should, as far as is reasonably practicable, take into account any wishes of the parents or guardians of the child in relation to the provision of particular curriculum subjects or special interest programs;
  - (d) the enrolment of the child at a particular school should, as far as is reasonably practicable, take into account any relevant social and family circumstances of the child;
  - (e) the enrolment of the child at a particular school should, as far as is reasonably practicable, take into account any social and family links to the school (including, without limiting this paragraph, any sibling attendance at the school);
  - (f) the enrolment of the child at a particular school should, where relevant, take into account the particular needs of international students, or children of the holders of a business visa under a law of the Commonwealth.

### **61—Rules and criteria for determining what constitutes full-time participation in approved learning programs**

- (1) For the purposes of section 75(7)(b) of the Act, the following rules and criteria are to be applied in determining what constitutes full-time participation in approved learning programs:
- (a) participation in an approved learning program, or a combination of approved learning programs, will be taken to be full-time participation if—
    - (i) the number of hours that a person participates, or is to participate, in the program or programs in a particular period; or
    - (ii) the nature of the activities undertaken during participation in the program or programs,is such as to meet the minimum standard for full-time participation (if any) set out in guidelines published from time to time by the Minister by notice in the Gazette for the purposes of this paragraph;
  - (b) participation in a particular approved learning program, or a particular combination of approved learning programs, will be taken to be full-time participation if the participation is subject to a declaration under subregulation (2).
- (2) The Minister may, by notice in the Gazette, declare participation in a particular approved learning program, or in a particular combination of approved learning programs, to be full-time participation for the purposes of section 75(2) of the Act.

## **62—Admission of children**

- (1) When a child is admitted to any school the head teacher shall require and the parent shall furnish, on a form supplied by the head teacher, the following particulars:
  - (a) name of the child in full; and
  - (b) date of birth of the child; and
  - (c) place of residence of the child; and
  - (d) such other particulars as are required by that form.
- (2) This regulation is subject to section 75(6) of the Act.

## **63—Admission of children under 6 years of age**

Children who are under 6 years of age and who apply to enrol at a school for the first time may be enrolled and admitted to that school at such times only as may be determined by the Minister.

## **64—Conditions for enrolment at a correspondence school**

- (1) A child of compulsory school age may be enrolled at a correspondence school provided—
  - (a) the child is, pursuant to administrative instructions issued by the Minister, eligible to enrol in a reception class or a year 1 or year 2 class and the distance of the child's residence from the nearest primary school or a transport route is greater than 1.5 kilometres; or
  - (b) the child is, pursuant to administrative instructions issued by the Minister, eligible to enrol in a year 3 or year 4 class and the distance of the child's residence from the nearest primary school or a transport route is greater than 3 kilometres; or
  - (c) in any other case—the distance of the child's residence from the nearest primary or secondary school (according to the educational attainments of the child) or a transport route is greater than 5 kilometres.
- (2) The Director-General may, where reasonable cause exists, permit or direct that a child, ineligible to enrol at a correspondence school under the provision of subregulation (1) may or shall enrol at a correspondence school.
- (3) For the purpose of this regulation the distance of a child's residence from a school shall be measured by the length of the shortest practicable route between the residence and the school or a transport route, whichever is the shorter.

## **65—Enrolment of children with disabilities or learning difficulties**

If a child is presented for enrolment at a school and the head teacher is of the opinion that the child has disabilities or learning difficulties that would render the child incapable of gaining reasonable benefit from instruction at the school or would seriously interfere with the instruction of other children at the school, the head teacher must—

- (a) inform each parent of the child of his or her opinion; and
- (b) enrol the child at the school but excuse him or her from attendance pending a direction of the Director-General under section 75A(1) of the Act; and

- (c) prepare a report and recommendation as to the means by which the educational needs of the child might be best met in relation to school placement and curriculum and forward the report to the Director-General.

### **66—Approved learning programs**

For the purposes of section 75D(1)(a)(ii) of the Act, the class of universities comprising universities established by or under an Act or law of the State, the Commonwealth, or any other State or Territory of the Commonwealth, is declared to be within the ambit of that subparagraph.

### **67—Report on operation of Part 6 of Act**

- (1) For the purposes of section 75E(2)(b) of the Act, it is a requirement that a report prepared under that section must not contain information that may lead to the identification of a particular student, school or sector.
- (2) In this regulation—  
*school* means a Government school or a non-Government school.

### **68—Prescribed reasons for non-attendance and non-participation**

- (1) For the purposes of section 76(2)(c) of the Act, the following are prescribed reasons for the non-attendance of a child at school:
  - (a) the child was prevented from attending school on the occasion in question by his or her sickness, or by his or her temporary or permanent infirmity;
  - (b) there was a danger of the child being affected by an infectious or contagious disease;
  - (c) the child was prevented from attending school on the occasion in question by some other unavoidable and sufficient cause.
- (2) For the purposes of section 76(2a)(b) of the Act, the following are prescribed reasons for the non-participation of a child in an approved learning program:
  - (a) the child was prevented from participating in the approved learning program on the occasion in question by his or her sickness, or by his or her temporary or permanent infirmity;
  - (b) there was a danger of the child being affected by an infectious or contagious disease;
  - (c) the child was prevented from participating in the approved learning program on the occasion in question by reason of having to care for a member of his or her family;
  - (d) the child was prevented from participating in the approved learning program on the occasion in question by some other unavoidable and sufficient cause.
- (3) The Minister may require the production of a medical certificate to an officer nominated by him or her where the reason given for a child's non-attendance at school, or non-participation in an approved learning program, is the sickness or infirmity of the child.
- (4) In this regulation—  
*school* means a Government school or a non-Government school.

## **69—Parent to notify SACE Board of South Australia if child not participating**

A parent of a child of compulsory education age who is not participating in an approved learning program in which he or she is enrolled must, as soon as is reasonably practicable after becoming aware that the child is not so participating, notify the SACE Board of South Australia of that fact.

Maximum penalty: \$500.

## **Division 2—School books and materials, homework**

### **70—Transactions**

The sale of books, apparatus, materials and equipment to students shall be conducted through the school fund account or the school council (consolidated) account of the school.

### **71—Books etc provided in cases of hardship**

Where a parent satisfies the Director-General that payment for necessary books, apparatus, materials or equipment for his or her child would inflict hardship on the parent the Director-General may authorise that such items as he or she determines shall be provided for the use of that child.

### **72—Right of search**

- (1) To safeguard from loss books, tools, materials or equipment used in the process of instruction in a school or other centre of instruction, the head teacher, or any person authorised by the head teacher, may at any time on the school premises search or cause to be searched any bag, locker or other receptacle of any person receiving tuition at that school.
- (2) If any person receiving tuition at the school or other centre of instruction fails or refuses at any time to open any bag, locker or other receptacle for the purpose of being searched, he or she shall be guilty of an offence and shall be liable to a fine not exceeding \$100.

### **73—Homework**

- (1) Teachers may require that homework appropriate to the age and ability of a child shall be done by a child attending a school.
- (2) Every teacher shall give sympathetic consideration to any objection from a parent regarding the amount of homework expected by the teacher from a child of that parent.

## **Division 3—School terms, vacations and holidays**

### **74—School terms**

The school year shall be divided into periods, the commencing and ending dates of which shall be as determined by the Minister.

### **75—Days on which schools are open**

- (1) A school shall be open from Monday to Friday in each week, except on public holidays, school vacations and such other times as are permitted by regulations or instructions.
- (2) Except as provided in regulation 76 no school may be closed during the school week without the express sanction of the Minister.

### **76—Special days and closure of schools**

Closure of schools may take place according to such conditions as are determined from time to time by the Minister and as published in the Education Gazette.

### **77—Teachers may be required to give assistance on days when schools are closed**

If special circumstances so require, teachers shall give such assistance on days when schools are closed, as the Director-General may require.

### **78—Organisation of a school day**

- (1) An interval of not less than 40 minutes shall be set aside for luncheon on each school day, and provision may be made for recess during morning and afternoon sessions.
- (2) At least 5 and one-quarter hours and not more than 5 and one-half hours shall be set aside on each school day for instruction, exclusive of luncheon and recess intervals, provided that children under the age of 6 years may be dismissed 1 hour before normal dismissal time in the afternoon if the parents of the children so request.
- (3) The Director-General may, where reasonable cause exists, permit a school day for a particular school to be organised otherwise than in accordance with this regulation.

## **Division 4—Student allowances and scholarships**

### **79—Definitions**

In this Division unless the context requires—

*approved* means approved by the Director-General;

*primary school* means any school providing courses in primary education, and includes the primary grades of area schools;

*secondary school* means any school providing courses in secondary education, and includes the secondary grades of area and special rural schools;

*the distance of a student's residence from a school* means that distance calculated by the shortest practicable route from the place of residence of the student to the school which he or she attends or is about to attend or to a transport route to such school, whichever is the shorter.

### **80—Travelling allowances for primary students**

- (1) A travelling allowance may be paid to the parents of a student attending a primary school in a primary grade provided that—
  - (a) the usual place of residence of the parents of the student is in South Australia;and

- (b) the parents incur expense in transporting the student to and from the school daily; and
  - (c) the distance of the student's residence from the nearest primary school is 5 kilometres or more.
- (2) A travelling allowance, as determined by 1 of the following scales, may be paid to the parents of a student who satisfies the conditions of subregulation (1), and who attends the nearest primary school.
- (3) Where the student attends a primary school which is not the nearest primary school his or her parents may be paid an allowance at the direction of the Director-General as if he or she were attending the nearest primary school—
  - (a) where the student travels by bicycle the allowance shall be in accordance with a scale approved by the Minister from time to time;
  - (b) where the student travels by an approved bus service, the allowance shall be as determined by the Minister from time to time;
  - (c) where a student travels to school by train the Minister may arrange for the issue of a free rail pass to that student or alternatively approve the payment of a travelling allowance;
  - (d) where a student is conveyed by a private vehicle other than a bicycle, an allowance in accordance with a scale as determined by the Minister from time to time.
- (4) The Director-General may, where reasonable cause exists, approve the payment to a student qualified to receive a travelling allowance under this regulation of a reasonable amount in excess of any travelling allowance provided in this regulation.

### **81—Travelling allowances for secondary students**

- (1) A travelling allowance as determined by 1 of the following scales may be paid on account of a student whose parents' usual place of residence is in South Australia if the student resides at a distance of 5 kilometres or more by the nearest practicable route from the secondary school nearest to his or her place of residence and travels daily to attend that school:
  - (a) where the student travels by bicycle the allowance shall be in accordance with a scale approved by the Minister from time to time;
  - (b) where the student travels by an approved bus service the allowance shall be as determined by the Minister from time to time;
  - (c) where the student travels by train the Minister may arrange for the issue of a free rail pass to that student or alternatively approve the payment of a travelling allowance;
  - (d) where the student is conveyed by a private vehicle other than a bicycle an allowance in accordance with a scale as determined by the Minister from time to time.

- (2) When a student fulfils all the requirements of this regulation except that he or she is attending an approved secondary school which is not the secondary school nearest to his or her place of residence, a travelling allowance may be paid at a rate not exceeding that which would be approved if he or she had attended the nearest secondary school.
- (3) A student who fulfils all the requirements of this regulation except that he or she is attending a secondary school which is not the secondary school nearest to his or her place of residence may be paid an allowance at a rate prescribed in this regulation for attendance at the first mentioned school if the Director-General determines that that school is the nearest school which meets the educational needs of the student.
- (4) The Director-General may, where reasonable cause exists, approve the payment to a student qualified to receive a travelling allowance under this regulation of a reasonable amount in excess of any travelling allowances provided in this regulation.

### **82—Travelling allowance students with disabilities**

Notwithstanding any provision elsewhere in this Division, where a child, considered by the Director-General to have a disability, attends an approved special school, centre or class the Director-General may approve payment of the total cost of transporting that child to that school, centre or class, or may pay an allowance to a parent who transports his or her child to that school, centre or class, under such reasonable conditions as he or she may determine.

### **83—Educational allowances for secondary students**

Where a student whose parents' usual place of residence is in South Australia lives away from home to attend an approved secondary school and the student attends regularly at the school and undertakes an approved course of secondary education, an allowance of an amount determined by the Minister may be paid towards the living expenses of the student.

### **84—Education allowances for students with disabilities**

Where a student of secondary school age has a disability and is living away from home for the purpose of attending a primary school approved by the Director-General, an allowance of an amount determined by the Minister may be paid towards the living expenses of the student.

### **85—Scholarships and awards**

- (1) Scholarships and awards which were available to students immediately prior to the date of making these regulations shall—
  - (a) continue in force under the conditions existing immediately prior to that date; and
  - (b) continue to be known by the names by which they were known immediately prior to that date,

until such conditions or names are altered by the Minister, or until any or every scholarship or award is withdrawn by the Minister.



- (2) In any case where money or property, real or personal is made available for the purpose of founding any scholarships or awards the Minister may accept such money or property and may grant scholarships or make awards in accordance with any agreement entered into at the time when such money or property becomes available or, where no agreement is entered into, on such terms as he or she thinks fit.

## Part 6—Dress codes

### 86—Dress code

- (1) In this Part—  
*parents* has the meaning ascribed by the Act and, in relation to a school, means the parents of students attending the school.
- (2) The Minister may issue administrative instructions in relation to—  
(a) dress codes to be adopted by schools; and  
(b) the means by which school councils are to consult with parents and students in determining dress codes,  
and the Minister may, by further administrative instruction, vary or revoke such administrative instructions.
- (3) The school council of a school may—  
(a) in accordance with any administrative instructions issued under subregulation (2)(a); and  
(b) after consulting with parents and students of the school in accordance with any administrative instructions issued under subregulation (2)(b) and having regard to their views,  
determine a dress code for the school.
- (4) The head teacher of a school must, on the adoption by the school of a dress code, inform the parents of each student of the school and, on the later enrolment of a student at the school, inform the parents of that student, in writing—  
(a) of the dress code of the school; and  
(b) of the parents' right to request the exemption of the student from that dress code.
- (5) The head teacher may, on being requested in writing by a parent of a student to exempt the student from the dress code of the school, so exempt the student.
- (6) Subject to subregulation (5), the head teacher of a school must enforce the dress code of the school and may take appropriate disciplinary action in relation to wilful and persistent breach of that dress code but the dress code may not be enforced by the suspension, exclusion or expulsion of a student from the school or by otherwise precluding the student from participating in the educational programme of the school.
- (7) Where this regulation provides for an act to be carried out by or in relation to the parents of a student, the regulation will, in relation to a student who is not less than 18 years of age, be taken to provide that the act is to be carried out by or in relation to that student.

## **Part 7—Religious education in schools**

### **87—Standing Committee on Religious Education**

- (1) The Minister shall appoint a Standing Committee on Religious Education in Government schools, which shall be composed of a representative of the Department, who shall be Chairperson, and such representatives of the Churches, the teaching service, parent organisations and those universities which provide courses in teacher education, as the Minister shall determine.
- (2) The committee shall advise the Minister on such matters relating to religious education in schools as he or she may refer to it and shall carry out such other duties as the Minister may determine.
- (3) The committee may be assisted to carry out its duties under this regulation by such sub-committees and project teams as the Minister may approve.

### **88—Religious education committees in schools**

- (1) The head teacher of a school in consultation with the school council shall establish a committee consisting of the head teacher, not more than 2 teachers, not more than 2 parent members of the school council, and not more than 4 local clergy, to be called the Religious Education Committee for that school.
- (2) A meeting of the committee shall be held whenever the head teacher so decides, or whenever at least 2 members of the committee request the head teacher to convene a meeting of the committee.
- (3) The committee shall advise and assist the head teacher in such matters concerning religious education in the school as the head teacher and the committee shall determine and shall carry out such other duties as are provided in this Part.

### **89—Approved courses in religious education**

- (1) The Director-General shall provide courses of instruction in religious education for use in schools, the courses to be approved by him or her on the recommendation of the Standing Committee on Religious Education.
- (2) The head teacher of a school, acting with the advice of the Religious Education Committee for that school, shall select from the approved courses in religious education the course to be used in that school.

### **90—Persons to conduct religious education classes**

- (1) Subject to the provisions of section 63(4) of the Act and regulation 93 no person may teach religious education classes unless he or she is registered as a teacher or holds written authority from the Teachers Registration Board to teach such classes.
- (2) No such registered or authorised teacher shall be required to conduct nor shall conduct a class in religious education in a school unless he or she has stated to the head teacher of that school his or her willingness to teach that subject.

## **91—Organisation of religious education classes**

- (1) Except as provided in subregulation (2)—
  - (a) religious education shall normally be taught in groupings common to the day-to-day organisation of the school; and
  - (b) classes in religious education shall be held throughout the year,  
provided that the head teacher may vary these provisions on the advice of the Religious Education Committee for the school, or for reasons deemed sufficient by him or her.
- (2) The head teacher shall arrange, on the request of local clergy, and in consultation with the Religious Education Committee, for a maximum of 1 half day in each term to be set aside for the churches desiring to participate to hold seminars or gatherings on school property or elsewhere. Subject to regulation 92, children will attend the function appropriate to their denomination or faith, and the head teacher shall supply those clergy, if they so desire, with the names of the children who, as far as is shown by official records, are eligible to attend their seminar or gathering.

## **92—Exemptions**

Where a parent of a child attending a school seeks permission in writing of the head teacher for his or her child to be exempted from attendance at religious education classes on conscientious grounds that child shall be exempted from attendance at such classes at that school accordingly.

## **93—Transition provision**

- (1) The subject of religious education shall be introduced progressively into all grades of primary and secondary schools as courses of instruction become available and as the supply of teachers registered to teach that subject permits.
- (2) Until a date to be fixed by the Director-General and published in the Education Gazette, the Religious Education Committee of a school may authorise clergy and lay people to participate with teachers taking religious education classes pursuant to the provisions of this Part.

## **Part 8—Provision of information**

### **94—Schools to provide certain information**

- (1) This regulation applies in relation to a child of compulsory school age who is in year 9.
- (2) A school must provide to the SACE Board of South Australia the following information in relation to each child to whom this regulation applies who is enrolled in the school at the commencement of week 3 of term 1 in each year:
  - (a) the full name of the child;
  - (b) the date of birth of the child;
  - (c) the approved learning program in which the child intends to enrol (if known).
- (3) The information required under subregulation (2) must be provided—
  - (a) in writing; and

- (b) not later than 31 December in the year in which the child is in year 9.
- (4) A school must not, without reasonable excuse, refuse or fail to comply with subregulation (2).  
Maximum penalty: \$500.

- (5) In this regulation—

*school* means a Government school or a non-Government school.

### **95—Approved learning program providers to provide specified information**

- (1) The Minister may, for a purpose related to the administration or enforcement of Part 6 of the Act, by notice in writing, require a provider of an approved learning program to provide to the Minister specified information in relation to the approved learning program, or any child of compulsory education age who is enrolled in the approved learning program, or both.
- (2) The information required under subregulation (1) must be provided—
  - (a) in writing; and
  - (b) not later than the date specified in the notice.
- (3) A provider of an approved learning program must not, without reasonable excuse, refuse or fail to comply with a requirement under subregulation (1).  
Maximum penalty: \$500.

- (4) A provider of an approved learning program must not, in providing any information pursuant to a requirement under subregulation (1), make a statement that is false or misleading in a material particular.  
Maximum penalty: \$500.

## **Part 9—Miscellaneous**

### **96—Exemption from certain topics in health education**

A parent may, by application in writing to the head teacher, seek permission for his or her child to be exempted from attendance at lessons in such topics in the health education course which specially concern sex education as are specifically named in his or her application, and that child shall be exempted from attendance at lessons in those named topics in health education at that school accordingly.

### **97—Election of teachers as supplementary panel members for SAET**

- (1) Elections must be held in accordance with this regulation whenever there is a vacancy in the membership of a panel of officers of the teaching service under section 54(1)(b) of the Act.
- (2) The Branch Returning Officer of the AEU must publish in a publication that is circulated to members of the AEU a notice specifying—
  - (a) the number of vacancies to be filled; and
  - (b) the date (being not less than 21 days after the date of the notice) and the hour by which nominations for candidates for election to those vacancies must be received by the Branch Returning Officer; and

- (c) such other information as the Branch Returning Officer thinks fit.
- (3) A nomination of a candidate for election must be—
  - (a) in writing; and
  - (b) signed by the candidate; and
  - (c) signed by 1 other member of the AEU; and
  - (d) lodged with the Branch Returning Officer of the AEU not later than the time fixed in the notice for the closure of nominations.
- (4) If the number of candidates duly nominated is the same as or is less than the number of vacancies to be filled, the Branch Returning Officer of the AEU must declare those candidates to be duly elected.
- (5) If the number of candidates duly nominated is greater than the number of vacancies to be filled, an election must be held at a meeting of the Branch Council of the AEU.
- (6) In this regulation—

*AEU* means the Australian Education Union (SA Branch).

#### **98—Scholarships for teachers**

- (1) Scholarships and awards which were available to teachers immediately prior to the date of making these regulations shall—
  - (a) continue in force under the conditions existing immediately prior to that date; and
  - (b) continue to be known by the names by which they were known immediately prior to that date,

until such conditions and names are altered by the Minister, or until any or every scholarship or award is withdrawn by the Minister.
- (2) In any case where money or property, real or personal, is made available for the purpose of founding any scholarship or awards for teachers the Minister may accept such money or property and may grant scholarships or make awards in accordance with any agreement entered into at the time such money or property becomes available, or, where no agreement is entered into, on such terms as he or she thinks fit.
- (3) The Minister may provide scholarships to teachers for such purposes and on such conditions as he or she may determine and may withdraw such provision if circumstances make such withdrawal desirable.

#### **99—Compulsory medical examination of teachers**

- (1) A teacher shall, whenever required to do so by the Director-General, submit himself or herself to examination by a legally qualified medical practitioner selected by the Director-General. The medical practitioner selected by the Director-General shall consult with a legally qualified medical practitioner selected by the teacher, if he or she or his or her family so desires. The expense of any such examination shall be borne by the Minister.
- (2) The Director-General shall inform the Australian Education Union (SA Branch) of his or her decision before making any requirement under this regulation.

### **100—Notice to a teacher**

- (1) Where by the Act or these regulations it is provided that any notice or other written notification shall or may be given to a teacher it shall be sufficient if such notice or other written notification is delivered to the school or other place of his or her employment, or sent to him or her by prepaid post at the school or place where he or she is employed or at his or her last known address.
- (2) A notice or other written notification to any teacher shall, unless the contrary is shown, be deemed to have been received by that teacher on the day on which such notice or other written notification was delivered to him or her personally, or delivered to the school or other place of his or her employment, or, where such notice or other written notification is sent by prepaid post, the day on which the letter or other packet would be delivered in the ordinary course of post.
- (3) Except where the Act or these regulations provide that a notice or other notification to be given to a teacher shall be in writing, a notice or other notification may be given directly to a teacher by word of mouth or by telephone.

### **101—Education Gazette, directions and instructions**

- (1) The Minister may from time to time issue such directions and instructions not being inconsistent with the Act or these regulations as may be necessary or convenient in the exercise of the powers and functions conferred upon him or her by the Act or prescribed by these regulations.
- (2) The Minister may issue a publication to be called the Education Gazette which shall contain instructions to teachers concerning their professional duties and such other matters as the Minister may determine.

### **102—School funds**

- (1) Funds provided by the Minister to a school, school council or affiliated committee—
  - (a) may only be expended for school related purposes; and
  - (b) together with any property purchased with the funds, belong to the Minister, subject to any direction or instruction of the Minister to the contrary.
- (2) A school council or affiliated committee is responsible for ensuring that proper accounts are kept of its funds.

### **103—Forwarding of property on school closure**

A head teacher, school council or affiliated committee of a school must comply with any directions of the Director-General as to the forwarding of property (including books and records) on the closure of the school.

### **104—Records and documents property of Minister**

Subject to the Act, these regulations or any other Act or law, all school records and documents shall be deemed to be the property of the Minister, and the information contained therein confidential. The head teacher shall not permit any of them to be removed from the school without the sanction in writing of the Director-General.

**105—Charges for certain overseas and non-resident students**

For the purposes of section 106B(1)(c)(ii) of the Act, a visa issued under the *Migration Act 1958* of the Commonwealth (being the class or subclass of visa that replaces the temporary work (skilled) visa (subclass 457) following the abolition of that subclass of visa) is declared to be included in the ambit of that paragraph.

## 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 these regulations (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](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Education Regulations 2012* revoked the following:

*Education Regulations 1997*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2012	188	<i>Gazette 16.8.2012 p3634</i>	1.9.2012: r 2
2012	250	<i>Gazette 6.12.2012 p5472</i>	6.12.2012: r 2
2013	39	<i>Gazette 16.5.2013 p1550</i>	16.5.2013: r 2
2017	43	<i>Gazette 16.5.2017 p1265</i>	1.7.2017: r 2
<b>2018</b>	<b>42</b>	<b><i>Gazette 13.2.2018 p780</i></b>	<b>13.2.2018: r 2</b>

### Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>6.12.2012</i>
Pt 4		
r 18	substituted by 43/2017 r 4	1.7.2017
r 26A	inserted by 250/2012 r 4	6.12.2012
r 26A(2a)	inserted by 39/2013 r 4	16.5.2013
r 36		
r 36(2)	varied by 43/2017 r 5	1.7.2017
r 37	substituted by 43/2017 r 6	1.7.2017
r 38	substituted by 43/2017 r 7	1.7.2017
<i>r 39</i>	<i>deleted by 43/2017 r 8</i>	<i>1.7.2017</i>



r 40	substituted by 43/2017 r 9	1.7.2017
r 41	varied by 43/2017 r 10	1.7.2017
Pt 9		
r 97		
r 97(1)	substituted by 43/2017 r 11(1)	1.7.2017
r 97(2)	varied by 43/2017 r 11(2)	1.7.2017
r 97(6)		
AEU	varied by 43/2017 r 11(3)	1.7.2017
<b>r 105</b>	<b>inserted by 42/2018 r 4</b>	<b>13.2.2018</b>
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	6.12.2012

## Historical versions

6.12.2012

16.5.2013

1.7.2017