

South Australia

# Youth Justice Administration Regulations 2016

under the *Youth Justice Administration Act 2016*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Youth Justice Administration Regulations 2016*.

### 3—Interpretation

- (1) In these regulations—

*Act* means the *Youth Justice Administration Act 2016*;

*liquor* means any beverage that, at 20 degrees Celsius, contains more than 1.15% alcohol by volume and includes any other substance that comprises, constitutes, contains or may be converted into that beverage;

*prohibited item*—see subregulation (2);

*rules* means the rules made by the Chief Executive under section 26 of the Act—

- (a) relating to the management of a training centre; or
  - (b) regulating the conduct of residents of a training centre.
- (2) For the purposes of these regulations, if permission for the introduction of any of the following items into a training centre has not been given by the manager of the centre, the item is taken to be a *prohibited item* in relation to the centre:
- (a) a substance that is—
    - (i) a prescription drug; or
    - (ii) a controlled drug; or
    - (iii) a controlled plant,under the *Controlled Substances Act 1984*;
  - (b) a syringe or needle;
  - (c) a device capable of being used for the administration of a controlled drug by means of the drawing of smoke or fumes (resulting from the heating or burning of the drug or substance), including a device known as a bong;
  - (d) any—
    - (i) flammable, corrosive or toxic substance that is a dangerous substance under the *Dangerous Substances Act 1979*; or
    - (ii) liquor; or
    - (iii) paint; or
    - (iv) oil; or
    - (v) acid or alkali; or
    - (vi) glue; or
    - (vii) herbicide, fungicide or insecticide;
  - (e) a pressurised spray canister;
  - (f) an explosive, explosive device or incendiary device, or any substance or device that can be used in the manufacture of an explosive or incendiary device;
  - (g) a device designed to fire bullets, shot or other projectiles by means of burning propellant or by means of compressed air or other compressed gas;

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- (h) a device or instrument designed or commonly used, or that has been or is capable of being adapted or modified, for the purpose of—
    - (i) inflicting bodily injury or harm on a person or causing a person to fear infliction of bodily injury or harm; or
    - (ii) assisting a resident to escape from a training centre;
  - (i) a book, diagram, plan or other document, or audio or video recording, or any other material of any kind, that instructs, teaches or otherwise guides a person—
    - (i) how to make an item referred to in a preceding paragraph; or
    - (ii) about a method of escaping from a training centre or causing an insurrection, riot or other disturbance at a training centre;
  - (j) publications, films or computer games classified RC, X 18+ or R 18+ under the *Classification (Publications, Films and Computer Games) Act 1995*;
  - (k) indecent material within the meaning of section 33 of the *Summary Offences Act 1953*;
  - (l) offensive material within the meaning of section 33 of the *Summary Offences Act 1953*;
  - (m) a camera or other device capable of capturing or recording images (whether digitally or on film or tape);
  - (n) a mobile telephone, mobile telephone accessory or other device that may be used to make or receive a telephone call;
  - (o) a 2-way radio (also known as a walkie talkie);
  - (p) a device that includes a modem or other device enabling it to transmit or receive data to or from a network of computers;
  - (q) an unauthorised data storage device;
    - An ***unauthorised data storage device*** means a data storage device that has not been specifically authorised by the manager, but does not include a data storage device of a kind referred to in a preceding paragraph or a data storage device containing only a film or computer game classified G under the *Classification (Publications, Films and Computer Games) Act 1995*.
  - (r) a tool;
  - (s) a wire, rope, cord or twine;
  - (t) a mirror, glass or ceramic item;
  - (u) a backpack, handbag or any other bag;
  - (v) a pram, pusher or bassinette;
  - (w) an item or substance for grooming, cosmetic or toiletry purposes;
  - (x) any other item for personal use.

#### **4—Declaration of corresponding law—transfer of youths under detention**

For the purposes of Part 4 Division 7 of the Act, the *Youth Justice Act 2005* of the Northern Territory is declared to be a law corresponding to that Division.

## **Part 2—Aboriginal and Torres Strait Islander Youth Justice Principle**

### **5—Aboriginal and Torres Strait Islander Youth Justice Principle**

For the purposes of the Act, the Aboriginal and Torres Strait Islander Youth Justice Principle is as follows:

- (a) that, in acknowledging the diversity of Aboriginal and Torres Strait Islander communities, the individual cultural identity of Aboriginal and Torres Strait Islander youths be recognised and their beliefs and practices be supported, respected and valued;
- (b) that Aboriginal and Torres Strait Islander youths will be supported to uphold their cultural responsibilities and have access to, and participation in, cultural ceremonies, funerals and cultural practices, relevant to their individual cultural identity;
- (c) that assessment, case planning and decision-making in respect of an Aboriginal or Torres Strait Islander youth includes consultation with relevant Aboriginal and Torres Strait Islander people or organisations to assist the youth;
- (d) that, where it is appropriate to do so, the identified family, significant person and community of an Aboriginal or Torres Strait Islander youth are participants in assessment, case planning and decision-making for the youth;
- (e) that Aboriginal and Torres Strait Islander youths are provided with programs, services and supports that have regard to their age, maturity and individual cultural identity;
- (f) that the assessment of appropriate accommodation in a training centre will consider the individual cultural identity of Aboriginal and Torres Strait Islander youths;
- (g) that, where necessary, Aboriginal and Torres Strait Islander youths will be provided with interpreters and, where possible, translated documents;
- (h) that the particular health, education and wellbeing needs of Aboriginal and Torres Strait Islander youths are considered and, where practicable, met;
- (i) that officers of the Department actively participate in cultural training and demonstrate culturally respectful engagement;
- (j) that the Department actively recruits and supports the retention of Aboriginal and Torres Strait Islander staff.

## Part 3—Circumstances in which otherwise prohibited actions allowed

### 6—Circumstances in which isolation of residents of training centres allowed

- (1) For the purposes of section 29(b) of the Act, this regulation prescribes the circumstances in which a resident of a training centre may be isolated from the other residents of the centre by being placed in a locked room (which may be the resident's bedroom) and kept apart from the normal routine of the centre.
- (2) Subject to this regulation, a resident of a training centre may be isolated from the other residents of the centre if an employee of the centre believes on reasonable grounds that—
  - (a) the resident's personal safety is in need of protection from other residents; or
  - (b) the resident's behaviour presents a threat to the safety of others and all reasonable de-escalation actions have failed; or
  - (c) it is otherwise necessary to isolate the resident from other residents—
    - (i) to maintain order in the centre; or
    - (ii) to preserve the security of the centre; or
    - (iii) to protect the health of other persons.
- (3) A resident of a training centre may be isolated from the other residents of the centre by being placed in the resident's bedroom—
  - (a) on the request of the resident; or
  - (b) if the resident is ill.
- (4) A resident of a training centre isolated from other residents of the centre at the request of the resident under subregulation (3) must be released from isolation at the resident's request.
- (5) If a resident of a training centre is isolated from other residents of the centre under subregulation (3)(b), the employee of the centre responsible for isolating the resident must consider whether an assessment of the resident's health should be made by a medical practitioner.
- (6) Isolating a resident of a training centre must not—
  - (a) be used to punish the resident; or
  - (b) contravene the resident's rights under the *Charter of Rights for Youths Detained in Training Centres*; or
  - (c) limit the ability of the resident to communicate with employees of the centre at any time.
- (7) The following provisions apply in relation to a resident of a training centre who is being isolated from the other residents of the centre:
  - (a) if the resident is isolated from the other residents of the centre for longer than 30 minutes, the manager of the centre must be informed of the isolation, and the reasons for the isolation, as soon as reasonably practicable;

- (b) isolation of the resident must not continue—
    - (i) for longer than is reasonably necessary in the circumstances; or
    - (ii) for longer than 3 hours unless the manager of the centre approves a longer period;
  - (c) if the resident is isolated from other residents of the centre for longer than 3 hours in accordance with the approval of the manager of the centre under paragraph (b), the isolation must not continue for longer than 24 hours unless—
    - (i) the manager of the centre considers that the circumstances are exceptional; and
    - (ii) isolation of the resident for that longer period has been approved by the Chief Executive;
  - (d) the resident must, if possible, be provided with mental or physical stimulation that does not constitute a threat to the resident's safety;
  - (e) the resident must be closely supervised;
  - (f) the resident must be observed at intervals of not longer than 15 minutes;
  - (g) the observations must be recorded.
- (8) The Chief Executive must establish procedures to be followed relating to the isolation of residents of training centres from other residents.
- (9) If a resident of a training centre is isolated from the other residents of the centre, the manager of the centre must ensure that a record is made containing the following details:
- (a) the name and age of the resident;
  - (b) the date and time the period of isolation began;
  - (c) the date and time the period of isolation ended;
  - (d) the reason for the isolation;
  - (e) the name of the employee of the centre who ordered the isolation;
  - (f) action taken (if any) in respect of the resident before the resident was so isolated.

## **7—Circumstances in which segregation of residents of training centres allowed**

- (1) For the purposes of section 29(b) of the Act, this regulation sets out the circumstances in which a resident of a training centre may be segregated from the other residents of the centre by being placed on an individualised regime separate from the normal routine of the centre that allows the resident only restricted contact with the other residents.
- (2) Subject to this regulation, a resident of a training centre may only be segregated from other residents of the centre if an employee of the centre believes on reasonable grounds that—
  - (a) the resident's personal safety is in need of protection from other residents; or

- (b) the resident's behaviour presents a threat to the resident's safety or the safety of others and all reasonable de-escalation actions have failed; or
  - (c) it is otherwise necessary to segregate the resident from other residents—
    - (i) to maintain order in the centre; or
    - (ii) to preserve the security of the centre.
- (3) Segregating a resident of a training centre must not—
- (a) be used to punish the resident; or
  - (b) contravene the resident's rights under the *Charter of Rights for Youths Detained in Training Centres*; or
  - (c) limit the ability of the resident to communicate with employees of the centre at any time; or
  - (d) limit the resident's access to regular exercise periods or other stimulation; or
  - (e) restrict the resident's access to contact with visitors (whether in person or by telephone) beyond what is normally allowed for the resident.
- (4) If a resident of a training centre is segregated from the other residents of the centre—
- (a) the segregation must not continue for longer than is reasonably necessary in the circumstances; and
  - (b) the resident must not be prevented from having contact with other residents of the centre for more than 22 hours in any 24 hour period unless such contact would be detrimental to the wellbeing of the resident or other residents; and
  - (c) the manager of the centre must be informed of the segregation, and the reasons for the segregation, as soon as reasonably practicable; and
  - (d) the manager of the centre must ensure that—
    - (i) a parent, guardian or carer of the resident is informed of the segregation as soon as reasonably practicable; and
    - (ii) if the resident is an Aboriginal or Torres Strait Islander youth—an Aboriginal or Torres Strait Islander person who can provide the resident with cultural support is informed of the segregation as soon as reasonably practicable; and
    - (iii) if the resident is under 12 years of age—the Training Centre Visitor is informed of the segregation; and
    - (iv) an individualised action plan is prepared to support the resident's return to the normal routine of the centre, including interaction with other residents; and
    - (v) a record is made containing the following details:
      - (A) the name and age of the resident;
      - (B) the date and time the period of segregation began;
      - (C) the date and time the period of segregation ended;
      - (D) the reason for the segregation;

- (E) the frequency and outcome of any risk assessments conducted in relation to the segregation;
  - (F) the name of the employee of the centre who ordered the segregation;
  - (G) action taken (if any) in respect of the resident before the resident was so segregated;
  - (H) the resident's contact (if any) during the period of segregation with other residents of the centre; and
- (vi) as far as reasonably practicable, the resident maintains access to education, health and rehabilitative services in accordance with the case plan prepared for the resident.
- (5) The Chief Executive must establish procedures to be followed relating to the segregation of residents of training centres from other residents.

### **8—Circumstances in which use of mechanical restraints allowed**

- (1) For the purposes of section 29(f) of the Act, this regulation sets out the circumstances in which the free movement of a resident of a training centre may be restricted by the use of a device, instrument or physical object (that is, by means of a *mechanical restraint*).
- (2) Subject to this regulation, the free movement of a resident of a training centre may only be restricted by means of a mechanical restraint if—
- (a) the mechanical restraint is of a kind approved by the Chief Executive for the purpose; and
  - (b) an employee of the centre believes on reasonable grounds that—
    - (i) the resident is about to harm himself or herself or another person; or
    - (ii) it is necessary to restrain the resident—
      - (A) to preserve the security of the centre; or
      - (B) to prevent the resident from escaping from custody; or
      - (C) to preserve community safety.
- (3) Restricting the free movement of a resident of a training centre by the use of a mechanical restraint—
- (a) may only be used as a last resort following an assessment of the risks associated with using, or not using, a mechanical restraint to restrain the resident's free movement; and
  - (b) must not—
    - (i) be used to punish the resident; or
    - (ii) contravene the resident's rights under the *Charter of Rights for Youths Detained in Training Centres*.
- (4) The Chief Executive must establish procedures to be followed relating to the use of mechanical restraints on residents of training centres.

- (5) The following provisions apply to the use of a mechanical restraint on a resident of a training centre:
- (a) the use must be reasonable, justified and proportionate in the circumstances;
  - (b) the mechanical restraint may only be used by an employee of the centre who has been trained in the use of such restraints;
  - (c) the manager of the centre must be notified of the use of the restraint as soon as reasonably practicable;
  - (d) the restraint may only be used for as long as is necessary in the circumstances;
  - (e) the resident must not be left unsupervised and the resident and restraint are to be checked at regular intervals of not more than 15 minutes;
  - (f) the manager of the centre must ensure that a record is made containing the following details:
    - (i) the name and age of the resident;
    - (ii) the date and the period of time the restraint was used;
    - (iii) the reason for the use of the restraint;
    - (iv) the name of the employee of the centre who ordered the use of the restraint;
    - (v) the name of the employee of the centre who used the restraint;
    - (vi) the type of restraint used.

## Part 4—Drugs and drug testing

### 9—Interpretation

- (1) For the purposes of section 31 of the Act, a resident of a training centre *uses a drug* if the resident—
- (a) consumes or smokes, or administers to himself or herself, the drug; or
  - (b) permits another person to administer the drug to the resident.
- (2) A person is an *authorised officer* for the purposes of this Part if the person is an employee of the Department who has received training in the conduct of drug testing of residents of training centres.

### 10—Drug testing procedures

- (1) The Chief Executive may establish procedures (which should be consistent with appropriate medical standards or other relevant professional standards) to be followed for the purposes of drug testing residents of training centres under section 31 of the Act.
- (2) Without limiting the generality of subregulation (1), the procedures should include—
- (a) the directions that can be given to a resident of a training centre for the purpose of conducting an alcotest on the resident to detect the presence of alcohol in the resident's blood, including (for example)—

- (i) a direction to accompany an authorised officer; and
    - (ii) a direction to exhale into the alcotest apparatus; and
    - (iii) a direction as to the manner and duration of the exhalation; and
  - (b) the directions that can be given to a resident of a training centre for the purpose of collecting and authenticating a specimen of the resident's urine for analysis to detect the presence of a drug, including (for example)—
    - (i) a direction to accompany an authorised officer; and
    - (ii) a direction as to how to select a urine sample container and how to deal with the container; and
    - (iii) a direction as to the manner of urinating for the purpose of collecting the sample; and
    - (iv) a direction as to how, and how not, to deal with the sample; and
  - (c) the procedures to be followed by authorised officers when conducting drug testing, including (for example)—
    - (i) the advice to be given to a resident of a training centre undergoing drug testing; and
    - (ii) processes to ensure the proper standard of hygiene is maintained during testing; and
    - (iii) how to select a suitable site for carrying out testing; and
    - (iv) how to avoid inflicting unnecessary humiliation or embarrassment to residents during testing; and
    - (v) how to deal with a urine sample once it has been collected; and
    - (vi) the documents and information to be completed by an authorised officer relating to the conduct and results of a drug test; and
    - (vii) any other procedures as may, in the opinion of the Chief Executive, be necessary.
- (3) A resident of a training centre required to submit to an alcotest must not refuse or fail to comply with all reasonable directions of an authorised officer in relation to the requirement and, in particular, must not refuse or fail to exhale into the apparatus by which the alcotest is conducted in accordance with the directions of the authorised officer.
- (4) A resident of a training centre required to submit to urine testing must not refuse or fail to comply with all reasonable directions of an authorised officer in relation to the requirement and, in particular, must not refuse or fail to supply a sample of urine for testing in accordance with the directions of the authorised officer.
- (5) A resident of a training centre who has not, within the period specified in the procedures of being directed to do so, provided a sample of urine in accordance with the direction, will be taken to have failed to comply with the direction.

## 11—Therapeutic use of drugs

- (1) The Chief Executive may establish procedures (which should be consistent with appropriate medical standards or other relevant professional standards) to be followed relating to the therapeutic use of drugs by residents of training centres and the administration of drugs for such use to the residents.
- (2) In this regulation—  
*therapeutic*—the use of a drug is to be regarded as therapeutic if—
  - (a) the drug is prescribed by, and used in accordance with the directions of, a medical practitioner; or
  - (b) the drug—
    - (i) is a drug of a kind available, without prescription, from registered pharmacists; and
    - (ii) is used for a purpose recommended by the manufacturer and in accordance with the manufacturer's instructions.

## Part 5—Visitors and communication

### 12—Visitors other than official or professional visitors

- (1) A resident of a training centre is entitled to at least 2 visits each week.
- (2) The manager of a training centre must encourage and facilitate visits to the residents of the centre by relatives, friends and other significant persons, including by directing the type of visit depending on the needs of the particular resident.

**Example—**

The manager of a training centre may direct that a visit by a particular person to a particular resident of the centre is to be a contact or non-contact visit in a separate or private, or in a public, meeting room.

- (3) The manager of a training centre may authorise a visit or visits to a resident of the centre in circumstances that do not fall within the centre's usual visiting arrangements if the manager is satisfied that—
  - (a) the resident has a family emergency, such as illness in the family or a bereavement; or
  - (b) the visitor has travelled a long distance to visit and is unable to visit during scheduled visiting sessions due to financial, work or other difficulties; or
  - (c) the circumstances are otherwise such as to warrant the visit or visits.
- (4) A person may not visit a resident unless the person provides such evidence as the manager of the training centre thinks appropriate as to the person's identity.
- (5) The manager of a training centre may—
  - (a) cause a person to be screened and approved for a visit prior to allowing a visit with a resident of the centre; and
  - (b) if of the opinion that special reasons exist for doing so, order that a particular person is barred from visiting a resident of the centre for any period the manager thinks fit, or until further order of the manager.

### 13—Visits by professional visitors

- (1) The following provisions apply to a visit to a training centre by a person who visits a resident of the centre for the purpose of rendering professional services to the resident:
  - (a) the identity and professional status of the visitor must be verified before the visitor is admitted to visit a resident of the centre;
  - (b) the manager of the centre must provide a suitable meeting room for the visitor to meet with the resident of the centre;
  - (c) the visit must, if practicable, be conducted in private.
- (2) A visit by a person for the purpose of rendering professional services to a resident of a training centre will not be held to be a visit for the purposes of regulation 12(1).

### 14—Power to search visitors

- (1) This regulation does not apply to a person who is a resident of a training centre.
- (2) The manager of a training centre may—
  - (a) cause any person who enters the centre to submit, subject to the person's consent, to 1 or more of the following for the purpose of detecting the presence of prohibited items:
    - (i) screening by means of an electronic device;
    - (ii) a limited contact search;
    - (iii) having the person's belongings searched; or
  - (b) if there are reasonable grounds for suspecting that a person entering or in the centre is in possession of a prohibited item—cause the person and the person's possessions to be detained and searched; or
  - (c) if there are reasonable grounds for suspecting that a vehicle entering or in the centre is carrying a prohibited item—cause the vehicle to be detained and searched.
- (3) If a person does not consent to screening or a search, the manager of the training centre may cause the person to be refused entry to or removed from the centre, using only such force as is reasonably necessary for the purpose.
- (4) Failure of a person to consent to screening or a search does not of itself constitute grounds for suspecting that the person is in possession of a prohibited item.
- (5) A **limited contact search** is a search of a person to which the following provisions apply:
  - (a) the person may be required to remove any jacket that the person is wearing;
  - (b) the person cannot be required to remove any other clothing or to open the person's mouth, and nothing may be introduced into an orifice of the person's body;
  - (c) any direct contact with the person's flesh that is necessary for the purpose of the search must be minimal and within the bounds of propriety;

- (d) the person may be required to adopt certain postures or to do anything else reasonably necessary for the purposes of the search and, if the person does not comply with such a requirement, the manager may cause the person to be removed from the centre, using only such force as is reasonably necessary for the purpose;
  - (e) the search must be carried out expeditiously and undue humiliation of the person must be avoided;
  - (f) the manager of the centre must ensure that the gender of the person conducting the search is appropriate in the circumstances.
- (6) The following provisions apply to a search under subregulation (2)(b):
- (a) the person may be required—
    - (i) to remove the person's outer clothing (including footwear, headwear and jackets) but no other clothing; and
    - (ii) to open the person's mouth (but force cannot be applied to open the person's mouth); and
    - (iii) to adopt certain postures; and
    - (iv) to submit to a pat down search; and
    - (v) to do anything else reasonably necessary for the purposes of the search,and, if the person does not comply with such a requirement, the manager may cause the person to be removed from the training centre, using only such force as is reasonably necessary for the purpose;
  - (b) nothing may be introduced into an orifice (including the mouth) of the person's body;
  - (c) at least 2 persons (apart from the person being searched) must be present at all times during the search;
  - (d) the search must be carried out expeditiously and undue humiliation of the person must be avoided;
  - (e) the manager of the centre must ensure that the gender of the person conducting the search is appropriate in the circumstances.
- (7) The following provisions apply to a search under subregulation (2)(c):
- (a) the driver of the vehicle may be required to do anything reasonably necessary for the purposes of the search;
  - (b) if the driver does not comply with a requirement made under paragraph (a)—the manager may cause the driver and the vehicle to be refused entry to or removed from the training centre, using only such force as is reasonably necessary for the purpose.

- (8) If a prohibited item is found as a result of screening or a search under this regulation, or a person fails to comply with a requirement lawfully made for the purposes of screening or a search under this regulation, the manager may cause the person or the driver of the vehicle (as the case may be) to be handed over into the custody of a police officer as soon as reasonably practicable and to be kept in detention until that happens.
- (9) If the employee who carries out screening or a search of a person under this regulation suspects on reasonable grounds that a prohibited item may be concealed on or in the person's body, the manager may cause the person to be handed over into the custody of a police officer as soon as reasonably practicable and to be kept in detention until that happens.
- (10) On a person being detained under subregulation (8) or (9), the manager must immediately cause a police officer to be notified.
- (11) Despite the preceding provisions of this regulation, if a person or vehicle may be detained under this regulation for the purposes of being searched, the manager may, instead, cause the person or vehicle to be refused entry to or removed from the training centre, using only such force as is reasonably necessary for the purpose.

## **15—Mail**

- (1) Subject to this regulation—
  - (a) residents of a training centre are entitled to receive and send letters; and
  - (b) letters sent to residents of a centre must be handed to them as soon as reasonably practicable after delivery to the centre; and
  - (c) letters sent by residents of a centre must be forwarded as soon as reasonably practicable.
- (2) A letter sent to or by a resident contravenes this regulation if it contains—
  - (a) a threat of a criminal act; or
  - (b) a proposal or plan to commit a criminal act, or to do anything towards the commission of a criminal act; or
  - (c) an unlawful threat or demand; or
  - (d) an incitement to violence, or material likely to inflame violence; or
  - (e) a prohibited item; or
  - (f) a sum of money, whether in cash or otherwise, or a request for any such sum, where the prior permission of the Chief Executive has not been obtained in respect of that sum or request; or
  - (g) a request for any goods, without the prior permission of the Chief Executive; or
  - (h) a statement that is in code; or
  - (i) any other information or material that the Chief Executive considers to be inappropriate.

- (3) The Chief Executive may cause all letters sent to or by residents of a training centre to be—
- (a) opened and examined by an authorised officer; or
  - (b) screened by an authorised officer by means of x-ray or another electronic device,
- for the purpose of determining whether a letter contravenes this regulation.
- (4) An authorised officer may, for the purpose of perusing a letter opened by the officer that is in a language other than English, cause the letter to be translated.
- (5) Subject to subregulation (7), a letter sent by a resident of a training centre—
- (a) to the Independent Commissioner Against Corruption or the Office for Public Integrity; or
  - (b) to the Police Ombudsman; or
  - (c) to the Ombudsman; or
  - (d) to a Member of Parliament; or
  - (e) to the Health and Community Services Complaints Commissioner; or
  - (f) to the Training Centre Review Board; or
  - (g) to the Training Centre Visitor; or
  - (h) to the Guardian for Children and Young Persons; or
  - (i) to a legal practitioner at the practitioner's business address,
- cannot be opened under this regulation.
- (6) Nothing in this regulation empowers an authorised officer to open a declaration vote sent by a resident of a training centre to a returning officer.
- (7) If an authorised officer reasonably believes that a letter sent by a resident of a training centre to a person referred to in subregulation (5) contains a prohibited item, the officer may open the letter in the presence of the resident for the purpose of inspecting and, if appropriate, removing the item.
- (8) If an authorised officer is satisfied on reasonable grounds that a letter sent to a resident of a training centre is from a person referred to in subregulation (5), the following provisions apply:
- (a) subject to paragraph (b), the officer must not open the letter;
  - (b) if the officer reasonably believes that the letter contains a prohibited item, then—
    - (i) the officer may—
      - (A) open the letter in the presence of the resident for the purpose of inspecting and, if appropriate, removing the item; or
      - (B) return the letter to the sender unopened (unless the officer considers that it is unlawful for a person to possess the suspected prohibited item); and

- (ii) if the officer considers that it is unlawful for a person to possess the suspected prohibited item, the officer may provide the letter to an appropriate law enforcement authority.
- (9) If a letter sent to a resident of a training centre (other than a letter from a person referred to in subregulation (5) that has not been opened by an authorised officer) is found to contravene this regulation, the Chief Executive may—
  - (a) in the case of a letter—
    - (i) hand it over to the resident of the centre; or
    - (ii) retain it and hand it over to the resident of the centre on release from the centre; or
    - (iii) provide a copy of it to the resident of the centre with any material that contravenes this regulation deleted from the copy, provided that the letter is handed over to the resident on release from the centre; or
    - (iv) retain it as evidence of an offence, provided that a copy of it, or an expurgated copy of it, is handed over to the resident of the centre as soon as reasonably practicable, or on release from the centre; and
  - (b) in the case of a prohibited item found in a letter—
    - (i) cause the item to be destroyed; or
    - (ii) retain it and hand it over to the resident of the centre on release from the centre; or
    - (iii) retain it as evidence of an offence; or
    - (iv) return it to the sender; or
    - (v) dispose of it in such other manner as the Chief Executive thinks fit; and
  - (c) in the case of a sum of money—
    - (i) hold the money for as long as may be necessary for the purposes of ascertaining the identity of the sender and the circumstances of the payment; or
    - (ii) credit the whole, or part, of it to the resident of the centre; or
    - (iii) hold the whole, or part, of it on behalf of the resident of the centre and pay it over to the resident on release from the centre; or
    - (iv) return the whole, or part, of it to the sender; or
    - (v) if the resident of the centre is not lawfully entitled to the money, and the identity or whereabouts of the sender cannot be ascertained—pay the money to the Treasurer as unclaimed money for the purposes of the *Unclaimed Moneys Act 1891*; or
    - (vi) retain it as evidence of an offence.
- (10) If a letter sent by a resident of a training centre is found to contravene this regulation, the Chief Executive may—
  - (a) in the case of a letter—return it to the resident; and

- (b) in the case of a prohibited item found in a letter—
    - (i) cause the item to be destroyed; or
    - (ii) retain it and hand it over to the resident on release from the centre; or
    - (iii) retain it as evidence of an offence; or
    - (iv) return it to the resident; or
    - (v) forward it to the intended recipient; or
    - (vi) dispose of it in such other manner as the Chief Executive thinks fit; and
  - (c) in the case of a sum of money—
    - (i) hold it for as long as may be necessary for the purposes of ascertaining the circumstances of the payment; or
    - (ii) retain it as evidence of an offence; or
    - (iii) pay it into the Consolidated Account; or
    - (iv) disburse it in such other manner as the Minister may direct.
- (11) The Chief Executive must advise a resident of a training centre in such manner as the Chief Executive thinks fit of any action taken under this regulation in respect of a letter, or anything contained in a letter, sent to or by the resident.
- (12) An authorised officer must not, otherwise than as required by law or in the performance of duties, disclose to any other person the contents of any letter perused pursuant to this regulation.
- (13) In this regulation—
- authorised officer* means an officer of the Department authorised by the Chief Executive for the purposes of this regulation, not being a person who is engaged in a position involving substantial day-to-day contact with residents of training centres.

## 16—Telephone calls

- (1) The Chief Executive may make rules relating to telephone communication by and with residents of training centres.
- (2) The manager of a training centre must facilitate the taking or receiving of authorised telephone calls with residents of the centre in accordance with the rules.
- (3) Telephone communication between a resident and another person may be monitored by the manager of the training centre or an employee of the centre authorised by the manager to monitor telephone calls.
- (4) The parties to a telephone communication that may be monitored must, at the commencement of the communication, be informed of that fact.
- (5) Telephone communication between a resident and—
  - (a) the Training Centre Visitor; or
  - (b) the Guardian for Children and Young Persons; or
  - (c) the Police Ombudsman; or
  - (d) the Ombudsman; or

- (e) the Health and Community Services Complaints Commissioner; or
  - (f) a Member of Parliament; or
  - (g) the Independent Commissioner Against Corruption; or
  - (h) the Office for Public Integrity; or
  - (i) a legal practitioner who represents the resident, or who is communicating with the resident for the purpose of determining whether or not to represent the resident; or
  - (j) another person approved by the manager,
- may not be monitored by an authorised officer.
- (6) The exemption under subregulation (5) applies only if the manager of the training centre has, before the telephone communication occurs, authorised the communication.
  - (7) If a communication monitored under this regulation reveals information about an offence, the manager of the training centre must give the information to the Commissioner of Police.
  - (8) In this regulation—  
*authorised telephone call* means a telephone call that is made or received by a resident of a training centre in accordance with the rules, or that has been specifically authorised by the manager of the centre.

## **Part 6—Miscellaneous**

### **17—Residents' personal property**

- (1) The Chief Executive may make rules relating to the personal property of residents of training centres.
- (2) On admission to a training centre, a youth must be permitted by the manager of the centre to retain such personal property as is allowed under the rules that is capable of being stored in a receptacle of a total volume of 1 000 litres.
- (3) The manager of a training centre to which a youth is admitted must ensure that a record is made containing the following information:
  - (a) the name and age of the youth;
  - (b) details of the personal property in the possession of the youth on admission;
  - (c) if any such personal property is not allowed under the rules—details of that property and the manner in which the Chief Executive deals with or disposes of that property;
  - (d) any other information specified in the rules by the Chief Executive.
- (4) The Chief Executive has an absolute discretion to deal with or dispose of personal property other than that referred to in subregulation (2) as the Chief Executive thinks fit (for example, by returning it to the youth, selling, destroying or storing it).

**18—Application of section 21A of Act**

- (1) For the purposes of section 21A(2) of the Act, the following persons and classes of persons are prescribed:
- (a) persons who will not have contact with children, in the course of employment in a training centre or other facility, or whose contact with children in the course of such employment is incidental;
  - (b) persons whose contact with children in the course of the person's employment in a training centre or other facility only occurs under the supervision of another employee (being an employee who has undergone an assessment under section 21A(1) of the Act);
  - (c) a registered health practitioner to whom section 11 of the *Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017* applies;
  - (d) a registered teacher to whom section 9 of the *Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017* applies;
  - (e) persons who, from time to time, are engaged by a training centre or other facility to provide maintenance or repair services,

however those classes do not include a person who is a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*.

- (1a) For the purposes of section 21A(2) of the Act, the employment of the following persons and classes of persons is prescribed:
- (a) a public sector employee within the meaning of the *Public Sector Act 2009* (not being a person who is a prohibited person under the *Child Safety (Prohibited Persons) Act 2016* or who is presumed to pose an unacceptable risk to children under section 26A of that Act);
  - (b) any other person, or class of persons, determined by the Chief Executive by written instrument to be included in the ambit of this paragraph.
- (2) For the purposes of section 21A(2) of the Act, the employment of a person in a training centre or other facility in the following circumstances is prescribed:
- (a) where the person was employed in the training centre or other facility before the commencement of section 21A of the Act;
  - (b) where each of the following provisions apply in respect of the person's employment:
    - (i) the person is not an employee of the Department;
    - (ii) a working with children check has been conducted in respect of the person within the preceding 3 years;
    - (iii) the person is not a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*;

- (iv) *the person has not previously been refused employment in a training centre or other facility, or had such employment terminated or suspended, on the basis of psychological or psychometric testing of any kind.*

**Note—**

*Regulation 18(2) has expired.*

- (3) For the purposes of subregulation (2), a person will be taken not to be employed in a training centre or other facility if the person—
- (a) is, in respect of the services provided by the person at the training centre or other facility—
- (i) employed by a person or body other than the Department; or
- (ii) self-employed; or
- (iii) a volunteer; and
- (b) is only taken to be employed by the Department by virtue of the operation of section 21A(5) of the Act.
- (4) Subregulation (2) will expire 12 months after the day on which it comes into operation.
- (4a) Subregulation (3) will expire 2 years after the day on which it comes into operation.
- (5) In this regulation—

**registered health practitioner** means a registered health practitioner under the *Health Practitioner Regulation National Law (South Australia)*;

**registered teacher** means—

- (a) a registered teacher under the *Teachers Registration and Standards Act 2004*;  
or
- (b) a person who holds a current special authority to teach under that Act.

## 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).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2016	220	<i>Gazette 8.9.2016 p3688</i>	1.12.2016: r 2
2018	186	<i>Gazette 5.7.2018 p2737</i>	22.10.2018: r 2
2019	221	<i>Gazette 17.10.2019 p3531</i>	17.10.2019: r 2
<b>2020</b>	<b>38</b>	<b><i>Gazette 2.4.2020 p664</i></b>	<b>2.4.2020: 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
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>22.10.2018</i>
r 18	inserted by 186/2018 r 4	22.10.2018
r 18(1)	varied by 221/2019 r 4(1), (2)	17.10.2019
<b>r 18(1a)</b>	<b>inserted by 38/2020 r 4</b>	<b>2.4.2020</b>
r 18(2)	expired: r 18(4)	(22.10.2019)
r 18(3)	will expire: r 18(4a)	(22.10.2020)
r 18(4)	substituted by 221/2019 r 4(3)	17.10.2019
r 18(4a)	inserted by 221/2019 r 4(3)	17.10.2019

### Historical versions

22.10.2018

17.10.2019