

South Australia

South Australian Employment Tribunal Variation Regulations 2018

under the *South Australian Employment Tribunal Act 2014*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *South Australian Employment Tribunal Variation Regulations 2018*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *South Australian Employment Tribunal Regulations 2015*

4—Insertion of regulation 9A

After regulation 9 insert:

9A—Modification of powers under Part 6 of *District Court Act 1991*

Pursuant to section 26B of the Act, the South Australian Employment Court may not exercise a power under Part 6 of the *District Court Act 1991* to award costs in proceedings relating to the exercise of its civil jurisdiction under section 112 of the *Work Health and Safety Act 2012*.

5—Variation of regulation 10—Fees

(1) Regulation 10(1)(a)—delete paragraph (a) and substitute:

(a) in relation to the exercise of any designated civil jurisdiction—

- (i) if a fee would be payable in relation to proceedings in the civil jurisdiction of the Magistrates Court for any step, item or matter if it occurred or arose in the Magistrates Court rather than the South Australian Employment Court, the same fee will be payable to the South Australian Employment Court in the exercise of the designated civil jurisdiction; or
- (ii) if a fee would be payable in relation to proceedings in the civil jurisdiction of the District Court for any step, item or matter if it occurred or arose in the District Court rather than the South Australian Employment Court, the same fee will be payable to the South Australian Employment Court in the exercise of the designated civil jurisdiction;

(2) Regulation 10—after subregulation (1) insert:

(1a) Despite subregulation (1)(a), no fee is payable by the following parties to proceedings in any designated civil jurisdiction in the following circumstances:

- (a) the party is a small business employer for the purposes of section 23 of the *Fair Work Act 2009* of the Commonwealth;
- (b) the party—
 - (i) is or was an employee whose earnings in the employment to which the proceedings relate do not exceed the amount set by section 5(15)(c) of the *Return to Work Act 2014*; or

- (ii) is a person entitled to make a claim in respect of an employee whose earnings in the employment to which the proceedings relate do not exceed the amount set by section 5(15)(c) of the *Return to Work Act 2014*.
- (1b) The Registrar may, on the grounds of financial hardship, or if the Registrar considers it is fair and appropriate to do so in the circumstances of a particular case—
 - (a) waive, remit or refund a fee (or part of a fee) payable by a person; or
 - (b) postpone payment of a fee (or part of a fee) by a person until such time, and upon such conditions (if any) as the Registrar thinks fit.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 6 February 2018

No 21 of 2018

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