

South Australia

Education and Children's Services Regulations 2020

under the *Education and Children's Services Act 2019*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Application of regulations to non-Government schools

Part 2—Interpretation

- 5 Approved learning programs
- 6 Children's services
- 7 Head of approved learning program
- 8 Promotional level

Part 3—Ministerial directions and instructions

- 9 Minister may give directions and instructions

Part 4—Preschools and children's services centres

- 10 Closure of stand-alone preschools and children's services centres

Part 5—Special purpose schools

- 11 Special purpose schools

Part 6—Provision of education in schools

Division 1—Enrolment

- 12 Enrolment in Government schools
- 13 Enrolment in approved learning programs
- 14 Chief Executive may direct that child be enrolled in particular school
- 15 Special provisions relating to enrolment of adult students
- 16 Certain information to be provided on enrolment

Division 2—School terms, school days and special days etc

- 17 School terms
- 18 School days
- 19 Organisation of school days
- 20 Homework
- 21 Officers of teaching service may be required to give assistance on days when schools etc are closed

Division 3—Attendance at school and participation in approved learning programs

- 22 Prescribed reasons for child of compulsory school age failing to attend school
- 23 Prescribed reasons for failing to participate in approved learning program
- 24 Prescribed information in reports of persistent non-attendance or non-participation
- 25 Authorised officers to take steps to ensure attendance

Division 4—Suspension, exclusion and expulsion of students

- 26 Determination to suspend, exclude or expel a student
- 27 Offence for suspended, excluded or expelled student to be on school grounds

Division 5—Additional provisions relating to school discipline

- 28 School control of students
- 29 Right to search student's bags etc
- 30 Payments for damage caused by students

Division 6—Religious and cultural activities

- 31 Persons prescribed to conduct religious or cultural activities
- 32 Exemption from participation in religious or cultural activities

Division 7—Sex education

- 33 Exemption from instruction in sex education

Division 8—Student allowances and scholarships

- 34 Interpretation
- 35 Travelling allowances for students
- 36 Travelling allowance for students with disabilities
- 37 Educational allowances for certain secondary school students
- 38 Scholarships etc for students

Division 9—Dress codes

- 39 Dress codes

Part 7—Protections for teachers, staff and students etc in schools, preschools and children's services centres

- 40 Premises to which Part 8 of Act applies
- 41 Review of barring notice by Minister

Part 8—The teaching service

Division 1—Appointment

- 42 Merit-based selection processes
- 43 Application for appointment to the teaching service
- 44 Application for inclusion in pool of applicants
- 45 Exceptions to requirement for merit-based selection processes
- 46 Probation—term employee
- 47 Condition of employment

Division 2—Duties, classification, promotion and transfer

- 48 Assignment of duties and transfer to non-teaching position within Department
- 49 Number of certain officers and promotional level positions

50	Reclassification applications
51	Appointments to promotional level positions
52	Acting appointments
Division 3—Leave of absence	
53	Leave on the ground of illness
54	Skills and experience retention leave entitlement
55	Long service leave on half pay
56	Absence to be reported
57	Special leave
58	Special provision relating to maternity leave
59	Infectious diseases and special leave
60	War service sick leave
61	Continuity of service
Division 4—Absence from duty	
62	Absence from duty
Division 5—Salaries and allowances	
63	Salary above minimum
64	Positions not covered in an award
65	Deduction from salaries of rents for certain residences
66	Travelling expenses
Division 6—Disciplinary action and management of unsatisfactory performance	
67	Disciplinary action
68	Scheme for reduction in remuneration level
Division 7—Miscellaneous	
69	Cost of medical examination
70	Compliance with policies and instructions
71	Impartiality of instruction
72	Responsibilities of principals etc and officers of the teaching service
73	Officers of teaching service not to incur liability on behalf of Government
74	Report to be provided to Chief Executive where certain legal proceedings commenced
75	Scholarships etc for teachers
76	Resignation to contest an election
Part 9—Other employment and staffing arrangements	
77	Application of Part 7 and Schedule 1 of the <i>Public Sector Act 2009</i> to employees under Part 10 of Act
Part 10—Appeals	
78	Certain decisions not reviewable
79	Election of officers of the teaching service as supplementary panel members for SAET
80	Selection of panel members for particular SAET proceedings
Part 11—Financial provisions	
Division 1—Materials and services charges for schools	
81	Prescribed amount

- 82 Requirement for written notice of materials and services charge
- 83 Recovery of debt to comply with Chief Executive's directions etc

Division 2—Other fees and charges

- 84 Charges for certain overseas and non-resident students

Division 3—Provision of materials in cases of hardship

- 85 Chief Executive may provide materials etc in cases of hardship

Division 4—School funds etc

- 86 School funds etc

Part 12—Information gathering etc

- 87 Sharing of information between certain persons and bodies
- 88 Approved learning program providers to provide certain information to Minister
- 89 Person responsible for student to notify principal of school etc where change in information
- 90 Schools to provide certain information

Part 13—Miscellaneous

- 91 Regulation of traffic on premises of Government schools and Government stand-alone preschools and children's services centres
- 92 Records and documents property of Minister

Schedule 1—Revocation of regulations

- 1 Revocation of *Children's Services (Appeals) Regulations 2008*
- 2 Revocation of *Children's Services (Registered Children's Services Centres) Regulations 2018*
- 3 Revocation of *Education Regulations 2012*

Schedule 2—Transitional provisions

- 1 Certain policies relating to enrolment to continue
- 2 Continuation of reviews commenced under *Education Act 1972*
- 3 Registered children's services centres continued under Act

Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Education and Children's Services Regulations 2020*.

2—Commencement

These regulations come into operation on the day on which section 1 of the *Education and Children's Services Act 2019* comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Education and Children's Services Act 2019*;

medical certificate means a medical certificate from a legally qualified medical practitioner and includes such other evidence as may be acceptable to the Chief Executive;

premises means any land, building or structure;

repealed regulations means—

- (a) the *Education Regulations 2012*; and
- (b) the *Education Regulations 1997*; and
- (c) any earlier regulations corresponding to the *Education Regulations 1997*;

school day, in relation to a Government school, means a day on which the school is required to be open.

4—Application of regulations to non-Government schools

- (1) The following provisions of these regulations apply to, or in relation to, both Government and non-Government schools:
 - (a) Part 1;
 - (b) regulation 5;
 - (c) regulation 7;
 - (d) regulation 13;
 - (e) regulation 15(1);
 - (f) regulation 16;
 - (g) Part 6 Division 3;
 - (h) regulation 35;
 - (i) regulation 37;
 - (j) regulation 38;
 - (k) Part 7;
 - (l) Part 12.
- (2) All other provisions of these regulations apply only to, or in relation to, Government schools.

Part 2—Interpretation

5—Approved learning programs

For the purposes of paragraph (b) of the definition of *approved learning program* in section 3(1) of the Act, universities established by or under an Act or law of the State, the Commonwealth, or any other State or Territory, are declared to be within the ambit of that paragraph.

6—Children's services

For the purposes of paragraph (c) of the definition of *children's services* in section 3(1) of the Act, the following services, and services of a kind, are prescribed:

- (a) a playgroup;
- (b) a toy library;
- (c) care of children out of school hours or during school vacations;
- (d) care of children on a casual basis;
- (e) care, guidance and support of children with special needs;
- (f) any other service, or service of a kind, declared by the Chief Executive by notice in the Gazette to be included in the ambit of this paragraph.

7—Head of approved learning program

For the purposes of paragraph (b) of the definition of *head* of an approved learning program in section 3(1) of the Act, the persons, or persons of a class, specified by the Minister by notice in the Gazette are prescribed.

8—Promotional level

For the purposes of the definition of *promotional level* in section 3(1) of the Act, all classification levels for all positions other than—

- (a) Teacher; or
- (b) Advanced Skills Teacher Level 2 (AST2); or
- (c) Highly Accomplished Teacher (HAT); or
- (d) Lead Teacher (Lead),

are declared to be promotional level positions in the teaching service.

Part 3—Ministerial directions and instructions

9—Minister may give directions and instructions

- (1) The Minister may, in relation to the exercise of the powers and functions conferred on the Minister by or under the Act, give such directions and instructions as the Minister considers appropriate.
- (2) Directions or instructions given under subregulation (1) must not be inconsistent with the Act or these regulations.
- (3) Nothing in this regulation limits any other power of the Minister to give directions or instructions under the Act, or any other Act or law.

Part 4—Preschools and children's services centres

10—Closure of stand-alone preschools and children's services centres

For the purposes of section 29(2) of the Act, the following circumstances are prescribed for the purposes of that subsection:

- (a) funding for a stand-alone preschool or children's services centre has been withdrawn or is insufficient for the stand-alone preschool or children's services centre to remain open;
- (b) the governing council of a stand-alone preschool or children's services centre has acted in contravention of the Act or its constitution;
- (c) a stand-alone preschool or children's services centre has failed to amend its constitution in accordance with a direction of the Minister under section 22(3) of the Act;
- (d) any other circumstances that, in the opinion of the Minister, make closure of the relevant stand-alone preschool or children's services centre necessary or appropriate.

Part 5—Special purpose schools

11—Special purpose schools

For the purposes of section 56(1)(e) of the Act, the following purposes are prescribed:

- (a) outdoor education;
- (b) the provision of education to children who require support with social or behavioural difficulties or other needs.

Part 6—Provision of education in schools

Division 1—Enrolment

12—Enrolment in Government schools

- (1) For the purposes of section 60(1) of the Act, the enrolment of a child at a Government school should, as far as is reasonably practicable, comply with any policy published from time to time by the Minister by notice in the Gazette for the purposes of this subregulation.
- (2) Without limiting the matters that may be the subject of a policy under subregulation (1), a policy may provide for—
 - (a) the maximum enrolment capacity of a school; or
 - (b) any limitations or conditions on enrolment of students in order to prevent the enrolment capacity of a school being exceeded; or
 - (c) the identification of zones in relation to a specified school, or schools of a specified class, where students residing in the zone are eligible to be enrolled at the school or class of schools; or

- (d) limitations or conditions that apply in relation to any special interest programs at a school; or
 - (e) any other matter the Minister considers relevant to the enrolment of children in Government schools.
- (3) The Minister may, by notice in the Gazette, vary or revoke a policy under this regulation.
- (4) Without limiting this regulation, the enrolment in a school of a child who is under 6 years of age must comply with any determination by the Chief Executive relating to such enrolments (including, to avoid doubt, a determination that limits the time at which such an enrolment may occur).

13—Enrolment in approved learning programs

- (1) For the purposes of section 61(1) of the Act, the enrolment of a child of compulsory education age in an approved learning program, or in a combination of approved learning programs, must be such so as to constitute full time participation in approved learning programs.
- (2) For the purposes of subregulation (1), the enrolment of a child of compulsory education age in an approved learning program will only be taken to constitute full time participation in approved learning programs if—
- (a) either—
 - (i) the number of hours that a child 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 so as to meet the minimum standard for full time participation (if any) set out in guidelines published by the Minister, as in force from time to time; or
 - (b) the child is enrolled in an approved learning program, or a combination of approved learning programs, declared under subregulation (3) to constitute full time participation in approved learning programs.
- (3) The Minister may, by notice in the Gazette, declare that participation in a specified approved learning program, or in a specified combination of approved learning programs, constitutes full time participation in approved learning programs for the purposes of the Act.

14—Chief Executive may direct that child be enrolled in particular school

- (1) Pursuant to section 62(5) of the Act, the Chief Executive may only give a direction under that section if the Chief Executive is satisfied that the circumstances that give rise to the direction can be appropriately managed at the specified school.
- (2) Pursuant to section 62(5) of the Act, an application for a direction under that section—
- (a) must be made in a manner and form determined by the Chief Executive; and
 - (b) must comply with any determination of the Chief Executive relating to such applications (including, to avoid doubt, a determination setting thresholds below which applications may be refused).

15—Special provisions relating to enrolment of adult students

- (1) For the purposes of section 64(3)(c) of the Act, enrolments of the following kinds are declared to be included within the ambit of that subsection:
 - (a) the re-enrolment of an adult person in a school within 6 months of last being a student at the school;
 - (b) the enrolment of an adult person in a school within 6 months after last being a student at another school;
 - (c) the enrolment of an adult person at the Flexicentre, Goldsborough Rd or Jonal Dr campuses of the Youth Education Centre.
- (2) Pursuant to section 64(6) of the Act, the Chief Executive may, by notice in writing, direct that a specified adult person must be enrolled in a specified school, or specified class of school, and, if such a direction is given, the person may be refused enrolment in any school other than the specified school or school of the specified class.
- (3) The Chief Executive may, by notice in writing, vary or revoke a direction under subregulation (2).
- (4) Pursuant to section 64(6) of the Act, the Chief Executive may, by notice in writing, cancel the enrolment of an adult student for any reason the Chief Executive thinks appropriate.

16—Certain information to be provided on enrolment

Pursuant to section 65(1)(e) of the Act, a person who is responsible for a child who is to be enrolled in a school or an approved learning program must provide the principal of the school or head of the approved learning program (as the case requires) such other information as may be required in the enrolment form provided to the person.

Division 2—School terms, school days and special days etc

17—School terms

- (1) The school year is to be divided into such periods as may be determined by the Minister.
- (2) The periods determined under subregulation (1) must be published on a website determined by the Chief Executive.

18—School days

- (1) Subject to the Act, a school is to be open from Monday to Friday in each week (not including public holidays or any period of school vacation).
- (2) Except as may otherwise be provided for under the Act, a school must not be closed on a school day except with the approval of the Chief Executive.
- (3) An approval under subregulation (2)—
 - (a) may be conditional or unconditional; and
 - (b) must be published on a website determined by the Chief Executive.

19—Organisation of school days

- (1) The amount of instruction provided during a particular period, and the period or periods set aside for lunch and recess during a school day, at a specified school, or a specified class of schools, must comply with any determination of the Chief Executive.
- (2) Without limiting the matters that may be the subject of a determination of the Chief Executive under subregulation (1), a determination under that subregulation may—
 - (a) relate to a school day or to some other specified period; and
 - (b) fix a minimum or maximum period (or both) in relation to the amount of instruction that is to be provided during a specified period; and
 - (c) fix a minimum or maximum number or length of lunch and recess periods that are to be provided on a school day.
- (3) A student under the age of 6 years may be dismissed 1 hour before normal dismissal time if a person who is responsible for a child so requests.

20—Homework

- (1) An officer of the teaching service at a school may require that homework appropriate to the age and ability of a student is to be undertaken by a student attending the school.
- (2) An officer of the teaching service must give sympathetic consideration to any objection from a person responsible for a student regarding the amount of homework expected from the student.

21—Officers of teaching service may be required to give assistance on days when schools etc are closed

The Chief Executive may, if satisfied that it is, due to special circumstances, reasonable to do so, require an officer of the teaching service at a specified school, or at a stand-alone preschool, to give such assistance on a day or days when the school or stand-alone preschool (as the case requires) is closed as the Chief Executive may require.

Division 3—Attendance at school and participation in approved learning programs

22—Prescribed reasons for child of compulsory school age failing to attend school

For the purposes of section 68(3)(a)(iii) of the Act, it is a prescribed reason for failure of a child to attend school if the failure on the occasion in question was due to unavoidable circumstances and there was, on the occasion in question, sufficient cause.

23—Prescribed reasons for failing to participate in approved learning program

For the purposes of section 69(3)(a)(iv) of the Act, it is a prescribed reason for failure of a child to participate in an approved learning program if the failure on the occasion in question was due to unavoidable circumstances and there was, on the occasion in question, sufficient cause.

24—Prescribed information in reports of persistent non-attendance or non-participation

For the purposes of section 75(2)(c) of the Act, the following information is required:

- (a) the name, address and date of birth of the student;
- (b) information setting out the days or periods during which the student failed to attend school, or participate in the approved learning program, (as the case requires);
- (c) any other information of a kind determined by the Minister by notice in the Gazette.

25—Authorised officers to take steps to ensure attendance

Authorised officers must take all practicable action to ensure attendance at school by children of compulsory school age and participation in an approved learning program by children of compulsory education age.

Division 4—Suspension, exclusion and expulsion of students

26—Determination to suspend, exclude or expel a student

For the purposes of sections 76(2), 77(2), 78(2) and 79(2) of the Act, in determining whether to suspend, exclude or expel a student, a principal of a school or the Chief Executive (as the case requires) must have 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) if relevant, the extent to which adjustments have been made to support the participation of that student, or students with a disability generally, at the school; and
- (d) any other relevant matter.

27—Offence for suspended, excluded or expelled student 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 the Act 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 principal of the school.

Maximum penalty: \$200.

- (2) A student who has been expelled under section 79 of the Act from all Government schools must not, during the period of the expulsion, enter or remain on any Government school premises except with the written approval or at the written request of the Chief Executive or the principal of the school concerned.

Maximum penalty: \$200.

Division 5—Additional provisions relating to school discipline

28—School control of students

- (1) Having regard to the rights and duties of students, persons who are responsible for students, and staff, the principal of a school may impose such moderate and reasonable controls on the behaviour of students, and sanctions for offences against those rules, as the principal considers necessary or as are permitted under the Act.
- (2) The principal of a school may delegate their disciplinary authority, including the imposition of appropriate sanctions on students for breaches of school rules, to such members of the staff at the school as the principal so determines.
- (3) A delegation under subregulation (2) does not prevent a principal of a school from exercising directly their own power to impose sanctions on students where the principal considers it necessary or advisable to do so.
- (4) A principal may, in addition to imposing on a student any sanction that is in accordance with school policy, detain a student during the school lunch break or after school hours subject to any requirements or conditions determined by the Minister.

29—Right to search student's bags etc

- (1) The principal of a school, or a person authorised by the principal, may, if the principal or person reasonably suspects that school property is being unlawfully removed from school premises by a student enrolled at the school, search or cause to be searched any bag, locker or other receptacle of the student.
- (2) A search under subregulation (1)—
- (a) may only occur on the school premises; and
 - (b) may occur at any time.
- (3) A student must comply with a request of a person conducting a search under subregulation (1) to open a bag, locker or other receptacle belonging to, or in the possession of, the student.

Maximum penalty: \$100.

- (4) In this regulation—

school property, in relation to a school, means books, tools, materials or other equipment belonging to the school.

30—Payments for damage caused by students

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

- (a) in the case of a student who is not an adult—each person who is responsible for the student is jointly and severally liable for the cost as a debt;
- (b) in any other case—the student is liable for the cost as a debt.

Division 6—Religious and cultural activities

31—Persons prescribed to conduct religious or cultural activities

For the purposes of section 82(1) of the Act, the following persons and classes of persons are prescribed:

- (a) in the case of a person seeking to conduct religious activities—a person who is recognised (whether by ordination, commissioning, endorsement or otherwise) by a generally recognised or accepted religious organisation;
- (b) in the case of a person seeking to conduct cultural activities—a person who represents, and is acting with the approval of, a generally recognised or accepted cultural organisation.

32—Exemption from participation in religious or cultural activities

Pursuant to section 82(3)(b) of the Act, if a person responsible for a student enrolled at a school gives written notice to the principal of the school that the student is to be exempted from participating in a specified religious or cultural activity (or both), or from all such activities, the student will be taken to be exempt from participating in the activity or activities.

Division 7—Sex education

33—Exemption from instruction in sex education

- (1) Pursuant to section 141(2)(a) of the Act, if a person responsible for a student enrolled at a school gives written notice to the principal of the school that the student is to be exempted from participating in specified instruction relating to sex education, or from all such instruction, the student will be taken to be exempt from participating in such instruction.
- (2) However, an exemption under subregulation (1) does not apply in relation to any instruction provided as part of the *Keeping Safe: Child Protection Curriculum*, or a corresponding program that replaces that curriculum.

Division 8—Student allowances and scholarships

34—Interpretation

In this Division, unless the contrary intention appears—

primary school means a school providing courses in primary education (including the primary grades of an area school);

secondary school means a school providing courses in secondary education (including the secondary grades of an area school);

transport route, to a 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.

35—Travelling allowances for students

- (1) A travelling allowance under this regulation may be paid to a person who is responsible for a student attending a school (not being a preschool) if—
 - (a) the usual place of residence of the student is in South Australia; and
 - (b) the usual place of residence of the person who is responsible for the student is in South Australia; and
 - (c) the person who is responsible for the student incurs expense in transporting the student to and from the school on a daily or regular basis; and
 - (d) the student lives 5 km or more from—
 - (i) the nearest Government primary or secondary school (as the case requires); or
 - (ii) a transport route to the nearest Government primary or secondary school (as the case requires),determined by reference to the shortest practicable route the student may take.
- (2) A travelling allowance is payable as follows:
 - (a) in the case of a student at a Government school who does not attend the Government school closest to the student's place of residence, but the Chief Executive determines that the school the student attends is the closest school which meets the educational needs of the student—the travelling allowance is payable at the rate that applies in relation to attendance at that school; or
 - (b) in any other case—the travelling allowance is payable at the rate determined by the Chief Executive (being the rate that would apply if the student were attending the Government school, or the transport route, (as the case requires) closest to the student's place of residence).
- (3) The rate or rates of travelling allowance payable under this regulation are as determined from time to time by the Minister by notice in the Gazette.

36—Travelling allowance for students with disabilities

Despite any other provision of this Division, if a child, considered by the Chief Executive to have a disability, attends a special school, disability unit or class of a kind approved by the Chief Executive for the purposes of this regulation, the Chief Executive may approve payment of the total cost of transporting the child to that school, disability unit or class, or may pay an allowance to a person who is responsible for the child who transports the child to that school, disability unit or class, subject to such conditions as the Chief Executive may determine.

37—Educational allowances for certain secondary school students

If the usual place of residence of a person who is responsible for a student is in South Australia and—

- (a) the student lives away from home to attend a secondary school of a kind determined by the Chief Executive; and
- (b) the student attends regularly at the secondary 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.

38—Scholarships etc for students

- (1) A scholarship or award that was available to students immediately prior to the commencement of this regulation will—
 - (a) continue in force under the conditions existing immediately prior to that commencement; and
 - (b) continue to be known by the names by which they were known immediately prior to that commencement,

until such conditions and names are varied by the Minister, or the 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 a scholarship or award for students, 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 the Minister thinks fit.

Division 9—Dress codes

39—Dress codes

- (1) The Chief Executive may issue administrative instructions under section 9 of the Act in relation to—
 - (a) dress codes to be adopted by schools; and
 - (b) the means by which governing councils of schools are to consult with students and persons who are responsible for students enrolled at the school in determining dress codes.

- (2) The governing council of a school may—
- (a) in accordance with any administrative instructions referred to in subregulation (1); and
 - (b) after consulting with students and persons who are responsible for students enrolled at the school in accordance with any administrative instructions referred to in subregulation (1) and having regard to their views,
- determine a dress code for the school.
- (3) A dress code adopted by a school should, regardless of a student's gender, be flexible and allow the right of choice and gender expression, including the choice of clothing that takes account of the following:
- (a) freedom of movement;
 - (b) level of comfort;
 - (c) safety;
 - (d) climatic conditions;
 - (e) other special circumstances (for example, pregnancy).
- (4) The principal of a school must, on the adoption by the school of a dress code, inform the persons who are responsible for each student enrolled at the school and, on the later enrolment of a student at the school, inform the persons who are responsible for that student, in writing of—
- (a) the dress code of the school; and
 - (b) their right to request the exemption of the student from that dress code.
- (5) The principal of a school may, on being requested in writing by a person responsible for a student enrolled at the school to exempt the student from the dress code of the school, so exempt the student.
- (6) Subject to subregulation (5), the principal 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 the 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 program of the school.
- (7) Where this regulation refers to an act to be carried out by or in relation to persons who are responsible for a student enrolled at the school, the regulation will, in relation to a student who is not less than 18 years of age, be taken to refer to the act as carried out by or in relation to that student.

Part 7—Protections for teachers, staff and students etc in schools, preschools and children's services centres

40—Premises to which Part 8 of Act applies

For the purposes of section 90(e) of the Act, premises specified by the Minister by notice in the Gazette are prescribed.

41—Review of barring notice by Minister

For the purposes of section 94(5)(d) of the Act, such premises as may be prescribed by regulation 40 are prescribed.

Part 8—The teaching service

Division 1—Appointment

42—Merit-based selection processes

- (1) For the purposes of section 98(1) of the Act, the following requirements apply to selection processes:
 - (a) the Chief Executive must cause applications to be sought in accordance with any determination of the Chief Executive;
 - (b) the Chief Executive must—
 - (i) select an applicant on the basis of merit; or
 - (ii) cause the selection of an applicant on the basis of merit from amongst applicants in a pool of applicants established in accordance with this regulation.
- (2) The Chief Executive may establish a pool of applicants by any of the following methods, or a combination of such methods:
 - (a) by calling for applications for inclusion in the pool and selecting from such applicants (on the basis of merit) those who will be included in the pool;
 - (b) by selecting persons (on the basis of merit) from within a pool already established under paragraph (a);
 - (c) by selecting persons who were unsuccessful applicants for appointment to, or within, the teaching service within the preceding 12 months (being a person who was eligible for the appointment),in each case in accordance with any determination of the Chief Executive.
- (3) Subject to these regulations and to any Act or law, the Chief Executive may determine any other provision relating to the establishment and operation of pools of applicants.
- (4) If appropriate, other additional means may be used to seek applications, including advertising in newspapers or specialist publications, on Internet sites or by email or through recruitment agencies.

43—Application for appointment to the teaching service

- (1) An applicant for appointment to the teaching service must—
 - (a) be registered as a teacher under the *Teachers Registration and Standards Act 2004* or be eligible for registration as a teacher under that Act; or
 - (b) hold a special authority to teach under the *Teachers Registration and Standards Act 2004* that is in force.
- (2) An application under this Part—
 - (a) must be made in a manner and form determined by the Chief Executive; and

- (b) must be accompanied by such information or documents as the Chief Executive may require; and
 - (c) must, if the Chief Executive so requires, be accompanied by a certificate from an approved legally qualified medical practitioner that the applicant is of sound health and free from any physical or mental condition likely to impair the applicant's efficiency in the performance of the duties the applicant would be required to undertake if appointed.
- (3) Subject to any other Act or law, the Chief Executive may choose to limit applicants to officers of the teaching service or teachers, or officers or teachers of a specified class.
- (4) An applicant must not provide information under this regulation that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular).
- Maximum penalty: \$5 000.

44—Application for inclusion in pool of applicants

- (1) An application for inclusion in a pool of applicants for the purposes of these regulations—
- (a) must be made in a manner and form determined by the Chief Executive; and
 - (b) must be accompanied by such information or documents as the Chief Executive may require.
- (2) Subject to any other Act or law, the Chief Executive may choose to limit applicants to officers of the teaching service or teachers, or officers or teachers of a specified class.

45—Exceptions to requirement for merit-based selection processes

- (1) For the purposes of section 98(2)(b) of the Act, circumstances consisting of the appointment of an officer to a position that is not a promotional position are prescribed.
- (2) For the purposes of section 98(2)(c), the following circumstances are prescribed:
- (a) the appointment of a person as an officer of the teaching service as a term or casual employee;
 - (b) the appointment of a person as an officer of the teaching service in accordance with a rehabilitation and return to work plan under the *Return to Work Act 2014*;
 - (c) if, in a particular case, the Chief Executive determines that special circumstances exist warranting the appointment of a person as an officer of the teaching service without the conduct of merit-based selection processes, taking into account—
 - (i) the person's abilities, aptitude, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the carrying out of the duties in question; and
 - (ii) if relevant—
 - (A) the manner in which the person carried out any previous employment or occupational duties or functions; and

- (B) the extent to which the person has potential for development;
- (d) the promotion of an officer of the teaching service as a result of a determination of the Chief Executive affecting classification structures.

46—Probation—term employee

For the purposes of section 101(3) of the Act, the period of probation of a person appointed to the teaching service as a term employee is such period as may be determined by the Chief Executive (either in relation to a specified person or a specified class of persons).

47—Condition of employment

It is a condition of employment of each officer appointed to the teaching service that the officer will, if so required, serve in any part of the State during any period of the officer's service.

Division 2—Duties, classification, promotion and transfer

48—Assignment of duties and transfer to non-teaching position within Department

- (1) Pursuant to section 102(4) of the Act, an officer of the teaching service who is transferred from a teaching position (the *original position*) to an administrative or other position that is not a teaching position (the *new position*) may be transferred on conditions and remuneration that equate to the conditions and remuneration applicable to the new position (including, to avoid doubt, where those conditions and remuneration amount to a reduction of the conditions and remuneration applicable to the original position).
- (2) Pursuant to section 102(4) of the Act, an officer of the teaching service may be transferred from a teaching position to an administrative or other specified position on the grounds that the Chief Executive has lost trust or confidence in the officer to satisfactorily perform the duties of an officer of the teaching service.

49—Number of certain officers and promotional level positions

The number of officers classified at Highly Accomplished Teacher (HAT), Lead Teacher (Lead) and Advanced Skills Teacher level 2 (AST2), and the number of positions classified at promotional levels, at a specified school or stand-alone preschool, or a specified class of schools or stand-alone preschools, is to be determined by the Chief Executive after consultation with the Australian Education Union (SA Branch).

50—Reclassification applications

- (1) Pursuant to section 105(5) of the Act, an officer of the teaching service may not make an application for reclassification to—
 - (a) Highly Accomplished Teacher (HAT); or
 - (b) Lead Teacher (Lead); or
 - (c) Advanced Skills Teacher level 2 (AST2).

- (2) Pursuant to section 105(5) of the Act, if an application for reclassification is approved by the Chief Executive, the reclassification will be effective from the day on which the application was made in accordance with the Act.

51—Appointments to promotional level positions

- (1) For the purposes of section 106(2) of the Act, a call for applications by the Chief Executive in relation to a position in the teaching service at a promotional level—
- (a) may be made in a manner determined by the Chief Executive; and
 - (b) must, in any event, be published on a website determined by the Chief Executive.
- (2) For the purposes of section 106(4)(d) of the Act, the following kinds of appointments are prescribed:
- (a) an appointment changing the basis on which a person is engaged as an ongoing employee, or re-engaging the person as a term employee, if the person was engaged following a selection process conducted on the basis of merit and the person is to continue to perform the same or similar duties;
 - (b) an appointment of a person in relation to which the Chief Executive determines that special circumstances exist warranting the engagement of a person without the conduct of merit-based selection processes, taking into account—
 - (i) the person's abilities, aptitude, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the carrying out of the duties in question; and
 - (ii) if relevant—
 - (A) the manner in which the person carried out any previous employment or occupational duties or functions; and
 - (B) the extent to which the person has potential for development.

52—Acting appointments

- (1) An officer of the teaching service appointed by the Chief Executive to a position classified at a promotional level in an acting capacity will, if the officer 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 officer occupies the position, as if the officer had been appointed to the position by the Chief Executive under Part 9 of the Act.
- (2) If an officer of the teaching service, while acting in a position as referred to in subregulation (1), is appointed to the position by the Chief Executive under Part 9 of the Act, the period for which the officer acted in the position up until the appointment by the Chief Executive will, for all purposes, be added to and taken to form part of the period for which the officer occupies the position as a result of the appointment by the Chief Executive.

Division 3—Leave of absence

53—Leave on the ground of illness

- (1) Subject to this Division, the Chief Executive may grant leave of absence with pay on the ground of illness to an officer of the teaching service for a period not exceeding the leave standing to the credit of that officer.
- (2) Subject to these regulations, the leave standing to the credit of an officer of the teaching service, whether appointed before or after the commencement of the Act is—
 - (a) 10 working days on appointment; plus
 - (b) 10 working days on each first day of January succeeding the officer's day of appointment,

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

- (3) For the purposes of this regulation, if a person who has previously been in prescribed employment (within the meaning of section 113 of the Act) is appointed as an officer of the teaching service and the person's service in the prescribed employment is continuous with their service as an officer of the teaching service, the sick leave credit to which the officer is entitled under this regulation is to be determined on the basis that the person's service in the prescribed employment is service in the teaching service (however, if the amount of sick leave taken by the person in the prescribed employment is not accurately known, the Chief Executive may determine the amount of leave to stand to the credit of the officer).
- (4) If the period of absence of an officer of the teaching service on the ground of illness exceeds 3 days at any time, the application for leave must be accompanied by a medical certificate.
- (5) Despite subregulation (4), the Chief Executive may require an officer of the teaching service to produce a medical certificate of the existence of the illness of that officer where the officer's leave of absence on the ground of illness is 3 days or less.
- (6) If a medical certificate is not produced by an officer of the teaching service as required by this regulation the leave will be without pay.
- (7) If an officer of the teaching service who is on long-service leave produces a medical certificate or other evidence satisfactory to the Chief Executive that the officer has been confined to a residence or to a hospital for a period of at least 14 days while on that leave, the officer may, with the approval of the Chief Executive, elect to convert that portion of long-service leave during which the officer was so confined to a debit against the officer's sick-leave credits (however, no such conversion may be granted to an officer who has received payment for long-service leave on retirement, resignation, retrenchment or termination of services).

54—Skills and experience retention leave entitlement

- (1) For the purposes of section 107(5)(b) 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 Chief Executive, in a manner determined by the Chief Executive, 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 Chief Executive 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 Chief Executive.
- (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).
- (3) 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).
- (4) In this regulation—

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

55—Long service leave on half pay

Despite any other provision of this Part, if an officer of the teaching service takes a period of long-service leave on half pay pursuant to section 108 of the Act, the officer will, 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.

56—Absence to be reported

- (1) If an officer of the teaching service is absent from duty, the officer must apply to the Chief Executive for leave of absence.
- (2) An application—
 - (a) must be made in a manner and form determined by the Chief Executive; and
 - (b) must be made through the principal of the relevant school, or director of the relevant stand-alone preschool, or such other person as may be determined by the principal or director (as the case requires); and

- (c) may, if the officer is unable to apply for leave of absence themselves, be made on behalf of the officer.

57—Special leave

- (1) The Chief Executive may grant to an officer of the teaching service special leave—
 - (a) with pay; or
 - (b) with part pay; or
 - (c) without pay,for such period and on such conditions as the Chief Executive may determine.
- (2) The Chief Executive may vary or revoke a condition of special leave granted under this regulation.
- (3) Special leave granted under this regulation is in addition to any other leave that an officer may be entitled to under these regulations.

58—Special provision relating to maternity leave

If it is not reasonably practicable to offer an officer of the teaching service who is on maternity leave a suitable appointment at the end of the period of maternity leave, the Chief Executive may extend the officer's maternity leave until the end of the school vacation period following the end of the school year during which the period of maternity leave would, but for the extension, have ended (including, to avoid doubt, an officer of the teaching service employed at a stand-alone preschool).

59—Infectious diseases and special leave

- (1) If an officer of the teaching service is absent from duty and—
 - (a) the officer produces a medical certificate that indicates that they are suffering from a disease of a kind determined by the Chief Executive for the purposes of this regulation; and
 - (b) the principal of the relevant school, or the director of the relevant stand-alone preschool, provides a statement in writing to the effect that it is reasonably likely that the disease was contracted by the officer as a result of contact with students, children or staff at the school or preschool while on duty,the officer is to be granted special leave with pay (and such leave is not to be debited to the officer's sick leave credits).
- (2) The leave granted under this regulation in relation to a particular disease may not exceed 52 weeks (whether taken as a continuous period or as separate periods).

60—War service sick leave

- (1) The Chief Executive may grant war service sick leave to an officer of the teaching service who submits evidence of a kind determined by the Chief Executive that they are absent because of a disability of a kind determined by the Chief Executive for the purposes of this regulation (being a disability due to war service).
- (2) War service sick leave may be granted for such period and on such conditions as the Chief Executive may determine.

- (3) The Chief Executive may vary or revoke a condition of war service sick leave granted under this regulation.

61—Continuity of service

- (1) The continuity of service of an officer of the teaching service will be taken not to be broken by leave of absence granted under this Division and—
- (a) in the case of any leave of absence in respect of which the officer is paid full salary—the period of leave will count as service for the purposes of determining sick leave entitlement; and
 - (b) in any other case—the Chief Executive may determine to what extent, if any, a period of leave will be counted as service for the purposes of determining sick leave entitlement (and such determination will have effect according to its terms).
- (2) If, in a determination under subregulation (1)(b), the Chief Executive determines that a period of leave does not count as service for the purposes of determining sick leave entitlements, the credit in each year provided for in regulation 53 is to be reduced by 1 day for each complete 4 weeks of that period of leave, up to a maximum of 10 working days in any year.
- (3) If the employment of an officer of the teaching service is terminated under section 120 of the Act on the grounds that the officer is physically or mentally incapable of performing duties satisfactorily and the officer is subsequently reappointed as an officer of the teaching service, the officer's continuous service before termination and after reappointment will be taken into account as though that service was continuous.

Division 4—Absence from duty

62—Absence from duty

- (1) If an officer of the teaching service is absent from their place of work during their ordinary hours of duty (or other hours as directed), or has otherwise not discharged their duties, as a result of industrial action taken by the officer, then the Chief Executive may direct that the salary of the officer is to be reduced by such an amount as is equal to—
- (a) one-tenth of the officer's fortnightly salary for each full day of absence or failure to discharge duty; or
 - (b) one-twentieth of the officer's fortnightly salary for each half day of absence or failure to discharge duty; or
 - (c) one seventy-fifth of the officer's fortnightly salary for each hour (or part hour) of absence or failure to discharge duty where the absence or failure to discharge duty is less than one half day.
- (2) A direction of the Chief Executive under subregulation (1) will have effect according to its terms.
- (3) For the purposes of this regulation, the fortnightly salary of an officer of the teaching service appointed on a part time basis is the fortnightly salary that officer would be entitled to receive if the officer were appointed on a full time basis.

Division 5—Salaries and allowances

63—Salary above minimum

If an appointment to the teaching service is made—

- (a) that is the first appointment of a person as an officer of the teaching service; or
- (b) that involves transfer of an officer of the teaching service from 1 position to another; or
- (c) in such other circumstances as determined by the Chief Executive,

the Chief Executive may 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 is to be paid accordingly.

64—Positions not covered in an award

The Chief Executive may determine the remuneration to be paid to an officer of the teaching service in respect of special work performed in a temporary capacity and in relation to which no award applies.

65—Deduction from salaries of rents for certain residences

If an officer of the teaching service occupies for residential purposes any building or part of a building owned or leased by the Minister, rent at an approved rate may be deducted from that officer's salary fortnightly.

66—Travelling expenses

An officer of the teaching service undertaking approved travel in connection with their duties is to be reimbursed for expenses reasonably and actually incurred at the same rates as apply to a Public Service employee (however, the Chief Executive may, if the Chief Executive determines that it is reasonable to do so in order to reimburse the officer concerned for their reasonable out of pocket expenses, be reimbursed at a higher rate determined by the Chief Executive).

Division 6—Disciplinary action and management of unsatisfactory performance

67—Disciplinary action

For the purposes of section 114(4) of the Act, if the Chief Executive has reclassified an officer of the teaching service found guilty of misconduct under section 114(1)(d) of the Act, the Chief Executive may determine that the officer is not permitted to apply for, or be appointed to, a promotional level position for such period of time, not exceeding 3 years, as determined by the Chief Executive.

68—Scheme for reduction in remuneration level

For the purposes of section 116(3) of the Act, the scheme determined by the Chief Executive is prescribed.

Division 7—Miscellaneous

69—Cost of medical examination

The costs of a medical examination under section 118 of the Act are to be met by the Minister.

70—Compliance with policies and instructions

An officer of the teaching service is required to comply with any policies or instructions developed, adopted or given by the Chief Executive under the Act.

71—Impartiality of instruction

If an officer of the teaching service, in the course of the officer's duties, finds it necessary to discuss contentious issues with their students, it is incumbent upon them to present those issues fairly and reasonably.

72—Responsibilities of principals etc and officers of the teaching service

- (1) A principal of a Government school, and the director of a stand-alone preschool, is answerable to the Chief Executive and is responsible for the following:
- (a) providing educational leadership in the school or preschool;
 - (b) the governance of the school or preschool (being a joint responsibility with the governing council of the school or preschool);

Note—

See sections 23(a) and 41(1)(a) of the Act.

- (c) leading improvement processes and practices to achieve outcomes for students and children in the school or preschool;
- (d) the management of the day-to-day operations of the school or preschool;
- (e) the welfare and development of students and children at the school or preschool;
- (f) the establishment and maintenance of an inclusive social and educational environment within the school or preschool favourable to—
 - (i) learning; and
 - (ii) acceptable forms of behaviour; and
 - (iii) the development within students and children of self-control, self-discipline and a respect for other persons and their property;
- (g) the provision, and the day-to-day management of the provision, of instruction at the school or preschool in accordance with any curriculum determined by the Chief Executive;
- (h) ensuring that staff, students and persons who are responsible for students and children at the school or preschool are consulted about, and informed of, the disciplinary rules governing the behaviour of students and children both inside and outside the classroom;
- (i) the administration of discipline within the school or preschool;

- (j) promoting the continuing professional development of the staff of the school or preschool;
 - (k) encouraging staff of the school or preschool to participate in processes for determining policies for the school or preschool and resolving problems;
 - (l) the conduct of regular staff meetings—
 - (i) as an integral part of decision making and communication within the school or preschool; and
 - (ii) in a manner providing full opportunity for staff involvement;
 - (m) keeping the governing council informed of relevant educational and other policies;
 - (n) fostering community participation in programs and in educational developments generally;
 - (o) the proper keeping of records and for the prompt preparation and provision of all Departmental returns;
 - (p) the proper care and safekeeping of the property of the school or preschool.
- (2) An officer of the teaching service employed at a school or stand-alone preschool is answerable to the principal of the school or the director of the stand-alone preschool (as the case requires) and is responsible for the following:
- (a) being actively concerned with the welfare and development of the students or children in the officer's care;
 - (b) implementing improvement processes and practices to achieve outcomes for students and children in the school or preschool as determined by the principal of the school or the director of the preschool;
 - (c) 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 principal or director);
 - (d) participating in processes for determining policies for the school or preschool and properly implementing those policies;
 - (e) assisting in the general management of the school or preschool as required by the principal or director.

73—Officers of teaching service not to incur liability on behalf of Government

- (1) Except as may be otherwise authorised under the Act, an officer of the teaching service must not incur or attempt to incur any liability on behalf of the Government or the Minister, nor make, attempt to make, alter or attempt to alter any contract on behalf of the Government or the Minister without the written authority of the Chief Executive.
- (2) However, nothing in subregulation (1) prevents an officer of the teaching service from taking such action as the officer considers reasonably necessary to obtain the services of a legally qualified medical practitioner, or to hire a suitable conveyance to convey the student to a place suitable for treatment, in the case where a student becomes unwell or is injured.

- (3) Any costs or expenses of a kind referred to in subregulation (2) incurred by or on behalf of an officer of the teaching service may be recovered by the Chief Executive by action in a court of competent jurisdiction as follows:
- (a) in the case of a student who is not an adult—each person who is responsible for the student is jointly and severally liable for the cost or expense as a debt; or
 - (b) in any other case—the student is liable for the cost or expense as a debt.

74—Report to be provided to Chief Executive where certain legal proceedings commenced

If any legal proceedings are commenced against an officer of the teaching service (being proceedings arising out of an alleged act or omission of the officer relating to a student or child, and occurring in the course of the officer's employment at a school or stand-alone preschool at which the officer is employed) the officer must, as soon as is reasonably practicable, provide a full report in writing of the circumstances to the Chief Executive.

75—Scholarships etc for teachers

- (1) A scholarship or award that was available to teachers (whether officers of the teaching service or otherwise) immediately prior to the commencement of this regulation will—
- (a) continue in force under the conditions existing immediately prior to that commencement; and
 - (b) continue to be known by the names by which they were known immediately prior to that commencement,

until such conditions and names are varied by the Minister, or the 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 a scholarship or award 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 the Minister thinks fit.
- (3) The Minister may provide scholarships to teachers for such purposes and on such conditions as the Minister may determine and may withdraw any such scholarship for any reason the Minister thinks fit.

76—Resignation to contest an election

- (1) If—
- (a) an officer of the teaching service—
 - (i) resigns 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) was not elected at that election; and

- (b) the resignation took effect not earlier than 1 month before the date on which nominations for the election closed; and
- (c) the person applies in writing to the Chief Executive for reappointment to the teaching service within 4 weeks after the declaration of the results of that election,

the Chief Executive must reappoint the person to the teaching service at a status and salary appropriate to the position which the person held immediately prior to their resignation.

- (2) A person reappointed under this regulation will be taken to have continued in the teaching service as if the person had not resigned, but had been on leave of absence without pay during the period from the day on which their resignation became effective to the day immediately preceding the day on which the person was reappointed.

Part 9—Other employment and staffing arrangements

77—Application of Part 7 and Schedule 1 of the *Public Sector Act 2009* to employees under Part 10 of Act

Pursuant to section 122(4)(c) of the Act, employees, or employees of a class, specified by the Chief Executive are declared to be included within the ambit of that subsection.

Part 10—Appeals

78—Certain decisions not reviewable

For the purposes of section 124(1) of the Act, the following decisions and determinations are prescribed:

- (a) a decision to appoint an officer of the teaching service as a consequence of selection processes conducted on the basis of merit;
- (b) a decision affecting or relating to a casual employee;
- (c) a decision not to reappoint a term employee at the end of the employee's term of employment;
- (d) a decision to appoint, transfer or promote an officer of the teaching service to the extent that it affects another officer;
- (e) a decision to change the duties of an officer of the teaching service to the extent that it affects another officer;
- (f) a decision to suspend an officer of the teaching service from duty with remuneration;
- (g) a decision that the salary of an officer of the teaching service be reduced arising from the officer's refusal or failure to carry out their duties;
- (h) a decision to transfer an officer of the teaching service that does not reduce the officer's remuneration;

- (i) a decision to transfer an officer of the teaching service who is residing in premises other than government housing that does not reasonably require the officer to change their place of residence and does not reduce the officer's remuneration;
- (j) a decision to transfer an officer of the teaching service who is residing in government housing that does not reduce the officer's remuneration;
- (k) a decision to terminate the employment of an officer of the teaching service who is on probation;
- (l) a decision under section 106(6) of the Act after considering an application submitted under section 106(2)(a) of the Act.

79—Election of officers of the teaching service 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 124(3)(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 2 other members 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).

80—Selection of panel members for particular SAET proceedings

If the President of SAET determines under section 124(4) 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.

Part 11—Financial provisions

Division 1—Materials and services charges for schools

81—Prescribed amount

- (1) For the purposes of section 129(2)(c) of the Act, the prescribed amount is—
 - (a) in the case of a student enrolled at a primary level—\$244 multiplied by the relevant indexation factor; or
 - (b) in the case of a student enrolled at a secondary level—\$322 multiplied by the relevant indexation factor.

- (2) In this regulation—

CPI means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;

relevant indexation factor means 1 or the quotient obtained by dividing the CPI for the quarter ending 30 June in the year immediately preceding the year for which the materials and services charges are payable by the CPI for the quarter ending 30 June 2019, whichever is the greater.

82—Requirement for written notice of materials and services charge

For the purposes of section 129(2)(h) of the Act, a written notice must—

- (a) specify the amount of the materials and services charge; and
- (b) identify the amount of the charge (if any) that is payable for materials or services that will only be provided to or for the student on payment, or an agreement for payment; and
- (c) specify the period (being not less than 14 days), within which payment is required; and
- (d) be in a form approved by the Chief Executive.

83—Recovery of debt to comply with Chief Executive's directions etc

- (1) Pursuant to section 129(5) of the Act, the recovery of a debt must comply with any directions given, or guidelines determined by, the Chief Executive (including, to avoid doubt, directions or guidelines limiting the circumstances in which a debt, or a specified portion of a debt, may be recovered by or on behalf of a governing council of a school).

- (2) Pursuant to section 129(5) of the Act, a part of a debt consisting of an amount referred to in regulation 82(b) that is the subject of an agreement for payment may only be recovered to the extent of the amount so agreed.

Division 2—Other fees and charges

84—Charges for certain overseas and non-resident students

For the purposes of section 130(1)(c) of the Act, the following kinds of visa are prescribed:

- (a) a temporary work (skilled) visa (subclass 457);
- (b) a temporary skill shortage visa (subclass 482).

Division 3—Provision of materials in cases of hardship

85—Chief Executive may provide materials etc in cases of hardship

If a person who is responsible for a child satisfies the Chief Executive that payment for necessary books, apparatus, materials or equipment for the child would inflict hardship on the person, the Chief Executive may authorise such items as the Chief Executive determines to be provided for the use of that child at no charge.

Division 4—School funds etc

86—School funds etc

- (1) Funds provided by the Minister to—
- (a) a school; or
 - (b) a stand-alone preschool or children's services centre established after the commencement of this regulation; or
 - (c) a governing council or affiliated committee of a school, or such a stand-alone preschool or children's services centre,
- subject to any direction or instruction of the Minister to the contrary—
- (d) may only be expended for purposes related to the school, stand-alone preschool or children's services centre (as the case requires); and
 - (e) together with any property purchased with the funds, belong to the Minister.
- (2) A governing council or affiliated committee is responsible for ensuring that proper accounts are kept of its funds.

Part 12—Information gathering etc

87—Sharing of information between certain persons and bodies

- (1) For the purposes of section 14(1)(f) of the Act, the following persons and bodies are declared to be included in the ambit of that subsection:
- (a) prescribed health professionals;
 - (b) Catholic Education South Australia;

- (c) The Association of Independent Schools of South Australia.
- (2) In this regulation—
prescribed health professionals means—
- (a) medical practitioners;
 - (b) psychologists;
 - (c) social workers holding qualifications or accreditation of a kind from time to time approved by the Chief Executive by notice in the gazette.

88—Approved learning program providers to provide certain information to Minister

- (1) The Minister may, for a purpose related to the administration or enforcement of Part 7 Divisions 1 and 2 of the Act, by notice in writing, require a head 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 head of an approved learning program must not, without reasonable excuse, refuse or fail to comply with a requirement under subregulation (1).
Maximum penalty: \$2 500.
- (4) A head 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: \$2 500.

89—Person responsible for student to notify principal of school etc where change in information

- (1) A person who is responsible for a student enrolled in a school or an approved learning program must notify the principal of the school or the head of the approved learning program (as the case requires) if there is a change in any or all of the information provided to the principal or head on enrolment of the student.
- (2) A notification under subregulation (1) must be provided in a manner and form determined by the principal of the school or head of the approved learning program (as the case requires).
- (3) A person who, without reasonable excuse, refuses or fails to comply with a requirement under this regulation is guilty of an offence.
Maximum penalty: \$2 500.

90—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 (being a student 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 a manner and form determined by the Chief Executive; 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.

Part 13—Miscellaneous

91—Regulation of traffic on premises of Government schools and Government stand-alone preschools and children's services centres

- (1) The principal of a Government school, or the director of a Government stand-alone preschool or children's services centre, in consultation and agreement with the governing council of the school, stand-alone preschool or children's services centre may, subject to the approval in writing of the Chief Executive, set aside a portion of the premises of the school, stand-alone preschool or children's services centre for the parking of vehicles.
- (2) A person must not drive a vehicle on the premises of a Government school or Government stand-alone preschool or children's services centre except for a purpose connected with the business and operation of the school, stand-alone preschool or children's services centre.

Maximum penalty: \$125.
Expiation fee: \$55.
- (3) A person driving a vehicle on the premises of a Government school or Government stand-alone preschool or children's services centre must, where there is an area on the premises reserved for the parking of vehicles and defined by appropriate markings or a notice erected in that area, park the vehicle in that defined area and in no other place.

Maximum penalty: \$125.
Expiation fee: \$55.
- (4) A person who parks a vehicle anywhere on the premises of a Government school or Government stand-alone preschool or children's services centre does so at the person's own risk, or where the person is not the owner of the vehicle, then at the risk of the owner of the vehicle.
- (5) A person must not drive a vehicle on the premises of a Government school or Government stand-alone preschool or children's services centre—
 - (a) without due care or attention or without reasonable consideration for other persons who are on those premises; or

- (b) at a speed greater than 20 km/h, except where notices indicate otherwise.
Maximum penalty: \$125.
Expiation fee: \$55.
- (6) A person who drives a vehicle on the premises of a Government school or Government stand-alone preschool or children's services centre must comply with—
- (a) all signs erected for controlling vehicular traffic on those premises; and
 - (b) any reasonable instruction given to the person by the principal of the school or the director of the stand-alone preschool or children's services centre or a person authorised by the principal or director for the purpose of regulating vehicular or pedestrian traffic or otherwise maintaining order within the premises of the school, stand-alone preschool or children's services centre.
- Maximum penalty: \$125.
Expiation fee: \$55.
- (7) The driver or the registered owner of a vehicle (or both) must make good any damage caused by the use of that vehicle to property of the Minister and shall indemnify and keep indemnified the Minister in respect of any claim for damages for injuries to any person caused by the driver's negligent driving of that vehicle on the premises of the school, stand-alone preschool or children's services centre.

92—Records and documents property of Minister

- (1) Subject to the Act, and any other Act or law, all prescribed Government records and documents will be taken to be the property of the Minister, and the information contained in those records and documents is to be treated as confidential.
- (2) The principal of a Government school, or the director of a stand-alone preschool or children's services centre established after the commencement of this regulation, must not permit the removal of prescribed Government records and documents from the school, preschool or children's services centre unless authorised to do so by the Chief Executive.
- (3) In this regulation—
- prescribed Government records and documents* means—
- (a) any records or documents relating to a Government school; or
 - (b) any records or documents relating to a stand-alone preschool established after the commencement of this regulation; or
 - (c) any records or documents relating to a children's services centre established after the commencement of this regulation.

Schedule 1—Revocation of regulations

1—Revocation of *Children's Services (Appeals) Regulations 2008*

The *Children's Services (Appeals) Regulations 2008* are revoked.

2—Revocation of *Children's Services (Registered Children's Services Centres) Regulations 2018*

The *Children's Services (Registered Children's Services Centres) Regulations 2018* are revoked.

3—Revocation of *Education Regulations 2012*

The *Education Regulations 2012* are revoked.

Schedule 2—Transitional provisions

1—Certain policies relating to enrolment to continue

Pursuant to section 141(3)(c) of the Act, a policy published by the Minister under regulation 60(2) of the *Education Regulations 2012* and in force immediately before the commencement of Part 3 of the *Education and Children's Services Act 2019*—

- (a) will continue in accordance with its terms; and
- (b) will be taken to be a policy published under regulation 12.

2—Continuation of reviews commenced under *Education Act 1972*

- (1) Pursuant to section 141(3)(c) of the Act, a review commenced but not completed under Part 2A of the *Education Act 1972* before the commencement of Part 5 Division 3 of the Act—
 - (a) will be taken to continue as a review under section 53 of the Act; and
 - (b) need not comply with a requirement under that section in respect of anything done in accordance with Part 2A of the *Education Act 1972* prior to the commencement of that section; and
 - (c) will be taken to be a review conducted under section 53 of the Act.
- (2) Pursuant to section 141(3)(c) of the Act, a review committee established under section 14C of the *Education Act 1972* in relation to a review referred to in subclause (1)—
 - (a) will continue as a review committee for the purposes of the review;
 - (b) will be taken to be a review committee established by the Minister under section 54 of the Act,

(and, subject to the Act, the members of the committee will continue to hold office in accordance with the terms and conditions of their appointment).

3—Registered children's services centres continued under Act

- (1) This clause applies to a stand-alone preschool, or children's services centre, that is a registered children's services centre continued under section 26 of the Act.
- (2) Pursuant to section 141(3)(c) of the Act, a reference in the Act or these regulations to a stand-alone preschool or children's services centre to which this clause applies (being a reference that contemplates the stand-alone preschool or children's services centre being unincorporated) will be taken to be a reference to the body corporate comprising the stand-alone preschool or children's services centre (as the case requires).

- (3) Pursuant to section 141(3)(c) of the Act, a reference in the Act or these regulations to the governing council of a stand-alone preschool or children's services centre to which this clause applies (being a reference that contemplates or requires the governing council being, or to be, a body corporate) will be taken to be a reference to the body corporate comprising the stand-alone preschool or children's services centre (as the case requires).

Example—

Section 24 of the Act contemplates the governing council of a stand-alone preschool or children's services centre entering into a transaction, or borrowing money.

Legislative history

Notes

- 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.

Principal regulations

Year	No	Reference	Commencement
2020	204	<i>Gazette 11.6.2020 p3309</i>	1.7.2020: r 2