

South Australia

## **Family and Community Services Regulations 1996**

under the *Family and Community Services Act 1972*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Family and Community Services Regulations 1996*.

## 2—Commencement

These regulations will come into operation on 1 March 1996.

## 3—Revocation

All regulations previously made under the *Family and Community Services Act 1972* are revoked.

## 4—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Family and Community Services Act 1972*;

*advisory committee* means an advisory committee established by the Minister under section 11 of the Act;

*resident*, in relation to a training centre, means a youth detained in the centre;

*residential care facility* means a residential care facility established under section 36 of the Act.

## Part 2—Advisory committees

### 5—Conduct of business by advisory committee

- (1) A quorum of an advisory committee consists of one-half of the total number of its members (ignoring any fraction resulting from the division) plus one.
- (2) The member appointed as the presiding member of an advisory committee will preside at meetings of the committee at which he or she is present.
- (3) If the presiding member is absent from a meeting of the committee—
  - (a) if another member has been appointed as his or her deputy and is present at the meeting—the deputy;
  - (b) in any other case—a member chosen by the members present at the meeting,will preside.
- (4) A decision carried by a majority of the votes cast by members at a meeting is a decision of the committee.
- (5) Each member present at a meeting of the committee has one vote on any question arising for decision and, if the votes are equal, the presiding member at the meeting may exercise a casting vote.

## Part 3—Training centres

### 6—Functions of Chief Executive Officer

The Chief Executive Officer must ensure that adequate arrangements exist for—

- (a) maintaining the physical, psychological and emotional well-being of training centre residents; and
- (b) promoting the social, cultural and educational development of training centre residents; and

- (c) maintaining discipline and order among training centre residents; and
- (d) ensuring the proper security, control and management of training centres.

### **7—Prohibited treatment**

Subject to these regulations, a resident of a training centre must not be subjected to any of the following kinds of treatment:

- (a) any form of corporal punishment, that is to say, any action which inflicts, or is intended to inflict, physical pain or discomfort;
- (b) isolation from other residents, that is to say, being kept apart from the normal routine of the centre in a locked room;
- (c) any form of psychological pressure or emotional abuse intended to intimidate or humiliate;
- (d) deprivation of medical attention, basic food and drink, clothing or any other essential item;
- (e) deprivation of sleep;
- (f) unjustified deprivation of contact with persons outside the centre;
- (g) any other treatment that is cruel, inhuman or degrading.

### **8—Use of force**

- (1) Subject to any general directions of the Chief Executive Officer as to the use of force against residents of training centres, an employee in a training centre may use such force against a resident of the centre as is reasonably necessary in any particular case—
  - (a) to prevent the resident from harming himself or herself or another person or from causing significant damage to property; or
  - (b) to ensure that the resident complies with a reasonable direction given by an employee of the centre; or
  - (c) to maintain order in the centre; or
  - (d) to preserve the security of the centre.
- (2) If force is used against a resident of a training centre, the employees involved must ensure that a written report is provided to the manager of the centre containing the following particulars:
  - (a) the resident's name;
  - (b) the names of all employees who were involved in or witnessed the use of force;
  - (c) the date, time and location in the centre where the use of force took place;
  - (d) the nature of the force used and the purpose for which, or circumstances in which, the force was used.

## 9—Detention rooms

- (1) In this regulation—

*detention room* means a room in a training centre that is set aside for the detention of residents of the centre in accordance with this regulation.
- (2) Subject to this regulation, a resident of a training centre may be locked in a detention room only if an employee in the centre believes on reasonable grounds—
  - (a) that the resident is about to harm himself or herself or another person or cause significant damage to property; or
  - (b) that it is necessary to lock the resident in a detention room—
    - (i) to maintain order in the centre; or
    - (ii) to preserve the security of the centre.
- (3) A resident of a training centre who is under the age of 12 years must not be locked in a detention room.
- (4) Unless the Chief Executive Officer approves otherwise in any particular case, the maximum length of time that a resident of a training centre may be locked in a detention room is as follows:
  - (a) in the case of a resident aged 12 to 14 years—24 hours;
  - (b) in the case of a resident aged 15 years or over—48 hours.
- (5) A resident of a training centre who is locked in a detention room must be closely supervised and must be observed at intervals of not longer than 5 minutes.
- (6) If a resident of a training centre is locked in a detention room, the manager of the centre must ensure that a record is made containing the following details:
  - (a) the resident's name and age;
  - (b) the date and time that the detention began;
  - (c) the date and time that the detention ended;
  - (d) the reason for the detention;
  - (e) the name of the training centre employee who ordered the detention.

## 10—Searches

- (1) The manager of a training centre may cause a resident of the centre or items belonging to a resident of the centre to be searched—
  - (a) when the resident is received into the centre or returns after an absence from the centre; or
  - (b) if the manager has reasonable cause to suspect that the resident has in his or her possession any substance or item—
    - (i) that is prohibited in the centre; or
    - (ii) that may jeopardise the security of the centre.

- (2) The following provisions apply to the search of a resident of a training centre:
- (a) those present at any time during the search when the resident is naked, except a medical practitioner, must be of the same sex as the resident;
  - (b) at least two persons, apart from the resident, must be present at all times during the search when the resident is naked;
  - (c) for the purposes of the search, the resident may be required—
    - (i) to open his or her mouth;
    - (ii) to strip;
    - (iii) to adopt particular postures;
    - (iv) to do anything else reasonably necessary for the purposes of the search,and if the resident does not comply with such a requirement, reasonable force may be applied to secure compliance;
  - (d) force must not be applied to open the resident's mouth except by or under the supervision of a medical practitioner;
  - (e) nothing may be introduced into an orifice of the resident's body for the purposes of the search except by a medical practitioner.
- (3) A search of a resident of a training centre must be carried out expeditiously and undue humiliation of the resident must be avoided.

## **11—Visits**

- (1) A resident of a training centre is entitled to be visited by at least one person on at least one occasion each week.
- (2) The manager of a training centre may approve visiting rights for residents of the centre in excess of those set out in subregulation (1).
- (3) The manager of a training centre may, if of the opinion that special reason exists for doing so, debar a particular person from visiting a resident of the centre for any period the manager thinks fit, or until further order of the manager.
- (4) If a resident of a training centre is visited by a legal practitioner for the purpose of rendering legal services, that visit will not be held to be a visit for the purposes of this regulation.
- (5) The manager of a training centre must encourage and facilitate visits to the residents in the centre by their relatives and friends.

## **Part 4—Residential care facilities**

### **12—Functions of Chief Executive Officer**

The Chief Executive Officer must ensure that adequate arrangements exist for—

- (a) maintaining the physical, psychological and emotional well-being of children placed in a residential care facility; and
- (b) promoting the social, cultural and educational development of the children placed in a residential care facility; and

- (c) maintaining discipline and order in residential care facilities; and
- (d) ensuring the proper control and management of residential care facilities.

### **13—Prohibited treatment**

Subject to these regulations, a child placed in a residential care facility must not be subjected to any of the following kinds of treatment:

- (a) any form of corporal punishment, that is to say, any action which inflicts, or is intended to inflict, physical pain or discomfort;
- (b) isolation from other children in the facility, that is to say, being kept apart from the normal routine of the facility in a locked room;
- (c) any form of psychological pressure or emotional abuse intended to intimidate or humiliate;
- (d) deprivation of medical attention, basic food and drink, clothing or any other essential item;
- (e) deprivation of sleep;
- (f) unjustified deprivation of contact with persons outside the facility;
- (g) any other treatment that is cruel, inhuman or degrading.

### **14—Use of force**

- (1) Subject to any general directions of the Chief Executive Officer as to the use of force against children placed in residential care facilities, an employee in a facility may use such force against a child placed in the facility as is reasonably necessary in any particular case—
  - (a) to prevent the child from harming himself or herself or another person or from causing significant damage to property; or
  - (b) to ensure that the child complies with a reasonable direction given by an employee of the facility; or
  - (c) to maintain order in the facility.
- (2) If force is used against a child placed in a residential care facility, the employees involved must ensure that a written report is provided to the supervisor of the facility containing the following particulars:
  - (a) the child's name;
  - (b) the names of all employees who were involved in or witnessed the use of force;
  - (c) the date, time and location in the facility where the use of force took place;
  - (d) the nature of the force used and the purpose for which, or circumstances in which, the force was used.

## **Part 5—Foster care**

### **15—Licence applications**

Pursuant to section 48(2), an application for a licence to carry on the business of a foster care agency, or for renewal of a licence to carry on the business of a foster care agency, must be made to the Chief Executive Officer on a form approved by the Chief Executive Officer, completed and signed by the applicant in accordance with the instructions contained in the form.

## **Part 6—Miscellaneous**

### **16—Forms**

- (1) For the purposes of section 55(1) of the Act, an agreement for a child to be cared for in a children's residential facility must be in the form set out in form 1 of the Schedule.
- (2) For the purposes of sections 200, 210 and 215 of the Act, a collector's certificate must be in the form set out in form 2 of the Schedule.
- (3) An application under section 203(1) of the Act for an order discharging, suspending, varying or reviving an interstate order must be in the form set out in form 3 of the Schedule.
- (4) An application under section 203(2) of the Act for an order discharging, suspending, varying or reviving a South Australian order must be in the form set out in form 4 of the Schedule.
- (5) An application under section 208(1) of the Act for confirmation of a provisional order made interstate must be in the form set out in form 5 of the Schedule and that form is prescribed as the form of notice to be given under section 208(2).
- (6) An application under section 220(1) of the Act for an order discharging, suspending or varying an overseas order must be in the form set out in form 6 of the Schedule.
- (7) An application under section 220(2) of the Act for an order varying or reviving an order enforceable under the law of a reciprocating country must be in the form set out in form 7 of the Schedule.
- (8) An application under section 225 of the Act for an order confirming a provisional order of variation made by a court of a reciprocating country must be in the form set out in form 8 of the Schedule.

## Schedule—Forms

### Form 1

*Family and Community Services Act 1972*  
(section 55(1))

#### **Agreement for admission of a child to a licensed children's residential facility**

##### **Part A—Agreement**

- 1 Name of guardian(s) entering into agreement:  
.....
- 2 Address of guardian(s):  
.....
- 3 Name, age and sex of child or children to which agreement relates:  
.....
- 4 Name of children's residential facility:  
.....

**\*I/we the guardian(s) named above agree to entrust the children's residential facility named above with the care, custody and control of the \*child/children named above for a period of ..... months, commencing on the ..... day of ..... 20..... subject to the conditions specified in Part B of this agreement.**

**I ....., the \*licensee/person authorised by the licensee of the children's residential facility named above agree that the facility will be responsible for the care, custody and control of the \*child/children named above for the period specified, subject to the conditions specified in Part B of this agreement.**

*\*Strike out what is not applicable.*

##### **Part B—Conditions**

This agreement is subject to the following conditions: (For example, conditions relating to payment by the guardian(s) in respect of the care of the child/children, visiting rights, absences from the facility, consent to medical and dental treatment, education, religious instruction or any other matter relating to the care, custody and control of the child/children. If the space provided is insufficient, attach a separate sheet.)

.....  
.....  
.....  
.....  
.....  
.....

Dated this        day of                    20        .  
Signed by the guardian(s) .....

In the presence of: .....  
(witness)

Signed by the licensee or person authorised by  
the licensee of the children's residential facility .....

In the presence of: .....  
(witness)



## Form 2

*Family and Community Services Act 1972*  
(sections 200, 210 and 215)

### Collector's certificate

South (Royal Arms) Australia

Complainant:

Defendant:

I, \_\_\_\_\_ of the Department for Family and Community Services, 11 Hindmarsh Square, Adelaide in the State of Australia, certify as follows:

1 I am \*the Collector of Maintenance/the Deputy Collector of Maintenance/an Assistant Collector of Maintenance appointed under the *Family and Community Services Act 1972*.

2 Attached to this certificate are three certified copies of a maintenance order \* [and of an order (or orders) varying that maintenance order] particulars of which are as follows:  
[Insert date and place order (or orders) made]

3 The maintenance order is currently enforceable in the State of South Australia under the provisions of the *Family and Community Services Act 1972*.

4 The effect of the maintenance order is as follows:

5 It appears to me that the defendant is resident in, or proceeding to

6 The total payments made under the maintenance order plus credits allowed up to  
/ / amount to the sum of \$ .

7 The arrears of maintenance remaining unpaid up to / / amount to the  
sum of \$

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 .

.....  
\*Collector of Maintenance/Deputy Collector of  
Maintenance/Assistant Collector of Maintenance

**TO** the Collector of Maintenance

at:

\*Strike out what is not applicable.



## Form 4

*Family and Community Services Act 1972*  
(section 203(2))

### Application for order for variation of South Australian order

South (Royal Arms) Australia

Complainant:

Defendant:

1 On the            day of            20            an order was made by the Magistrates Court of South Australia under which the defendant named above was ordered to pay amounts as follows:

2 \*The order was varied at the            Court at            in the State  
of            on the            day of            20            as follows:

3 The order is enforceable in the State of            by virtue of a  
corresponding enactment of that State.

I,            apply to the Magistrates Court sitting  
at            for an order \*discharging/suspending/varying/reviving the  
order in the following manner and on the following grounds:

Address for service:

Dated at            this            day of            20            .

.....  
\*Complainant/Defendant

TO the Registrar  
Magistrates Court  
at:

### Notice of hearing

**TAKE NOTICE** that the above application has been set down for hearing at the Magistrates Court sitting at            on the            day of            20            at            am/pm.

Dated at            this            day of            20            .

.....  
Registrar

TO the Collector of Maintenance  
Department for Family and Community Services  
Adelaide

AND to the \*Complainant/Defendant  
at:

*\*Strike out what is not applicable.*





## Form 7

*Family and Community Services Act 1972*  
(section 220(2))

### Application for variation of a South Australian order enforceable in a reciprocating country

South (Royal Arms) Australia

Complainant:

Defendant:

- 1 On the            day of            20            , an order was made by the Magistrates Court sitting at            in the State of South Australia under which the defendant named above was ordered to pay amounts as follows:
- 2 Pursuant to Division 8 of Part 6 of the *Family and Community Services Act 1972*, the order is now enforceable in            , a reciprocating country, where the defendant is for the time being resident.

I,            the complainant named above, apply to the Magistrates Court sitting at            in the State of South Australia for an order \*varying/reviving the order in the following manner and on the following grounds:

Address for service:

Dated at            this            day of            20            .

.....  
Complainant

TO the Registrar  
Magistrates Court  
at:

### Notice of hearing

**TAKE NOTICE** that the above application has been set down for hearing at the Magistrates Court sitting at            on the            day of            20            at            \*am/pm.

Dated at            this            day of            20            .

.....  
Registrar

TO the Collector of Maintenance  
Department for Family and Community Services  
Adelaide  
**AND** to the Defendant  
at:



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

### Revocation of regulations

The *Family and Community Services Regulations 1996* were revoked by Sch 2 of the *Family and Community Services Regulations 2009* on 1.9.2009.

### Principal regulations

Year	No	Reference	Commencement
1996	29	<i>Gazette 22.2.1996 p1250</i>	1.3.1996: r 2