

South Australia

Freedom of Information (Exempt Agency) Regulations 2008

under the *Freedom of Information Act 1991*

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Legislative history

1—Short title

These regulations may be cited as the *Freedom of Information (Exempt Agency) Regulations 2008*.

3—Interpretation

- (1) In these regulations—
Act means the *Freedom of Information Act 1991*.
- (2) For the avoidance of doubt, where a provision of these regulations declares an agency to be an exempt agency in respect of a specified class of information, the agency is, from the commencement of the provision, so exempt regardless of whether the information was created or received by the agency before or after that commencement.

4—Exempt agencies

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the following agencies are declared to be exempt agencies:

- (b) the RESI Corporation, continued in existence under the *Electricity Corporations Act 1994*;
- (c) the Generation Lessor Corporation, the Distribution Lessor Corporation and the Transmission Lessor Corporation established under the *Public Corporations Act 1993*;
- (d) the commission of inquiry established under the *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004*;
- (e) each agency established by or under the *Health and Community Services Complaints Act 2004*;

- (f) the investigator appointed pursuant to instrument of appointment dated 22 July 2009 under section 272 of the *Local Government Act 1999* to carry out an investigation into the City of Burnside.

5—Exempt agencies in respect of certain information—education agencies

- (1) For the purposes of the definition of **exempt agency** in section 4(1) of the Act, the following agencies are declared to be exempt agencies in respect of comparative student performance information:
 - (a) the Minister responsible for the administration of the *SACE Board of South Australia Act 1983*;
 - (b) the Minister responsible for the administration of the *Education Act 1972*;
 - (ba) the Minister responsible for the administration of the *Education and Early Childhood Services (Registration and Standards) Act 2011*;
 - (c) the Department of Education and Children's Services.

- (2) In this regulation—

children of compulsory education age has the same meaning as in the *Education Act 1972*;

comparative student performance information means information of any of the following classes (whether presented in a statistical form or otherwise):

- (a) aggregated information relating to the results of any assessments undertaken by senior secondary students or children of compulsory education age;
- (b) aggregated information relating to the tertiary entrance ranks of senior secondary students;
- (c) aggregated information relating to exemptions granted to children of compulsory education age under the *Education Act 1972* from a requirement under that Act that the children be enrolled in an approved learning program;

senior secondary students means—

- (a) before the day that section 6 of the *Senior Secondary Assessment Board of South Australia (Review) Amendment Act 2008* comes into operation—a student undertaking senior secondary education (within the meaning of the *Senior Secondary Assessment Board of South Australia Act 1983*); and
- (b) on and from the day that section 6 of the *Senior Secondary Assessment Board of South Australia (Review) Amendment Act 2008* comes into operation—a student (within the meaning of the *SACE Board of South Australia Act 1983*).

6—Exempt agency in respect of certain functions—Training Advocate

- (1) For the purposes of the definition of **exempt agency** in section 4(1) of the Act, the Training Advocate is declared to be an exempt agency in respect of functions set out in clause 2 of the charter (Independent complaint handling process).
- (2) In this regulation—

charter means the charter establishing the Training Advocate's functions prepared under section 21 of the *Training and Skills Development Act 2008* and as in force on 4 September 2008;

Training Advocate means the Training Advocate established under section 18 of the *Training and Skills Development Act 2008*.

7—Exempt agencies in respect of certain information—investigation into City of Burnside

For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the following agencies are declared to be exempt agencies in respect of information relating to the investigation into the City of Burnside carried out by the investigator referred to in regulation 4(f):

- (a) any agency assisting in the investigation;
- (b) the Department of Primary Industries and Resources;
- (c) the Minister for State/Local Government Relations;
- (d) the Department of Planning and Local Government.

8—Exempt agency in respect of certain information—SACE Board

(1) For the purposes of the definition of *exempt agency* in section 4(1) of the Act, the SACE Board is declared to be an exempt agency in respect of the following classes of information:

- (a) information relating to the results of students in SACE assessments;
- (b) comparative school performance information;
- (c) information comprising, relating to or used in the application of standards of marking (however described) in the assessment of students;
- (d) information contained in a report prepared by a person or body appointed or established by the SACE Board to determine grade levels, or to ensure consistency in grading, and any information used in the preparation of such a report;
- (e) information comprising, or relating to, an examination paper for an examination that has not yet occurred at the time of an application under the Act relating to the information;
- (f) information relating to the assessment of students with disabilities;
- (g) information relating to the alternative assessment of students on compassionate or other grounds;
- (h) information used, or to be used, by the SACE Board to determine recipients of prizes, awards or commendations (however described);
- (i) information received by the SACE Board in the course of, or in relation to, a dispute resolution process (whether relating to a particular student or class of students, and however described);
- (j) information identifying a member of the SACE Board or a person exercising a power or performing a function under the *SACE Board of South Australia Act 1983*.

(2) In this regulation—

comparative school performance information means information of either of the following classes (whether presented in a statistical form or otherwise):

- (a) aggregated information relating to the results of any assessments undertaken by students at a particular school or group of schools;
- (b) aggregated information relating to the tertiary entrance ranks of students at a particular school or group of schools;

SACE Board means the SACE Board of South Australia continued under the *SACE Board of South Australia Act 1983*.

9—Exempt agency in respect of certain functions—Small Business Commissioner

For the purposes of the definition of ***exempt agency*** in section 4(1) of the Act, the Small Business Commissioner is declared to be an exempt agency in respect of functions performed under the *Small Business Commissioner Act 2011* and any other Act.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Freedom of Information (Exempt Agency) Regulations 2008* revoked the following:

Freedom of Information (Exempt Agency) Regulations 1993

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|------------|---------------------------------------|----------------------------|
| 2008 | 19 | <i>Gazette 28.2.2008 p754</i> | 28.6.2008: r 2 |
| 2008 | 247 | <i>Gazette 4.9.2008 p4246</i> | 4.9.2008: r 2 |
| 2009 | 221 | <i>Gazette 20.8.2009 p3768</i> | 20.8.2009: r 2 |
| 2011 | 280 | <i>Gazette 15.12.2011 p5075</i> | Pt 10 (r 13)—1.1.2012: r 2 |
| 2012 | 254 | <i>Gazette 13.12.2012 p5545</i> | 1.4.2013: r 2 |
| 2013 | 268 | <i>Gazette 5.12.2013 p4449</i> | 5.12.2013: r 2 |

Provisions varied

New entries appear in bold.

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

| Provision | How varied | Commencement |
|------------|--|-----------------|
| <i>r 2</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>4.9.2008</i> |
| r 3 | | |
| r 3(1) | r 3 redesignated as r 3(1) by 221/2009 r 4 | 20.8.2009 |
| r 3(2) | inserted by 221/2009 r 4 | 20.8.2009 |
| r 4 | varied by 221/2009 r 5 | 20.8.2009 |
| | (a) deleted by 254/2012 r 4 | 1.4.2013 |
| r 5 | | |
| r 5(1) | varied by 280/2011 r 13 | 1.1.2012 |
| | varied by 254/2012 r 5(1) | 1.4.2013 |
| r 5(2) | | |

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|---------------------------|--|------------------|
| senior secondary students | varied by 254/2012 r 5(2) | 1.4.2013 |
| r 6 | inserted by 247/2008 r 4 | 4.9.2008 |
| r 7 | inserted by 221/2009 r 6 | 20.8.2009 |
| r 8 | inserted by 254/2012 r 6 | 1.4.2013 |
| r 9 | inserted by 268/2013 r 4 | 5.12.2013 |
| <i>Sch 1</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>4.9.2008</i> |

Historical versions

4.9.2008

20.8.2009

1.1.2012

1.4.2013