

South Australia

Education Variation Regulations 2008

under the *Education Act 1972*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Education Variation Regulations 2008*.

2—Commencement

These regulations will come into operation on 1 January 2009.

3—Variation provisions

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

Part 2—Variation of *Education Regulations 1997*

4—Substitution of heading to Part 4 Division 1

Heading to Part 4 Division 1—delete the heading and substitute:

Division 1—Enrolment, attendance and participation

5—Insertion of regulation 55A

Before regulation 56 insert:

55A—Rules and criteria for determining where child to be enrolled

- (1) This regulation applies in respect of all children of compulsory school age or compulsory education age, other than a child who is—
 - (a) the subject of a direction of the Director-General under section 75(3) of the Act; or
 - (b) entitled to be enrolled, and is enrolled, at a Correspondence School; or
 - (c) enrolled at a non-Government school.
- (2) For the purposes of section 75(7)(a) of the Act, the following rules and criteria are to be applied in relation to determining at which school a child to which this section applies is to be enrolled:
 - (a) the enrolment of the child at a particular school should, as far as is reasonably practicable, be consistent with any policy published from time to time by the Minister by notice in the Gazette for the purposes of this paragraph;
 - (b) the location of the school at which the child is to be enrolled should, as far as is reasonably practicable, minimise any difficulties arising from the location of the child's primary place of residence;
 - (c) the enrolment of the child at a particular school should, as far as is reasonably practicable, take into account any wishes of the parents or guardians of the child in relation to the provision of particular curriculum subjects or special interest programs;
 - (d) the enrolment of the child at a particular school should, as far as is reasonably practicable, take into account any relevant social and family circumstances of the child;
 - (e) the enrolment of the child at a particular school should, as far as is reasonably practicable, take into account any social and family links to the school (including, without limiting this paragraph, any sibling attendance at the school);

- (f) the enrolment of the child at a particular school should, where relevant, take into account the particular needs of international students, or children of the holders of a business visa under a law of the Commonwealth.

55B—Rules and criteria for determining what constitutes full-time participation in approved learning programs

- (1) For the purposes of section 75(7)(b) of the Act, the following rules and criteria are to be applied in determining what constitutes full-time participation in approved learning programs:
 - (a) participation in an approved learning program, or a combination of approved learning programs, will be taken to be full-time participation if—
 - (i) the number of hours that a person 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 as to meet the minimum standard for full-time participation (if any) set out in guidelines published from time to time by the Minister by notice in the Gazette for the purposes of this paragraph;
 - (b) participation in a particular approved learning program, or a particular combination of approved learning programs, will be taken to be full-time participation if the participation is subject to a declaration under subregulation (2).
- (2) The Minister may, by notice in the Gazette, declare participation in a particular approved learning program, or in a particular combination of approved learning programs, to be full-time participation for the purposes of section 75(2) of the Act.

6—Insertion of regulations 59A and 59B

After regulation 59 insert:

59A—Approved learning programs

For the purposes of section 75D(1)(a)(ii) of the Act, the class of universities comprising universities established by or under an Act or law of the State, the Commonwealth, or any other State or Territory of the Commonwealth, is declared to be within the ambit of that subparagraph.

59B—Report on operation of Part 6 of Act

- (1) For the purposes of section 75E(2)(b) of the Act, it is a requirement that a report prepared under that section must not contain information that may lead to the identification of a particular student, school or sector.

- (2) In this regulation—
school means a Government school or a non-Government school.

7—Variation of regulation 60—Prescribed reasons for non-attendance and non-participation

- (1) Regulation 60(1) and (2)—delete subregulations (1) and (2) and substitute:
- (1) For the purposes of section 76(2)(c) of the Act, the following are prescribed reasons for the non-attendance of a child at school:
 - (a) the child was prevented from attending school on the occasion in question by his or her sickness, or by his or her temporary or permanent infirmity;
 - (b) there was a danger of the child being affected by an infectious or contagious disease;
 - (c) the child was prevented from attending school on the occasion in question by some other unavoidable and sufficient cause.
 - (2) For the purposes of section 76(2a)(b) of the Act, the following are prescribed reasons for the non-participation of a child in an approved learning program:
 - (a) the child was prevented from participating in the approved learning program on the occasion in question by his or her sickness, or by his or her temporary or permanent infirmity;
 - (b) there was a danger of the child being affected by an infectious or contagious disease;
 - (c) the child was prevented from participating in the approved learning program on the occasion in question by reason of having to care for a member of his or her family;
 - (d) the child was prevented from participating in the approved learning program on the occasion in question by some other unavoidable and sufficient cause.
- (2) Regulation 60(3)—delete "a child is alleged to be absent because of illness or injury" and substitute:
- the reason given for a child's non-attendance at school, or non-participation in an approved learning program, is the sickness or infirmity of the child

8—Insertion of regulation 60A

After regulation 60 insert:

60A—Parent to notify Minister if child not participating

A parent of a child of compulsory education age who is not participating in an approved learning program in which he or she is enrolled must, as soon as is reasonably practicable after becoming aware that the child is not so participating, notify the SACE Board of South Australia of that fact.

Maximum penalty: \$500.

9—Insertion of Part 7

After Part 6 insert:

Part 7—Provision of information

85—Schools to provide certain information

- (1) This section 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 section applies 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 writing; 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).
- (5) In this regulation—

school means a Government school or a non-Government school.

86—Approved learning program providers to provide specified information

- (1) The Minister may, for a purpose related to the administration or enforcement of Part 6 of the Act, by notice in writing, require a provider 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 provider of an approved learning program must not, without reasonable excuse, refuse or fail to comply with a requirement under subregulation (1).
Maximum penalty: \$500.
- (4) A provider 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: \$500.

Note—

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

Made by the Governor

with the advice and consent of the Executive Council
on 18 December 2008

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