

South Australia

## **Technical and Further Education (TAFE SA) Variation Regulations 2012**

under the *TAFE SA Act 2012*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Technical and Further Education (TAFE SA) Variation Regulations 2012*.

### **2—Commencement**

These regulations will come into operation immediately after the *TAFE SA Act 2012* comes into operation.

### **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 *Technical and Further Education Regulations 1999*

### 4—Variation of regulation 1—Short title

Regulation 1—delete "*Technical and Further Education Regulations 1999*" and substitute:

*TAFE SA Regulations 2012*

### 5—Variation of regulation 4—Interpretation

- (1) Regulation 4, definition of *the Act*—delete the definition and substitute:

*Act* means the *TAFE SA Act 2012*;

- (2) Regulation 4, definitions of *administrative instructions*, *college premises*, *college property*, *college staff*, *college year*, *council fund*, *council fund account* and *director*—delete the definitions and substitute:

*Appeal Board* means the Teachers Appeal Board established under the *Education Act 1972*;

*the board* means the board of directors of TAFE SA;

- (3) Regulation 4—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (4) Regulation 4, definition of *industrial award or agreement*—delete "*Industrial and Employee Relations Act 1994* or the *Workplace Relations Act 1996* of the Commonwealth" and substitute:

*Fair Work Act 1994*

- (5) Regulation 4, definition of *medical certificate*—delete "where" and substitute:

if

- (6) Regulation 4, definition of *medical certificate*—delete "Chief Executive Officer" and substitute:

chief executive

- (7) Regulation 4, definition of *part-time*—delete "the officer" and substitute:

the prescribed employee

- (8) Regulation 4—after the definition of *part-time* insert:

*prescribed employee* means an employee of the chief executive of TAFE SA employed on an ongoing basis or term basis (that is, for a specified term or for the duration of a specified project, but not on a weekly, daily or hourly basis);

- (9) Regulation 4, definition of *student*—delete "a college" and substitute:

TAFE SA

- (10) Regulation 4—after the definition of *student* insert:

*TAFE year* means the period from 1 February to 31 January in the following year (both dates inclusive);

## **6—Substitution of heading to Part 2 Division 1**

Heading to Part 2 Division 1—delete the heading and substitute:

### **Part 2—Prescribed employees**

#### **Division 1—Employment and classification**

## **7—Variation of regulation 5—Application for employment**

- (1) Regulation 5(1)—delete "Minister" wherever occurring and substitute in each case:  
chief executive
- (2) Regulation 5(1)—delete "appointment as an officer" and substitute:  
employment as a prescribed employee
- (3) Regulation 5(1)(b) and (c)—delete "appointed" and substitute:  
employed
- (4) Regulation 5(2)—delete subregulation (2)
- (5) Regulation 5(3)—delete "The Minister" and substitute:  
TAFE SA

## **8—Variation of regulation 6—Employment and classification**

- (1) Regulation 6(1)—delete subregulation (1) and substitute:
- (1) The chief executive may appoint a prescribed employee to a classification level determined by the chief executive.
- (2) Regulation 6(2)—delete "Minister" and substitute:  
board
- (3) Regulation 6(2), (3) and (4)—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (4) Regulation 6(3) and (4)—delete "Minister" wherever occurring and substitute in each case:  
chief executive
- (5) Regulation 6(4)—delete "officer's" and substitute:  
employee's
- (6) Regulation 6(4)—delete "the officer" and substitute:  
the employee

**9—Variation of regulation 7—Committee to make recommendation on certain applications**

- (1) Regulation 7(1)—delete subregulation (1) and substitute:
  - (1) An application for appointment at a classification level of Educational Manager must be considered by a committee established under this regulation.
- (2) Regulation 7(2)—delete "Minister" and substitute:

chief executive
- (3) Regulation 7(3)(a)—delete "the Department" and substitute:

TAFE SA
- (4) Regulation 7(3)—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

**10—Variation of regulation 9—Re-employment after resignation to contest election**

- (1) Regulation 9(1)—delete "Where" and substitute:

If
- (2) Regulation 9(1)—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee
- (3) Regulation 9(1)(c)—delete "former officer" and substitute:

former prescribed employee
- (4) Regulation 9—delete "reappointment" wherever occurring and substitute in each case:

re-employment
- (5) Regulation 9(1)—delete "Minister" and substitute:

chief executive
- (6) Regulation 9(1)—delete "reappoint" and substitute:

re-employ
- (7) Regulation 9(2)—delete "reappointed" and substitute:

re-employed

**11—Variation of regulation 10—Acting appointments**

- (1) Regulation 10—delete "Where" wherever occurring and substitute in each case:

If
- (2) Regulation 10(1)—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

- (3) Regulation 10(1), (2) and (3)—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (4) Regulation 10(2)—delete "the officer's" and substitute in each case:

the employee's

- (5) Regulation 10(2)—delete "the officer" and substitute:

the employee

## **12—Variation of regulation 11—Application for leave and non-attendance days**

- (1) Regulation 11(1)—delete "an officer" and substitute:

a prescribed employee

- (2) Regulation 11(1) and (2)—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

- (3) Regulation 11(3)—delete subregulation (3) and substitute:

- (3) If it is not practicable for a prescribed employee to apply for leave or non-attendance days, an application may be made on the employee's behalf by another prescribed employee employed at his or her place of work.

## **13—Variation of regulation 12—Recreation leave**

- (1) Regulation 12(1), (4) and (5)—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (2) Regulation 12(1)(b)—delete paragraph (b) and substitute:

- (b) if a determination by the board in relation to recreation leave entitlements is at any time in force—such recreation leave as is specified in that determination.

- (3) Regulation 12(2)—delete "An administrative instruction" and substitute:

A determination

- (4) Regulation 12(2)(a)—delete "officers" and substitute:

prescribed employees

- (5) Regulation 12(2)(b)—delete "that administrative instruction" and substitute:

that determination

- (6) Regulation 12(3)—delete "part-time officer" and substitute:

part-time prescribed employee

- (7) Regulation 12(4)—delete "the officer" and substitute:

the employee

- (8) Regulation 12(4) and (5)—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

#### **14—Variation of regulation 13—Recreation leave loading allowance**

- (1) Regulation 13(1)—delete "An officer" and substitute:

A prescribed employee

- (2) Regulation 13(2), (4) and (5)—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (3) Regulation 13(2), (3) and (4)—delete "college year" wherever occurring and substitute in each case:

TAFE year

- (4) Regulation 13(2), (3) and (5)—delete "the officer" wherever occurring and substitute in each case:

the employee

- (5) Regulation 13(3)—delete "officers" and substitute:

prescribed employees

- (6) Regulation 13(4)—delete "Minister" and substitute:

chief executive

#### **15—Variation of regulation 14—Non-attendance days**

- (1) Regulation 14(1), (2), (5) and (6)—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (2) Regulation 14(1)(b)—delete paragraph (b) and substitute:

(b) if a determination by the board in relation to non-attendance day entitlements is at any time in force—such non-attendance days as are specified in that determination.

- (3) Regulation 14(2)—delete "Minister" and substitute:

board

- (4) Regulation 14(2)—delete "administrative instructions" and substitute:

non-attendance day determinations

- (5) Regulation 14(3)—delete "An administrative instruction" and substitute:

A determination

- (6) Regulation 14(3)(a)—delete "officers" and substitute:

prescribed employees

- (7) Regulation 14(3)(b)—delete "that administrative instruction" and substitute:

that determination

- (8) Regulation 14(4)—delete "part-time officer" and substitute:  
part-time prescribed employee
- (9) Regulation 14(5)—delete "the officer" and substitute:  
the employee
- (10) Regulation 14(6)—delete "Chief Executive Officer" and substitute:  
chief executive

#### **16—Variation of regulation 15—Sick leave**

- (1) Regulation 15(1), (8), (9), (10) and (11)—delete "Chief Executive Officer" wherever occurring and substitute in each case:  
chief executive
- (2) Regulation 15—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (3) Regulation 15(1)—delete "that officer" and substitute:  
that employee
- (4) Regulation 15(2)(a), (3)(a), (7), (10) and (11)—delete "the officer's" wherever occurring and substitute in each case:  
the employee's
- (5) Regulation 15(2) and (3)—delete "appointment" wherever occurring and substitute in each case:  
employment
- (6) Regulation 15(2) and (3)—delete "appointed" wherever occurring and substitute in each case:  
employed
- (7) Regulation 15(2), (3), (5), (7), (8) and (11)—delete "the officer" wherever occurring and substitute in each case:  
the employee
- (8) Regulation 15(5)—delete "Minister" wherever occurring and substitute in each case:  
chief executive
- (9) Regulation 15(5)—delete "where" wherever occurring and substitute in each case:  
if
- (10) Regulation 15(5)(d)—delete "under section 20 of the Act"
- (11) Regulation 15(5)(e)—delete "pursuant to section 17 of the Act"
- (12) Regulation 15(5)(e)—delete "reappointed" and substitute:  
re-employed
- (13) Regulation 15(5)(f)—delete "an officer's" and substitute:  
a prescribed employee's



- (14) Regulation 15(5)(f)—delete "of the Act" and substitute:  
of the *Technical and Further Education Act 1975*
- (15) Regulation 15(7), (9), (10) and (11)—delete "Where" wherever occurring and substitute in each case:  
If

### **17—Variation of regulation 16—Special leave**

- (1) Regulation 16—delete "Chief Executive Officer" wherever occurring and substitute in each case:  
chief executive
- (2) Regulation 16—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (3) Regulation 16(1)—delete "15 college days in any one college year" and substitute:  
15 duty days in any 1 TAFE year
- (4) Regulation 16(2)—delete subregulation (2) and substitute:  
(2) The chief executive may grant to a prescribed employee special leave with pay or with part pay for such period and on such conditions as the chief executive thinks fit.
- (5) Regulation 16(3)—delete "Minister" wherever occurring and substitute in each case:  
chief executive

### **18—Variation of regulation 17—Special leave for infectious diseases**

- (1) Regulation 17(1)—delete subregulation (1) and substitute:  
(1) If a prescribed employee is absent from duty and provides to the chief executive a medical certificate indicating that he or she has an infectious disease, the chief executive must, if satisfied that the infectious disease was probably contracted by the employee while on duty or as a result of the employee's contact with the students or staff of TAFE SA, grant the employee special leave with pay (not debited against sick leave credits) for the period of the employee's absence from duty due to the infectious disease.
- (2) Regulation 17(3)—delete "an officer" and substitute:  
a prescribed employee
- (3) Regulation 17(4)—delete "declared by administrative instructions issued by the Minister" and substitute:  
determined by the board

### **19—Variation of regulation 18—Special leave for war service disabilities**

- (1) Regulation 18(1)—delete "Chief Executive Officer" and substitute:  
chief executive

- (2) Regulation 18—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (3) Regulation 18(1)—delete "that officer" and substitute:  
that employee
- (4) Regulation 18(2)—delete "appointment" wherever occurring and substitute in each case:  
employment
- (5) Regulation 18(2)—delete "the officer" and substitute:  
the employee
- (6) Regulation 18(3)(a)—delete "officer's" and substitute:  
employee's

## **20—Variation of regulation 19—Maternity leave**

- (1) Regulation 19—delete "Chief Executive Officer" wherever occurring and substitute in each case:  
chief executive
- (2) Regulation 19(1)—delete "female officer" and substitute:  
female prescribed employee
- (3) Regulation 19(1)—delete "officer's" and substitute:  
employee's
- (4) Regulation 19(1)—delete "college year" and substitute:  
TAFE year
- (5) Regulation 19(3) and (4)—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (6) Regulation 19(4) and (6)—delete "the officer" wherever occurring and substitute in each case:  
the employee
- (7) Regulation 19(5) and (6)—delete "An officer" wherever occurring and substitute in each case:  
A prescribed employee

## **21—Variation of regulation 20—Determination of long service leave entitlements**

- (1) Regulation 20—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (2) Regulation 20(b)—delete "Minister" and substitute:  
chief executive

- (3) Regulation 20(c)—delete "under section 20 of the Act"
- (4) Regulation 20(c)—delete "the officer" and substitute:  
the employee

**22—Variation of regulation 21—Certain prescribed employees subject to Public Service conditions**

- (1) Regulation 21—delete "Minister" wherever occurring and substitute in each case:  
chief executive
- (2) Regulation 21—delete "an officer" and substitute:  
a prescribed employee
- (3) Regulation 21—delete "Minister's" and substitute:  
chief executive's
- (4) Regulation 21—delete "the officer" wherever occurring and substitute in each case:  
the employee
- (5) Regulation 21—delete "college"

**23—Variation of regulation 22—Failure to resume duty after leave or non-attendance days**

- (1) Regulation 22—delete "An officer" and substitute:  
A prescribed employee
- (2) Regulation 22—delete "for the purposes of section 26 of the Act"

**24—Variation of regulation 23—Continuity of service**

Regulation 23—delete "an officer" and substitute:  
a prescribed employee

**25—Variation of regulation 24—Remuneration for temporary duties not covered by award**

- (1) Regulation 24—delete "an officer" and substitute:  
a prescribed employee
- (2) Regulation 24—delete "Minister" and substitute:  
chief executive

**26—Substitution of regulation 25**

Regulation 25—delete the regulation and substitute:

**25—Commencing salary at higher increment**

If a prescribed employee is employed in a position the salary of which has a number of incremental levels, the chief executive may determine that the commencing salary for the employment is to be at a particular incremental level, despite the fact that the employee does not meet the requirements for payment at that level.

**27—Variation of regulation 26—Increments not payable in certain circumstances**

- (1) Regulation 26—delete "an officer" and substitute:  
a prescribed employee
- (2) Regulation 26(b)—delete paragraph (b) and substitute:
  - (b) retires on or after the day on which he or she reaches the age of 55 years,
- (3) Regulation 26—delete "the officer" wherever occurring and substitute in each case:  
the employee

**28—Variation of regulation 27—Reduction of salary for absence from duty**

- (1) Regulation 27—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee
- (2) Regulation 27(1)—delete "officer's" wherever occurring and substitute in each case:  
employee's
- (3) Regulation 27—delete "the officer" wherever occurring and substitute in each case:  
the employee
- (4) Regulation 27(1)—delete "Chief Executive Officer" and substitute:  
chief executive

**29—Variation of regulation 28—TAFE SA may recover remuneration wrongly paid to prescribed employee**

- (1) Regulation 28—delete "The Minister" and substitute:  
The chief executive
- (2) Regulation 28—delete "an officer" and substitute:  
a prescribed employee
- (3) Regulation 28—delete "the officer to the Crown" and substitute:  
the employee to TAFE SA

**30—Variation of regulation 29—Travelling expenses**

- (1) Regulation 29(1)—delete "An officer" and substitute:  
A prescribed employee
- (2) Regulation 29—delete "Minister" wherever occurring and substitute in each case:  
chief executive
- (3) Regulation 29(2)—delete ", on the recommendation of the Chief Executive Officer,"

**31—Variation of regulation 30—Removal expenses**

- (1) Regulation 30—delete "an officer" wherever occurring and substitute in each case:  
a prescribed employee

- (2) Regulation 30(1), (2), (5) and (8)—delete "college" wherever occurring and substitute in each case:

place of employment with TAFE SA
- (3) Regulation 30—delete "the officer" wherever occurring and substitute in each case:

the employee
- (4) Regulation 30(1), (5) and (8)—delete "officer's" wherever occurring and substitute in each case:

employee's
- (5) Regulation 30—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive
- (6) Regulation 30(3)—delete "appointed" and substitute:

employed
- (7) Regulation 30(3)—delete "appointment" wherever occurring and substitute in each case:

employment
- (8) Regulation 30(4) and (8)—delete "the Department" wherever occurring and substitute in each case:

TAFE SA
- (9) Regulation 30(4)—delete "appointment" wherever occurring and substitute in each case:

employment
- (10) Regulation 30(7)—delete "the Minister may, on the recommendation of the Chief Executive Officer" and substitute:

chief executive may

**32—Variation of regulation 31—Right of review and appeal in respect of administrative acts or decisions**

- (1) Regulation 31—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee
- (2) Regulation 31—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive
- (3) Regulation 31—delete "the Department" and substitute:

TAFE SA
- (4) Regulation 31—delete "the officer" wherever occurring and substitute in each case:

the employee

- (5) Regulation 31(4)—delete "Where" and substitute:

If

- (6) Regulation 31(5)—delete "appointment" and substitute:

initial employment

- (7) Regulation 31(6)—delete "appointment" and substitute:

employment

### **33—Variation of regulation 33—Selection of members to constitute Appeal Board**

- (1) Regulation 33—delete "Where" and substitute:

If

- (2) Regulation 33—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

### **34—Variation of regulation 34—Suspension of further action where appeal is made**

- (1) Regulation 34—delete "Where" and substitute:

If

- (2) Regulation 34—delete "Chief Executive Officer" and substitute:

chief executive

- (3) Regulation 34—delete "officer" and substitute:

employee

### **35—Variation of regulation 35—Suspension of proceedings on commencement of criminal proceedings**

- (1) Regulation 35(1)—delete "Where an officer" and substitute:

If a prescribed employee

- (2) Regulation 35(1)—delete "Chief Executive Officer" and substitute:

chief executive

- (3) Regulation 35(2)—delete "an officer" and substitute:

a prescribed employee

- (4) Regulation 35(2)—delete "under section 27 of the Act" and substitute:

by the chief executive pending the outcome of all proceedings in relation to the employee

### **36—Variation of heading to Part 2 Division 5**

Heading to Part 2 Division 5—delete "officers" and substitute:

prescribed employees

**37—Variation of regulation 36—Prescribed employees to serve where required**

- (1) Regulation 36—delete "An officer" and substitute:

A prescribed employee

- (2) Regulation 36—delete "Minister" and substitute:

chief executive

**38—Substitution of regulation 37**

Regulation 37—delete the regulation and substitute:

**37—Prescribed employees to comply with regulations, determinations**

A prescribed employee must comply with these regulations, and any determination of the board under these regulations, as in force from time to time.

**39—Variation of regulation 38—Outside employment**

- (1) Regulation 38(1)—delete "An officer" and substitute:

A prescribed employee

- (2) Regulation 38(1)—delete "the Department" and substitute:

TAFE SA

- (3) Regulation 38—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (4) Regulation 38—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

- (5) Regulation 38(3)(a)—delete "the officer" and substitute:

the prescribed employee

- (6) Regulation 38(3)—delete "the officer's" wherever occurring and substitute in each case:

the employee's

**40—Variation of regulation 39—Impartiality of instruction**

- (1) Regulation 39—delete "Where" and substitute:

If

- (2) Regulation 39—delete "an officer" and substitute:

a prescribed employee

- (3) Regulation 39—delete "the officer" and substitute:

the employee

**41—Variation of regulation 40—Political intervention to obtain unfair advantage**

- (1) Regulation 40—delete "An officer" and substitute:

A prescribed employee

- (2) Regulation 40—delete "an officer" and substitute:

a prescribed employee

**42—Variation of regulation 41—Prescribed employee not to incur liability on behalf of TAFE SA**

- (1) Regulation 41—delete "an officer" and substitute:

a prescribed employee

- (2) Regulation 41—delete "the Crown" and substitute:

TAFE SA

- (3) Regulation 41—delete "Chief Executive Officer" and substitute:

chief executive

**43—Variation of regulation 42—Notice of resignation**

- (1) Regulation 42—delete "an officer" wherever occurring and substitute in each case:

a prescribed employee

- (2) Regulation 42—delete "Chief Executive Officer" wherever occurring and substitute in each case:

chief executive

- (3) Regulation 42(4)—delete subregulation (4) and substitute:

- (4) If a prescribed employee resigns without complying with this regulation, the chief executive may, by notice in writing, require the employee to pay to TAFE SA—

- (a) in the case of a failure to comply with subregulation (1)—an amount not exceeding 6 weeks' salary of that employee; or  
(b) in the case of a failure to comply with subregulation (2)(b)—an amount not exceeding 2 weeks' salary of that employee.

- (4) Regulation 42(5)—delete "the officer to the Crown" and substitute:

the employee to TAFE SA

**44—Revocation of Part 3**

Part 3—delete the Part

**45—Revocation of Part 4**

Part 4—delete the Part



#### **46—Revocation regulation 62**

Regulation 62—delete the regulation

#### **47—Variation of regulation 63—Compulsory medical examination of prescribed employee**

- (1) Regulation 63—delete "An officer" and substitute:  
A prescribed employee
- (2) Regulation 63—delete "Chief Executive Officer" wherever occurring and substitute in each case:  
chief executive
- (3) Regulation 63(3)—delete "Where" and substitute:  
If
- (4) Regulation 63(3)—delete "an officer" and substitute:  
a prescribed employee
- (5) Regulation 63(3)—delete "the Crown" and substitute:  
TAFE SA
- (6) Regulation 63(3)(b)—delete "the officer" wherever occurring and substitute in each case:  
the employee
- (7) Regulation 63(3)(b)—delete "the officer's" wherever occurring and substitute in each case:  
the employee's

#### **48—Revocation of regulation 64**

Regulation 64—delete the regulation

#### **49—Revocation of regulation 65**

Regulation 65—delete the regulation

#### **50—Substitution of regulation 66**

Regulation 66—delete regulation 66 and substitute:

##### **66—Notice and notification**

A notice or other written notification required or authorised to be given to a person under the Act or these regulations may be given—

- (a) by personal service on the person or the agent of the person;  
and
- (b) in the case of a notice or written notification to an employee—

- (i) by personal delivery to the employee's place of employment with TAFE SA in an envelope addressed to the employee; and
- (ii) by post to the employee at the employee's place of employment with TAFE SA or last known residential address; and
- (c) in the case of a notice or written notification to the Minister or chief executive—by personal delivery, or by post, to the office of the Minister or chief executive;
- (d) in the case of a notice or written notification to TAFE SA—by personal delivery, or by post, to an office of TAFE SA designated by the chief executive for the purposes of this regulation.

### **51—Revocation of regulation 67**

Regulation 67—delete the regulation

### **52—Revocation of regulation 68**

Regulation 68—delete the regulation

### **53—Revocation of regulation 69**

Regulation 69—delete the regulation

#### **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 4 October 2012

No 215 of 2012

MEHES12/011CS