

South Australia

Education and Early Childhood Services (Registration and Standards) (Saving Provisions) Regulations 2017

under the *Education and Early Childhood Services (Registration and Standards) Act 2011*

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1—Short title

These regulations may be cited as the *Education and Early Childhood Services (Registration and Standards) (Saving Provisions) Regulations 2017*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

In these regulations—

Act means the *Education and Early Childhood Services (Registration and Standards) Act 2011*.

4—Saving provisions relating to highest rating level

- (1) Pursuant to section 90(2)(f) of the Act, the following provisions apply in relation to an application made under section 152 of the *Education and Care Services National Law (South Australia)* by an approved provider during the transitional period for an approved education and care service operated by that provider to be assessed for the highest rating level for the education and care service:
 - (a) such an application may only be made if the current overall rating of the service is the second highest rating level (determined in accordance with the *Education and Care Services National Law (South Australia)* as in force on 30 September 2017);
 - (b) such an application is to be determined in accordance with the *Education and Care Services National Law (South Australia)* as in force on 30 September 2017;
 - (c) section 152(5) of the *Education and Care Services National Law (South Australia)* (as enacted by the amending regulations) will be taken not to apply to such an application.

- (2) Pursuant to section 90(2)(f) of the Act, the following provisions apply in relation to a revocation by the Board of the highest rating level of an approved education and care service under section 158 of the *Education and Care Services National Law (South Australia)* during the transitional period:
- (a) the Board must revoke the highest rating level of the education and care service if—
 - (i) the Board determines that the service no longer meets the criteria for the highest rating level (determined in accordance with the *Education and Care Services National Law (South Australia)* as in force on 30 September 2017); or
 - (ii) the Regulatory Authority advises the Board that the overall rating level of the education and care service has been determined to be at a level that is lower than the second highest rating level (determined in accordance with the *Education and Care Services National Law (South Australia)* as in force on 30 September 2017);
 - (b) section 158(b) of the *Education and Care Services National Law (South Australia)* (as enacted by the amending regulations) will be taken not to apply to such a revocation.
- (3) Pursuant to section 90(2)(f), a provision of the *Education and Care Services National Law (South Australia)* affecting, or affected by, the operation of sections 152 and 158 of that law will, during the transitional period, be taken to be modified so as to give effect to subregulations (1) and (2).
- (4) Pursuant to section 90(2)(f) of the Act, Part 15 Division 6 of the *Education and Care Services National Law (South Australia)* (as enacted by the amending regulations) will be taken not to have effect during the transitional period.
- (5) Pursuant to section 90(3) of the Act, the provisions of this regulation will be taken to have taken effect on 1 October 2017.
- (6) In this regulation—
- amending regulations** means the *Education and Early Childhood Services (Registration and Standards) (Amendment of Education and Care Services National Law Text) Regulations 2017*;
- transitional period** means the period—
- (a) commencing on 1 October 2017; and
 - (b) ending on the day on which section 30 of the *Education and Care Services National Law Amendment Act 2017* of Victoria comes into operation.

5—Expiry

These regulations will expire the day after section 30 of the *Education and Care Services National Law Amendment Act 2017* of Victoria comes into operation.

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 Administrator

with the advice and consent of the Executive Council
on 4 October 2017

No 289 of 2017

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