

South Australia

Education Variation Regulations 2017

under the *Education Act 1972*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Education Regulations 2012*

- 4 Substitution of regulation 18
 - 18 Promotional level positions—reviews
 - 5 Variation of regulation 36—Complaint against a Departmental officer
 - 6 Substitution of regulation 37
 - 37 Selection of panel members for particular SAET proceedings
 - 7 Substitution of regulation 38
 - 38 General time limit for commencing proceedings
 - 8 Revocation of regulation 39
 - 9 Substitution of regulation 40
 - 40 Delay of proceedings by Director-General
 - 10 Variation of regulation 41—Criminal offences by teachers
 - 11 Variation of regulation 97—Election of teachers as supplementary panel members for SAET
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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Education Variation Regulations 2017*.

2—Commencement

These regulations will come into operation on the day on which Part 8 of the *Statutes Amendment (South Australian Employment Tribunal) Act 2016* 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 *Education Regulations 2012*

4—Substitution of regulation 18

Regulation 18—delete the regulation and substitute:

18—Promotional level positions—reviews

- (1) An application for a review under section 53 of the Act must be made within 14 days after the officer receives notice of the decision giving rise to the right of review (or such longer period (not exceeding 7 days) as SAET may allow).
- (2) An application must be accompanied by a written submission setting out the grounds on which the application is made.
- (3) SAET will consider the submission furnished under subregulation (2) and may—
 - (a) dismiss the application where, in the opinion of SAET, the submission has not disclosed sufficient grounds for further enquiry; or
 - (b) hear the applicant in person and the Director-General where, in the opinion of SAET, the submission has disclosed sufficient grounds for further enquiry.

5—Variation of regulation 36—Complaint against a Departmental officer

Regulation 36(2)—delete "appeal to the Appeal Board against the determination of the Director-General" and substitute:

apply to SAET under Part 3 Division 1 of the *South Australian Employment Tribunal Act 2014* for a review of the determination of the Director-General

6—Substitution of regulation 37

Regulation 37—delete the regulation and substitute:

37—Selection of panel members for particular SAET proceedings

If the President of SAET determines under section 54(2) of the Act that SAET is to sit with supplementary panel members for the purposes of particular proceedings, the President must not select a person who—

- (a) performed the action or made the decision, determination, recommendation or provisional appointment to which the proceedings relate; or
- (b) is employed in that division or group of the Department of which the applicant in the proceedings is a member.

7—Substitution of regulation 38

Regulation 38—delete the regulation and substitute:

38—General time limit for commencing proceedings

Except where otherwise provided by the Act or these regulations, any application to SAET must be commenced within 14 days after the applicant in the proceedings receives written notice of the act, decision, determination or appointment to which the proceedings relate.

8—Revocation of regulation 39

Regulation 39—delete the regulation

9—Substitution of regulation 40

Regulation 40—delete the regulation and substitute:

40—Delay of proceedings by Director-General

If SAET is hearing review proceedings brought by a teacher on any matter, the Director-General must delay any action against that teacher in respect of that matter until SAET has made a determination in those proceedings.

10—Variation of regulation 41—Criminal offences by teachers

Regulation 41—delete "by the Appeal Board" and substitute:

before SAET

11—Variation of regulation 97—Election of teachers as supplementary panel members for SAET

- (1) Regulation 97(1)—delete subregulation (1) and substitute:
 - (1) Elections must be held in accordance with this regulation whenever there is a vacancy in the membership of a panel of officers of the teaching service under section 54(1)(b) of the Act.
- (2) Regulation 97(2)(b)—delete "vacant offices" and substitute:

vacancies
- (3) Regulation 97(6), definition of *AEU*—delete "(the organisation formerly known as the Institute of Teachers as referred to in section 45 of the Act)"

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 16 May 2017

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