

South Australia

## **Children and Young People (Safety) Variation Regulations 2018**

under the *Children and Young People (Safety) Act 2017*

---

### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Variation provisions

#### **Part 2—Variation of *Children and Young People (Safety) Regulations 2017***

- 4 Variation of regulation 4—Relevant laws
  - 5 Variation of regulation 34—Exemption from requirement to be assessed before employment in residential facility
  - 6 Variation of regulation 42—Confidentiality
  - 7 Insertion of regulation 43
    - 43 Transitional and saving provisions
- 

### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Children and Young People (Safety) Variation Regulations 2018*.

#### **2—Commencement**

These regulations will come into operation on 26 February 2018.

#### **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 *Children and Young People (Safety) Regulations 2017***

#### **4—Variation of regulation 4—Relevant laws**

Regulation 4—delete "is declared" and substitute:  
and the *Children's Protection Act 1993* are declared

---

## **5—Variation of regulation 34—Exemption from requirement to be assessed before employment in residential facility**

- (1) Regulation 34(1)(c)—delete paragraph (c) and substitute:
  - (c) a registered health practitioner in respect of whom a working with children check has been conducted within the preceding 5 years.
- (2) Regulation 34(2)—delete subregulation (2) and substitute:
  - (2) For the purposes of section 110A(2) of the Act, the employment of a person in a residential facility in circumstances where—
    - (a) the person is not an employee of the Department; and
    - (b) a working with children check has been conducted in respect of the person within the preceding 3 years; and
    - (c) the person is not a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*; and
    - (d) the person has not previously been refused employment in a residential facility or children's residential facility (within the meaning of Part 7 of the Act), or had such employment terminated or suspended, on the basis of psychological or psychometric testing of any kind,  
is prescribed.
  - (2a) For the purposes of subregulation (2), a person will be taken not to be an employee of the Department if the person—
    - (a) is, in respect of the services provided by the person at the residential facility—
      - (i) employed by a person or body other than the Department; or
      - (ii) self-employed; or
      - (iii) a volunteer; and
    - (b) is only taken to be employed by the Department by virtue of the operation of section 110A(5) of the Act.
- (3) Regulation 34(3)—delete "Subregulation (2) will expire 12 months after the day on which it commences" and substitute:

Subregulations (2) and (2a) will expire 12 months after the day on which subregulation (2) comes into operation

## **6—Variation of regulation 42—Confidentiality**

Regulation 42—after subregulation (2) insert:

- (3) Pursuant to section 170(3)(c) of the Act, for the purposes of section 164 of the Act, information obtained in the course of the administration, operation or enforcement of the *Children's Protection Act 1993* (including, to avoid doubt, information obtained before the enactment of section 164 of the Act) will be taken to be information obtained in the course of performing functions or exercising powers under the Act (and an authorisation relating to such information under section 58(3)(c) of the *Children's Protection Act 1993* in force immediately before the commencement of this regulation will continue in accordance with its terms and will be taken to be an authorisation to disclose such information under the Act).
- (4) The Chief Executive may, by notice in writing, vary or revoke an authorisation referred to in subregulation (3).

## **7—Insertion of regulation 43**

After regulation 42 insert:

### **43—Transitional and saving provisions**

- (1) Pursuant to section 170(3)(c) of the Act, the Court, the Minister, the Chief Executive and any other person engaged in the administration, operation or enforcement of the *Children's Protection Act 1993* must, in the course of exercising functions and powers under that Act, seek to give effect to the guiding principles and aims set out in Parts 1, 2 and 3 of Chapter 2 of the Act.
- (2) The objects set out in section 3 of the *Children's Protection Act 1993* (as in force immediately before the commencement of Schedule 1 Part 2 of the Act) are to be disregarded in the administration, operation or enforcement of the *Children's Protection Act 1993* after the commencement of this regulation (whether or not conduct relating to a particular matter occurred before or after the commencement of this regulation).
- (3) However, if a provision of Part 1, 2 or 3 of Chapter 2 of the Act is inconsistent with a particular provision of the *Children's Protection Act 1993* that is in force, the provision of the *Children's Protection Act 1993* will prevail to the extent of the inconsistency.

#### **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 13 February 2018

No 45 of 2018

MECD18/009