South Australia

Ageing and Adult Safeguarding Regulations 2019

under the *Ageing and Adult Safeguarding Act 1995*

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Legislative history

1—Short title

These regulations may be cited as the *Ageing and Adult Safeguarding Regulations 2019*.

2—Commencement

These regulations come into operation on the day on which section 6 of the *Office for the Ageing (Adult Safeguarding) Amendment Act 2018* comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Ageing and Adult Safeguarding Act 1995*;

Public Advocate means the person holding or acting in the office of Public Advocate under the *Guardianship and Administration Act 1993*.

4—State authorities

For the purposes of the definition of ***State authority*** in section 2(1) of the Act, the following persons and bodies are declared not to be a State authority for the purposes of the Act:

(a) each court, and each tribunal established under an Act, in the State;

(b) the Legal Services Commission.

5—Preparation of the Charter

For the purposes of section 20(3)(a) of the Act, the Public Advocate is prescribed.

6—Prescribed State authorities—Charter

For the purposes of section 20(6) of the Act, the Office for Ageing Well is prescribed.

7—Prescribed State authorities—Codes of practice

For the purposes of section 21(5) of the Act, the Office for Ageing Well is prescribed.

8—Consent

(1) For the purposes of section 24(4)(a)(v) of the Act, circumstances in which it is, in the opinion of the Adult Safeguarding Unit, necessary or appropriate that action of the relevant kind be taken without first obtaining the consent of the vulnerable adult are declared to be included in the ambit of that paragraph.

(2) Pursuant to section 24(5) of the Act—

(a) consent for the purposes of that section may be obtained orally or in writing;

(b) the obtaining of consent for the purposes of that section must comply with any requirements determined by the Director.

9—Referrals

(1) Pursuant to section 25(5) of the Act, a referral under that section must be by notice in writing (including, to avoid doubt, by electronic means).

(2) Pursuant to section 25(5) of the Act, a State authority, person or body to whom the Director refers a matter, or part of a matter, under that section may refuse the referral on 1 or more of the following grounds:

(a) lack of resources or capacity to accept the referral at the relevant time;

(b) the referral is inappropriate having regard to the services provided by the State authority, person or body;

(c) the Director, after consultation with the State authority, person or body, agrees to the refusal,

however, nothing in this subregulation affects any statutory duty that the State authority, person or body may have in respect of a matter that is the subject of the referral.

(3) Pursuant to section 25(5) of the Act, a State authority, person or body to whom the Director refers a matter, or part of a matter, under that section must, in a manner and form determined by the Director and within the period specified by the Director (not exceeding 5 business days), indicate to the Director whether or not the State authority, person or body will refuse the referral.

(4) Pursuant to section 25(5) of the Act, if the Director refers a matter, or part of a matter, to a State authority other than the Adult Safeguarding Unit under section 25 of the Act, the State authority must, if the Director so requires, provide a report in relation to the matter to the Director.

(5) Pursuant to section 25(5) of the Act, a report under subregulation (4) must be made in a manner and form, and within the period, determined by the Director.

(6) Pursuant to section 25(5) of the Act, the Director may, if the Director considers it appropriate to do so, exempt a specified person or body, or a specified class of persons or bodies, from a requirement to provide a report in relation to a specified matter under section 25(4) of the Act.

10—Sharing of information

(1) For the purposes of section 43(1)(c) of the Act, the following persons and bodies are declared to be included in the ambit of that subsection:

(a) the South Australian Civil and Administrative Tribunal;

(b) a person or body to whom a matter, or part of a matter, is referred under section 25 of the Act.

(2) For the purposes of section 43(2) of the Act, a recipient who is a person or body referred to in subregulation (1)(b) may only provide, or be provided with, information or documents under that section in relation to the extent that the information or documents relate to a matter, or part of a matter, referred to the recipient under section 25 of the Act.

(3) For the purposes of section 43(2) of the Act, a provider must comply with the following requirements:

(a) the provider must confirm the identity of the recipient to whom prescribed information is to be provided;

(b) the provider must be satisfied that the recipient is, in fact, a person or body to whom section 43 of the Act applies;

(c) the provider must take reasonable steps to ensure that the prescribed information is not provided to any other person or body (being a person or body who is not a person or body to whom section 43 of the Act applies).

(4) For the purposes of section 43(6)(c) of the Act, the following information and documents are prescribed:

(a) information or documents relating to an order or orders made by the South Australian Civil and Administrative Tribunal in respect of a vulnerable adult or class of vulnerable adults;

(b) information or documents that may reduce a risk to the health or safety of a person or body performing official functions in relation to a vulnerable adult or class of vulnerable adults.

11—Confidentiality

Pursuant to section 49(4) of the Act, information obtained in the course of the administration of the Act may be disclosed by a person in accordance with the written authorisation of the Director.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2019	159	*Gazette 20.6.2019 p2209*	1.10.2019: r 2