

South Australia

Children and Young People (Oversight and Advocacy Bodies) Regulations 2017

under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*

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Legislative history

1—Short title

These regulations may be cited as the *Children and Young People (Oversight and Advocacy Bodies) Regulations 2017*.

3—Interpretation

In these regulations—

Act means the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

4—State authorities

For the purposes of paragraph (f) of the definition of *State authority* in section 3(1) of the Act, a person or body who, pursuant to a contract for services or other agreement, provides services to children and young people and their families for, or on behalf of, a State authority is declared to be a State authority.

5—Exemption

Pursuant to section 71 of the Act, a person or body declared to be a State authority under regulation 4 is exempt from the operation of section 58(1) of the Act.

6—Scheme for recruitment of Commissioner for Children and Young People

- (1) For the purposes of section 8(3) of the Act, the scheme for the recruitment of each Commissioner for Children and Young People is as follows:
 - (a) the Minister must make arrangements for the involvement of children and young people in the recruitment and selection process (including, to avoid doubt, by allocating sufficient resources for that purpose);
 - (b) the Minister must appoint a selection panel of up to 5 persons (of whom 2 must be young people) to propose the appointment of an applicant to the position of CCYP;
 - (c) the interview process for the position of CCYP must include (but need not be limited to) an exercise designed to assess the applicant's ability to engage, communicate and interact with children and young people, conducted in accordance with any requirements determined by the Minister;
 - (d) the selection panel may propose to the Minister that a specified applicant be appointed as the CCYP (and the Minister must refer that applicant to the Statutory Officers Committee in accordance with section 8 of the Act);
 - (e) the Minister may consult or cooperate with, or be assisted by, such persons and bodies as the Minister thinks fit in relation to the recruitment and selection process;
 - (f) subject to these regulations, and to any direction of the Minister, the selection panel may determine its own procedures;
 - (g) without limiting a preceding paragraph, the Minister may take such other actions in relation to, or impose such other requirements on, the recruitment and selection process for a CCYP as the Minister thinks fit.
- (2) A failure to comply with a requirement under this regulation does not, of itself, affect the validity of an appointment of a CCYP.

7—Prescribed functions and powers (section 10 of Act)

For the purposes of section 10(1) of the Act, the following functions and powers are prescribed:

- (a) the conduct of an inquiry under section 15 of the Act;
- (b) a power under section 16(1) of the Act;
- (c) the making of recommendations under section 17 of the Act.

8—Information required in report under section 17(5) of Act

For the purposes of section 17(5)(d) of the Act, such information as may be provided to the Minister by a State authority to whom the CCYP's report relates (being information the State authority wishes to be made available to the Parliament in reply to the views expressed or recommendations made in the CCYP's report) is required.

9—Information required in report under section 18(3) of Act

For the purposes of section 18(3)(b)(iv) of the Act, such information as may be provided to the Minister by a State authority to whom the relevant inquiry under section 15 of the Act relates (being information the State authority wishes to be made available to the Parliament in reply to the views expressed or recommendations made in the CCYP's report on the inquiry) is required.

9AA—Scheme for recruitment of Commissioner for Aboriginal Children and Young People

- (1) For the purposes of section 20B(4) of the Act, the scheme for the recruitment of each Commissioner for Aboriginal Children and Young People is as follows:
 - (a) the Minister must make arrangements for the involvement of Aboriginal children and young people in the recruitment and selection process (including, to avoid doubt, by allocating sufficient resources for that purpose);
 - (b) the Minister must appoint a selection panel of up to 5 persons to propose the appointment of an applicant to the position of CACYP which must include—
 - (i) 2 Aboriginal young people; and
 - (ii) an Aboriginal community representative; and
 - (iii) a senior Aboriginal public sector employee;
 - (c) the interview process for the position of CACYP must include (but need not be limited to) an exercise designed to assess the applicant's ability to engage, communicate and interact with Aboriginal children and young people, conducted in accordance with any requirements determined by the Minister;
 - (d) the selection panel may propose to the Minister that a specified applicant be appointed as the CACYP (and the Minister must refer that applicant to the Statutory Officers Committee in accordance with section 20B of the Act);
 - (e) the Minister may consult or cooperate with, or be assisted by, such persons and bodies as the Minister thinks fit in relation to the recruitment and selection process;
 - (f) subject to these regulations, and to any direction of the Minister, the selection panel may determine its own procedures;
 - (g) without limiting a preceding paragraph, the Minister may take such other actions in relation to, or impose such other requirements on, the recruitment and selection process for a CACYP as the Minister thinks fit.
- (2) A failure to comply with a requirement under this regulation does not, of itself, affect the validity of an appointment of a CACYP.

9A—Prescribed functions and powers (section 20D of Act)

For the purposes of section 20D(1) of the Act, the following functions and powers are prescribed:

- (a) the conduct of an inquiry under section 20M of the Act;
- (b) a power under section 20N(1) of the Act;

- (c) the making of recommendations under section 20O of the Act.

9B—Information required in report under section 20O(5) of Act

For the purposes of section 20O(5)(d) of the Act, such information as may be provided to the Minister by a State authority to whom the CACYP's report relates (being information the State authority wishes to be made available to the Parliament in reply to the views expressed or recommendations made in the CACYP's report) is required.

9C—Information required in report under section 20P(3) of Act

For the purposes of section 20P(3)(b)(iv) of the Act, such information as may be provided to the Minister by a State authority to whom the relevant inquiry under section 20M of the Act relates (being information the State authority wishes to be made available to the Parliament in reply to the views expressed or recommendations made in the CACYP's report on the inquiry) is required.

9D—Requirements for consultation under section 37(4) of Act

For the purposes of section 37(4) of the Act, consultation under that subsection must comply with the following requirements:

- (a) in the case of consultation with the State Coroner—the Committee must provide the State Coroner with written notice of the proposed review setting out—
- (i) the fact that the Committee intends to review a specified case of child death or serious injury that is the subject of an ongoing inquest or inquiry under the *Coroners Act 2003*; and
 - (ii) the proposed terms of reference of the review; and
 - (iii) the date on which the review is to commence (being not less than 14 days after the day on which the written notice is given to the State Coroner); and
 - (iv) any information of which the Committee is aware and that would, in the opinion of the Committee, assist the State Coroner to determine whether a direction should be given under section 37(5) of the Act (and, if so, the terms of such a direction);
- (b) in the case of consultation with the Commissioner of Police—the Committee must provide the Commissioner of Police with written notice of the proposed review setting out—
- (i) the fact that the Committee intends to review a specified case of child death or serious injury that is the subject of an ongoing criminal investigation; and
 - (ii) the proposed terms of reference of the review; and
 - (iii) the date on which the review is to commence (being not less than 14 days after the day on which the written notice is given to the Commissioner of Police); and

- (iv) any other information of which the Committee is aware and that would, in the opinion of the Committee, assist the Commissioner of Police to determine whether a direction should be given under section 37(5) of the Act (and, if so, the terms of such a direction).

10—Inspection of database maintained by Child Death and Serious Injury Review Committee

For the purposes of section 37(8) of the Act, the database maintained by the Committee may only be inspected by the following persons:

- (a) the Commissioner of Police or a person authorised by the Commissioner of Police;
- (b) the State Coroner or a person authorised by the State Coroner;
- (c) the Ombudsman or a person authorised by the Ombudsman;
- (d) a member of the Committee;
- (e) the Commissioner for Children and Young People;
- (ea) the Commissioner for Aboriginal Children and Young People;
- (f) the Health and Community Services Complaints Commissioner;
- (g) a person authorised by the Committee or the Minister.

11—Reporting cases to Child Death and Serious Injury Review Committee

The Committee may enter into arrangements with State authorities under which information about child deaths and serious injuries will be passed on to the Committee.

12—Outcomes Framework for Children and Young People

- (1) For the purposes of section 57(4)(b)(ii) of the Act, the following persons and bodies are prescribed:
 - (a) the Minister to whom the administration of the *Children and Young People (Safety) Act 2017* is committed;
 - (b) the Department (within the meaning of the *Children and Young People (Safety) Act 2017*);
 - (c) the Minister to whom the administration of the *Education and Children's Services Act 2019* is committed;
 - (d) the administrative unit of the Public Service assisting a Minister with the administration of the *Education and Children's Services Act 2019*;
 - (e) the Minister to whom the administration of the *Health Care Act 2008* is committed;
 - (f) the administrative unit of the Public Service assisting a Minister with the administration of the *Health Care Act 2008*;
 - (g) the Guardian for Children and Young People.

- (2) Pursuant to section 57(5) of the Act, the Outcomes Framework must contain provisions of the following kinds:
- (a) provisions designed to provide a common basis across the whole of government for creating strategies, setting objectives or developing or implementing policies related to or affecting children and young people;
 - (b) provisions addressing the needs of children and young people in each of the following areas:
 - (i) health;
 - (ii) safety;
 - (iii) wellbeing;
 - (iv) education;
 - (v) preparedness for adulthood;
 - (c) provisions requiring cooperation and, where appropriate, collaboration between State authorities and other persons or bodies performing functions and duties that relate to or affect children and young people;
 - (d) provisions designed to improve outcomes for Aboriginal and Torres Strait Islander children and young people in each of the areas referred to in paragraph (b), as well as any other areas particularly affecting Aboriginal and Torres Strait Islander children and young people;
 - (e) provisions designed to enable outcomes for children and young people in the State to be measured and reported on (including provisions requiring the collection of specified data relating to performance indicators referred to in section 57(4)(e) of the Act),
- and may contain such other provisions as the Council or Minister thinks fit.
- (3) Pursuant to section 57(5) of the Act, the Council must (in addition to the consultation required under section 57(4)(b) of the Act) undertake additional consultation in respect of the preparation of the Outcomes Framework as follows:
- (a) consultation with such persons or bodies as may be specified by the Minister;
 - (b) such other consultation (including, without limiting the generality of this paragraph, community consultation) as may be required by the Minister.
- (4) Pursuant to section 57(5) of the Act, the Child Development Council may, with the approval of the Minister, vary or substitute the Outcomes Framework.
- (5) Subject to this regulation, in preparing a variation or substitution of the Outcomes Framework, the Council must undertake the following consultation:
- (a) in the case of a variation determined by the Minister to be a minor variation—
 - (i) consultation with the CCYP and the CACYP; and
 - (ii) such other consultation as may be required by the Minister;
 - (b) in any other case—the consultation required by section 57(4)(b) of the Act and subregulation (3) in the preparation of the Outcomes Framework.
- (6) Pursuant to section 57(5) of the Act, the Child Development Council must review the Outcomes Framework at least once in each 3 year period.

13—Information to be set out in Minister's report to Parliament

For the purposes of section 60(4) of the Act, such information as may be in the possession of the Minister setting out any response or views of the State authority in respect of the State authority's non-compliance that the State authority wishes to make known to Parliament.

14—Requirements for sharing of information

For the purposes of section 62(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 62 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 62 of the Act applies).

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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 and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	320	<i>Gazette 5.12.2017 p4859</i>	5.12.2017: r 2
2021	159	<i>Gazette 21.10.2021 p3791</i>	21.10.2021: r 2
2021	171	<i>Gazette 18.11.2021 p4040</i>	18.11.2021: r 2
2025	37	<i>Gazette 5.6.2025 p1390</i>	5.6.2025: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>21.10.2021</i>
r 6		
r 6(1)	varied by 159/2021 r 4(1)—(4)	21.10.2021
r 6(2)	varied by 159/2021 r 4(5)	21.10.2021
r 7	varied by 159/2021 r 5	21.10.2021
r 8	varied by 159/2021 r 6	21.10.2021
r 9	varied by 159/2021 r 7	21.10.2021
r 9AA	inserted by 171/2021 r 4	18.11.2021
r 9A	inserted by 159/2021 r 8	21.10.2021
rr 9B and 9C	inserted by 171/2021 r 5	18.11.2021
r 9D	inserted by 37/2025 r 3	5.6.2025
r 10	varied by 171/2021 r 6	18.11.2021
r 12		
r 12(1)	varied by 159/2021 r 9(1), (2)	21.10.2021
r 12(5)	varied by 159/2021 r 9(3)	21.10.2021
	varied by 171/2021 r 7	18.11.2021

Historical versions

21.10.2021

18.11.2021