

South Australia

Education and Early Childhood Services (Registration and Standards) Regulations 2025

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

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Education and Early Childhood Services (Registration and Standards) Regulations 2025*.

2—Commencement

These regulations come into operation on 1 December 2025.

3—Interpretation

- (1) In these regulations—

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

Schedule 1 early childhood service—see regulation 12(1).

- (2) In these regulations, a reference to the granting of an approval or certificate includes a reference to an approval or certificate taken to be granted by the operation of the Act or the *Education and Care Services National Law (South Australia)*.

Part 2—Regulations relating to administration

4—Power of delegation—Minister

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

- (a) section 19;
- (b) section 22;
- (c) section 24;
- (d) section 62.

5—Prescribed childcare bodies

For the purposes of section 22(2)(e) of the Act, the following childcare bodies are prescribed:

- (a) Australian Childcare Alliance South Australia Incorporated;
- (b) Community Children's Centres SA Incorporated;
- (c) Family Day Care Educators Association of South Australia Incorporated;
- (d) Out of School Hours Care Association Incorporated.

6—Prescribed designated entities

For the purposes of section 22(4)(b) of the Act, the following designated entities are prescribed:

- (a) Association of Independent Schools of South Australia;
- (b) Association of Principals of Catholic Secondary Schools;
- (c) Australian Childcare Alliance South Australia Incorporated;
- (d) Australian Children's Education and Care Quality Authority;
- (e) Australian Community Children's Services (SA) Incorporated;
- (f) Australian Education Union (SA Branch);
- (g) Catholic School Parents South Australia;
- (h) Child Development Council;
- (i) Community Children's Centres SA Incorporated;

- (j) Early Childhood Australia South Australia Committee;
- (k) Family Day Care Educators Association of South Australia Incorporated;
- (l) Flinders University;
- (m) Independent Education Union (South Australia) Incorporated;
- (n) The Isolated Children's Parents' Association of South Australia Incorporated;
- (o) the Minister to whom the administration of the *Carers Recognition Act 2005* is committed;
- (p) the Minister to whom the administration of the *Health Care Act 2008* is committed;
- (q) the Minister to whom the administration of the *South Australian Skills Act 2008* is committed;
- (r) Multicultural Education and Languages Committee;
- (s) Office of the Guardian for Children and Young People;
- (t) Out of School Hours Care Association Incorporated;
- (u) Pitjantjatjara Yankunytjatjara Education Committee;
- (v) Preschool Directors Association of South Australia Incorporated;
- (w) Public Service Association of South Australia Incorporated;
- (x) SACE Board of South Australia;
- (y) Small Schools Association of South Australia (SSASA) Incorporated;
- (z) South Australian Area Schools Leaders Association Incorporated;
- (za) South Australian Association of School Parent Communities Incorporated;
- (zb) South Australian Association of State School Organisations Incorporated;
- (zc) South Australian Catholic Primary Principals Association;
- (zd) South Australian Commission for Catholic Schools Incorporated;
- (ze) South Australian Employers' Chamber of Commerce and Industry Incorporated (*South Australian Business Chamber*);
- (zf) The South Australian Primary Principals Association Incorporated;
- (zg) South Australian Secondary Principals Association Incorporated;
- (zh) South Australian Special Education Principals and Leaders Association;
- (zi) Teachers Registration Board of South Australia;
- (zj) United Workers Union (SA Branch);
- (zk) The University of Adelaide;
- (zl) University of South Australia.

7—Prescribed offences

For the purposes of section 23(4)(d) of the Act, the following offences are prescribed:

- (a) an offence of a sexual nature committed against, or in relation to, a minor;

- (b) an offence of dishonesty under the Act.

8—Prescribed peak bodies

For the purposes of section 29(2)(b) of the Act, the following peak bodies are prescribed:

- (a) Association of Independent Schools of South Australia;
- (b) South Australian Commission for Catholic Schools Incorporated.

9—Power of delegation—Board

For the purposes of section 32(1) of the Act, the functions and powers under the following provisions of the Act are prescribed:

- (a) section 29(1)(a), (b) and (d);
- (b) section 30(2).

10—Annual report

For the purposes of section 40(2)(a), the annual report of the Board must contain the following information:

- (a) a report on consultation undertaken for the purposes of the Act during the relevant year and an assessment of the extent to which this has assisted the Board in the performance of its functions;
- (b) any information required to be included in the annual report under the *Education and Care Services National Law (South Australia)*;
- (c) any other information that the Minister may reasonably require to be included in the annual report.

Part 3—Regulations relating to residual early childhood services

Division 1—Exemptions

11—Exemptions

- (1) The Board may, by notice in writing—
 - (a) exempt a person, or class of persons, subject to such conditions as the Board thinks fit and specifies in the notice, from specified provisions of the *Education and Care Services National Law (South Australia)* as they apply to, or in relation to, residual early childhood services; or
 - (b) vary or revoke an exemption, or a condition of an exemption, under this regulation or impose a further condition.
- (2) A person who contravenes a condition of an exemption is guilty of an offence.
Maximum penalty: \$10 000.

Division 2—General provisions

12—Early childhood services

- (1) For the purposes of section 4(1)(e) of the Act, a service of a kind provided by an entity specified in Schedule 1 (a *Schedule 1 early childhood service*) is of a kind declared to be included in the ambit of the definition of *early childhood services* in section 4(1) of the Act.
- (2) For the purposes of the definition of *in-home care services* in section 4 of the Act, services (not being services that are an education and care service within the meaning of the *Education and Care Services National Law (South Australia)*) of the following kinds are in-home care services:
 - (a) a service comprising the provision of care to children in their own homes in the temporary absence of the children's parents or guardians;
 - (b) a service comprising the introduction of parents or guardians of children to a person who will care for the children in their own homes in the temporary absence of the children's parents or guardians,
other than a service comprising—
 - (c) a personal arrangement (within the meaning of the *Education and Care Services National Law (South Australia)*); or
 - (d) a person engaged by a parent or guardian of a child to babysit the child in the child's home; or
 - (e) a babysitting, playgroup or child minding service that is organised informally by the parents of the children concerned; or
 - (f) care provided to a child by a person in accordance with a parenting order under the *Family Law Act 1975* of the Commonwealth or the *Family Court Act 1997* of Western Australia; or
 - (g) care provided to a child in accordance with a placement under section 77 or 84 of the *Children and Young People (Safety) Act 2017*.
- (3) For the purposes of the definition of *occasional care services* in section 4 of the Act, a service (not being services that are an education and care service within the meaning of the *Education and Care Services National Law (South Australia)*) comprising the care for fee or reward in a place other than a child's home of 4 or more children of preschool age or younger is an occasional care service (however, such a service will be taken not to be an occasional care service if a parent or guardian of the children remains on site and is available to care for their child if required).
- (4) For the purposes of the definition of *rural and mobile care services* in section 4 of the Act, services (not being a service that is an education and care service within the meaning of the *Education and Care Services National Law (South Australia)*) of the following kinds are rural and mobile care services:
 - (a) a service comprising the care, in a community venue in a rural community, of not more than 7 children at a particular time, of whom—
 - (i) not more than 4 are children under school age; and

- (ii) not more than 3 are school age children;
 - (b) a service providing care to children of preschool age or under at multiple locations and that transports its equipment and materials to those locations.
- (5) In this regulation—
- metropolitan Adelaide*** means Metropolitan Adelaide as defined by General Registry Office Plan 639/93;
- rural community*** means a community located outside of metropolitan Adelaide.

13—Prescribed documents

- (1) For the purposes of Schedule 2 clause 3(1)(h) of the Act, the documents that an approved provider must keep are such documents as may be specified by the Board from time to time.

Note—

Schedule 2 clause 3(1)(h) of the Act modifies section 175(1) of the *Education and Care Services National Law (South Australia)* as it applies to residual early childhood services.

Regulation 29(3) provides that the record keeping requirements under Chapter 4 of the national regulations, as it applies to residual early childhood services, do not apply to residual early childhood services.

- (2) An approved provider must keep a record referred to in subregulation (1)—
- (a) for a period of not less than 3 years (or such longer period as may be specified by the Board); and
 - (b) in a place, and in a manner, that complies with any requirements determined by the Board for the purposes of this subregulation.

14—Prescribed class of persons etc taken to be approved providers

For the purposes of Schedule 3 clause 29(g) of the Act, a person or body who, immediately before the commencement of this regulation, operated a Schedule 1 early childhood service is declared to be included in the ambit of clause 29.

15—Service approvals

For the purposes of Schedule 3 clause 30(1)(e) of the Act, the following services are declared to be included in the ambit of clause 30:

- (a) a family day care service provided under the *Children's Services Act 1985* immediately before the commencement of that clause (other than a family day care service that is an education and care service within the meaning of the *Education and Care Services National Law (South Australia)*);
- (b) a Schedule 1 early childhood service.

Division 3—Regulations applying to residual early childhood services in place of national regulations

Subdivision 1—Preliminary

16—Interpretation

- (1) In this Division, a term or phrase that is defined in the *Education and Care Services National Law (South Australia)* or the national regulations has the same meaning as in that Law or those regulations (as the case requires).
- (2) In this Division, a reference to the *Education and Care Services National Law (South Australia)* will be taken to be a reference to that Law as it applies to residual early childhood services.

17—Certain requirements under *Education and Care Services National Law (South Australia)* to be determined by Board

If the *Education and Care Services National Law (South Australia)* requires a matter to be prescribed by, or determined in accordance with, the national regulations, and the matter is not the subject of a regulation under this Division, then the Board may prescribe or determine the matter according to its discretion (including, to avoid doubt, by not requiring compliance with the provision).

Subdivision 2—Provider approvals

18—Applications for provider approvals etc

- (1) The prescribed information in respect of an application under the *Education and Care Services National Law (South Australia)* for—
 - (a) a provider approval; or
 - (b) an amendment of a provider approval; or
 - (c) voluntary suspension of a provider approval; or
 - (d) a provider approval made under section 39(5) of the *Education and Care Services National Law (South Australia)*; or
 - (e) a provider approval made under section 40 of the *Education and Care Services National Law (South Australia)*,

is such information as may be determined by the Board from time to time.

- (2) An application must be accompanied by the appropriate fee as set out in Schedule 2.
- (3) In determining the information required in relation to an application, the Board should have regard to the requirements (if any) for similar applications under the *Education and Care Services National Law (South Australia)* and the national regulations as applying to education and care services.

19—Maximum period of suspension of provider approval

The prescribed maximum period of suspension of a provider approval under section 27(b)(i) or 33(1)(a)(ii) of the *Education and Care Services National Law (South Australia)* is 12 months.

Subdivision 3—Service approvals

20—Applications for service approvals etc

- (1) The prescribed information in respect of an application under the *Education and Care Services National Law (South Australia)* for—
 - (a) a service approval; or
 - (b) an amendment of a service approval; or
 - (c) voluntary suspension of a service approval,is such information as may be determined by the Board from time to time.
- (2) An application must be accompanied by the appropriate fee as set out in Schedule 2.
- (3) In determining the information required in relation to an application, the Board should have regard to the requirements (if any) for similar applications under the *Education and Care Services National Law (South Australia)* and the national regulations as applying to education and care services.

21—Additional grounds for refusal to grant service approval

The Board may refuse to grant a service approval on the following grounds:

- (a) the Board is not satisfied that the applicant is capable of operating the proposed service in a way that meets the requirements of the *Education and Care Services National Law (South Australia)* or these regulations;
- (b) in the case of a centre-based service—the Board is not satisfied that the applicant is entitled to occupy the premises proposed as the place at which the service will operate.

22—Condition on service approval—insurance

A service approval is granted subject to a condition that the approved provider must hold the following insurance in respect of the residual early childhood service:

- (a) a current policy of insurance providing adequate cover for the residual early childhood service against public liability with a minimum cover of \$10 000 000;
- (b) a policy of insurance or an indemnity against public liability provided by the Government in respect of the residual early childhood service.

23—Condition on service approval—entitlement to occupy premises

A service approval for a centre-based service is granted subject to the condition that the service continues to be entitled to occupy the premises at which the residual early childhood service operates.

24—Condition on service approval—educator to child ratios

- (1) A service approval for a residual early childhood service is granted subject to the condition that the approved provider must comply with any requirements regarding the minimum number of educators required to educate and care for children at the residual early childhood service when children are being educated and cared for by the service as may be determined by the Board from time to time.
- (2) To avoid doubt, and without limitation, a determination of the Board may differ according to a specified class of residual early childhood service and the ages of the children being educated and cared for by the service.

25—Condition on service approval—educator qualifications

- (1) A service approval for a residual early childhood service is granted subject to the condition that the approved provider must ensure that each educator educating and caring for children at the residual early childhood service meets any qualification requirements for educators as may be determined by the Board from time to time.
- (2) To avoid doubt, and without limitation, a determination of the Board may differ according to a specified class of residual early childhood service, the role of the educator and the ages of the children being educated and cared for by the educator.

26—Condition on service approval—in-home care services and family day care services

A service approval for a residual early childhood service that is an in-home care service or a family day care service is granted subject to a condition that the approved provider must comply with any standards or requirements determined by the Board from time to time in relation to the operation of such services.

27—Prescribed information—notifications

- (1) The prescribed information for notices under the following sections of the *Education and Care Services National Law (South Australia)* is such information as may be determined by the Board from time to time:
 - (a) section 56;
Note—
Section 56 relates to a change of nominated supervisor.
 - (b) section 59.
Note—
Section 59 relates to the transfer of a service approval for a centre-based service.
- (2) In determining the information required in relation to a notice, the Board should have regard to the requirements (if any) for similar notices under the *Education and Care Services National Law (South Australia)* and the national regulations as applying to education and care services.

28—Maximum period of suspension of service approval

The prescribed maximum period of suspension of a service approval under sections 72(b)(i) and 79(1)(a)(ii) of the *Education and Care Services National Law (South Australia)* is 12 months.

Subdivision 4—Operational requirements

29—Certain parts of national regulations to apply to residual early childhood services

- (1) Subject to this regulation and to any modification of the national regulations made by or under the Act, Chapter 4 of the national regulations applies to residual early childhood services as if they were education and care services within the meaning of the *Education and Care Services National Law (South Australia)*.
- (2) Chapter 4 of the national regulations (as it applies pursuant to subregulation (1)) does not apply to, or in relation to, a residual early childhood service that is an in-home care service or a family day care service.

Note—

Regulation 26 permits the Board to set operational requirements for in-home care services or family day care services by way of conditions imposed on their service approval.

- (3) A provision of Chapter 4 of the national regulations that imposes a requirement in relation to the keeping or making of records does not apply to, or in relation to, a residual early childhood service.

Note—

Regulation 13 sets out what records must be made by approved providers and how they must be kept.

Other provisions of Chapter 4 of the national regulations may not apply to, or in relation to, residual early childhood services. For example, regulations that are made for the purposes of provisions of the *Education and Care Services National Law (South Australia)* that do not apply to, or in relation to, residual early childhood services under the Act (see Schedule 2 of the Act).

Division 4—Standards

30—Standards applying to residual early childhood services

- (1) For the purposes of Schedule 2 clause 3(2) of the Act, the standards approved or adopted by the Board from time to time for the purposes of that subclause are prescribed.
- (2) To avoid doubt, a particular standard may apply to all residual early childhood services or a specified class of residual early childhood services.

Part 4—Regulations relating to schools

31—Education services—exclusions

For the purposes of the definition of *education services* in section 3(1) of the Act, the following services are declared not to be included in the ambit of that definition:

- (a) lessons or coaching in, or providing for participation in, a linguistic, cultural, recreational, religious or sporting activity;
- (b) private tutoring.

32—Full fee paying overseas students—exclusions

For the purposes of section 3(3) of the Act, the following students or classes of students are, in respect of the specified activities, declared not to be full fee paying overseas students:

- (a) a student or class of students referred to in section 3(3)(a) of the Act receiving lessons or coaching in, or providing for participation in, a linguistic, cultural, recreational, religious or sporting activity;
- (b) a student or class of students referred to in section 3(3)(a) of the Act receiving private tutoring;
- (c) a student or class of students taking part in a student exchange program organised by a registered school.

33—Requirements for registration on schools register

- (1) For the purposes of section 43(1)(c) of the Act, it is a requirement that the school must comply, or be able to comply, with the standards for registration and review of registration of schools in South Australia.
- (2) In this regulation—

standards for registration and review of registration of schools in South Australia means the standards for registration and review of registration of schools in South Australia published by the Board after consultation with the members of the Board appointed under section 22(2)(b), (c) and (d) of the Act, as in force from time to time.

34—Prescribed bodies

For the purposes of section 43(3) of the Act, the following bodies are prescribed:

- (a) Association of Independent Schools of South Australia;
- (b) Association of Principals of Catholic Secondary Schools;
- (c) Australian Education Union (SA Branch);
- (d) Catholic School Parents South Australia;
- (e) Independent Education Union (South Australia) Incorporated;
- (f) The Isolated Children's Parents' Association of South Australia Incorporated;
- (g) Multicultural Education and Languages Committee;
- (h) Pitjantjatjara Yankunytjatjara Education Committee;

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- (i) SACE Board of South Australia;
 - (j) Small Schools Association of South Australia (SSASA) Incorporated;
 - (k) South Australian Area Schools Leaders Association Incorporated;
 - (l) South Australian Association of School Parent Communities Incorporated;
 - (m) South Australian Association of State School Organisations Incorporated;
 - (n) South Australian Catholic Primary Principals Association;
 - (o) South Australian Commission for Catholic Schools Incorporated;
 - (p) The South Australian Primary Principals Association Incorporated;
 - (q) South Australian Secondary Principals Association Incorporated;
 - (r) South Australian Special Education Principals and Leaders Association;
 - (s) Teachers Registration Board of South Australia;
 - (t) United Workers Union (SA Branch).

35—Certificates of registration

For the purposes of section 45 of the Act, a certificate of registration must be in a form approved by the Board.

36—Requirements for endorsement of registration with approval to enrol full fee paying overseas students

For the purposes of section 49(1) of the Act, the following requirements must be satisfied:

- (a) if the endorsement relates to overseas students within the meaning of the *Education Services for Overseas Students Act 2000* of the Commonwealth—the registered school—
 - (i) must comply, or be able to comply, with—
 - (A) any standard or code of practice prepared or adopted for the purposes of this paragraph by the Board, as in force from time to time; or
 - (B) if no such standard or code of practice has been prepared or adopted—the standards for registered providers contained in the National Code of Practice for Providers of Education and Training to Overseas Students under that Act, as in force from time to time; and
 - (ii) must be registered on the Commonwealth Register of Institutions and Courses for Overseas Students under that Act;
- (b) if the endorsement relates to students other than overseas students within the meaning of the *Education Services for Overseas Students Act 2000* of the Commonwealth—the registered school must comply, or be able to comply, with any standard or code of practice prepared or adopted for the purposes of this paragraph by the Board, as in force from time to time;

- (c) in any case—the registered school must comply, or be able to comply, with any other requirement determined by the Board for the purposes of this paragraph.

37—Requirements for reviews of registration

- (1) For the purposes of section 54(1) of the Act, a review of the registration of a registered school must satisfy the following requirements:
 - (a) the review must be undertaken in accordance with the standards for registration and review of registration of schools in South Australia;
 - (b) a review must be undertaken at least once in each 5 year period in accordance with the following provisions:
 - (i) if the registered school was first registered after the commencement of this regulation, the first review must be undertaken not later than 5 years after the date of registration;
 - (ii) if the registration of the registered school has not been reviewed in the 5 years immediately preceding the commencement of this regulation, the first review following the commencement of this regulation must be undertaken not later than 5 years after the date of registration;
 - (iii) subsequent reviews must be undertaken not later than 5 years after a preceding review (including a preceding review undertaken before the commencement of this regulation).
- (2) In this regulation—

standards for registration and review of registration of schools in South Australia means the standards for registration and review of registration of schools in South Australia published by the Board after consultation with the members of the Board appointed under section 22(2)(b), (c) and (d) of the Act, as in force from time to time.

38—Records to be kept by registered schools

- (1) For the purposes of section 56(1)(b) of the Act, a registered school is required to keep such records as the Board may determine for the purposes of this subregulation.
- (2) A registered school must keep a record referred to in subregulation (1)—
 - (a) for a period of not less than 7 years (or such longer period as may be specified by the Board); and
 - (b) in a place, and in a manner, that complies with the requirements (if any) determined by the Board for the purposes of this subregulation.

Part 5—Miscellaneous

39—Fees

- (1) The fees for the purposes of the Act (including fees payable by, or in relation to, residual early childhood services for a matter under the *Education and Care Services National Law (South Australia)* as it applies to those services) are as set out in Schedule 2.

Note—

Schedule 2 clause 2(4) of the Act provides that the fees set under the *Education and Care Services National Law (South Australia)* do not apply to residual early childhood services.

- (2) The Board may waive or remit the whole or any part of a fee payable under the Act.

Schedule 1—Specified entities—early childhood services

(regulation 12(1))

Note—

The location of an entity specified in this Schedule is provided for convenience of reference only.

Kaurna Plains Childcare Centre (located at Kaurna Plains School, 83 Ridley Road, Elizabeth)

Koonibba Child Care Centre (located at 1 Highfold Street, Koonibba)

Kura Yerlo Children's Centre (located at 178-180 Tapleys Hill Road, Royal Park)

Marree Aboriginal School Creche (located at First Street, Marree)

Milang Old School House Community Centre (located at 24-25 Daranda Terrace, Milang)

Minya Bunhii Children's Centre (located at 1 Kelly Street, Ceduna)

Port Lincoln Children's Centre Inc (located at 80 Saint Andrews Terrace, Port Lincoln)

Tjitji Tjapu Tjuta Childcare Centre (located at Lot 315 Robins Boulevard, Coober Pedy)

Wynbring Jida M.A.C.S Child Care Centre (located at 2-4 Booth Street, Whyalla Stuart, Whyalla)

Schedule 2—Fees

Item	Fee
Items related to residual early childhood services	
Application fee for provider approval	\$200
Application fee for service approval	\$400
Fee for notice of transfer of a service approval (section 59 of <i>Education and Care Services National Law (South Australia)</i>)	\$100
Application for exemption (section 17 of Act or regulation 11)	no fee

Item	Fee
Items related to schools	
Copy of schools register (section 41(6) of Act)—	
(a) for electronic copy of register	\$65
(b) for a hard copy of register	\$5 per page
Application for registration on schools register (section 43(4)(b) of Act)	\$300
Reinstatement fee (section 48(5)(b) of Act)	\$0
Application for endorsement of registration (section 49(2)(c) of Act)—	
(a) if the school is a primary school	no fee
(b) if the school is a secondary school with—	
(i) not more than 10 students	\$500
(ii) more than 10 but not more than 20 students	\$1 000
(iii) more than 20 students	\$2 000
Copy of register of prohibition orders (section 65(6) of Act)—	
(a) for electronic copy of register	\$65
(b) for a hard copy of register	\$5 per page

Schedule 3—Repeal of *Education and Early Childhood Services (Registration and Standards) Regulations 2011*

The *Education and Early Childhood Services (Registration and Standards) Regulations 2011* are repealed.

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
2025	131	<i>Gazette 27.11.2025 p4652</i>	1.12.2025: r 2