

South Australia

# Teachers Registration and Standards Regulations 2016

under the *Teachers Registration and Standards Act 2004*

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## Contents

|     |  |
|-----|--|
| 1   | Short title  |
| 3   | Interpretation   |
| 4   | Nomination of teachers to Teachers Registration Board                                    |
| 5   | Exemption from requirement to be registered  |
| 6   | Prescribed qualifications, experience and requirements for registration as teacher       |
| 7   | Fees for registration  |
| 8   | Assessment by Teachers Registration Board of qualifications                              |
| 9   | Replacement of certificate of registration   |
| 10  | Fee to accompany application for special authority for unregistered person to teach      |
| 10A | Exemptions from working with children check requirements                                 |
| 11  | Mandatory notification course to be completed before special authority to teach granted  |
| 12  | Remission of fees  |
| 12A | Prescribed offences  |
| 13  | Information to be reported by employers relating to unprofessional conduct or incapacity |

## Legislative history

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### 1—Short title

These regulations may be cited as the *Teachers Registration and Standards Regulations 2016*.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Teachers Registration and Standards Act 2004*;

*mandatory notification course* means a course of instruction approved by the Teachers Registration Board relating to children and young people at risk and the requirements under Chapter 5 Part 1 of the *Children and Young People (Safety) Act 2017* for reporting of suspicion that a child or young person may be at risk.

### 4—Nomination of teachers to Teachers Registration Board

- (1) Elections must be held in accordance with this regulation whenever there is a vacancy in the office of a member of the Teachers Registration Board required to be appointed by the Governor on the nomination of the AEU under section 9(1)(c) of the Act or the IEU under section 9(1)(f) of the Act.
- (2) The returning officer of the relevant organisation must publish in a publication that is circulated to members of the relevant organisation a notice specifying—
  - (a) the number of vacancies to be filled; and

- (b) the requirements to be satisfied in order for candidates to be eligible for nomination in respect of the vacant offices; and

**Note—**

Section 9(1)(c) of the Act provides that the 5 persons nominated by the AEU must be registered teachers, including at least 4 practising teachers.

Section 9(1)(f) of the Act provides that the 2 persons nominated by the IEU must be registered teachers, including at least 1 practising teacher.

- (c) the date (being not less than 21 days after the date of the notice) and the hour by which nominations for candidates for election in respect of those vacant offices must be received by the returning officer; and
  - (d) such other information as the returning officer thinks fit.
- (3) A nomination of a candidate for election must—
- (a) be in writing; and
  - (b) set out whether the candidate is a registered teacher or a practising registered teacher; and
  - (c) be signed by the candidate; and
  - (d) be signed by 1 other member of the relevant organisation; and
  - (e) be lodged with the returning officer of the relevant organisation not later than the time fixed in the notice for the closure of nominations.
- (4) If the number of candidates duly nominated is the same as or less than the number of vacancies to be filled, the returning officer must, if the candidates satisfy the requirements of section 9(1)(c) or (f) (as the case may be), declare those candidates to be duly elected.
- (5) If the number of candidates duly nominated who satisfy the requirements of section 9(1)(c) or (f) (as the case may be) is greater than the number of vacancies to be filled, an election must be held by the relevant organisation at a meeting of the relevant organisation.
- (6) If an election is held under subregulation (5), the returning officer must declare those candidates who receive the highest number of votes who also satisfy the requirements of section 9(1)(c) or (f) (as the case may be) to be duly elected.
- (7) In this regulation—
- AEU* means the Australian Education Union (SA Branch);
- IEU* means the Independent Education Union (SA Branch);
- relevant organisation* means—
- (a) in relation to a vacancy in the office of a member of the Teachers Registration Board appointed by the Governor under section 9(1)(c) of the Act—the AEU;
  - (b) in relation to a vacancy in the office of a member of the Teachers Registration Board appointed by the Governor under section 9(1)(f) of the Act—the IEU;
- returning officer*, in relation to a relevant organisation, means a person appointed by the relevant organisation to be the returning officer.

## 5—Exemption from requirement to be registered

- (1) For the purposes of section 20(4)(b) of the Act, the following persons and classes of persons are prescribed:
  - (a) a person employed as a director at a prescribed education and care service (not being a person who personally provides preschool education or early childhood teaching services at the prescribed education and care service);
  - (b) a person who employs a person as a director at a prescribed education and care service.
- (2) In this regulation—

*approved education and care service* has the same meaning as in the *Education and Care Services National Law (South Australia)*;

*out of school hours care* means the provision of recreational and leisure programs to children before or after school hours, or during school vacation time;

*prescribed education and care service* means an approved education and care service comprising—

  - (a) out of school hours care that consists of, or includes, pre-school education; or
  - (b) the provision of centre-based long day care services that consist of, or include, pre-school education to children who have not yet commenced school.

## 6—Prescribed qualifications, experience and requirements for registration as teacher

- (1) For the purposes of section 21(1)(a) of the Act, the qualifications required for registration as a teacher are as follows:
  - (a) an approved teacher education degree, diploma or other qualification awarded on satisfactory completion of a higher education course of pre-service teacher education in pre-school, primary or secondary education that—
    - (i) is of at least 4 years' full-time duration or part-time equivalent duration; and
    - (ii) includes a practical student teaching component undertaken at a school or pre-school; or
  - (b) —
    - (i) an approved non-teacher education degree, diploma or other qualification awarded on satisfactory completion of a higher education course that is of at least 3 years' full-time duration or part-time equivalent duration; and
    - (ii) an approved postgraduate degree, diploma or other qualification awarded on satisfactory completion of a higher education course of pre-service teacher education in pre-school, primary or secondary education that—
      - (A) is of at least 1 year's full-time duration or part-time equivalent duration; and

- (B) includes a practical student teaching component undertaken at a school or pre-school.
- (2) For the purposes of section 21(1)(a) of the Act, the experience required for registration as a teacher is 1 year's full-time (or part-time equivalent of 200 days') satisfactory service as a teacher at a school or pre-school in Australia or New Zealand.
- (3) For the purposes of section 21(1)(b) of the Act, a person must have satisfactorily completed a mandatory notification course during the period of 12 months before an application for registration as a teacher is made.
- (4) However, subregulation (3) does not apply to a person who applies for registration as a teacher—
- (a) before 1 March 2006; or
  - (b) within 2 years after having satisfactorily completed a course of teacher education referred to in subregulation (1) during which the person satisfactorily completed a mandatory notification course.
- (5) In this regulation—
- approved* degree, diploma or other qualification means—
- (a) a degree, diploma or other qualification awarded by a higher education institution that is a member of Universities Australia; or
  - (b) a degree, diploma or other qualification that was at any time nationally registered by the former Australian Council on Awards in Advanced Education or the former Australian Council on Tertiary Awards,
- but does not include a degree, diploma or other qualification that the Teachers Registration Board has determined is not an appropriate qualification for registration.

## 7—Fees for registration

- (1) An application for registration as a teacher must be accompanied by the following fees:
- (a) \$330; plus
  - (b) if the Teachers Registration Board is required to assess qualifications of the applicant obtained outside Australia or New Zealand—\$120; plus
  - (c) if the application is made by a person whose name has been removed from the register following a failure to apply for renewal of registration before the expiry of the registration—\$100.
- (2) An application for renewal of registration as a teacher must be accompanied by a fee of \$330.

## 8—Assessment by Teachers Registration Board of qualifications

- (1) The Teachers Registration Board may, on application, make an assessment as to whether a qualification is an appropriate qualification for registration.
- (2) An application for assessment of a qualification must—
- (a) be made to the Teachers Registration Board in the manner and form approved by the Board; and

- (b) be accompanied by a fee of \$120.
- (3) An applicant for assessment of a qualification must provide the Teachers Registration Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.

### **9—Replacement of certificate of registration**

If a person satisfies the Teachers Registration Board by statutory declaration that his or her certificate of registration as a teacher has been lost or destroyed, the Registrar must, on payment of a fee of \$25, issue to the person a duplicate certificate of registration.

### **10—Fee to accompany application for special authority for unregistered person to teach**

An application for a special authority under Part 6 of the Act must be accompanied by the following fees:

- (a) —
  - (i) if the special authority is to be in force for a period of not more than 12 months—\$110; or
  - (ii) if the special authority is to be in force for a period of more than 12 months—an amount of \$110 for each 12 month period, or part of such period, during which the special authority is to be in force; plus
- (b) an amount specified by the Teachers Registration Board, being the amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant.

### **10A—Exemptions from working with children check requirements**

- (1) Pursuant to section 61(2)(a) of the Act, a special authority granted under Part 6 of the Act to a person who is the subject of an exemption under section 14 of the *Child Safety (Prohibited Persons) Act 2016* that is in force is exempt from the requirement under section 30(1a) of the Act—
  - (a) for the period that the exemption under section 14 of the *Child Safety (Prohibited Persons) Act 2016* remains in force; or
  - (b) for a period of 90 days,whichever is shorter.
- (2) Pursuant to section 61(2)(a) of the Act, the following provisions do not apply in relation to an application for a special authority under Part 6 of the Act relating to a person who is the subject of an exemption under section 14 of the *Child Safety (Prohibited Persons) Act 2016* that is in force:
  - (a) section 30(2)(b) of the Act;
  - (b) section 30(3)(ab) of the Act.

## 11—Mandatory notification course to be completed before special authority to teach granted

For the purposes of section 30(2)(d) of the Act, a person must have satisfactorily completed a mandatory notification course during the period of 12 months before an application for a special authority to teach is made.

## 12—Remission of fees

The Teachers Registration Board may, if satisfied that reasonable cause exists for doing so, remit a fee prescribed by these regulations in whole or in part.

## 12A—Prescribed offences

For the purposes of section 34A(1) of the Act, the following offences are prescribed:

- (a) an offence against a following provision of the *Criminal Law Consolidation Act 1935*:
  - (i) section 11 (murder);
  - (ii) section 13 (manslaughter);
  - (iii) section 14 (criminal neglect);
  - (iv) Part 3 Division 7A (causing physical or mental harm);
  - (v) Part 3 Division 8 (female genital mutilation);
  - (vi) Part 3 Division 8A (child marriage);
  - (vii) Part 3 Division 9 (kidnapping and unlawful child removal);
  - (viii) Part 3 Division 11 (rape and other sexual offences);
  - (ix) Part 3 Division 11A (child exploitation offences);
  - (x) Part 3 Division 12 (commercial sexual services and related offences);
  - (xi) Part 3 Division 16 (abduction of children);
  - (xii) Part 5 Division 5A (dishonest communication with children);
- (b) an offence against section 270B of the *Criminal Law Consolidation Act 1935* (assault with intent) with intent to commit an offence referred to in any of the preceding paragraphs;
- (c) an offence against Part 5 Division 2 or 3 of the *Controlled Substances Act 1984*;
- (d) an offence against a law previously in force in this State that corresponds to an offence referred to in a preceding paragraph;
- (e) an offence against the law of another State or Territory that corresponds to an offence referred to in any of the preceding paragraphs;
- (f) an offence against a following provision of the *Criminal Code* of the Commonwealth:
  - (i) section 271.4;
  - (ii) section 271.7;
  - (iii) section 272.8;

- (iv) section 272.9;
- (v) section 272.10;
- (vi) section 272.11;
- (vii) section 272.12;
- (viii) section 272.13;
- (ix) section 272.14;
- (x) section 272.15;
- (xi) section 272.18;
- (xii) section 272.19;
- (xiii) section 272.20;
- (xiv) section 302.2;
- (xv) section 302.3;
- (xvi) section 302.4;
- (xvii) section 303.4;
- (xviii) section 303.5;
- (xix) section 303.6;
- (xx) section 304.1;
- (xxi) section 304.2;
- (xxii) section 304.3;
- (xxiii) section 305.3;
- (xxiv) section 305.4;
- (xxv) section 305.5;
- (xxvi) section 309.2;
- (xxvii) section 309.3;
- (xxviii) section 309.4;
- (xxix) section 309.7;
- (xxx) section 309.8;
- (xxxi) section 309.10;
- (xxxii) section 309.11;
- (xxxiii) section 309.12;
- (xxxiv) section 309.13;
- (xxxv) section 309.14;
- (xxxvi) section 309.15;
- (xxxvii) section 310.2;
- (xxxviii) section 310.3;

- (xxxix) section 471.16;
- (xl) section 471.17;
- (xli) section 471.19;
- (xlii) section 471.20;
- (xliii) section 471.22;
- (xliv) section 471.24;
- (xlv) section 471.25;
- (xlvi) section 471.26;
- (xlvii) section 474.19;
- (xlviii) section 474.20;
- (xlix) section 474.22;
- (l) section 474.23;
- (li) section 474.24A;
- (lii) section 474.25A;
- (liii) section 474.25B;
- (liv) section 474.26;
- (lv) section 474.27;
- (lvi) section 474.27A;
- (g) an offence against a law of the Commonwealth previously in force that corresponds to an offence referred to in paragraph (f);
- (h) a conspiracy to commit, or an attempt to commit, an offence referred to in any of the preceding paragraphs;
- (i) an offence of aiding, abetting, counselling or procuring the commission of an offence referred to in any of the preceding paragraphs;
- (j) an offence against the law of a foreign jurisdiction that corresponds to an offence referred to in any of the preceding paragraphs.

### **13—Information to be reported by employers relating to unprofessional conduct or incapacity**

For the purpose of section 37(1) or section 39(1) of the Act, the report to the Teachers Registration Board must contain (in addition to the information required under that section)—

- (a) the name, address and teacher registration number of the teacher; and
- (b) the name and address of the school or other place at which the teacher is (or was at the relevant time) employed; and
- (c) the names and addresses of all persons who the employer believes may be able to give material evidence relevant to the question of the teacher's alleged unprofessional conduct or incapacity, as the case may be.

## 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](http://www.legislation.sa.gov.au).

### Revocation of regulations

The *Teachers Registration and Standards Regulations 2016* were revoked by Sch 3 of the *Teachers Registration and Standards Regulations 2021* on 1.7.2021.

### Legislation revoked by principal regulations

The *Teachers Registration and Standards Regulations 2016* revoked the following:

*Teachers Registration and Standards (Elections for Board) Regulations 2005*

*Teachers Registration and Standards Regulations 2005*

### Principal regulations and variations

| Year | No  | Reference                       | Commencement    |
|------|-----|---------------------------------|-----------------|
| 2016 | 46  | <i>Gazette 9.6.2016 p2068</i>   | 1.9.2016: r 2   |
| 2017 | 356 | <i>Gazette 19.12.2017 p5266</i> | 22.10.2018: r 2 |
| 2018 | 255 | <i>Gazette 20.12.2018 p4364</i> | 20.12.2018: r 2 |
| 2019 | 187 | <i>Gazette 18.7.2019 p2745</i>  | 18.7.2019: r 2  |

### Provisions varied

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>22.10.2018</i> |
| r 3                           |  |                   |
| mandatory notification course | varied by 356/2017 r 4   | 22.10.2018        |
| r 5                           | substituted by 187/2019 r 4  | 18.7.2019         |
| r 10A                         | inserted by 187/2019 r 5   | 18.7.2019         |
| r 11                          | substituted by 255/2018 r 4  | 20.12.2018        |
|                               | varied by 187/2019 r 6   | 18.7.2019         |
| r 12A                         | inserted by 255/2018 r 5   | 20.12.2018        |

|              |  |                   |
|--------------|--|-------------------|
| <i>Sch 1</i> | <i>omitted under Legislation Revision and<br/>Publication Act 2002</i> | <i>22.10.2018</i> |
|--------------|--|-------------------|

## **Historical versions**

22.10.2018

20.12.2018