

# Department for Education and Child Development

## The Ministers' and Chief Executive's Legislative Responsibilities

Legal Services Directorate  
As at 2016



**Government  
of South Australia**

Department for Education  
and Child Development

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## Introduction

The purpose of this document is to assist Department for Education and Child Development (“DECD”) employees to understand the legislative responsibilities and obligations of the Minister for Education and Child Development (“the Minister”), the Minister for Child Protection Reform (“the Minister CPR”) and the Chief Executive, DECD (“CE”) in respect of the following legislation and regulations committed to the Minister and the Minister CPR:

1. *Adoption Act 1988 (SA)*
2. *Adoption Regulations 2004 (SA)*
3. *Child Protection Review (Powers and Immunities) Act 2002 (SA)*
4. *Children’s Protection Act 1993 (SA)*
5. *Children’s Protection Regulations 2010 (SA)*
6. *Children’s Services Act 1985 (SA)*
7. *Children’s Services (Appeals) Regulations 2008 (SA)*
8. *Children’s Services (Registered Children’s Services Centres) Regulations 2003 (SA)*
9. *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004 (SA)*
10. *Education Act 1972 (SA)*
11. *Education Regulations 2012 (SA)*
12. *Education and Early Childhood Services (Registration and Standards) Act 2011 (SA)*
13. *Education and Early Childhood Services (Registration and Standards) Regulations 2011 (SA)*
14. *Education and Care Services National Regulations (NSW)*
15. *Family and Community Services Act 1972 (SA)*
16. *Family and Community Services Regulations 2009 (SA)*
17. *SACE Board of South Australia Act 1983 (SA)*
18. *SACE Board of South Australia Regulations 2008 (SA)*
19. *Teachers Registration and Standards Act 2004 (SA)*
20. *Teachers Registration and Standards Regulations 2005 (SA)*
21. *Teachers Registration and Standards (Elections for Board) Regulations 2005 (SA)*

As a general approach, this guide is organised into sections based upon each piece of legislation and regulation that has been considered. Please note that the legislation is paraphrased for ease of reference and to ensure that the document is concise where possible.

This document does not replace the legislation and is provided solely for guidance and assistance. Please ensure that you regularly refer to the relevant legislation and regulations in order to review the specific wording utilised in the legislation and regulations. It is also noted that this document was prepared in January 2016 and the legislation and regulations may change from time to time.

Departmental employees should read and understand the legislation related to their area of responsibility and seek further assistance from the Legal Services Directorate on phone: (08) 8226 1555 or email: [DECD.LegalRequests@sa.gov.au](mailto:DECD.LegalRequests@sa.gov.au) if advice is required in relation to your particular circumstances.

## A

### Adoption Act 1988 (SA)

#### **Minister's obligations/powers:**

- Minister must ensure that regular consultation is undertaken with representatives of organisations with a special interest in the adoption of children and any other interested persons in relation to the operation of the act – s7A
- Minister may enter into an arrangement with prospective adoptive parents to contribute to the support of the child after the making of an adoption order in certain circumstances - s26
- Minister may authorise disclosure of any information if the disclosure is necessary in the interests of the welfare of an adopted person – s27D
- Minister's consent required for the commencement of a prosecution for an offence against the Act – s37

#### **CE's obligations/powers:**

- A person authorised by the CE must endorse consent of a parent or guardian – s15(5)(b)(ii)
- The consent of a parent or guardian may be revoked by written notice of revocation served personally or by post on the CE within 25 days or, with the approval of the CE given within that period of 25 days, 39 days, of the date of the consent – s15(6)
- An officer authorised by the CE must endorse consent of a child with a statement to the effect that the child has been counselled by that person – s16(2)(c)
- CE may make an application to the Court to dispense the consent of a person to an adoption – s18(3)
- CE may make an application to the Court to dispense with or recognise the validity of a consent made before an application for an adoption order has been made and any such order has effect– s19(1)
- CE may make an application to the Court to revoke a consent made before the making of an adoption order in respect of the child - s19(2)
- CE may prepare a report to submit to the Court as to the circumstances of the child and the suitability of prospective adoptive parents and their capacity to care adequately for the child – s22(1)(a) and (b)
- CE may order in writing that a child be placed in the custody of a parent of the child – s25(1)(f)
- CE may, by agreement with some suitable person and on such conditions as the CE considers appropriate, place a child of whom the CE is the guardian under the care of that person – s25(2)
- CE will endeavour to facilitate the making of the arrangement or variation if a party to the adoption or proposed adoption of a child wishes to enter into an arrangement with another party to the adoption for the provision of information, contact or any other matters related to the welfare of the child, or to vary such an arrangement – s26A(1)
- CE must ensure that the opinions of the child are taken into account in formulating any arrangement or variation – s26A(3)
- CE must ensure any arrangement or variation is in writing and that copies are provided to the parties of the arrangement – s26A(5)
- CE will maintain a register of arrangements entered into – s26A(6)
- CE may provide certain information to a lineal descendant of the adopted person where an adopted person who has attained the age of 18 years or, if the adopted person consents or is dead or cannot be located – s27(1)
- CE may provide certain information to a person who would have been a relative of the person if the adoption order had not been made if an adopted person has attained the age of 18 years, a birth parent of the person or, if the birth parents consent or are dead or cannot be located – s27(2)

- CE may provide certain information to an adoptive parent of the person may, with the consent of the adopted person if an adopted person has attained the age of 18 years – s27(3)
- CE must not reveal the name of a person (other than a birth parent and any siblings who have attained the age of 18 years) who would have been a relative of the adopted person if the adoption order had not been made – s27(4)
- CE has discretion not to disclose information if the CE determines in his or her absolute discretion that the disclosure would be an unjustifiable intrusion on the privacy of the person to whom the information relates – 27(5)
- CE must establish and maintain written guidelines regarding the exercise of the CE's discretion – s27(6)
- CE must give a copy of the guidelines, on request, to any person – s27(7)
- CE will disclose information to an adopted person or a birth parent before an entitlement to the information arises under s27, if consent to the disclosure is given – s27A
- CE must not disclose information in contravention of a direction not to disclose – s27B(4)
- A person lodging a direction under this section may provide the CE with written reasons for the direction and, if so provided, the reasons must be released by the CE if a request for information about the person is subsequently made - s27B(6)
- CE must establish the manner in which a direction must be lodged, renewed or revoked – s27B(7)(d)
- CE will, if necessary, send a person who had lodged a direction, a renewal notice approximately 6 months, 3 months and 2 weeks before the date on which the direction will expire, unless the person has requested in writing that no such notices be sent – s27B(8)
- Subject to any written directions of the person to the contrary, the CE will send a renewal notice to a person at his or her address last known to the CE – s27B(9)
- CE may, before providing information to a person or accepting a direction from a person, invite the person to participate in an interview with a person authorised by the CE – 27C
- Other than a consideration of a kind authorised by the CE, an agreement under which a parent or guardian of a child receives any consideration for a consent to the adoption of the child, is illegal and void – s28
- CE may approve negotiations conducted by a person or organisation that may lead to, or intend to lead to the making of an adoption order – s29(2)(b)
- CE may impose conditions on the approval – s29(3)
- CE may withdraw such an approval in certain circumstances– s29(4)
- CE may provide written consent to the publication of a person's name or other material tending to identify a person if the person is a child and under the guardianship of the CE – s31(2)
- CE is entitled to intervene in any proceedings under the Act – s39(1)
- CE may apply to the Court for an order to direct the Registrar of Births, Deaths and Marriages not to cancel any entry formerly made in the register of births relating to the child but instead to add to that entry a note of the names of the adoptive parents – s41(2)
- CE may authorise the Registrar of Births, Deaths and Marriages to allow a person access to information contained in an entry cancelled or to an entry relating to a person who was adopted before the commencement of the Act – s41(4)
- CE must not authorise access to information by a person who was adopted before the commencement of the Act if a birth parent of the person directs the CE not to do so – s41(5)
- CE must approve the manner a direction must be lodged, renewed or revoked – s41(6)

## Adoption Regulations 2004 (SA)

### **Minister's obligations/powers:**

- Minister must on receipt of a request for review of a decision of the CE, constitute an adoption board for the purposes of hearing the review and refer the matter to that board unless the Minister is satisfied that the request for the review is frivolous or vexatious or has already been the subject of review – r16(2)
- An adoption board constituted for the purposes of hearing a review will consist of one or more members appointed by the Minister – r16(3)
- If the adoption board consists of more than one member, the Minister will appoint one member to be the presiding member – r16(4)(a)

### **CE's obligations/powers:**

- An officer authorised by the CE to counsel a person before that person consents to an adoption must give to that person an information brochure approved by the CE that must include information outlined in subreg (2) – r4(1)(a)
- A witness to a consent to adoption must be a person approved by the CE but cannot be the person who, for the purposes of the Act counselled the person giving consent – r5(1)(a)
- A person may, by notice in writing to the CE, express an interest in adopting a child – r7(1)
- CE may invite persons who have expressed an interest in adopting a child of a particular kind to apply for registration on the subregister relating to children of that kind – r7(3)
- CE will not invite a person to apply for registration if satisfied that the person does not meet the minimum requirements for applicants for registration set out in reg 8 – r7(4)
- CE may approve a person to apply for registration as a prospective adoptive parent if a child has, at any time, been removed from care or custody of that person and become the subject of a care and protection order made under the *Children's Protection Act 1993* (SA) or any similar order made in this or another State or Territory of the Commonwealth – r8(3)
- CE must cause an assessment report to be prepared with respect to an application for registration – r9(1)
- If in the opinion of the CE the assessment cannot be completed due to certain circumstances, an assessment report need not be prepared – r9(1a)(b)
- An assessment report must contain and have regard to factors outlined in subreg (2) & (3) – r9(2) and (3)
- CE may rely on an assessment report prepared by an adoption agency in relation to an application if satisfied that the agency in preparing that assessment report, has complied with the requirements of this regulation and the CE is that case is not obliged to cause any other assessment report to be prepared – r9(5)
- CE may register an applicant/s on the appropriate subregister/s if, after considering an assessment report prepared in relation to an application, the CE is satisfied that each applicant is a fit and proper person to adopt a child – r10(2)
- Before the CE rejects an application, the applicant must be given an opportunity to make representations on the matter to the CE – s 10(3)
- CE must provide written notice of the CE's decision and a copy of the relevant assessment report to the applicant – r10(4)
- If the CE rejects an application, the notice of that decision must inform the applicant of the right to seek a review of the decision and must set out the procedures and time limits that apply in respect of seeking a review – r10(5)
- A person who has been registered as a prospective adoptive parent under the law of another State or a Territory of the Commonwealth that substantially corresponds to the Act and these regulations may apply to the CE to have that registration transferred to this State – r11(1)

- CE must enter the applicant's name in the register if satisfied that the applicant meets the requirements of the regulations – r11(2)
- CE may require a person transferring registration to provide such information as is necessary to determine which subregister/s the person's name should be entered in – r11(3)
- A person who is registered as a single prospective adoptive parent and who, following registration, commences cohabiting with another person in a marriage relationship may, if the other person meets the minimum requirements for applicants for registration, apply jointly with that other person to the CE to have the registration converted into joint registration – r12(1)
- CE will treat an application for conversion of registration as it were a joint application for registration– r12(2)
- Registration of a person as a prospective adoptive parent ceases on cancellation of the registration by the CE – r13(1)(c)(iii)
- CE may, in his or her discretion, accept a late application for renewal of registration – r13(3)
- On receipt of an application for renewal of registration, the CE must cause the assessment report to be reviewed having regard to any changes in circumstances of the applicant in the period since that report was prepared or reviewed – r13(5)
- An assessment report need not be reviewed if in the opinion of the CE the review cannot be completed due to certain circumstances – r13(5a)(b)
- CE may rely on a review of an assessment report undertaken by an adoption agency if satisfied the agency, in undertaking the review, has had proper regard to any changes in circumstances of the applicant in the period since the report was prepared or reviewed – r13(6)
- CE may renew registration of each applicant for a further period of 3 years if satisfied that the applicant/s is still a fit and proper person to adopt a child – r13(7)
- CE must give the applicant/s an opportunity to make representations on the matter before the CE rejects an application for renewal of registration – r13(8)
- CE must give written notice of the CE's decision and a copy of the review of the assessment report to the applicant/s – r13(9)
- If the CE rejects an application for renewal of registration, the notice of that decision must inform the applicant/s the right to seek a review of the CE's decision and must set out the procedures and the time limits that apply – r13(10)
- CE on particular grounds will cancel the registration of a person as a prospective adoptive parent – r14(2) & (3)
- CE will cancel a person's registration who has been jointly registered with a person who's registration has been cancelled unless the CE is satisfied that special reasons exist for not doing so – r14(4)
- CE will cancel the registration of both persons who cease cohabiting in a marriage relationship unless there are special reasons for not doing so – r14(5)
- CE may review the registration of a person and may, if the CE finds that the person is no longer a fit and proper person/s to adopt such a child, cancel the registration of the person/s – r14(8)
- CE must give the person/s an opportunity to make representations on the matter to the CE before a registration is cancelled – r14(9)
- CE must give written notice to each person affected by the CE's decision to cancel registration together with a brief description of the reasons for that decision – r14(10)
- CE must in his or her written notice advise the person/s of their right (if any) to seek a review of the decision and must set the procedures and time limits that apply – r14(11)
- CE may for the purposes of determining an application under Part 3 require the applicant to provide further information, participate in a specified workshop or seminar, provide a medical report from a medical practitioner nominated by the CE or provide written consent authorising a third party to release information relating to the applicant to the CE – r15
- An adoption board must give the CE and the party seeking the review reasonable notice of the time and place at which it intends to conduct the review – r 17(1)

- CE must make available to an adoption board any relevant assessment report and any other records or information as the board requests relating to the matter the subject of the review – r17(7)
- CE may appear personally in proceedings before an adoption board or may be represented by counsel or an officer of the Public Service – r17(9)
- On completion of a review under these regulations, the adoption board must give notice of its decision to the CE and to the person who sought the review – r 17(10)
- On a review, an adoption board may confirm, vary or reverse the decision of the CE in respect of which the proceedings for review have been brought or remit any matter arising in the proceedings to the CE for further consideration or make such incidental or ancillary orders as it considers appropriate – r 18
- CE may exclude a person for an order for adoption of a particular child if the CE is satisfied of any of the facts in subreg (2) – r19(2)
- If the CE is satisfied that certain special circumstances exist that would justify the making of an adoption order in favour of a person excluded pursuant to subreg (3), the CE may seek to include the person for selection as an applicant for an order for adoption – r19(3)
- CE will invite persons on the overseas subregister to submit documentation for forwarding to the relevant authority of an overseas country and the documentation will be forwarded to the overseas country in the order in which the completed documentation was received by the CE – r19(3a)
- CE may cancel the selection of a person as an applicant for an order for adoption if the CE becomes aware of circumstances that, if known at the time of selection, would have resulted in the person being excluded from selection as an applicant for the order – r19(4)
- If the selection of a person is cancelled under subregulation (4), the CE must notify the person in writing of the cancellation – r19(5)
- A notice, application or renewal required under the regulations must be in a form determined by the CE and must be accompanied by such further documentation as is required by the CE – r22
- The fees set out in Schedule 1 are payable to the CE as specified in the Schedule.
- CE may permit the payment of by instalment of a fee payable under these regulations – s23(2)
- The CE may waive or remit the payment of the whole or any part of a fee payable under the regulations – r23(3)

## C

### [Child Protection Review \(Powers and Immunities\) Act 2002 \(SA\)](#)

#### **Minister CPR's obligations/powers:**

- Minister CPR may, if of the view that it would be in the public interest to do so, publish a report containing confidential information, or otherwise disclose or authorise the disclosure of such confidential information, as the Minister CPR thinks fit, but not if to do so would be contrary to a law or contrary to a direction of the person appointed to conduct the Review – s5(9)

#### **CE's obligations/powers:**

- CE may, if of the view that it would be in the public interest to do so, publish a report containing confidential information, or otherwise disclose or authorise the disclosure of such confidential information, as the CE thinks fit, but not if to do so would be contrary to a law or contrary to a direction of the person appointed to conduct the Review – s5(9)

#### No Regulations

## Children's Protection Act 1993 (SA)

### **Minister's obligations/powers:**

- Minister to declare by notice in the Gazette recognised Aboriginal organisations and Torres Strait Islander organisations – s5(3)
- Minister may, by notice in the Gazette, after consulting with the relevant community, vary or revoke a declaration – s5(4)
- Minister will cause discussions to be held between the Department and the relevant community for the purposes of conducting consultations, negotiations, meetings or proceedings – s5(7)
- Minister must seek to further the objects of the Act and should endeavour to promote, provide, assist, collect, encourage a number of things as listed under s8(1)(a) to (l) – s8(1)
- Minister must assist in the provision of services to prevent or reduce the incidence of child abuse and neglect and support services to children who have been abused or neglected and their families and ensure that those support services are offered to children known by the Department and that genuine effort is made to encourage such children and families to avail themselves of the services – s8(2)
- Minister must at least twice in each calendar year, consult groups representing, or comprised of, children or other persons who are, or have been, under the guardianship, or in the custody of the Minister – s8(3)
- Minister may enter into a custody agreement – s9(1)
- Minister may if agreed between the parties terminate the custody agreement – s9(5)(b)(ii)
- Minister is not obliged to take action in certain circumstances in relation to a notification of suspected abuse or neglect of a child if the Minister is satisfied that the information or observations on which the notifier formed their suspicion were not sufficient to constitute reasonable grounds for the suspicion or that, while there are reasonable grounds for such a suspicion, proper arrangements exist for the care and protection of the child and the matter of the apparent abuse or neglect has been or is being adequately dealt with – s14
- Minister may authorise an employee of the Department to exercise powers for the removal of children in danger – s15
- If the Minister does not already have custody of a child who is removed from a situation of danger under this section, the Minister has custody of the child until the end of the working day following the day on which the child was removed or the child returns home (whichever is the earlier) - 18(5)
- Minister may authorise an employee of the Department to exercise the power to question where the Court makes an order authorising the CE to require any person to answer questions put by that authorised person – s21(1)(b)(i)
- Minister may authorise an employee of the Department to exercise the power to question where the Court makes an order authorising the CE to require any person to answer questions put by that authorised person – s23(3)(e)(i)
- Minister should convene a family care meeting if the Minister is of the opinion that a child is at risk and that arrangements should be made to secure the child's care and protection – s27(1)
- Minister cannot make an application for a care and protection order before a family care meeting has been held except in certain circumstances – s27(2)
- Minister will, if of the opinion that the child is at risk and that a care and protection order is required to secure the child's care and protection, take out an application for such an order if no decisions are made by a family care meeting or if such decisions are not implemented or complied with – s35
- Minister may apply to the Youth Court for a care and protection order if the Minister is of the opinion that a child is at risk and an order should be made to secure their care and protection – s37(1)
- Minister must apply to the Youth Court for a care and protection order if the Minister knows or suspects on reasonable grounds that a child is at risk of drug abuse by a parent, guardian or other person and that the cause of the child being at risk is not being adequately addressed and is of the opinion that the most appropriate response

is an order under this Division for one or more of the reasons outlined therein – s37(1a)

- Minister may apply to the Youth Court for an order if the Minister is of the opinion that proper arrangements exist for the care and protection of a child and that the child would be likely to suffer significant psychological injury if the arrangements were to be disturbed and that it would be in the best interests of the child for the arrangements to be the subject of an order – s37(2)
- If the CE or some other specified person or authority is, by order of the Court, to supervise a child who has entered into an undertaking, the supervisor may exercise such powers as the Minister authorises either generally or in relation to a particular supervisor – s38(4)
- If the Court dismisses an application by the CE or the Minister, the Court may make such order for costs against the Crown in favour of any other party to the proceedings as the Court thinks – s50
- Subject to this Act, the Minister may from time to time make provision for the care of a child who is under the guardianship of the Minister or of whom the Minister has custody pursuant to this Act in any of the following ways outlined in s51(1)(a) to (f) – s51(1)
- By placing the child, or permitting the child to remain, in the care of a guardian of the child or some other member of the child's family – s51(1)(a)
- By placing the child in the care of an approved foster parent or any other suitable person – s51(1)(b)
- By placing the child in a home (not being a training centre) established or licensed under the *Family and Community Services Act 2012* or in any other suitable place, and by giving such directions as to the care of the child in that home or place as the Minister thinks fit – s51(1)(c)
- By making arrangements for the education of the child – s51(1)(d)
- By making arrangements (including admission to hospital) for the medical or dental examination or treatment of the child or for such other professional examination or treatment as may be necessary or desirable – s51(1)(e)
- By making such other provision for the care of the child as the circumstances of the case may require – s51(1)(f)
- In making provisions for the care of a child pursuant to subsection (1), the Minister must, if appropriate, have regard to the desirability of securing settled and permanent living arrangements for the child – s51(2)
- Minister must keep the guardians of the child informed about where the child is placed and how the child is being cared for, unless the Minister is of the opinion that it would not be in the best interests of the child to do so – s51(3)
- If a child is subject to an order placing the child under the guardianship of the Minister until the child attains 18 years of age, a review of the circumstances of the child must be carried out at least once in each year that the child remains subject to the order – s52
- Minister may appoint a panel for the purpose of carrying out a review – s52(2)
- Minister must cause a copy of the conclusions reached by a review panel to be given to the child, the child's guardians and the persons who have the care of the child – s52(4)
- Minister is not obliged to give a copy of the panel's conclusions to a particular person if the Minister is of the opinion that it would not be in the best interests of the child to do so or the whereabouts of the person, cannot, after reasonable enquiries, be ascertained – s52(5)
- Minister cannot control how the Guardian is to exercise the Guardian's statutory functions and powers and cannot give any direction with respect to the content of any report prepared by the Guardian – s52AB
- Minister must provide the Guardian with the staff and other resources that the guardian reasonably needs for carrying out the Guardian's functions – s52B
- The Guardian's functions include the function to provide advice to the Minister on the quality of the provision of care for children under the guardianship. Or in the custody of, the Minister and on whether the children's needs are being met – s52C(d)

- The Guardian's functions include the function to inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care – s52C(e)
- The Guardian's functions are, amongst other things, to investigate and report to the Minister on matters referred to the Guardian by the Minister – 52C(1)(f)
- The Guardian must report periodically to the Minister (as required by the Minister) on the performance of the Guardian's statutory functions – s52D(1)
- Minister must, within 6 sitting days after receiving a report from the Guardian, have copies of the report laid before both Houses of Parliament – s52D(3)
- Minister must, if Parliament is sitting have copies of a report received under this section laid before both Houses of Parliament within 6 sitting days or if Parliament is not sitting - deliver copies of the report to the President of the Legislative Council and the Speaker of the House of Assembly so that they may immediately cause the report to be published and lay the report before their respective Houses at the earliest opportunity – s52DA(2)
- Minister may allow an extension of time for the presentation of the Charter of Rights for Children and Young People in Care developed by the Guardian – s52EB
- Minister may, on the receipt of a draft Charter or a variation of the Charter from the Guardian - approve the Charter or the variation or require an alteration to the Charter or the variation, after consultation with the Guardian, and then approve the Charter or variation as altered – s52EE(1)
- Minister must then cause a copy of the Charter or variation (as the case may be) to be laid before both Houses of Parliament – s52EE(2)
- The Council for the Care of Children will consist of not less than 5 and not more than 10 members appointed by the Governor and the chief executives of departments of government designated by the Minister as departments closely involved in issues related to the care and protection of children – s52F(2)
- Minister may, before an appointment is made to the Council, call for nominations from the government or non-government organisation that should, in the Minister's opinion, be represented on the Council – s52F(4)
- The Council is to be subject to direction by the Minister but the Council cannot be directed to make a particular finding or recommendation and a direction is to be published in the annual report of the Council relating to the period in which the direction was given – s52F(6)
- Minister may excuse a Council member from 3 consecutive meetings of the Council without the Council's permission – s52G(2)(a)(iv)
- The Governor may remove a member of the Council from office for any other reason considered sufficient by the Minister – s52G(3)(f)
- The Council will, subject to this section and any directions of the Minister, determine its own procedures – s52H(1)
- The Minister must provide the Council with the staff and other resources that it reasonably needs for carrying out its functions – s52I
- The Council's functions are to provide advice to the Minister – s52J(e)
- The Council must report periodically to the Minister (as required by the Minister) on the performance of its statutory functions – s52K(1)
- Minister must within 6 sitting days after receiving a report under subsection (2) have copies of the report laid before both Houses of Parliament – s52K(3)
- The Child Death and Serious Injury Review Committee is to be subject to direction by the Minister but the Committee cannot be directed to make a particular finding or recommendation and a direction must be published in the annual report of the Committee relating to the period in which the direction was given – s52N(2)
- Minister may, before appointments are made to the Committee, call for nominations from organisations (including departments and agencies of the government) that should, in the Minister's opinion, be represented on the Committee – s52N(5)
- The office of a member of the Committee becomes vacant if the member is absent from 3 consecutive meetings of the Committee without the Committee's permission (but the member does not vacate his or her office if the Minister excuses the absence) – s52O(2)(iv)

- The Governor may remove a member of the Committee from office for any other reason considered sufficient by the Minister – s52O(3)(f)
- The Committee will, subject to this section and any directions of the Minister, determine its own procedures – s52P(1)
- The Minister must provide the Committee with the staff and other resources that it reasonably needs for carrying out its functions and exercising its powers – s52Q(1)
- The Committee may, with the Minister's approval, engage an expert to assist it in the review of a particular case or in carrying out any other aspect of its functions – s52Q(2)
- Minister may authorise a person to have access to the Committee's database – s52T(2)(d)
- The Committee must report periodically to the Minister (as required by the Minister) on the performance of its statutory functions – s52W(1)
- Minister must, within 6 sitting days after receiving a report under subsection (2) have copies of the report laid before both Houses of Parliament – s52W(3)
- Minister or the CE may delegate any of his or her powers under this Act or interstate law within the meaning of Part 8 – s57
- An employee of the Department authorised by the Minister to exercise powers under this Act must, before exercising those powers in relation to a person, produce evidence of that authority to the person – s60

**CE's obligations/powers:**

- General functions of the CE – s8A
- The CE may, at the request of the responsible authority for a non-government organisation to which this section applies, exercise powers of the responsible authority under this section if satisfied that, the responsible authority has sought, but failed to obtain, the cooperation of a person in respect of whom the responsible authority is required or authorised to cause a relevant history assessment to be undertaken in accordance with the regulations or there is some other good reason for doing so – s8B(5)
- CE may issue a written request for information relating to the organisation's compliance with the requirements of this section to an organisation to which this section applies – s8C(3)(b)
- CE is not obliged to take action in certain circumstances in relation to a notification of suspected abuse or neglect of a child if the CE is satisfied that the information or observations on which the notifier formed their suspicion were not sufficient to constitute reasonable grounds for the suspicion or that, while there are reasonable grounds for such a suspicion, proper arrangements exist for the care and protection of the child and the matter of the apparent abuse or neglect has been or is being adequately dealt with – s14
- An officer's powers under this section are subject to the following limitations including an employee of the Department may only remove a child from the custody of a guardian with the CE's prior approval – s16(2)(b)
- If an officer removes a child under this section, and the child is not returned to the child's home under subsection (3), the officer must deliver the child into the care of
- such person as the CE, or the CE's nominee, directs – s16(4)
- If the CE suspects on reasonable grounds that a child is at risk and believes that the matters causing the child to be at risk are not being adequately addressed, the CE must cause an assessment of, or investigation into, the circumstances of the child to be carried out or must effect an alternative response which more appropriately addresses the potential or actual risk to the child – s19(1)
- For the purposes of an investigation, the CE may, by notice in writing, require a person who has examined, assessed, carried out tests on or treated the child, or the agency for whom the person works, to furnish the CE with a written report on the examination, assessment, tests or treatment – s19(2)
- If the CE is of the opinion, that there is some information or evidence leading to a reasonable suspicion that a child is at risk, and that further investigation of the matter is warranted or a family care meeting should be held, and that the investigation cannot properly proceed unless an order under this Division is made or it is desirable

that the child be protected while the matter is being investigated or a family care meeting is being held, the CE may apply to the Youth Court for an order under this Division – s20(1)

- If the CE suspects on reasonable grounds that a child is at risk as a result of the abuse of an illicit drug by a parent, guardian or other person, the CE must apply for an order under this Division directing the parent, guardian or other person to undergo a drug assessment (unless the CE is satisfied that an appropriate assessment of the parent, guardian or other person has already occurred, or is to occur) – s20(2)
- CE may apply for an order to the Court authorising the CE to require any person to answer, to the best of the person's knowledge, information or belief, questions put by an employee of the Department authorised by the Minister to exercise the power to question or any person who has examined, assessed or treated a party to the proceedings (other than the child), or the agency for whom the person works, to furnish the CE with a written report of that examination, assessment or treatment – s21(1)(b)
- CE may apply for an order under subsection (1) to be extended (once only) for a period (not exceeding four weeks) specified in the order – s21(2)
- CE may apply to the Court for an order to vary or discharge an order under section 21 – s22(1)
- CE may apply for an order to the Court authorising the CE to require any person to answer, to the best of the person's knowledge, information or belief, questions put by an employee of the Department authorised by the Minister to exercise the power to question or any person who has examined, assessed or treated a party to the proceedings (other than the child), or the agency for whom the person works, to furnish the CE with a written report of that examination, assessment or treatment – s23(3)(e)
- CE may authorise an employee of the Department to take a child, who is in the custody of the Minister pursuant to having been removed from any person, premises or place under Division 2 or an investigation and assessment order under Division 4 authorising examination and assessment of a child is in force, for the purpose of having the child professionally examined, tested or assessed – s26(1)
- CE may make an application to the Court for a protection order of a child who may be at risk of female genital mutilation – s26B
- A family care meeting consists of, amongst others, the employee in the Department authorised by the CE to present the report of the investigation into the child's circumstances to the meeting and if persistent absenteeism from school is involved in the case of a Government school an employee of the administrative unit of the Public Service charged with the administration of the *Education and Early Childhood Services (Registration and Standards) Act 2011* nominated by the DG of Education – s31(c) & (d)
- If the CE or some other specified person or authority is, by order of the Court, to supervise a child who has entered into an undertaking, the supervisor may exercise such powers as the Minister authorises either generally or in relation to a particular supervisor – s38(4)
- The CE may, by written notice, direct a person not to communicate, or attempt to communicate, with a specified child (in any way or in a way specified in the notice) during a specified period – s52AAB(1)
- The CE may, by written notice, direct a person not to harbour or conceal, or attempt to harbour or conceal, or assist another person to harbour or conceal, a specified child during a specified period – s52AAB(2)
- The CE must not issue a notice under subsection (1) or (2) unless he or she believes that the issuing of the notice is reasonably necessary to avert a risk that the child specified in the notice will be abused or neglected, or be exposed to the abuse or neglect of another child or engage in, or be expected to, conduct that is an offence against Part 5 of the *Controlled Substances Act 1984* or to otherwise prevent harm to the child – s52AAB(3)
- The CE may transfer a child protection order to a participating State if in his or her opinion a child protection order to the same or similar effect as the home order could be made under the child welfare law of that State and the home order is not subject to

an appeal and the relevant interstate officer has consented in writing to the transfer and to any proposed variation of the terms of the order pursuant to subsection (3) and the person whose consent to the transfer is required under section 54B have so consented – s54A(1)

- CE must not take into account the period for which it is possible under that law for such an order to be in force in determining whether a child protection order to the same or a similar effect as the home order could be made under the child welfare law of the participating State – s54A(2)
- For the purposes of transferring a child protection order to a participating State, the CE may vary the terms of the order so that it makes provision for any matter in terms that could be included in a child protection order of that type made in the participating State – s54A(3)
- The CE must specify in the transferred order the period for which it is to remain in force – s54A(4)
- The CE must have regard to in determining whether to transfer a child protection order to a participating State under this Division, any sentencing order (other than a fine) in force in respect of the child, or criminal proceeding pending against the child in a court, of which the CE is aware and whether the CE or an interstate officer is in the better position to exercise the powers and responsibilities under the order and the desirability of the order being an order under the child welfare law of the State where the child resides – s54C
- If the CE has decided to transfer a child protection order to a participating State under this Division, the CE must cause the guardians of the child who is the subject of the order and any other person who is granted access to the child under the order (or an ancillary order) and if the child is of or above the age of 10 years, the child, to be served with a notice of the decision as soon as practicable but in any event no later than 3 working days after making it – s54D(1)
- On a review, the Court may, amongst other things, remit the subject matter of the review to the CE for reconsideration in accordance with any directions or recommendations of the Court – s54E(7)(d)
- CE may make an application to the Court for an order under this Division transferring a child protection order to a participating State if the child protection order is not subject to an appeal and the relevant interstate officer has consented in writing to the transfer and to the proposed terms of the order – s54F
- If the CE is aware that a sentencing order, other than a fine, is in force in respect of the child who is the subject of an application under this Division or a criminal proceeding is pending against that child in any court the CE must, as soon as possible, inform the Court of that fact and of the details of the sentencing order or pending criminal proceeding – s54I
- CE may make an application to the Court for an order under this Division transferring a child protection proceeding pending in the Court to the appropriate court in a participating State if the relevant interstate officer has consented in writing to the transfer – s54J(1)
- If the CE is aware that a sentencing order, other than a fine, is in force in respect of the child who is the subject of an application under this Division or a criminal proceeding is pending against that child in any court, the CE must, as soon as possible, inform the Court of that fact and of the details of the sentencing order or pending criminal proceeding – s54K(2)
- Subject to subsection (3), the CE must, as soon as possible, file in the Court for registration a copy of a child protection order transferred to SA under an interstate law – s54M(1)
- Subject to subsection (3), the CE must, as soon as possible, file in the Court for registration a copy of an order under an interstate law to transfer a child protection proceeding to SA, together with a copy of any interim order made at the same time – s54M(2)
- The CE must not file in the Court a copy of a child protection order or of an order to transfer a child protection proceeding if the decision or order to transfer the child protection order or the order to transfer the child protection proceeding (as the case

- requires) is subject to review or appeal or a stay or the time for instituting a review or appeal has not expired, under the interstate law – s54M(3)
- CE may make an application for the revocation of the registration of any document filed under section 54M – s54P(1)(a)
  - Despite anything to the contrary in this Act, the CE may disclose to an interstate officer any information that has come to his or her notice in the performance of duties or exercise of powers under this Act if the CE considers that it is necessary to do so to enable the interstate officer to perform duties or exercise powers under the child welfare law or an interstate law – s54U
  - If, under an interstate law, there is a proposal to transfer a child protection order to SA, the CE may consent or refuse to consent to the transfer and the proposed terms of the child protection order to be transferred – s54V(1)
  - If, under an interstate law, there is a proposal to transfer a child protection proceeding to the Court, the CE may consent or refuse to consent to the transfer – s54V(2)
  - The CE may delegate any of his or her powers under this Act or an interstate law within the meaning of Part 8 – s57(1)
  - Regulations under this Act may, amongst other things, provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the CE (or a delegate of the CE) – s63(3)(c)

### Children’s Protection Regulations 2010 (SA)

#### **Minister’s obligations/powers:**

- No relevant provisions

#### **CE’s obligations/powers:**

- In these regulations, a reference to the CE includes a reference to a delegate of the CE – r3(3)
- An assessment under this regulation must be conducted in accordance with any relevant standards issued by the CE under section 8A(j) of the Act – r6(1b)
- **prescribed evidence** means evidence of a kind specified by the CE for the purposes of this regulation in standards referred to in sub regulation (1)(a) – r6(2)
- The CE may, as the CE thinks fit, establish authorised screening units or declare, by notice in the Gazette, that a person or body is an authorised screening unit, for the purposes of undertaking assessments of a person’s relevant history under the Act – r7(1)
- The CE may, by notice in the Gazette, declare that a person or body is an interstate authorised screening unit for the purposes of these regulations – r7(2)
- Information under paragraph (a)(v) of the definition of **relevant history** in section 8B(8) of the Act that is lawfully obtained or held by the Department is excluded from the ambit of that definition in respect of a relevant history assessment of a kind determined by the CE if the CE is not satisfied that the information relates to a person who has been responsible for harming a child – r10B(2)
- Information is excluded from the ambit of the definition of **relevant history** in section 8B(8) of the Act in respect of a relevant history assessment of a kind determined by the CE if the CE determines, for reasons based on the nature and quality of the information or on other reasonable grounds, that the information should be so excluded – r10B(3)
- For the purposes of section 8BA(5) of the Act, the following kinds of evidence are prescribed, any other evidence of a kind approved by the CE for the purposes of this sub regulation – r11B(2)(c)
- An authorised screening unit established by the CE under regulation 7(1)(a) must not undertake any kind of assessment other than assessment of a person’s relevant history for the purpose of child related employment screening or a purpose authorised under regulation 7(3) unless the authorised screening unit has been granted approval, in writing, by the CE to undertake assessments of that kind – r12(2)

- The CE must not grant approval to an authorised screening unit to undertake a particular kind of assessment unless the CE is satisfied that the authorised screening unit has in place appropriate safeguards to ensure that prescribed functions will not be used for the purpose of those assessments – r12(3)
- The responsible authority for an organisation to which section 8B of the Act applies must ensure that information forming part of a person's relevant history or an assessment obtained from an authorised screening unit, is dealt with in accordance with any standards for dealing with such information published from time to time by the CE (insofar as such standards are applicable to the organisation) – r13(2)
- For the purposes of section 8C(2)(b) of the Act, policies and procedures under section 8C must comply with such of the following documents as may be published from time to time by the CE (insofar as such documents are applicable to the organisation, codes of conduct and principles of good practice of a kind referred to in section 8A(a) of the Act and standards of a kind referred to in section 8A(j) of the Act – r15

### Children's Services Act 1985 (SA)

#### **Minister's obligations/powers:**

- Minister may delegate to the Director, or any other person, any of her powers or functions under this Act – s9(1)
- Minister to determine terms and conditions of appointment of Director – s11(2)(b)
- Minister may direct the employing authority in relation to staff – s12(6)
- Minister may not give direction relating to the appointment, transfer, remuneration, discipline or termination of a particular person – s12(7)
- Minister may with the approval of another Minister make use of the services or staff of another administrative unit – s12(11)
- Minister may make use of services of any member of the teaching service with the approval of the Minister responsible for the administration of the Education Act – s12(12)
- All property, rights and liabilities vested in or attached to a registered Children's Services Centre on its dissolution, subject to the constitution, shall vest in or attach to the Minister – s45
- Minister may extend the period within which an appeal against any decision of the Director may be instituted – s46(2)
- Minister shall establish such number of appeal boards as may be necessary for the purposes of investigating appeals – s46(3)
- Minister may pay to members of the appeal board such allowances and expenses as she thinks fit – s46(4)
- Decision shall be stayed until the appeal has been determined or withdrawn unless the Minister directs otherwise – s46(5)
- Minister may revoke the decision and may substitute any other decision that could have been made in the first instance – s46(6)

#### **CE's obligations/powers:**

- CE (Director) may delegate a power or function delegated to him if the instrument of delegation from the Minister so provides – s9(3)
- Director shall be responsible for the efficient management of the other staff of the Children's Services Office and any other matter relating to the Children's Services Office – s10(2)
- Director may delegate to any other person any of his powers or functions under this Act – s11(5)
- Director may by notice in writing direct a registered Children's Services Centre to make such amendments to its constitution as are specified in the notice – s43(1)
- Director must not give a direction until the expiration of 3 months after the Director has informed the centre in writing of the amendments that the Director requires – s43(1a)

- Director must give proper consideration to the centres representations before the direction is given – s43(1b)
- Director may cancel a centres registration if it fails to comply with a notice/direction under subsection (1) within the period specified in the notice – s43(2)
- An amendment to the constitution has no effect until submitted to and approved by the Director – s43(3)

**Children’s Services (Appeals) Regulations 2008 (SA)**

**Minister’s obligations/powers:**

- No relevant provisions

**CE’s obligations/powers:**

- No relevant provisions

**Children’s Services (Registered Children’s Services Centres) Regulations 2003 (SA)**

**Minister’s obligations/powers:**

- No relevant provisions

**CE’s obligations/powers:**

- No relevant provisions

**Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004 (SA)**

**Minister CPR’s obligations/powers:**

- Minister CPR must, after consultation with the Commissioner, appoint or engage a person with appropriate qualifications and experience in social work or social administration, and a senior investigations officer with appropriate qualifications and experience, to assist in the conduct of the inquiry – s8(1)
- Minister CPR may, after consultation with the Commissioner, appoint other persons to assist in the conduct of the inquiry – s8(2)
- Minister CPR may, after consultation with the Commissioner, engage or appoint a suitably qualified person or persons to provide support or assistance to any person who may wish to place evidence before the inquiry – s8(3)
- Minister CPR must cause a copy of the report from the Commissioner to be laid before each House of Parliament within 3 sitting days after the receipt of the report by the Governor – s11(5)
- Minister CPR must respond to each report of the Commissioner in accordance with the terms and conditions outlined in this section – s11A

**CE’s obligations/powers:**

- No relevant provisions

**No Regulations**

## E

### Education Act 1972 (SA)

#### **Minister's obligations/powers:**

- Effective service of an officer is a reference to the period of continuous service in the teaching service and any other period that is by determination of the Minister to be regarded as forming the whole or part of the officer's effective service – s5(2)
- Minister may by instrument in writing determine that for any specified officer/s that a period referred to in the instrument is or is not to be regarded as a period of effective service – s5(3)
- Minister may delegate to a body or person a function or power – s8(1)
- Minister shall establish and maintain Government schools – s9(1)
- Minister shall establish and maintain correspondence schools – s9(2)
- Minister may close or amalgamate Government Schools subject to Part 2A – s9(3)
- Minister may establish institutions for the proper education and training of teachers – s9(5)
- Minister may establish and maintain such residences for the accommodation of teachers or students – s9(6)
- Minister may acquire land – s9(7)
- Minister may provide for or arrange for the transport of children to and from any school and may pay the whole or any portion of the cost of transporting children to and from any school – s9(8)
- Minister may establish any school, college or centre for the purpose of providing technical education – s9(9)
- Minister may provide courses of instruction to students who do not reside in this State – s9(9a)
- Minister may acquire, deal with, or dispose of, real or personal property – s9(10)
- Minister may appoint advisory committees – s10(1)
- Minister will appoint members of an advisory committee as she thinks fit – s10(2)
- The procedure of an advisory committee shall be determined by the committee subject to any direction of the Minister – s10(4)
- Minister may pay to the members of an advisory committee such allowances and expenses as may be determined by the Governor – s10(5)
- Minister shall cause a copy of the report from the Director-General to be laid before each House of Parliament as soon as practicable after she receives it – s14(2)
- Minister shall determine the area that will be subject to a review relating to the closure or amalgamation of schools – s14B(b)
- Minister must give written notice of a proposed review to the head teacher and presiding member of the school council of each school subject of review – s14B(c)
- Minister must within 21 days of giving notice appoint a committee to conduct the review and provide the committee with details of the Minister's reasons for the review – s14B(d)
- A committee will consist of at least 2 persons nominated by the Minister, one of whom will be appointed by the Minister to be the presiding member and others – s14C(1)(a)
- Minister must appoint a member of the committee, nominated by the presiding member, to be the deputy presiding member – s14C(2)
- Minister will determine the terms and conditions of membership of the committee – s14C(3)
- Minister to specify the date, being a date falling not less than 3 months after the date on which the committee was appointed, for the submission of the committee's report – 14E
- Minister may close or amalgamate two or more Government schools after giving due consideration to the report and recommendations of a committee that has conducted a review – s14F(1)

- Minister must as soon as reasonably practicable after making a decision to close or amalgamate school/s given written notice of the decision and reasons to the head teacher and school council of each school/s affected – s14F(2)
- If the decision of the Minister is contrary to the recommendations of a committee the Minister must within 3 sitting days of giving notice under subsection (2) cause a copy of the committee report and recommendations and a statement of the reasons for the Minister's decision to be laid before each House of Parliament – s14F(3)
- Minister may approve that the employing authority pay to an officer's dependants the monetary equivalent of the officer's long service leave entitlement as at the date of their death – s21(2)
- The Minister must confer entitlements in respect of long service leave and skills and experience retention leave determined in accordance with this section on an officer of the teaching service to whom this section applies in respect of the officer's service completed before the commencement of this section – s22A(2)(b)
- In making a determination under subsection (3)(a), the Minister must ensure that the entitlements of an officer are not less than the officer would have been entitled to had he or she been appointed under the Public Sector Act 2009 – s22A(4)
- Prescribed employment means in addition to those outlined in the section any other employment approved by the Minister – s24(2)(f)
- Minister may establish classification review panels – s29(1)
- Minister will appoint 3 persons to consist a review panel – s29(2)
- Minister may from time to time invite the Institute of Teachers to nominate officers to constitute the review panel – s29(3)
- Minister may choose officers instead of nominees of the Institute and any officers so chosen are to be taken to have been nominated to the relevant review panel – s29(4)
- Minister may remove a member of a review panel on the ground of misconduct, neglect of duty, incompetence or mental or physical incapacity to carry out official duties – s29(5)
- Teachers Appeal Board is to consist of amongst others the members of a panel of employees in the Department appointed by the Governor on the nomination of the Minister and the members of a panel of employees in the Department of Further Education appointed by the Governor on the nomination of the Minister – s45(2)(b) & (d)
- Minister may establish a committee consisting of members appointed by the Minister with the agreement of the Institute of Teachers to hear appeals in respect of appointments to promotional level positions – s53(3)(b)
- A regulation under subsection (7) may confer discretionary powers on the Minister – s75(8)
- A learning program is an approved learning program is the program is a program of a class declared by the Minister by notice in the Gazette to be an approved learning program – s75D(1)(a)(vi)
- Minister may by written notice grant an exemption from a requirement from this Part (compulsory enrolment and attendance) in relation to a child, conditionally or unconditionally – s81A
- Minister may vary or revoke an exemption granted – s81A(2)
- Minister may by notice published in the Gazette publish guidelines in relation to the granting of, or variation or revocation of, an exemption – s81A(2a)
- Minister may appoint an Advisory Curriculum Board and such advisory committees as the Minister may determine on the recommendation of the Director-General – s82(2)
- Minister may determine members, consisting of such employees of the Department and officers of the teaching service and such representatives of registered non-Government schools and other organisations, of an Advisory Curriculum Board on the recommendation of the Director-General – s82(3)
- Minister may determine terms and conditions of the appointment of members of an Advisory Curriculum Board or committee – s82(4)
- A school council is to operate under a constitution approved by the Minister – s83(3)(b)

- The constitution of a governing council is to have a provision stipulating that the members are to comply with a code of practice approved by the Minister – s84(1)(e)(iii)
- A constitution of a school council may contain provisions of any other kind considered appropriate by the Minister – s84(1)(g)
- Minister may by notice in the Gazette establish and dissolve school councils as outlined in this section – s85
- Minister may authorise the establishment of committees to be affiliated with a school council and that affiliated committee operates under a constitution approved by the Minister – s86
- A constitution of an affiliated committee may contain provisions of any other kind considered appropriate by the Minister – s87(g)
- Minister may by notice in writing to the presiding member of a school council or affiliated committee direct the school council or affiliated committee to make such amendments to its constitution as are specified in the notice – s88(1)
- Minister must not give a direction until the expiration of 3 months after the Minister has informed the school council or affiliated committee in writing of the amendments that the Minister requires – s88(2)
- Minister must give proper consideration to representations made by the school council or affiliated committee before a direction is given – s88(3)
- Minister may not give a direction that would result in a school council becoming a governing council – s88(4)
- An amendment to the constitution of a school council or affiliated committee has no effect until submitted to and approved by the Minister – s88(5)
- Minister may publish model constitutions for school councils and affiliated committees – s89(1)
- Minister has absolute discretion to approve or refuse to approve the constitution or an amendment of the constitution of a school council or affiliated committee that contains an alteration to a model constitution – s89(3)
- Minister is to keep available for public inspection during normal office hours at an office determined by the Minister a copy of the constitution of each school council and each affiliated committee and a copy of each code of practice with which members of governing councils must comply – s90
- Minister may provide written consent to a school council for the acquisition or disposal of real property – s91
- Minister may provide written consent to a school council if they want to borrow money – s92(1)
- Minister will establish an advisory committee to provide advice to the Minister on school council proposals to borrow money – s92(2)
- Minister may issue administrative instructions to school councils or affiliated committees – s96(1)
- Minister may remove a member of a school council or affiliated committee from office on grounds outlined in this section – s97
- Minister may by written notice to the presiding member of the school council or affiliated committee prohibit or restrict the exercise of a specified power or the performance of a specified function for a specified period or until further order of the Minister – s98(1)
- Employing authority is in acting under this section subject to the direction by the Minister – s101B(2)
- Minister may not give a direction relating to the appointment, transfer, remuneration, discipline or termination of a particular person – s101B(3)
- Minister may permit Government school land, buildings or facilities to be used for community purposes upon conditions determined by the Minister – s102A(a)
- Minister may provide assistance to community bodies upon conditions that secure for schools rights to make use of land, buildings or facilities of the bodies – s102A(b)
- Minister may by notice in the Gazette direct that an educational census be taken in the area specified in such notice – s103(1)
- Minister may appoint some person or persons to call at every dwelling house in the area and collect information – s103(2)

- Proceedings for an offence against this Act shall not be commenced without the consent in writing of the Minister – s105(2)
- Charges payable under this section are recoverable as a debt due to the Minister – s106B(5)
- Regulations may be made in relation to any matter pertaining to school councils, affiliated committees or the operation of school councils or affiliated committees and such a regulation may confer discretionary powers on the Minister – s107(2)(sa)
- Regulations may be made with respect to the collection, recording and collation of information on any matter relating to the administration or enforcement of Part 6 and the provision of the information to the Minister or other body determined by the Minister – s107(2)(sb)

**CE's/Director-General's/employing authority's obligations/powers:**

- Head teacher in relation to a Government school means a person designated by the DG – s5
- DG shall be responsible to the Minister for maintaining a proper standard of efficiency and competency in the teaching service – s12
- DG may with the consent of the Minister delegate to a body or person a function or power of the DG under this Act – s13(1)
- DG shall in each year make a report on the administration of the Department up to the 31<sup>st</sup> day of December of the year last preceding the date of the report – s14(1)
- DG shall be a member of a review committee appointed by the Minister – s14C(1)(c)
- EA may appoint teacher to be officers of the teaching service as it considers appropriate – s15(1)
- Probation shall be for such period of effective service as may be determined by the EA and hold office at the pleasure of the EA – s15(4) & (6)
- DG may fix the duties and titles of officers and positions in the teaching service, classify officers in the teaching service, impose conditions including limiting the classifications to specified terms and fixing the classifications of officers at the end of such terms, classify positions in the teaching service at promotional levels – s15A
- EA may appoint officers to positions in the teaching service classified at promotional levels and may impose conditions including limiting the appointments to specified terms and fixing their classifications at the end of such terms or fixing the processes to be followed for appointment of the officers at the end of such terms – s15B
- DG may transfer officers between positions in the teaching service but not so as to reduce an officer's salary without the officer's consent or effect promotion of an officer to a position at a higher classification level – s15C
- EA may by written determination retrench an officer as from a date specified in the determination if satisfied that the volume of work is diminished and as a consequence a reduction in staff is necessary in the interest of economy and an officer should be retrenched for that purpose – s16(1)
- DG where satisfied an officer is by reason of mental or physical illness or disability incapable of performing satisfactorily the officer's duties may by written determination transfer the officer to another position or vary the officer's duties and assign an appropriate classification or determine to take steps to transfer the officer to some other employment in the Government of the State or grant the officer leave of absence without remuneration or recommend to the EA that the officer be retired from the teaching service – s17(1)
- DG must before taking action or making a recommendation under subsection (1) that would result in reduction or remuneration or retirement be satisfied that a transfer or variation of duties without reduction of remuneration is not reasonable practicable in the circumstances – s17(1a)
- DG may in acting under subsection (1)(b) recommend to the EA that the officer be appointed to an office or position pursuant to section 101B or attempt to secure for the officer some other appropriate employment in the Government of the State – s17(1c)
- EA may retire the officer from the teaching service on receiving a recommendation – s17(2)

- DG may make a determination under which the accrual of the entitlement to long service leave will be calculated instead as a number of working hours leave for each completed month of effective service – s19(3a)(a)
- DG may by determination make any other provision in relation to the granting or taking of skills and experience retention leave – s19(3a)(e)
- DG may permit an officer who has completed at least 7 years effective service to take long service leave – s20(2)
- Long service leave may only be taken at times and for period that are in the opinion of the DG convenient to the Department – s20(4)
- Subject to this section the salary to which an officer is entitled during long service leave is where the effective service of an officer consists in whole or in part of part-time service a salary determined by the DG – s20(5)(b)
- DG may authorise payment to an officer on long service leave of such additional salary or allowances as the DG considers appropriate – s20(8)
- EA must ensure where an officer dies that there is paid to the officer's personal representative or such of the officer dependent's as the EA with the approval of the Minister, considers appropriate the monetary equivalent of the officer's long service leave entitlement as at the date of death – s21(2)
- EA may apply any amount payable to or in respect of an officer under this section in satisfaction of a claim against the officer – s21(4)
- EA may grant a certificate where the service of an officer was interrupted otherwise than by resignation or dismissal for misconduct for a period exceeding 2 years – s22(3)
- EA may, if in their opinion special reasons exist for so doing, where there is an interval of more than 6 weeks between the conclusion of service in the prescribed employment and the commencement of service in the teaching service declare that that interval shall not disrupt the continuity of service and the declaration shall have effect according to its terms – s24(5)
- DG may if he finds there is sufficient cause for disciplinary action by written determination reprimand or impose a fine not exceeding the amount of one week's salary or reduce the remuneration by transferring the officer to another position or varying the officer's duties and classifying or reclassifying the officer or removing an entitlement to an increment of remuneration or suspend the officer from duty without pay for a period not exceeding one year or he may recommend to the EA that the officer be dismissed from the teaching service – s26(2)
- EA may upon receipt of a recommendation under subsection (2) dismiss the officer from the teaching service – s26(3)
- DG may suspend an officer where in their opinion the nature or circumstances of any matter alleged against an officer are such that the officer should not continue in the performance of his duties – s27(1)
- Unless the EA otherwise determines, a person suspended shall be entitled to his salary in respect of the period of suspension – s27(3)
- DG approves the manner and form of an application for reclassification – s28(2)
- DG may on application of an officer reclassify the officer or a position occupied by the officer – s28(3)
- DG may exercise his general power to reclassify officers or positions in the teaching service – s28(4)
- DG will nominate a panel of officers of the teaching service for the purposes of a review panel – s29(2)(c)
- DG must within 14 days after receiving an application for review refer the application to a review panel – s30(2)
- DG may make submissions orally or in writing to the review panel on questions raised by the application – s30(3)
- DG must reclassify the officer or position in accordance with the decision of the review panel – s30(7)
- DG to select a member of the panel of employees in the Department appointed by the Minister to be a member of the Appeal Board – s45(3)
- DG may provisionally recommend to the EA that an applicant be appointed to the vacant position – s53(3)

- Where in the opinion of the DG it is in the best interests of a child that he be enrolled at a special school the DG may direct that the child be enrolled at a special school nominated in the direction and where such direction has been given the child must be enrolled at that special school – s75(3)
- DG may subject to the regulations if satisfied that a child has disabilities or learning difficulties such that it would be in the best interests of the child to do so direct that the child be enrolled at a special school or some other particular Government school nominated in the direction – s75A(1)
- DG may give a direction or vary or revoke a direction after taking reasonable steps to consult each parent of the child – s75A(3)
- DG must on or before December 31 in each year provide to the Minister a report on the operation and compliance of this Part (compulsory enrolment and attendance) for the preceding year – s75E(1)
- DG in preparing the report may by notice in writing require a specified person or body to provide the information specified in the notice to the DG and must comply with any other requirements prescribed by the regulations – s75E(2)
- DG may authorise in writing any person to exercise the powers of an authorised officer under this Act – s80(b)
- DG shall be responsible for the curriculum – s82(1)
- Minister may appoint such advisory committees as the Minister may determine on the recommendation of the DG – s82(2)(b)
- Advisory Curriculum Board and any committee appointed shall consist of such employees in the Department and officers of the teaching service and such representatives of registered non-Government schools and other organisations as may be determined by the Minister on the recommendation of the DG – s82(3)
- A school council may only submit to the Minister an amendment to the constitution that would result in the council becoming a governing council if the council, the head teacher of the school and the DG are signatories to an agreement that contemplates that result – s88(6)
- DG may at any time inspect or audit accounts kept by a school council or affiliated committee – s95
- EA may appoint other officers and employees in addition to the employees and officers of the Department and the teaching service as appear to the EA to be necessary for the proper administration of this Act or the welfare of the students of any school – s101B(1)
- EA is subject to the direction of the Minister in acting under this section – s101B(2)
- EA may delegate a power or function under this Act – s101C
- The student, or the parents of the student, must be given written notice of a materials and services charge payable in respect of the student that is in a form approved by the DG – s106A(7)
- In approving the form of the notice the DG must endeavour to ensure that the notice is designed to be informative about the materials and services to be provided for the charge and the materials and services that may not be provided by reason of non-payment of, or failure to agree to pay, the whole or part of the charge – s106A(8)
- DG may direct a head teacher with respect to payment by instalments, waiver or reduction or refund in whole or in part of a materials and services charge – s106A(11)
- DG must at the request of the school council make services available (free of charge) to the school council for the recovery of outstanding materials and services charges – s106A(13)
- DG may on application by the school council approve in writing an amount greater than the standard sum in respect of students enrolled at the particular school for the whole or part of the calendar year – s106A(14)(b)
- DG may by notice in the Gazette fix charges payable by a full fee paying overseas student of a Government school or a student of a Government school who is not resident in the State – s106B(1)
- DG may in a particular case or class of cases allow charges to be paid by instalments or waive or reduce the charges or refund in whole or in part the charges or require the person to give security for payment of the charges – s106B(4)

- DG may invite or receive voluntary payments from parents, students or others for the purposes of the school – s106C(d)
- Regulations may be made in relation to any matter pertaining to school councils, affiliated committees or the operation of school councils or affiliated committees and such a regulation may confer discretionary powers on the DG – s107(2)(sa)

### Education Regulations 2012 (SA)

#### **Minister's obligations/powers:**

- Minister may determine such conditions relating to the use of school premises to school bodies, and after consultation with the school council, to organisations not connected with the school – r4
- Authorised person means a person authorised by the Minister for the purposes of this Part (trespass and misbehaviour on school premises) – r6(1)(d)
- Minister may on the hearing of an application for a review of a prohibition notice, confirm, vary or revoke the notice – r11(2)
- Every applicant for appointment to the teaching service must have undertaken a prescribed course of teacher education or have obtained such other qualifications as the Minister, on the recommendation of the DG, approves – r13(1)
- Minister may require the applicant to supply an approved certificate of birth and evidence of experience and qualifications and a certificate from an approved legally qualified medical practitioner that the applicant is of sound health and free from any physical or mental defect – r13(3)
- Minister may on recommendation of the DG declare that the lower grades of any primary school shall be organised as a junior primary school in the charge of a separate teacher – r16(2)
- The number of Advanced Skills Teacher Level 1 and the number of positions classified at promotional levels shall be determined by the Minister on the recommendation of the DG after consultation between the DG and the AEU – r17
- Minister shall determine the leave to stand to the credit of a teacher in the circumstance outlined in this section – r21(4)
- Minister may on the recommendation of the DG grant to a teacher special leave with pay or with part pay for such period and upon such conditions as she may determine – r22(2)
- Teacher will be granted special leave with pay not debited to sick leave credits if they are suffering from a disease identified in this section or such other disease as the Minister may determine by publication in the Education Gazette – r23(3)
- Minister may where reasonable cause exists grant to a teacher special leave without pay for any period and upon such conditions as she determines – r24
- Minister may determine to what extent if any leave of absence taken without pay or on part pay shall be counted as service for sick leave entitlement and the determination shall have effect according to its terms – r26(1)(b)
- Minister may on the recommendation of the DG approve a commencing salary within the range of the scale provided for the new position at a rate higher than the rate fixed for the minimum of that position and that salary shall be paid accordingly where an appointment is made which is the first appointment of a person as a teacher or involves transfer of a teacher from one position to another – r30
- Minister may determine what remuneration may be paid to that teacher in respect of special work performed in a temporary capacity by a teacher to which no award applies – r31
- Minister may require a teacher to repay to the Minister such salary or allowances or both and in the event of the Minister so requiring the money may be recovered by the Minister by action in court as a debt due and owing to the Minister where for any cause a teacher receives salary or allowances or both to which they are not entitled under the Act whether in respect of a vacation period or not – r33

- Minister may, on the recommendation of the DG, approve of travel reimbursement at a higher rate than prescribed in this regulation if it appears necessary to recoup the teacher concerned for their reasonable, out of pocket expenses – r34
- Minister may approve, on the recommendation of the DG, the payment of a removal allowance greater than that provided for in this regulation, or may pay wholly or in part the removal expenses and depreciation allowance of teachers who are debarred by this regulation from claiming the same, if reasonable cause exists to justify the said payment – r35(6)
- Minister may determine conditions with respect to the detainment of students during the luncheon interval or after school hours – r43(3)
- Minister, as the relevant authority relating to decisions of the DG, must hear appeals against a decision of the DG to expel a student from all schools and other specified facilities used by the Department for educational purposes under the regulations and it must be heard within 2 weeks after it is instituted – r50(1) & (6)
- Minister may dispense with the requirement that an appeal be instituted within the period fixed by sub regulation (3) – r50(4)
- Minister may stay the operation of the decision until the appeal is determined, withdrawn or struck out – r50(7)
- Minister may on hearing an appeal affirm, vary or quash the decision appealed against or substitute, or make addition, any decision that the authority thinks appropriate and make recommendations as to actions to be taken in relation to the student – r50(11)
- Minister may authorise in writing such Departmental instructions in additions to the regulations – r52(1)
- Minister may recover from the parent or guardian of a student on request or by action in a court any costs or expenses so incurred in respect to the indisposition of or injury to that student where the services of a legally qualified medical practitioner and/or hire of a suitable conveyance to transport the student to obtain suitable treatment are sought – r54(2)
- Minister may recover by action in court costs not met by a student for damages to school equipment or property – r56
- Minister may issue administrative instructions containing rules governing the notice to be given by teachers seeking to resign or to retire – r57(1)
- Minister may in special circumstances exempt a teacher from compliance with rules governing notice of resignation or retirement – r57(2)
- Minister may recover from the former teacher an amount determined by the Minister, but not exceeding 6 weeks' salary by action in court as a debt due and owing to the Crown if the teacher resigns or retires otherwise than in accordance with the rules governing notice of such or is treated under this regulation as having resigned or retired – r57(4)
- Where the Minister is satisfied shall on the written application of a teacher within 4 weeks after the declaration of the results of that election, reappoint that person to the teaching service at a status and salary appropriate to the position which he or she held immediately prior to their resignation – r58(2)
- Minister may determine a sum not exceeding 6 weeks' salary of a teacher that may be recovered by the Minister by action in court as a debt due and owing to the Minister if the teacher ceases duty without giving notice of resignation – r59
- The enrolment of the child, who is of compulsory school age or compulsory education age, at a particular school should, as far as is reasonably practicable, be consistent with any policy published from time to time by the Minister by notice in the Gazette – r60(2)(a)
- What constitutes full time participation in approved learning programs is participation that is such to meet the minimum standard for full time participation set out in guidelines published from time to time by the Minister by notice in the Gazette – r61(1)
- Minister may by notice in the Gazette declare participation in a particular approved learning program or in a particular combination to be full time participation – r61(2)

- Children who are under 6 years of age and who apply to enrol at a school for the first time may be enrolled and admitted to that school at such times only as may be determined by the Minister – r63
- Minister may issue administrative instructions with respect to enrolment at a correspondence school – r64(1)
- Minister may require the production of a medical certificate to an officer nominated by her where the reason given for a child's non-attendance at school, or non-participation in an approved learning program, is the sickness or infirmity of the child – r68(3)
- The school year shall be divided into periods, the commencing and ending dates of which shall be determined by the Minister – r74
- Except as provided in regulation 76 no school may be closed during the school week without the express sanction of the Minister – r75
- Closure of schools may take place according to such conditions as are determined from time to time by the Minister and as published in the Education Gazette – r76
- Minister to approve the scale of student bicycle travel allowance – r80(3)(a)
- Minister to determine the allowance where the student travels by an approved bus service – r80(3)(b)
- Minister may arrange for the issue of a free rail pass to that student or alternatively approve the payment of a travelling allowance where a student travels by train – r80(3)(c)
- Minister to determine the allowance scale where a student is conveyed by a private vehicle other than a bicycle – r80(3)(d)
- Minister to approve the scale of student bicycle travel allowance – r81(1)(a)
- Minister to determine the allowance where the student travels by an approved bus service – r81(1)(b)
- Minister may arrange for the issue of a free rail pass to that student or alternatively approve the payment of a travelling allowance where a student travels by train – r81(1)(c)
- Minister to determine the allowance scale where a student is conveyed by a private vehicle other than a bicycle – r81(1)(d)
- An allowance of an amount determined by the Minister may be paid towards the living expenses of a student where a student whose parents usual place of residence is in SA lives away from home to attend an approved secondary school and the student attends regularly at the school and undertakes an approved course of secondary education – r83
- Where a student of secondary school age has a disability and is living away from home for the purpose of attending a primary school approved by the DG, an allowance of an amount determined by the Minister may be paid towards the living expenses of the student – r84
- Minister may alter conditions or names or withdraw scholarships or awards available to student prior to the date of making this regulation – r85(1)
- Minister may accept such money or property and may grant scholarships or make awards in accordance with any agreement entered into at the time when such money or property becomes available or where no agreement is entered into on such terms as she thinks fit – r85(2)
- Minister may issue administrative instructions in relation to dress codes to be adopted by schools and the means by which school councils are to consult with parents and students in determining dress codes and the Minister may, by further administrative instruction, vary or revoke such administrative instructions – r86(2)
- Minister shall appoint a Standing Committee on Religious Education in Government Schools whose composition will be determined by the Minister in accordance with this regulation – r87(1)
- Minister may refer such matters relating to religious education in schools and the committee shall have other duties as the Minister may determine – r87(2)
- Minister may approve such sub-committees and project teams to assist the committee in carrying out its duties – r87(3)
- Minister may for a purpose relating to the administration or enforcement of Part 6 of the Act by notice in writing require a provider of an approved learning program to

provide to the Minister specified information in relation to the approved learning program or any child of compulsory education age who is enrolled in the approved learning program or both – r95(1)

- Minister may alter conditions or names or withdraw scholarships or awards available to teachers prior to the date of making this regulation – r98(1)
- Minister may accept such money or property and may grant scholarships or make awards in accordance with any agreement entered into at the time when such money or property becomes available or where no agreement is entered into on such terms as she thinks fit – r98(2)
- Minister may provide scholarships to teachers for such purposes and on such conditions as she may determine and may withdraw such provision if circumstances make such withdrawal desirable – r98(3)
- Minister shall bear the expense of the compulsory medical examination of teachers – r99(1)
- Minister may issue such directions and instructions not being inconsistent with the Act or the regulations as may be necessary or convenient in the exercise of the powers and functions conferred upon her by the Act or prescribed by the regulations – r101(1)
- Minister may issue a publication to be called the Education Gazette which shall contain instructions to teachers concerning their professional duties and such other matters as the Minister may determine – r101(2)
- Funds provided by the Minister to the school, school council or affiliated committee belong to the Minister subject to any direction or instruction of the Minister to the contrary – r102(1)

**CE's/Director-General's/employing authority's obligations/powers:**

- DG may approve in writing a request from a school to set aside a portion of the school grounds for the parking of vehicles – r5(1)
- DG may issue a security pass authorising the person to be on school premises between 12 midnight and 7 am – r6(2)(a)(i)
- DG may approve the issue of a prohibition notice – r10(1)
- Every applicant for appointment to the teaching service must have undertaken a prescribed course of teacher education or have obtained such other qualifications as the Minister, on the recommendation of the DG, approves – r13(1)
- DG shall divide all schools in the categories as outlined in the regulation – r16(1)
- Minister may on DG recommendation declare that the lower grades of any primary school shall be organised as a junior primary school in the charge of a separate teacher – r16(2)
- The number of officers classified at Advanced Skills Teacher Level 1 and the number of positions classified at promotional levels that are to be made available from time to time with respect to any category of school shall be determined by the Minister on the recommendation of the Director-General after consultation between the Director-General and the Australian Education Union – r17
- DG may grant leave of absence with pay on the ground of illness to a teacher for a period not exceeding the leave standing to the credit of that teacher – r21(1)
- DG may require a teacher to produce evidence satisfactory to the DG of the existence of the illness of that teacher where their leave of absence on the ground of illness is 3 days or less – r21(6)
- DG may approve a teacher to convert a portion of long service leave to a debit against their sick leave credits if that teacher has been confined to a residence or hospital for a period of at least 14 days while on that leave provided that no such conversion shall be granted to a teacher who has received payment for long service leave on their retirement, resignation, retrenchment or termination of services – r21(8)
- DG may where reasonable cause exists grant to a teacher special leave with pay for any period or periods not exceeding a total of 15 school days in any 1 year – r22(1)
- DG may recommend that the Minister grant to a teacher special leave with pay or with part pay for such period and upon such conditions as she may determine – r22(2)

- DG shall have the power to direct that where a teacher has absented themselves from their place of work during their ordinary hours of duty or has not discharged their duties as a result of or in the furtherance of industrial action taken by that teacher the salary of that teacher may be reduced by such an amount as stipulated in the regulation – r25(1)
- DG to determine the manner in which an election may be made – r26A(1)(b)
- DG to determine the manner and time that an amount will be payable to the officer – r26A(1)(c)
- An amount payable in relation to a part of a working day or part time work will be determined in a manner determined by the DG – r26A(1)(d)
- DG must grant accouchement leave in accordance with the application of a teacher and may vary the period of such leave on application by the teacher – r28(2)
- Where the teacher suffers a sickness or injury that is in the opinion of the DG unconnected with the pregnancy or is a significant abnormal medical condition arising out of the pregnancy or the birth of the child the teacher must be granted sick leave with pay for a period not exceeding the period if any standing to the credit of the teacher – r28(3)
- DG may grant war service sick leave to officers who submit evidence that they are absent because of a disability accepted by the Commonwealth Repatriation Commission as due to war service in accordance with this regulation – r29
- Minister may, on DG recommendation, the commencing salary of the first appointment of a person as a teacher to be at a higher rate than that rate fixed for the minimum – r30
- Minister may, on DG recommendation, the reimbursement at a higher rate than prescribed in this regulation to recoup the teacher concerned for their reasonable out of pocket travel expenses – r34
- DG to make or approve arrangements with respect to the management of expenses relating to the removal of household furniture and effects – r35(1)
- DG shall determine a packing allowance – r35(1)(d)
- DG may determine if in the opinion of the DG to pay such other expenses necessarily or reasonably incurred by the teacher and their family in connection with that transfer or removal – r35(1)(f)
- If the future place of residence of the family is not in SA the DG shall determine the allowance which will apply – r35(3)
- DG may authorise payment to a teacher on removal of an approved allowance to cover depreciation of and necessary replacements to their household furniture and effects provided that this allowance shall not be paid where a teacher with less than 3 years of satisfactory service at one school is transferred at their own request – r35(4)
- DG may grant an allowance to the teacher in lieu of payment of actual expenses in every case where travelling expenses are payable pursuant to this regulation – r35(5)
- Minister may approve, on the recommendation of the DG, the payment of an allowance greater than that provided for in this regulation – r35(6)
- DG shall notify the teacher in writing of their determination of a complaint against any officer of the Department – r36(1)
- DG shall not select certain officers as outlined in this regulation for the purposes of selecting from a panel of officers of the Department to be a member of the Appeal Board – r37
- DG shall delay any action against that teacher in respect of that matter until the Board has notified its determination of that appeal where the Appeal Board is hearing an appeal by a teacher on any matter – r40
- Where a teacher is charged with a criminal offence any proceedings which may have been commenced by the DG in connection with the facts concerning a criminal offence shall be stayed – r41(1)
- The DG may on the recommendation of the head teacher of a school at which a student above compulsory school age is enrolled expel the student from all schools and other specified facilities by the DG if satisfied on reasonable grounds outlined in the regulations, however, a student cannot be expelled on any one occasion for less than 1 year, unless the expulsion is for the remainder of the school year during which the student is expelled or more than 5 years – r47(1)&(2)

- Where a student has been expelled under r47 the student must not enter or remain on any school premises except with the written approval or at the written request of the DG or head teacher or person in charge of the school or facility – r49(2)
- An appeal must be instituted by lodging a notice in a form approved by the DG – r50(5)
- A person with experience in the administration of equal opportunity matters nominated by the DG is to be a member of an established appeal panel – r50(9)
- Teachers are required to comply with these regulations and with such departmental instructions as are authorised in writing by the DG – r52(1)
- A teacher shall not take any office, perform any duties or receive any remuneration which in the opinion of the DG may interfere with the proper discharge of his or her duties to the department – r53(b)
- Except as provided for in these regulations teachers shall not incur or attempt to incur any liability on behalf of the Government or of the Minister, nor make, or attempt to make or alter any contract on behalf of the Government or of the Minister, without the written authority of the DG – r54(1)
- If a teacher ceases duties as a teacher without proper authority or notice of resignation or retirement, the teacher will, if the DG so determines, be treated as having resigned from the teaching service unless the teacher has reached the age of retirement, in which case the teacher will be treated as having retired from the teaching service – r57(3)
- The DG may where reasonable cause exists permit or direct that a child, ineligible to enrol at a correspondence school under this regulation may or shall enrol at a correspondence school – r64(2)
- Where a parent satisfied the DG that payment for necessary books, apparatus, materials or equipment for their child would inflict hardship on the parent the DG may authorise that such items as he determines shall be provided for the use of that child – r71
- If special circumstances so require, teachers shall give such assistance on days when schools are closed, as the DG may require – r77
- The DG may where reasonable cause exists permit a school day for a particular school to be organised otherwise than in accordance with this regulation – r78(3)
- Where a student attends a primary school which is not the nearest primary school his or her parents may be paid an allowance at the direction of the DG is if they were attending the nearest primary school – r80(3)
- The DG may, where reasonable cause exists, approve the payment to a student qualified to receive a travelling allowance under this regulation of a reasonable amount in excess of any travelling allowance provided in this regulation – r80(4)
- A student who fulfils all the requirements of this regulation except that they are attending a secondary school which is not the secondary school nearest to their place of residence may be paid an allowance at a rate prescribed in this regulation for attendance at the first mentioned school if the DG determines that that school is the nearest school which meets the educational needs of the student – r81(3)
- The DG may, where reasonable cause exists, approve the payment to a student qualified to receive a travelling allowance under this regulation of a reasonable amount in excess of any travelling allowances provided in this regulation – r81(4)
- Notwithstanding any provision elsewhere in this Division, where a child, considered by the DG to have a disability, attends an approved special school, centre or class the DG may approve payment of the total cost of transporting that child to that school, centre or class, or may pay an allowance to a parent who transports their child to that school, centre or class, under such reasonable conditions as the DG may determine – r82
- Where a student of secondary school age has a disability and is living away from home for the purpose of attending a primary school approved by the DG, an allowance of an amount determined by the Minister may be paid towards the living expenses of the student – r84
- The DG shall provide courses of instruction in religious education for use in schools, the courses to be approved by him on the recommendation of the Standing Committee on Religious Education – r89(1)

- Until a date to be fixed by the DG and published in the Education Gazette, the Religious Education Committee of a school may authorise clergy and lay people to participate with teachers taking religious education classes pursuant to the provisions of this Part – r93(2)
- A teacher shall, whenever required to do so by the DG, submit themselves to examination by a legally qualified medical practitioner selected by the DG – r99(1)
- The DG shall inform the AEU of his decision before making any requirement under this regulation – r99(2)
- A head teacher, school council or affiliated committee of a school must comply with any directions of the DG as to the forwarding of property (including books and records) on the closure of the school – r103

### Education and Early Childhood Services (Registration and Standards) Act 2011 (SA)

#### **Minister's obligations/powers:**

- The Minister may, on the application of a school or class of schools (not being a school or class of schools contemplated by a preceding subsection), by notice in writing, appoint a person who has been nominated by the school or class of schools and who has agreed in writing to the appointment to be the responsible authority for the school or class of schools – s8(5)
- The Minister may, by subsequent notice in writing, vary or revoke a notice under subsection (5) – s8(6)
- In connection with the operation of section 303 of the Education and Care Services National Law (South Australia) the Minister must, after a regulation made under that Law is tabled in each House of Parliament, forward a copy of the regulation to the Legislative Review Committee of Parliament for inquiry and report – s12(3)(a)
- For the purposes of the definition of declared nominated supervisor in section 305 of the National Law, a person authorised in writing by the Minister for the purposes of this subsection is declared to be a declared nominated supervisor for this jurisdiction – s13(16)
- Without limiting section 280 of the National Law the Minister must cause copies of the annual report of the National Authority, and the report of the public sector auditor with respect to the financial statement in the report, to be laid before both Houses of Parliament – s15(1)
- Subject to this section, the Minister may, by notice in writing exempt a person, or class of persons, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of the National Law as they apply to or in relation to residual early childhood services or vary or revoke an exemption, or a condition of an exemption, under this section or impose further condition –s17(1)
- The Minister must consult with the Board before making a notice under subsection (1) – s17(2)
- Functions of the Minister – s18
- Subject to this section the Minister may give the Board a direction about any matter relevant to the performance or exercise of a function or power of the Board – s19
- Power of delegation – s20
- The Board consists of 13 members appointed by the Governor on the nomination of the Minister, being persons who collectively have, in the opinion of the Minister, the knowledge, skills and experience necessary to enable the Board to carry out its functions effectively – s20(1)
- Of those members 1 must be a person who has in the opinion of the Minister extensive knowledge and expertise in the education and care of children – s22(2)(a)
- If the Minister does not receive a submission from a body under subsection (2)(c), (d) or (e) within 2 months after requesting the submission of 4 names by that body, the Minister may, by notice in writing, request the relevant body to make a nomination within a time (being not less than 1 month) allowed in the notice and if a nomination is not made within that time, then the Minister may proceed to nominate a person or persons determined by the Minister in lieu of a person submitted by that body – s22(3)

- Subject to this section, the Minister should, before nominating a person for appointment to the Board (other than for the purposes of subsection 2(c), (d) or (e)), under the scheme determined by the Minister for the purposes of this section call for expressions of interest and take into account any representations made by a prescribed designated entity – s22(4)
- In nominating the remaining members of the Board, the Minister should, as far as is reasonably practicable, endeavour to achieve a gender balance on the Board – s22(5)
- The Governor may, on recommendation of the Minister, appoint a suitable person to be the deputy presiding member of the Board – s22(7)
- The Governor may, on nomination of the Minister, appoint a suitable person to be the deputy of a member of the Board – s22(8)
- The rules to fill a casual vacancy that occurs in the office of a member appointed in accordance with section 22(2)(c), (d) or (e) if the vacancy occurs within 12 months after the member's appointment, the Governor must appoint on the nomination of the Minister 1 of the remaining persons from the panel submitted in relation to the member's appointment, if none of the remaining persons are qualified or are available or willing or if the vacancy occurs later than 12 months after the member's appointment the Governor may appoint a person nominated by the Minister from a new panel of 4 persons submitted by the body referred to in the relevant paragraph (and, if the Minister does not receive a submission from the body within 14 days after requesting the submission of 4 names by that body, the Minister may proceed to nominate a person determined by the Minister in lieu of a person submitted by that body) – s24(a) & (b)
- The Board's staff consists of public service employees assigned to assist the Board and persons employed by the Board, on terms and conditions determined by the Board after consultation with the Minister, to assist the Board – s28(1)
- The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit – s28(4)
- In this section prescribed employing authority means any other person or body declared by the Minister to be included in the ambit of this definition – s28(5)(c)
- The functions of the Board are as follows to carry out other functions assigned to the Board under this or any other Act or by the Minister – s29(1)(f)
- A code of conduct prepared or endorsed by the Board cannot come into operation except with the written approval of the Minister and a majority of the peak bodies prescribed by the regulations for the purpose of this subsection – s29(2)
- The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament – s40(3)
- A complaint setting out matters that are alleged to constitute grounds for disciplinary action against a registered school or person may be laid before the Board by the Minister – s62(1)(b)
- The Minister is entitled to appear and be heard on an application by a registered school to vary or revoke a condition imposed by the Board under section 62 in relation to the school's registration – s66(2)
- The Minister is entitled to appear and be heard on an application by a registered school to vary or revoke a condition imposed by the District Court in relation to the registration of the school – s74(2)
- Subject to this section the Minister may by notice in writing exempt a registered school or person, or a class of registered schools or persons, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of this Act or vary the conditions of an exemption by the addition, substitution or deletion of 1 or more conditions – s76(1)
- The Minister must consult with the Board before making a notice under subsection (1) – s76(2)
- The regulations may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, the Board or other specified person or body – s90(4)(c)

**Minister's obligations/powers:**

- The National Authority Board (NAB) consists of up to 13 members appointed by consensus of the Ministerial Council in accordance with this section – s232
- Subject to this subdivision, members of the NAB hold office on the terms and conditions determined by the Ministerial Council – s233(1)
- The remuneration and allowances (if any) to be paid to members of the NAB are to be determined from time to time by the Ministerial Council – s234
- The office of a member of the NAB becomes vacant if the member is removed from office by the Ministerial Council under this section – s235
- The Ministerial Council may by consensus appoint a member of the NAB to be the Deputy Chairperson of the NAB in accordance with this subsection – s236(4)
- A person nominated by a Minister on the Ministerial Council may, with the approval of the Chairperson of the NAB, act as a member of the NAB in the place of the member appointed on the nomination of that Minister if that member is unable to attend a meeting of the NAB – s236(5)
- If a member of the NAB has been granted a leave of absence of 3 months or more, the Ministerial Council may appoint a person nominated by the Minister who nominated the member to act as a member of the NAB in the place of the member during that leave of absence – s237(4)
- After a member has disclosed the nature of a conflict of interest in any matter, the member must not, unless the Ministerial Council or the NAB otherwise determines be present during any deliberation of the NAB with respect to the matter or take part in any decision of the NAB with respect to the matter or be provided with any written material in relation to the matter – s238(3)
- The Chairperson of the NAB must convene a meeting of the NAB at the written request of the Ministerial Council – s239(4)
- The quorum for a meeting of the NAB is 9 members of whom five must be members appointed on the nomination of State and Territory Ministers – s240(b)
- The NAB may in writing delegate any of its functions, powers or duties to the CE of an entity or the head of a government department of a participating jurisdiction nominated by the member of the Ministerial Council who represents that jurisdiction or any other entity with the approval of the Ministerial Council – s246(1)(b) & (e)
- The appointment of the chief executive officer of the NAB may only be made after the Ministerial Council has first endorsed the appointment on the recommendation of the NAB – s248(2)
- An individual exercising functions under this Law must not disclose to another person protected information unless (amongst other things) the disclosure is otherwise authorised by the Ministerial Council – s273(2)(f)
- Payment may be made from the Authority Fund for the purpose of (amongst other things) any other payments recommended by the National Authority and approved by the Ministerial Council – s276(d)
- The National Authority must arrange for any further audit by a qualified person of the books and records kept by the National Authority in relation to the Authority Fund, if directed to do so by the Ministerial Council – s278(g)
- The annual report must include (amongst other things) any other matter determined by the Ministerial Council – s279(2)(g)
- The Ministerial Council may extend, or further extend, the period of submission of an annual report to the Council by a total period of up to 3 months – s279(5)
- The Ministerial Council must make arrangements for the tabling of the annual report of the National Authority, and the report of the public sector auditor with respect to the financial statement in the report, in the Parliament of a participating jurisdiction determined by the Ministerial Council – s280(1)
- The Chairperson of the NAB must provide to the Ministerial Council any other reports and documents and information relating to the operations of the National Authority that the Ministerial Council requires – s281(2)
- The Chairperson of the NAB may provide to the responsible Minister of a participating jurisdiction and the Commonwealth Minister any reports and documents and

information relating to the operations of the National Authority that the responsible Minister requires – s281(3)

- The reports, documents and information referred to in subsection (2) must be provided within the time set by the Ministerial Council – s281(4)
- The Ministerial Council may make regulations for the purposes of this Law – s301(1)
- The member of the Ministerial Council representing a participating jurisdiction is to make arrangements for the tabling of a regulation made under this Law in each House of the Parliament of the participating jurisdiction – s303(1)
- A person authorised in writing by the Minister for the purposes of this clause will be taken to be a nominated supervisor for the purposes of the National Law as it applies to residual early childhood services – Schedule 3 clause 32

**CE's/approved provider (AP) obligations/powers:**

- An AP must comply with the conditions of the provider approval – s19(4)
- An AP may apply to the Regulatory Authority (RA) for an amendment of the provider approval – s22(1)
- AP may, within 30 days after the notice of suspension is given, give the RA a written response to the proposed suspension – s26(2)(d)
- AP may, within 30 days after the notice of cancellation is given, give the RA a written response to the proposed cancellation – s32(2)(c)
- AP at the request of the RA must within 7 days of the request provide the RA with the contact details of the parents of all children enrolled at each education and care service operated by the AP – s35(2)
- The RA may require the person who is or was the AP to give written notice of the suspension or cancellation and its effect to the parents of children enrolled at all or any of the education and care services operated by that person – s36(2)
- A person must comply with a requirement made of that person under subsection (2) – s36(3)
- An AP may apply to the RA for a suspension of the provider approval for a period of not more than 12 months – s37(1)
- The AP must, at least 14 days before making an application under this section notify the parents of children enrolled at the education and care services operated by the AP of the intention to make the application – s37(3)
- If the RA decides to grant the application, the suspension takes effect on a date agreed between the RA and the AP – s37(6)
- The AP may apply to the RA to revoke the suspension before the end of the suspension period – s37(8)
- If the RA grants the application to revoke the suspension, the suspension ceases on the date determined by agreement with the AP – s37(9)
- An AP may surrender the provider approval by written notice to the RA – s38(1)
- The AP must notify the parents of children enrolled at the education and care services operated by the AP of the intention to surrender the provider approval, at least 14 days before the surrender is intended to take effect – s38(3)
- An AP may apply to the RA for a service approval for an education and care service – s43(1)
- An AP may only apply for a service approval for an education and care service if the AP is or will be the operator of the education and care service and is or will be responsible for the management of the staff members and nominated supervisor of that service – s43(2)
- A person who has applied for a provider approval may apply to the RA for a service approval – s43(3)
- An AP must comply with the conditions of a service approval held by the AP – s51(8)
- An AP must, in accordance with the national regulations, pay the prescribed annual fee in respect of each service approval held by the AP – s53
- An AP may apply to the RA for an amendment of a service approval – s54(1)
- The RA may ask the AP to provide any further information that is reasonably required for the purpose of assessing the application – s54(3)

- The AP of an education and care service must give written notice to the RA in accordance with this section if the AP wishes to change the person nominated as the nominated supervisor of the education and care service – s56(1)
- Subject to this Division, an AP who holds a service approval may transfer the service approval to another AP – s58(1)
- A person who holds a provider approval may transfer a service approval held by the provider even if the provider approval or service approval is suspended – 58(3)
- The transferring AP and the receiving AP must jointly notify the RA of the transfer at least 42 days before the transfer is intended to take effect or if the RA considers that the circumstances are exceptional, a lesser period agreed to by the RA – s59(1)
- The transferring AP and the receiving AP must give written notice to the RA within 2 days after the transfer takes effect specifying the date of transfer – s68(1)
- The receiving AP must give written notice, at least 2 days before the date on which the transfer of the service approval takes effect, to the parents of children enrolled at an education and care service of the transfer of the service approval for that service to that provider – s69
- The RA must first give the AP a notice stating that the AP may, within 30 days after the notice to suspend is given, give the RA a written response to the proposed suspension – s71(2)(d)
- The RA must first give the AP a notice stating that the AP may, within 30 days after the notice to cancel is given, give the RA a written response to the proposed cancellation – s78(2)(c)
- An AP may apply to the RA under this Part for consent to transfer a service approval that is to be cancelled under this Part and that application must be made within 14 days after the decision to cancel the service approval is made, an application cannot be made if the cancellation relates only to an associated children’s service – s81(1) & (2) & (4)
- The AP, at the request of the RA, must provide the RA with the contact details of the parents of all children enrolled at the education and care service – s83(2)
- The RA may require the AP to give written notice of the suspension or cancellation and its effect to the parents of children enrolled at the education and care service to which the approval relates and any associated children’s service and the AP must comply with a requirement made – s84(2) & (3)
- An AP may apply to the RA for the suspension of a service approval for a period of not more than 12 months – s85(1)
- The AP must, at least 14 days before making an application under this section, notify the parents and children enrolled at the education and care service and any associated children’s service of the intention to make the application – s85(4)
- If the RA decides to grant the application, the suspension takes effect on a date agreed between the RA and the AP – s85(6)
- An AP may surrender a service approval by written notice to the RA – s86(1)
- The AP must notify the parents and children enrolled at the education and care service to which the approval relates and any associated children’s service of the intention to surrender the service approval, at least 14 days before the surrender is intended to take effect – s86(3)
- An AP may apply to the RA for a waiver from a requirement that an approved education and care service comply with a prescribed element or elements of the National Quality Standard (NQS) and the national regulations as provided for in the national regulations – s87(1)
- A person who applies for a service approval may apply for a service waiver under this section together with the application for the service approval – s87(2)
- An AP may apply to the RA for the revocation of a service waiver applying to any education and care service that it operates – s92(2)
- An AP may apply to the RA for a temporary waiver from a requirement that an approved education and care service comply with any prescribed element or elements of the NQS and the national regulations as provided for in the national regulations – s94

- The RA on the application of the AP may extend and further extend the period of a temporary waiver by periods of not more than 12 months and grant a further temporary waiver for an education and care service under this Division – s98(3)
- A person must not provide an education and care service unless they person is an AP in respect of that service and the education and care service is an approved education and care service – s103(1)
- An AP may apply to the RA for a reassessment and re rating of an approved education and care service or any aspect or element of an approved education and care service which is rateable against the NQS or the national regulations and an application can only be made once in every 2 year period, unless the RA agrees otherwise – s139(1) & (3)
- Where an AP is given a notice under s136 the AP may ask the RA that determined the rating levels to review the rating levels and a request must be made within 14 days after the AP receives the notice – s141(2) & (3)
- The person conducting the review may ask the AP and any person who was involved in the assessment or rating of the service for further information – s142(2)
- The period specified in subsection (3) may be extended by up to 30 days if a request for further information is made under subsection (2) or by agreement between the AP and the RA – s142(4)
- The AP may apply to the National Authority for a further review by a Ratings Review Panel of the rating levels confirmed or amended by the RA under Division 3 – s144(2)
- An application may only be made on the ground that the RA did not appropriately apply the prescribed processes for determining a rating level or failed to take into account or give sufficient weight to special circumstances existing or facts existing at the time of the rating assessment – s144(3)
- The period for the making of a decision by a Ratings Review Panel may be extended by agreement between the chairperson of the Panel and the AP – s151(4)
- An AP may apply to the National Authority for an approved education and care service operated by that provider to be assessed for the highest rating level for the education and care service if the criteria determined by the National Authority are met and an application may be made only once every 3 years, unless the National Authority determines otherwise in a particular case and an application may be made only if the current overall rating of the service is the second highest rating level – s152(1) & (4) & (5)
- The period of 60 days for the National Authority to make a decision may be extended by up to 30 days if a request for information and documents is made under s154 or by agreement between the AP and the National Authority – s155(3)
- An AP that has been awarded the highest rating level may reapply for the award of the highest rating level for the service within 90 days before the expiry of the existing highest rating level for the approved education and care service – s159(1) & (2)
- The AP must not operate the service unless there is a nominated supervisor for that service – s161
- The AP must ensure that one of the following persons is present at all times that the service is educating and caring for children; the AP, if the AP is an individual or, in any other case, a person with management or control of an education and care service operated by the AP; the nominated supervisor of the service; a certified supervisor who has been placed in day to day charge of the service in accordance with the national regulations but this does not apply to an approved family day care service – s162(1) & (2)
- The AP of a family day care service must ensure that at all times one or more qualified persons, being a person who has the qualifications prescribed by the national regulations, are employed or engaged as family day care coordinators of the family day care service to assist with the operation of the service and to support, monitor and train the family day care educators of that service – s163
- The AP of a family day care service must ensure that at all time that a family day care educator is educating and caring for a child as part of the service, one of the following persons is available to provide support, including by telephone, to the educator; the AP, if the AP is an individual, or a person with management or control of the service, in any other case; the nominated supervisor of the service; a certified supervisor who

has been placed in day to day charge of the service in accordance with the national regulations – s164

- The AP must ensure that all children being educated and cared for by the service are adequately supervised at all time that the children are in the case of that service – s165(1)
- The AP must ensure that no child being educated and cared for by the service is subject to any form of corporal punishment or any discipline that is unreasonable in the circumstances – s166(1)
- The AP must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury – s167(1)
- The AP must ensure that a program is delivered to all children being educated and cared for by the service that, is based on an approved learning framework; and is delivered in a manner that accords with the approved learning framework; and is based on the developmental needs, interests and experiences of each child; and is designated to take into account the individual differences of each child – s168(1)
- An AP must ensure that, whenever children are being educated and cared for by the service, the relevant number of educators educating and caring for the children is no less than the number prescribed for this purpose – s169(1)
- An AP must ensure that each educator educating and caring for children for the service meets the qualification requirements relevant to the educator's role as prescribed by the national regulations – s169(2)
- The AP must ensure that an unauthorised person does not remain at the education and care service premises while children are being educated and cared for at the premises unless the person is under the direct supervision of an educator or other staff member of the service – s170(2)
- An AP must ensure that the prescribed information outlined in this section is positioned so that it is clearly visible to anyone from the main entrance to the education and care premises – s172
- An AP must notify the RA of the matters in this subsection in relation to the AP or each approved education and care service operated by the AP – s173(1)
- An AP must notify the RA of the matters in this subsection in relation to an approved education and care service operated by the AP – s173(2)
- A notice under subsection (1) & (2) must be in writing and provided within the relevant prescribed time – s173(3) & (4)
- An AP must notify the RA of the matters in this subsection in relation to the AP or each education and care service operated by the AP – s174(1)
- An AP must notify the RA of the matters in this subsection in relation to an approved education and care service operated by the AP – s174(2)
- A notice under subsections (1) & (2) must be in writing and be provided within the relevant prescribed time – s174(3) & (4)
- An AP must keep the prescribed documents available for inspection by an authorised officer in accordance with this section – s175(1)
- An AP must comply with a direction requiring the AP to take the steps specified in the compliance notice under this section within the period (being not less than 14 days) specified in the direction – s176(3)
- An AP must comply with a compliance notice under this section within the period (being not less than 14 days) specified in the notice – s177(3)
- An AP must comply with a direction to take the steps specified in the notice to remove or reduce an immediate risk to the safety, health or wellbeing of a child or children of the service within the time (not more than 14 days) specified in the notice – s179(3)
- An AP must not engage a person as a supervisor, educator, family day care educator, employee, contractor or staff member of, or allow a person to perform volunteer services for, a service if the provider knows, or ought reasonably to know, a prohibition notice is in force under this Law as applying in any participating jurisdiction in respect of the person – s188
- The NAB may in writing delegate any of its functions, powers or duties to the CE of an entity or the head of a government department of a participating jurisdiction

- nominated by the member of the Ministerial Council who represents that jurisdiction or any other entity with the approval of the Ministerial Council – s246(1)(b) & (e)
- The AP of a family day care service must keep at its principal office a register of each family day care educator and any other person engaged by or registered with a family day care service to educate and care for a child and the register must contain the prescribed information and the AP must provide any information on the register and any changes to that information to the RA on request – s269
  - The AP must display the provisional rating of that approved education and care service in accordance with section 172 until a first rating assessment is completed and a rating level given to the service after that assessment is published under Part 5 – s313(2)
  - If the service was accredited by the National Child Care Accreditation Council before the scheme commencement day, the AP of the service must continue to display that accreditation at the service together with the provisional rating until a first rating assessment is completed and a rating (other than a provisional rating) given to the service after that assessment is published under Part 5 – s313(3)
  - A person declared to be a nominated supervisor for a service ceases to apply if the AP does not confirm the nomination within a time specified by the RA after being requested in writing to do so by the RA – s316(2)(a)

**Education and Early Childhood Services (Registration and Standards) Regulations 2011 (SA)**

**Minister's obligations/powers:**

- The Minister may delegate a function or power under the Act except for powers pursuant to section 19, 22, 24 and 62 of the Act – r4
- The annual report of the Board must contain amongst other things any other information that the Minister may reasonably require to be included in the annual report – r10(c)
- The Minister may determine any other class of persons to be prescribed for the purposes of section 114(1) of the National Law – r15(e)

**CE's/approved provider (AP) obligations/powers:**

- An AP must keep a record referred to in sub regulation (1) for a period of not less than 3 years (or such longer period as may be specified by the Board) and in a place, and in a manner, that complies with any requirements determined by the Board for the purposes of this sub regulation – r16(2)
- A service approval is granted subject to a condition that the AP must hold the following insurance in respect of the residual early childhood service; public liability with a minimum cover of \$10 m or a cover by the Government in respect of the residual early childhood service – r25
- 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 AP must comply with any standards or requirements determined by the Board from time to time in relation to the operation of such services – r27
- For the purposes of section 162(1)(c) or 164(1)(c) of the National Law, a certified supervisor is placed in day to day charge of a residual early childhood service if the AP or the nominated supervisor for the service designates the certified supervisor as the certified supervisor in day to day charge and the certified supervisor accepts the designation in writing – r32

## Education and Care Services National Regulations 2014 (NSW)

### **Minister's obligations/powers:**

- The Privacy Act applies as if it were modified to provide that a reference to the National Education and Care Services Privacy Commissioner is taken to be a reference to the person appointed to that office by the Ministerial Council with the remuneration, and on the terms and conditions, decided by the Council – r196(b)
- The Privacy Act applies as if it were modified to provide that the National Education and Care Services Privacy Commissioner may only be removed from office by the Ministerial Council on the grounds outlined in this regulation – r196(c)
- The Privacy Act applies as if it were modified to provide that the National Education and Care Services Privacy Commissioner is required to arrange for any further audit by a qualified person of records kept by the Commissioner in relation to the funds held by the Commissioner, if directed to do so by the Ministerial Council – r197(g)
- The Privacy Act applies as if after section 95C there were inserted section 95D where the Ministerial Council is to make arrangements for the tabling of the annual report in the Parliament of each participating jurisdiction and the Commonwealth – r198
- The Privacy Act applies as if a reference to the Minister were a reference to a member of the Ministerial Council nominated by that Council – r201(a)
- The FOI Act applies as if it were modified to provide that a reference to the Office of the Australian Information Commissioner is taken to be a reference to the Office of the National Education and Care Services FOI Commissioner established by the Ministerial Council – r205(a)
- The FOI Act applies as if it were modified to provide that a reference to the National Education and Care Services FOI Commissioner is taken to be a reference to the person appointed to that office by the Ministerial Council with the remuneration, and on the terms and conditions, decided by the Council – r205(c)
- The FOI Act applies as if it were modified to provide that the National Education and Care Services FOI Commissioner may only be removed from office by the Ministerial Council on grounds outlined in this regulation – r205(d)
- The FOI Act applies as if it were modified to provide that the National Education and Care Services FOI Commissioner is required to arrange for any further audit by a qualified person of records kept by the Commissioner in relation to the funds held by the Commissioner, if directed to do so by the Ministerial Council – r206(g)
- The FOI Act applies as if after section 93B there were inserted section 93C where the Ministerial Council is to make arrangements for the tabling of the annual report in the Parliament of each participating jurisdiction and the Commonwealth – r207(4)
- The FOI Act applies as if it were modified so that a reference in the Act to the responsible Minister of an agency or the Minister is a reference to a member of the Ministerial Council nominated by the Ministerial Council – r208(d)
- The Ombudsman Act applies as if it were modified to provide that a reference to the Education and Care Services Ombudsman is taken to be a reference to the person appointed to that office by the Ministerial Council with the remuneration, and on the terms and conditions, decided by the Council – r219(b)
- The Ombudsman Act applies as if it were modified so that the Education and Care Services Ombudsman may be suspended or removed from office by the Ministerial Council as provided for in this regulation – r219(c)
- The Ombudsman Act applies as if it were modified to provide that the Education and Care Services Ombudsman is required to arrange for any further audit by a qualified person of records kept by the Ombudsman in relation to the funds held by the Ombudsman, if directed to do so by the Ministerial Council – r220(g)
- The Ombudsman Act applies as if it were modified to provide that the requirement to lay a copy of the report before each House of Parliament is a requirement for each

member of the Ministerial Council to cause a copy of the report to be laid before each House of the parliament of the jurisdiction the member represents – r221(d)

- The Ombudsman Act applies as if a reference to the Minister or the responsible Minister were a reference to a member of the Ministerial Council nominated by that Council – r223(a)
- The Ombudsman Act applies as if a reference to the Prime Minister were a reference to a member of the Ministerial Council nominated by that Council – r223(e)
- The Ombudsman Act applies as if the requirement to observe confidentiality under the Act applies to any person performing functions under the Act but does not prevent a member of the Ministerial Council making a record or, or divulging or communicating to another member of the Ministerial Council, information acquired by the member in performing functions under the Act – r223(m)

**CE's/approved provider (AP) obligations/powers:**

- An application for a voluntary suspension of provider approval must include the information in this regulation – r19
- Subject to sub regulation (2), in addition to the information referred to in regulation 24, an application for a service approval for a centre-based service must include the information about the proposed premises as outlined in this regulation – r25(1)
- A service approval is granted subject to the condition that the AP must hold a policy of insurance or an indemnity against public liability provided by the Government of a State in respect of the service – r29(b)
- A service approval for a family day care service is granted subject to the condition that the AP of the service must ensure that each family day care educator engaged by or registered with the service holds insurance against public liability with a minimum cover of \$10 000 000 – r30
- A service approval is granted subject to the condition that the AP of the education and care service ensures that the current quality improvement plan complies with the regulation of this section - r31
- The AP of an education and care service must pay the relevant annual fee set out in Schedule 2 for the service approval on or before 1 July each year – r33
- A notice under section 59 of the Law of a transfer of a service approval for a centre-based service must include the prescribed information - r36
- A notice under section 59 of the Law of a transfer of a service approval for a family day care service must include the prescribed information – r37
- For the purposes of section 92(3) of the Law, the prescribed period in relation to a revocation of a service waiver under section 92(1) of the Law is 60 days after the Regulatory Authority notifies the AP of the decision to revoke or if another period is determined by the Regulatory Authority with the agreement of the AP, that other period – r43(1)
- For the purposes of section 92(3) of the Law, the prescribed period in relation to a revocation of a service waiver under section 92(2) of the Law is 14 days after the Regulatory Authority notifies the AP of the approval of the application or if another period is determined by the Regulatory Authority with the agreement of the AP, that other period – r43(2)
- For the purposes of section 162(1)(c) or 164(1)(c) of the Law, a certified supervisor is placed in day to day charge of an education and care service if the AP or the nominated supervisor for the service designates the certified supervisor as the certified supervisor in day to day charge and the certified supervisor accepts the designation in writing – r54
- The AP of an education and care service must ensure that, within 3 months of the grant of the service approval, a quality improvement plan is prepared for the service that meets the prescribed requirements– r55(1)
- The AP must submit the quality improvement plan to the Regulatory Authority on request – r55(2)
- The AP of an education and care service must review and revise the quality improvement plan for the service having regard to the National Quality Standard at least annually and at any time when directed by the Regulatory Authority – r56(1)

- The AP must submit the current quality improvement plan to the Regulatory Authority on request – r56(2)
- The AP of an education and care service must not falsely represent the overall rating or a rating in respect of a quality area stated in the National Quality Standard given to the service under the Law – r72(1)
- The AP must take reasonable steps to ensure that any person employed or engaged by the AP does not falsely represent the overall rating or a rating in respect of a quality area stated in the National Quality Standard given to the service under the Law – r72(2)
- The AP of the education and care service must ensure that, for the purposes of the educational program, the prescribed information which is required under this regulation is documented – r74(1)
- In preparing the documentation, the AP must consider the period of time that the child is being educated and cared for by the service and how the documentation will be used by the educators at the service. The AP must also prepare the documentation in a way that is readily understandable by the educators at the service and the parents of the child – r74(2)
- The AP of an education and care service must ensure that information about the contents and operation of the educational program for the service is displayed at the education and care service premises and a copy of the educational program is available at the prescribed places provided under this regulation for inspection on request – r75
- The AP of an education and care service must ensure that a parent of a child being educated and cared for by the service is provided with information about the content and operation of the educational program so far as it relates to that child, information about the child's participation in the program and a copy of the documents kept under regulation 74 in respect of the child on request – r76
- The AP of an education and care service must ensure that the nominated supervisor and staff members of, and volunteers at, the service implement adequate health and hygiene practices and safe practices for handling, preparing and storing food— to minimise risks to children being educated and cared for by the service – r77(1)
- The AP of an education and care service must ensure that children being educated and cared for by the service have access to safe drinking water at all times and are offered food and beverages appropriate to the needs of each child on a regular basis throughout the day – r78(1)
- The AP of an education and care service that provides food or a beverage to children being educated and cared for by the service must ensure that the food or beverage provided is nutritious and adequate in quantity and the food or beverage provided is chosen having regard to the dietary requirements of individual children taking into account various factors – r79(1)
- The AP of an education and care service that provides food and beverages (other than water) to children being educated and cared for by the service must ensure that a weekly menu is displayed at a place at the education and care service premises accessible to parents of children being educated and cared for by the service and accurately describes the food and beverages to be provided by the service each day – r80(1)
- The AP of an education and care service must take reasonable steps to ensure that the needs for sleep and rest of children being educated and cared for by the service are met, having regard to the ages, development stages and individual needs of the children – r81(1)
- The AP of an education and care service must ensure that children being educated and cared for by the service are provided with an environment that is free from the use of tobacco, illicit drugs and alcohol – r82(1)
- The AP of an education and care service must ensure that the nominated supervisor or a staff member of, or volunteer at, the service is not affected by alcohol or drugs (including prescription medication) so as to impair his or her capacity to supervise or provide education and care to children being educated and cared for by the service – r83(1)

- The AP of an education and care service must ensure that the nominated supervisor and staff members at the service who work with children are advised of the existence and application of the current child protection law and any obligations that they may have under that law – r84
- The AP of an education and care service must ensure that a parent of a child being educated and cared for by the service is notified as soon as practicable, but not later than 24 hours after the occurrence, if the child is involved in any incident, injury, trauma or illness while the child is being educated and cared for by the education and care service – r86
- The AP of an education and care service must ensure that an incident, injury, trauma and illness record is kept in accordance with this regulation - r87(1)
- The incident, injury, trauma and illness record must include details in accordance with r87(3)
- If there is an occurrence of an infectious disease at an education and care service, the AP of the service must ensure that reasonable steps are taken to prevent the spread of the infectious disease at the service - r88(1)
- If there is an occurrence of an infectious disease at a centre-based service, the AP of the service must ensure that a parent or an authorised emergency contact of each child being educated and cared for by the service is notified of the occurrence as soon as practicable - r88(2)
- If there is an occurrence of an infectious disease at a family day care residence or approved family day care venue, the AP of the family day care service must ensure that a parent or an authorised emergency contact of each child being educated and cared for at the residence or venue as part of the service is notified of the occurrence as soon as practicable - r88(3)
- The AP of an education and care service must ensure that first aid kits are kept in accordance with this subregulation, wherever the service is providing education and care to children - r89(1)
- The AP of an education and care service must ensure that a copy of the medical conditions policy document is provided to the parent of a child enrolled at an education and care service if the provider is aware that the child has a specific health care need, allergy or other relevant medical condition - r91
- The AP of an education and care service must ensure that a medication record is kept that includes the details set out in subregulation (3) for each child to whom medication is or is to be administered by the service - r92(1)
- The AP of an education and care service must ensure that medication is not administered to a child being educated and cared for by the service unless that administration is authorised and the medication is administered in accordance with regulation 95 or 96 - r93(1)
- The AP of an education and care service must ensure that written notice is given to a parent or other family member of a child as soon as practicable, if medication is administered to the child under an authorisation referred to in subregulation (5)(b) – r93(2)
- If medication is administered under this regulation, the AP or nominated supervisor of the education and care service or family day care educator must ensure that a parent of the child and emergency services are notified as soon as practicable – r94(2)
- The AP of an education and care service may permit a child over preschool age to self-administer medication if an authorisation for the child to self-administer medication is recorded in the medication record for the child under regulation 92 and the medical conditions policy of the service includes practices for self-administration of medication – r96
- For the purposes of preparing the emergency and evacuation procedures, the AP of an education and care service must ensure that a risk assessment is conducted to identify potential emergencies that are relevant to the service – r97(2)
- The AP of an education and care service must ensure that centre-based services and family day care services rehearse the emergency and evacuation procedures every 3 months in accordance with the prescribed requirements and that the rehearsals of the emergency and evacuation procedures are documented – r97(3)

- The AP of an education and care service must ensure that a copy of the emergency and evacuation floor plan and instructions are displayed in a prominent position near each exit at the education and care service premises, including a family day care residence and approved family day care venue – 97(4)
- The AP of an education and care service must ensure that, when educating or caring for children as part of the service, the nominated supervisor and staff members of the service have ready access to an operating telephone or other similar means of communication to enable immediate communication to and from parents and emergency services – r98
- The AP of an education and care service must ensure that a child who is being educated and cared for by the education and care service does not leave the education and care service premises except in accordance with subregulation (4) – r99(1)
- The AP of an education and care service must ensure a risk assessment is carried out in accordance with regulation 101 before an authorisation is sought under regulation 102 for an excursion – r100
- The AP of an education and care service must ensure that a child being educated and cared for by the service is not taken outside the education and care service premises on an excursion unless written authorisation has been provided under subregulation (4) – r102(1)
- The AP of an education and care service must ensure that the education and care service premises and all equipment and furniture used in providing the education and care service are safe, clean and in good repair – r103(1)
- The AP of an education and care service must ensure that any outdoor space used by children at the education and care service premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it – r104(1)
- The AP of an education and care service must ensure that each child being educated and cared for by the education and care service has access to sufficient furniture, materials and developmentally appropriate equipment suitable for the education and care of that child – r105
- The AP of an education and care service must ensure that the service has laundry facilities or access to laundry facilities or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering— that are adequate and appropriate for the needs of the service – r106(1)
- The AP of the service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children – r106(2)
- The AP of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 3½ square metres of unencumbered indoor space – r107(2)
- The AP of an education and care service must ensure that, for each child being educated and cared for by the service, the education and care service premises has at least 7 square metres of unencumbered outdoor space – r108
- The AP of an education and care service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children – r109
- The AP of an education and care service must ensure that the indoor spaces used by children at the education and care service premises are well ventilated, have adequate natural light and are maintained at a temperature that ensures the safety and wellbeing of Children – r110
- The AP of a centre-based service must ensure that an adequate area or areas are available at the education and care service premises for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations – r111
- The AP of the service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing – r112(2)

- Without limiting subregulation (2), the AP of the service must ensure that if any of the children are under 3 years of age, at least 1 properly constructed nappy changing bench is provided and hand cleansing facilities are provided for adults in the immediate vicinity of the nappy change area – r112(3)
- The AP of the service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children – r112(4)
- The AP of a centre-based service must ensure that the outdoor spaces provided at the education and care service premises allow children to explore and experience the natural environment – r113
- The AP of a centre-based service must ensure that outdoor spaces provided at the education and care service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun – r114
- The AP of a centre-based service must ensure that the education and care service premises (including toilets and nappy change facilities) are designed and maintained in a way that facilitates supervision of children at all times that they are being educated and cared for by the service, having regard to the need to maintain the rights and dignity of the children – r115
- The AP of a family day care service must conduct an assessment (including a risk assessment) of each residence and approved family day care venue of the service before education and care is provided to children at the residence or venue as part of the service and at least annually to ensure that the health, safety and wellbeing of children being educated and cared for by the service are protected – r116(1)
- The AP of a family day care service must require each family day care educator educating and caring for children at a residence or approved family day care venue as part of the service to advise the provider of any changes or proposed changes in relation to the residence or venue in accordance with the prescribed requirements of this regulation – r116(3)
- The AP of a family day care service must ensure that any glazed area of a residence or approved family day care venue of the service complies with subregulation (2) if the area is accessible to children and meets either of the prescribed requirements set out in this regulation – r117(1)
- The glazed area must be glazed with safety glass, if the Building Code of Australia requires this or, in any other case treated with a product that prevents glass from shattering if broken or guarded by barriers that prevent a child from striking or falling against the glass – r117(2)
- The AP of an education and care service must designate, in writing, a suitably qualified and experienced educator, co-ordinator or other individual as educational leader at the service to lead the development and implementation of educational programs in the service – r118
- The AP of a family day care service must ensure that any family day care educator and any family day care educator assistant engaged by or registered with the service has attained the age of 18 years – r119
- The AP of a centre-based service must ensure that any educator at the service who is under 18 years of age does not work alone at the service and is adequately supervised at all times by an educator who has attained the age of 18 years – r120
- An AP of a centre-based service must not permit an additional child or additional children to be educated and cared for at the service in an emergency in the circumstances set out in subsection (5) unless the AP is satisfied on reasonable grounds that this will not affect the health, safety and wellbeing of all the children attending the service – r123(6)
- Despite subregulations (1) to (4), the AP of a family day care service may approve, in writing, a family day care educator to educate and care for more than 7 children, or more than 4 children who are preschool age or under, at any one time, in exceptional circumstances – r124(5)
- The qualification requirements in subregulation (1)(b) do not apply to an educator if the educator has been employed by an AP on a probationary basis for not more than 3 months, at one or more centre-based services operated by the AP – r126(1A)
- The AP of a centre-based service must ensure that the prescribed persons are in attendance at any place where children are being educated and cared for by the

service, and immediately available in an emergency, at all times that children are being educated and cared for by the service in accordance with this regulation – r136(1)

- The AP of a family day care service must ensure that each family day care educator and family day care educator assistant engaged by or registered with the service holds a current approved first aid qualification, has undertaken current approved anaphylaxis management training and has undertaken current approved emergency asthma management training – r136(3)
- An AP of a family day care service may approve a person to assist a family day care educator in providing education and care to children as part of a family day care service in the circumstances set out in subregulation (2) – r144(1)
- An approved family day care educator assistant may assist the family day care educator by providing education and care to a child, in the absence of the family day care educator to attend an appointment (other than a regular appointment), if the absence is for less than 4 hours, the AP of the family day care service has approved that absence and notice of that absence has been given to the parents of the child – r144(2)(c)
- An AP must not approve a person under subregulation (1) unless the family day care educator provides the written consent of a parent of each child being educated and cared for by the educator to the use of the assistant in the circumstances set out in subregulation (2) – r144(3)
- The AP of a centre-based service must ensure that a staff record is kept for that service in accordance with this Division – r145(1)
- The staff record must include the information about nominated supervisors set out in regulation 146, the information about staff members set out in regulation 147, the information about the educational leader set out in regulation 148 and the information about volunteers set out in regulation 149(1) – r145(2)
- The AP of a centre-based service must also keep a record for each day on which the student or volunteer participates in the service, the date and the hours of participation – r149(2)
- The AP of a centre-based service must keep a record of educators working directly with children that includes the name of each educator who works directly with children being educated and cared for by the service and the hours that each educator works directly with children being educated and cared for by the service – r151
- The AP of a centre-based service that provides education and care to fewer than 25 children preschool age or under must ensure that a record is kept of the period that an early childhood teacher is working with the service in accordance with regulation 130 or 131(2) and the periods that the early childhood teacher is working directly with children and is not working directly with children – r152(1)
- The AP of a centre-based service that provides education and care to 25 or more children preschool age or under must ensure that a record is kept of the period that an early childhood teacher is in attendance at the service – r152(2)
- For the purposes of section 269 of the Law, the register of family day care educators must include the following information, if the educator is an AP, the number of the provider approval and the date the approval was granted – r153(g)
- The AP of a family day care service must keep a record of staff, of family day care coordinators engaged by the service and of family day care educator assistants approved by the service as prescribed within this regulation - r154
- An AP must take reasonable steps to ensure that the education and care service provides education and care to children in a way that meets the prescribed requirements set out under this regulation – r155
- The AP of an education and care service must take reasonable steps to ensure that the service provides children being educated and cared for by the service with opportunities to interact and develop respectful and positive relationships with each other and with staff members of, and volunteers at, the service – r156(1)
- For the purposes of subregulation (1), the AP must have regard to the size and the composition of the groups in which children are being educated and cared for by the service – r156(2)

- The AP of an education and care service must ensure that a parent of a child being educated and cared for by the service may enter the education and care service premises at any time that the child is being educated and cared for by the service – r157(1)
- The nominated supervisor of an education and care service must ensure that a parent of a child being educated and cared for by the service may enter the education and care service premises at any time that the child is being educated and cared for by the service – r157(2)
- Despite subregulations (1) to (3), the AP, nominated supervisor or family day care educator is not required to allow a parent to enter the education and care service premises if permitting the parent's entry would pose a risk to the safety of the children and staff, would conflict with any duty of the provider, supervisor or educator under the Law or if the provider, supervisor or the family day care educator reasonably believes that permitting the parent's entry would contravene a court order – r157(4)
- The AP of an education and care service must ensure that a record of attendance is kept for the service that records the full name of each child attending the service, records the date and time each child arrives and departs and is signed by the person who delivers the child to the education and care service premises or collects the child from the education and care service premises or the nominated supervisor or an educator at the time that the child arrives and departs– r158(1)
- The AP of an education and care service must ensure that an enrolment record is kept that includes the information set out in subregulation (3) for each child enrolled at the education and care service – r160(1)
- An enrolment record must include the following information for each child— details of any other court orders provided to the AP relating to the child's residence or the child's contact with a parent or other person – r160(3)(d)
- The AP of a family day care service must take reasonable steps to ensure that a person aged 18 years or over who resides at a family day care residence is a fit and proper person to be in the company of children – r163(1)
- The AP of a family day care service must take reasonable steps to ensure that a person who is a family day care educator assistant at a family day care residence or approved family day care venue is a fit and proper person to be in the company of children – r163(2)
- To comply with subregulation (1) or (2), the AP must assess each person in accordance with subregulation (4) – r163(3)
- Except in the case of New South Wales, Queensland, Tasmania or Victoria, the AP must consider one of the prescribed requirements set out under this regulation in respect of the person – r163(4)
- In New South Wales or Queensland, the AP must consider the person's current working with children check or working with children card – r163(4A)
- In Victoria, the AP must consider the person's current working with children check or current teacher registration – r163(4B)
- In Tasmania, the AP must consider the person's safety screening clearance or working with vulnerable people registration – r163(4C)
- The AP of a family day care service must require each family day care educator to notify the provider of any new person aged 18 years or over who resides, or intends to reside, at the educator's family day care residence and any circumstance relating to a person who has previously been considered under regulation 163 in relation to the family day care residence that may affect whether the person is a fit and proper person to be in the company of children – r164
- An AP of a family day care service must take all reasonable steps to ensure that a record is kept of all visitors to a family day care residence or approved family day care venue while children are being educated and cared for at the residence or venue as part of that service – r165(1)
- An AP of a family day care service must take all reasonable steps to ensure that a child being educated and cared for at a family day care residence or approved family day care venue as part of the service is not left alone with a visitor to the residence or venue – r166(1)

- The AP of an education and care service must ensure that the service has in place policies and procedures in relation to the matters set out in subregulation (2) – r168(1)
- Policies and procedures are required in relation to various prescribed matters as set out in this regulation – r168(2)
- In addition to the policies and procedures set out in regulation 168, the AP of a family day care service must ensure that the family day care service has in place policies and procedures in relation to the matters set out in subregulation (2) – r169(1)
- Policies and procedures are required in relation to the prescribed matters set out in this regulation – r169(2)
- The AP of a centre-based service must take reasonable steps to ensure that the nominated supervisor and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168 – r170(1)
- The AP of a family day care service must take reasonable steps to ensure that the nominated supervisor and staff members of, and family day care educators engaged by or registered with, the service follow the policies and procedures required under regulations 168 and 169 – r170(2)
- The AP of an education and care service must ensure that copies of the current policies and procedures required under regulation 168 and, in the case of a family day care service, regulation 169 are readily accessible to the nominated supervisor, staff members of, volunteers at, and family day care educators engaged by or registered with, the service – r171(1)
- The AP of an education and care service must ensure that copies of the current policies and procedures required under regulation 168 and, in the case of a family day care service, regulation 169 are available for inspection at the education and care service premises at all times that the service is educating and caring for children or otherwise on request – r171(2)
- If the AP considers that the notice period would pose a risk to the safety, health or wellbeing of any child enrolled at the service, the AP must ensure that parents of children enrolled at the service are notified as soon as practicable after making a change referred to in subregulation (1) – r172(3)
- For the purposes of section 173(3) of the Law, a notice must be provided within 14 days of the relevant event or within 14 days of the AP becoming aware of the relevant event – r174(1)
- For the purposes of section 173(4) of the Law, a notice must be provided in the case of a notice under section 173(2)(f), within the period referred to in section 59 of the Law and in any other case, within 7 days of the relevant event or within 7 days of the AP becoming aware of the relevant event – r174(2)
- For the purposes of section 174(1)(b) of the Law, various matters are prescribed under this regulation – r175(1)
- For the purposes of section 174(2)(c) of the Law, various matters are prescribed under this regulation – r175(2)
- For the purposes of section 174(3) of the Law, a notice must be provided within 7 days of the relevant event or within 7 days of the AP becoming aware of the relevant information – r176(1)
- For the purposes of section 174(4) of the Law, a notice must be provided in accordance with the prescribed requirements of this regulation – r176(2)
- For the purposes of section 175(1) of the Law, various documents are prescribed in relation to each education and care service operated by the AP – r177(1)
- The AP of the education and care service must take reasonable steps to ensure the documents referred to in subregulation (1) are accurate – r177(2)
- Subject to Subdivision 4, the AP of the education and care service must ensure that subject to subregulation (4), the documents referred to in subregulation (1) in relation to a child enrolled at the service are made available to a parent of the child on request and the record of compliance referred to in subregulation (1)(m) is able to be accessed on request by any person – r177(3)
- If a parent's access to information of the kind in the documents referred to in subregulation (1) is limited by an order of a court, the AP must refer to the court order in relation to the release of information concerning the child to that parent – r177(4)

- An AP of a family day care service is not required to keep a document set out in subregulation (1) if an equivalent record is kept by a family day care educator under regulation 178 – r177(5)
- A family day care educator must provide all documents referred to in regulation 178(1) to the AP of the family day care service on ceasing to be engaged by or registered with the service – r179
- The AP of an education and care service must keep evidence of the current prescribed insurance at the education and care service premises, or in the case of a family day care service, at the principal office of the service, and must make the evidence available for inspection by the Regulatory Authority or an authorised officer under the Law – r180(1)
- The AP of an education and care service must ensure that information kept in a record under these Regulations is not divulged or communicated, directly or indirectly, to another person except where a prescribed reason to do so is provided – r181
- The AP of an education and care service must ensure that records and documents set out in regulation 177 are stored in a safe and secure place and for the relevant period set out in subregulation (2) – r183(1)
- The records must be kept if the record relates to various prescribed circumstances – r183(2)
- The AP of an education and care service must ensure that a copy of the Law and these Regulations is accessible at the education and care service premises at all times for use by the nominated supervisor, staff members, volunteers, parents of children enrolled at the service and any person seeking to make use of the service – r185
- If the annual fee for a service approval is not paid on or before 1 July, the Regulatory Authority may charge the AP a late payment fee, in addition to the annual fee, for every 30 days (or part of every 30 days) that the annual fee is overdue – r233(1)
- The late payment fee is 15 per cent of the relevant annual fee prescribed for the purposes of regulation 33 – r233(2)
- The AP of a declared approved service must prepare a quality improvement plan in accordance with regulation 55(1) by 30 April 2012 and make the quality improvement plan available to the Regulatory Authority on Request – r238(1)
- Regulation 55(2) applies to the AP of an education and care service for which a service approval is granted under the Law before 31 January 2012 as if it required the quality improvement plan to be submitted to the Regulatory Authority on or before 30 April 2012 – r238(3)
- For the purposes of section 322(3) of the Law, the documents must be kept in accordance with regulation 183 – r253
- The AP of the education and care service may apply to the relevant Regulatory Authority for the prescribed regulation to cease to apply in relation to the service – r257(2)

## F

### Family and Community Services Act 1972 (SA)

#### **Minister's obligations/powers:**

- **authorised officer** means a person authorised by the Minister to exercise the powers of an authorised officer under the provision in which the expression appears – s6(1)
- The Minister may, from time to time, by instrument in writing, delegate to the CEO such of the Minister's powers, duties, responsibilities and functions under this Act or any other Act as the Minister thinks fit, and may at any time revoke any such delegation – s8(1)
- The objectives and powers of the Minister – s10
- The Minister may appoint advisory committees to advise the Minister on matters pertaining to the administration of this Act – s11(1)

- A committee so appointed will consist of a presiding member and such other members as the Minister thinks fit – s11(2)
- A member of an advisory committee will, subject to subsection (2), hold office upon terms and conditions fixed by the Minister – s12(1)
- The Minister may pay to the members of such a committee such allowances and expenses as the Minister thinks fit – s12(4)
- Subject to this Act, and any direction of the Minister, the procedure of an advisory committee will be determined by the committee – s13(1)
- The presiding member must make such reports to the Minister on the deliberations of and conclusions reached by the committee as the Minister may require – s13(2)
- The Minister may approve that the CEO pay to a community aide such allowances to reimburse the community aide for expenses incurred or to be incurred in the course of his or her duties as the CEO thinks fit – s18
- The Minister should in providing services to the community where appropriate consult with those person identified in this section and encourage comments and recommendations as outlined therein – s21(1)
- The Minister must ensure that appropriate procedures are available to allow the complaints of clients of the Department to be considered and, if appropriate, acted upon by the Department – s21(2)
- The Minister must endeavour, as far as is practicable, to make the services provided by the Department available to members of the public within the localities in which they live, and at, or near to places where people congregate, whether for the purposes of employment, recreation, education, medical treatment or any other purpose – s22(1)
- The family and community services centre established by the Minister may be used, with the Minister's approval, by any other department, person or agency for the furtherance of the welfare of the local community – s22(2)
- The Minister will maintain a fund for the Family and Community Development Programme and the Early Intervention and Substitute Care Programme – s23(1)
- Each fund will consist of such money as is, from time to time, provided by Parliament for the purpose of the fund and the money appropriated to the fund by the Minister from any other source – s23(2)
- The Minister may apply any portion of the Family and Community Development Programme fund towards the costs incurred, or to be incurred, by any person or group of persons in establishing, operating, maintaining, supporting, promoting or extending any service, project or facility that will advance the welfare of children, youth or any other section of the community – s23(3)
- The Minister may apply any portion of the Early Intervention and Substitute Care Programme fund towards the costs incurred by any person or group of persons in establishing, operating, maintain, supporting, promoting or extending a residential care facility for children or a foster care service for children or a service, project of facility designed for the purposes of reducing the occurrence, or mitigating the adverse effects, of the placement of children in residential, foster or similar care apart from their guardians and relatives – s23(4)
- An application for the allocation of money under this section must be made to the Minister in a manner and form approved by the Minister – s23(5)
- The Minister may allocate money under this section on such conditions as the Minister thinks fit – s23(6)
- The Minister may enter into agreements for the provision or promotion of family or community welfare services or other related services – s24(1)
- Subject to subsection (3), the Minister may enter into such an agreement with those groups identified in this section – s24(2)
- The Minister should avoid, so far as practicable, entering into agreements providing for long-term care of persons in need of such care unless satisfied that the other parties to the agreement do not enter into those agreements with the object of making a profit – s24(3)

**CE's obligations/powers:**

- CEO is defined as the person for the time being holding, or acting in, the office of CEO of the Department – s6
- The CEO may delegate to an employee of the Department or, with the approval of the Minister, to any other suitable person, any of the powers, duties, responsibilities or functions vested in, or delegated to, the CEO under this Act or any other Act – s8(2)
- The CEO will provide such secretarial and other services and facilities as may be reasonably required for the purposes of the committee – s11(5)
- The CEO may appoint programme advisory panels to advise him or her on matters pertaining to the services provided by the Department – s14(1)
- The CEO must, on appointing a programme advisory panel, advise the Minister of the appointment and the purposes for which the panel has been appointed – s14(2)
- A panel so appointed will consist of a presiding member and such other members as the CEO thinks fit – s14(3)
- A member of a programme advisory panel holds office on such terms and conditions as the CEO thinks fit – s14(5)
- The CEO may reimburse a member of a programme advisory panel such of the expenses incurred by the member in carrying out the duties of office as the CEO thinks fit – s14(6)
- The CEO will provide such secretarial and other services and facilities as may be reasonably required by a programme advisory panel – s14(7)
- Subject to any direction of the CEO, the procedure of a programme advisory panel will be determined by the panel - s15(1)
- The presiding member must make such reports to the Chief Executive Officer on the deliberations of and conclusions reached by the panel as the Chief Executive Officer may require - s15(2)
- The CEO must forward to the Minister a copy of any report received from a programme advisory panel - s15(3)
- The CEO may appoint such persons as he or she thinks fit to act in a voluntary capacity as community aides – s16(1)
- Subject to subsection (3), a community aide will be appointed upon such terms and conditions as the Chief Executive Officer thinks fit and specifies in the instrument of appointment – s16(2)
- The CEO may, at any time, by instrument in writing addressed to a person appointed as a community aide under this section, remove the person from the office of community aide – s16(5)
- The CEO may determine any other duties and functions to be appropriate to a community aide – s17(b)
- The CEO may, with the approval of the Minister, pay to a community aide such allowances to reimburse the community aide for expenses incurred or to be incurred in the course of his or her duties as the Chief Executive Officer thinks fit – s18
- The CEO will arrange for a community aide to receive such orientation, education, training, support and supervision as the Chief Executive Officer thinks fit – s19
- The CEO must cause a register of community aides to be kept – s20
- A training centre, residential care facility or other facility established under this section will be under the control of the Minister, and the CEO must ensure that proper standards of administration are observed in the management of every such facility s36(2).
- In considering any application for approval as a foster parent the CEO must attempt to assess the capacity and willingness of the applicant to care for a child according to adequate principles and standards of child care, and must, in such manner as the CEO thinks fit, satisfy himself or herself of the prescribed information as far as reasonably possible – s42
- A person is an approved foster parent for the purposes of this Part, if the person is so approved in writing by the CEO – s43(1)
- A foster parent is not permitted to have more than three foster children in his or her care unless the children are all of the same family, or unless the CEO is of the opinion that special reasons exist for permitting a greater number – r43(3)

- The CEO may give approval under this section subject to such conditions as he or she thinks fit and specifies in the approval – r43(5)
- The CEO must, in relation to each approved foster parent, ensure that the prescribed requirements are met – s43A
- The CEO or an authorised officer, may, at any reasonable time, enter any place or premises for the purpose of providing an approved foster parent with support and guidance in relation to the care of a child and of ascertaining whether a child is being adequately cared for, and whether the provisions of this Part are being complied with – s45
- Where, in the opinion of the CEO various prescribed criteria is not being met or complied with by a foster parent, the CEO may cancel the approval of the foster parent – s46(1)
- On the exercise of the CEO's powers under this section to cancel the approval of a foster parent, the person in respect of whom the approval was given ceases to be an approved foster parent – s46(2)
- The CEO must give the foster parent at least 28 days' written notice of his or her intention to cancel the approval – s46(3)
- An approved foster parent provide the CEO with various information that the CEO may require and advise the CEO of the prescribed information – s47
- The CEO will grant a licence under this section to any person who applies in the prescribed manner, if satisfied that the person is a fit and proper person to hold such a licence – s48(2)
- In determining whether or not a person is a fit and proper person to hold a licence under this section the CEO must have regard to various prescribed criteria – s48(3)
- The CEO may grant a licence under this section subject to such terms and conditions as he or she thinks fit and specifies in the licence – s48(4)
- If satisfied that proper cause for cancellation of a licence under section 48 exists, the CEO may, by notice in writing served personally or by post upon the licensee, cancel the licence – s49(1)
- The CEO must give a licensee at least 28 days' written notice of his or her intention to cancel the licence – s49(2)
- A licensed foster care agency must, if so required by the CEO, produce for inspection the records the agency is required to maintain under this section and must furnish the CEO with such other information relating to the activities of the agency as the CEO may require – s50(2)
- The CEO may delegate any of his or her powers or functions under this Subdivision relating to foster parents to a licensed foster care agency - s50B(1)
- A delegation under this section may be absolute or conditional, does not derogate from the powers of the CEO to act himself or herself in any matter and is revocable at will by the CEO - s50B(2)
- In determining whether or not to grant a licence under this section to a person, the CEO must have regard to the prescribed criteria - s51(2)
- The CEO may grant a licence under this section subject to such terms and conditions (which will include conditions as to the standards to be observed in the management and operation of the facility) as the CEO thinks fit and specifies in the licence – s51(3)
- If satisfied that proper cause for the cancellation of a licence under this Subdivision exists, the CEO may, by notice in writing served personally or by post upon the licensee, cancel the licence – s52(1)
- The CEO must give a licensee at least 28 days' written notice of his or her intention to cancel the licence – s52(2)
- The CEO or an authorised officer may at any reasonable time enter and inspect a children's residential facility - s54(1)
- The licensee of a children's residential facility must, if so required by the CEO or an authorised officer, produce for inspection the register that the licensee is required to keep under this Subdivision, and must furnish the CEO or an authorised officer with such information in relation to any child as may be required - s54(2)
- The licensee must, at the request of the CEO or an authorised officer, produce any such agreement for inspection – s55(2)

- Subsection (1) does not apply in relation to a child who is under the guardianship of the Minister or the CEO or of whom the Minister has the custody – s55(3)
- A child being cared for in a licensed children's residential facility or a guardian of any such child may request the CEO to investigate any complaint the child or the guardian may have with respect to the care or control the child is receiving in the residential facility – s56(1)
- The CEO must investigate any complaint made under this section – s56(2)
- The CEO may grant to a foster parent or to any other person in whose care a child has been placed pursuant to an order of a court, an exercise of administrative powers under any Act or an agreement made by a family care meeting, such financial or other assistance in relation to the care and maintenance of the child as may be determined by the CEO - s74
- A person who having been forbidden to do so by the CEO, communicates in any manner with a child who is being detained in or who resides in any such premises, is guilty of an offence – s77(b)
- The CEO may receive money on behalf of a child – s84(1)
- The CEO must cause any money received on behalf of a child to be deposited in the Treasury in the name of the CEO on account of the child or in any ADI account in the name of the child – s84(2)
- The whole, or any portion, of the money deposited in the Treasury on behalf of a child pursuant to this section, and any interest on that money, may be expended for the benefit of the child by the CEO at such times, and for such purposes, as the CEO thinks fit – s84(4)
- Any money held on behalf of a child pursuant to this section is payable to the child on the CEO ceasing to have any direct responsibility for the affairs of the child – s84(5)
- Where a person is liable or, without a complaint being made against him under this Act, admits liability to pay for or contribute towards the preliminary expenses in respect of the confinement of the mother of a child born outside marriage or the maintenance of the child, the CEO may, with the approval of the Minister, accept from that person a sum of money in full settlement of all such Liability – s111(1)
- Where the CEO accepts a sum of money in settlement of liability under this section, that sum will be retained by the CEO and applied at his or her discretion for the maintenance of the child or for the preliminary expenses in respect of the confinement, or both s111(3)
- Subject to the provisions of a maintenance order, any member of the police force must, when so directed in writing signed by the CEO and countersigned by the Commissioner of Police, demand, collect, and receive from any person all sums of money due to the CEO for which that person is liable under any maintenance order – s159(1)
- The receipt in writing of any such member of the police force is a sufficient discharge for the person from whom the money was received of his or her liability to pay that money to the CEO – s159(2)
- If any person against whom a maintenance order has been made is the registered proprietor of any land, estate, or interest in land subject to the *Real Property Act 1886* the CEO may lodge with the Registrar-General a caveat signed by the CEO against any dealings with that land, estate or interest – s160(1)
- Particulars of the order must be set out in the caveat and the Registrar-General must register the caveat, and it is not lawful for the Registrar-General without the consent of the CEO to remove or discharge the caveat unless the prescribed criteria is met – s160(2)
- If any money payable under a maintenance order is in arrear for one month, the Magistrates Court may, upon the application of the CEO or any person to whom money is payable under the maintenance order, issue a warrant authorizing the CEO or that person to receive the whole or any part of the rents, profits, and income of the real and personal estate of the person against whom the order was made, or to take or sell the estate and interest of that person in the real or personal estate, or in such part of that estate as the court may direct – s161(1)
- A person upon whom a warrant under this section is served must pay any money to which the warrant relates to CEO or some other person named in the warrant and, on

doing so, is discharged from all liability to pay that money to the person against whom the maintenance order was made – s161(2)

- A sale under a warrant issued under section 161 may be by public auction or private contract for cash or on credit, or partly for cash and partly on credit, and subject to any conditions that the CEO thinks expedient – s163
- The CEO or person authorized by the warrant to sell, may execute to the purchaser all such conveyances, assignments, memoranda of transfer, or other assurances of the property sold as the person against whom the order was made might have executed but for this Act, and the property so conveyed or assured vests in the purchaser accordingly – s164(1)
- The provisions of this Subdivision have effect in relation to deductions from earnings falling to be paid by the Crown whether in right of the Commonwealth or in right of the State a Minister of the Crown whether in right of the Commonwealth or in right of the State or a statutory authority representing the Crown whether in right of the Commonwealth or in right of the State, and those earnings will be treated as falling to be paid by the CEO of the Department, office or other body concerned – s189
- For the purposes of this Division the CEO is the Collector of Maintenance and the Minister may appoint, from employees of the Department, a Deputy Collector of Maintenance and as many Assistant Collectors of Maintenance as are necessary s197(1)
- The Deputy Collector of Maintenance and every Assistant Collector of Maintenance have and may exercise, subject to the directions of the Collector of Maintenance, all the powers, authorities, duties and functions of the Collector of Maintenance – s197(2)
- The Collector has power to do all things necessary or convenient to be done for the enforcement in this State of maintenance orders that are enforceable in this State by virtue of this Division – s198(1)
- The Collector will undertake the requirements prescribed under this section – s198(2)
- In all proceedings under this Division, the Collector is entitled to appear, to be heard, to give evidence and to call, examine and cross-examine witnesses – s198(3)
- The CEO may require any person whom he or she believes to be in a position to do so, to furnish the CEO with a report as to the financial circumstances or transactions of the persons prescribed to do so under this section – s242(1)
- A person who fails to comply with a requirement under subsection (1) or who furnishes a report that is false or misleading in any material particular is guilty of an offence – s242(2)
- The CEO must not lend any money to a person who is in need or distress unless the CEO is of the opinion that the person will have the means to repay the amount of the loan within a reasonable period of time and the CEO and the person enter into a written agreement for the repayment of the loan at such time or times and in such manner as may be specified in the agreement – s250A

### *Family and Community Services Regulations 2009 (SA)*

#### **Ministers obligations/powers:**

- No provisions.

#### **CE's obligations/powers:**

- The CEO has responsibility to ensure that proper standards of administration are observed in the management of a training centre established under the Act – r5(1)
- The CEO must, for example, ensure that adequate arrangements are in place in a training centre – r5(2)
- The CEO has responsibility to ensure that proper standards of administration are observed in the management of a residential care facility established under the Act – r12(1)
- The CEO must, for example, ensure that adequate arrangements are in place in a residential care facility – r12(2)

- For the purposes of section 48(2) of the Act, an application for a licence to carry on the business of a foster care agency, or for renewal of a licence to carry on the business of a foster care agency must be made to the CEO on a form obtained from the CEO – r15

## S

### SACE Board of South Australia Act 1983 (SA)

#### **Minister's obligations/powers:**

- The Board is to consist of the CEO and 11 members appointed by the Governor on the nomination of the Minister – s8(1)
- The Minister must in making nominations for appointment to the Board, seek to ensure that the membership of the Board comprises persons who together provide a broad range of backgrounds that are relevant to the activities and interests of the Board and together have the abilities, knowledge and experience necessary to enable the Board to carry out its functions effectively – s8(2)
- Without limiting subsection (2) the Minister must seek to achieve a reasonable gender balance in the membership of the Board – s8(3)(e)
- Subject to the requirements of subsections (2) and (3), the Minister should, before nominating a person for appointment to the Board (other than for the purposes of subsection (3)(b), (c) or (d)), under a scheme determined by the Minister for the purposes of this section call for expressions of interest and take into account any representations made by a designated entity – s8(4)
- The Governor may, on the recommendation of the Minister, appoint 1 member of the Board to be the presiding member of the Board and another member of the Board to be the deputy presiding member (subject to the qualification that the CEO cannot hold an appointment under this subsection) – s8(5)
- The CEO will be appointed by the Governor on the recommendation of the Minister on terms and conditions approved by the Premier – s9A(3)
- The Minister must consult with the Board before the Minister makes a recommendation for the purposes of subsection (3) – s9A(4)
- The Board has the following functions, including, to the extent determined by the Minister or the Board, to collect, record and collate information that is directly related to the participation (or non-participation) of children of compulsory education age in secondary education, or training or development programs or opportunities, and, in relation to any such information to provide the Minister, or other authorities or organisations determined by the Minister and to publish the information in such other manner as the Board thinks fit – s15(1)(m)
- The Minister may request that the Board act under subsection (1)(c) – s15(3)(a)
- Without limiting any steps that the Board may take on its own initiative, must give effect to any decision, made by a Ministerial Council, that is specified by the Minister for the purpose of this paragraph – s15(3)(d)
- The Board must provide to the Minister any information or report that the Minister reasonably requires in connection with the Minister's portfolio responsibilities for education in the State – s15(4)
- Subject to subsection (2), the Minister may give the Board a direction about any matter relevant to the performance or exercise of a function or power of the Board – s17A(1)
- No Ministerial direction may be given in relation to the content or accreditation of any subject or course under this Act or in relation to the assessment of, or recording the results of, a student's achievements or learning – s17A(2)
- A direction given by the Minister under this section must be in writing – s17A(3)
- If the Minister gives a direction under this section the Minister must prepare a report on the matter and cause a copy of the report to be laid before each House of Parliament – s17A(4)(a)

- The employing authority is, in acting under this section, subject to direction by the Minister – s18(5)
- However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person – s18(6)
- The Minister may direct the Board to make payments with respect to any matter arising in connection with the employment of a person under this Act (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities) – s18(10)
- The Board may, under an arrangement established by the Minister administering an administrative unit, make use of the services or staff of that administrative unit – s18(12)
- The Board must, at the request of the Minister, submit to the Minister a statement setting out the Board's strategic directions and targets and, if so requested, the Board's budget, for a specified period – s19(1)
- The Minister may approve a statement submitted under this section with or without modification – s19(2)
- The Board may not expend money in a manner that is inconsistent with a statement approved under subsection (2) or its budget unless the expenditure is approved by the Minister, or a person authorised by the Minister – s19(3)
- The Minister must, within 14 sitting days after receiving a report under this section, cause a copy of the report to be laid before each House of Parliament – s20(2)

**CE's obligations/powers:**

- Without limiting subsection (2) 1 of the appointed members of the Board must be a person specifically nominated by the DG of Education - s8(3)(d)

**SACE Board of South Australia Regulations 2008 (SA)**

**Minister's obligations/powers:**

- No relevant provisions

**CE's obligations/powers:**

- No relevant provisions

**T**

**Teachers Registration and Standards Act 2004 (SA)**

**Minister's obligations/powers:**

- Subject to this section, the Minister may give directions to the TRB when it appears to the Minister to be necessary in the public interest – s8(1)
- The Minister, may not give a direction that relates to a particular person or a particular application or inquiry or the performance by the TRB of its function of determining qualifications or experience for registration and, must consult with the TRB before giving it a direction and, must within 3 sitting days after giving a direction, cause a copy of the direction to be laid before each House of Parliament – s8(2)
- The TRB consists of 16 members appointed by the Governor of whom 1 must be a person nominated by the Minister, who will be the presiding member of the Board, 1 must be a parent of a school student nominated by the Minister to represent the community interest, 1 must be a legal practitioner nominated by the Minister – s9(1)(a) & (i) & (j)

- The Minister must ensure, as far as practicable, that the persons appointed under subsection (1) consist of equal numbers of women and men – s9(2)
- The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament – s19(3)
- The regulations may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the TRB – s61(3)(b)

**CE's obligations/powers:**

- The TRB consists of 16 members appointed by the Governor of whom 2 must be persons nominated by the person holding or acting in the office of CE of the Department, 1 must be a person nominated by the person holding or acting in the office of Director of Children's Services – s9(b) & (h)

**Teachers Registration and Standards Regulations 2005 (SA)**

**Minister's obligations/powers:**

- No relevant provisions

**CE's obligations/powers:**

- No relevant provisions

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

**Minister's obligations/powers:**

- No relevant provisions

**CE's obligations/powers:**

- No relevant provisions

## Additional Acts

In addition to those Acts committed to the Minister and the Minister CPR, the Department for Education and Child Development should also be broadly aware of the following relevant legislation and regulations that apply to DECD employees:

1. *Agent-General Act 1901 (SA)*
2. *Competition Policy Reform Act 1996 (SA)*
3. *Constitution Act 1934 (SA)*
4. *Emergency Management Act 2004 (SA)*
5. *Fees Regulations Act 1927(SA)*
6. *Freedom of Information Act 1991(SA)*
7. *Government Business Enterprises (Competition) Act 1996 (SA)*
8. *Mutual Recognition (SA) Act 1993 (SA)*
9. *Pubic Sector (Honesty and Accountability) Act 1995 (SA)*
10. *Public Sector Act 2009 (SA)*
11. *Remuneration Act 1990 (SA)*
12. *Trans-Tasman Mutual Recognition (SA) Act 1999 (SA)*
13. *Unauthorised Documents Act 1916 (SA)*
14. *Year 2000 Information Disclosure Act 1999 (SA)*