

Education and Children's Services Regulations information sheet

Educators in government schools, preschools and children's services centres

The *Education and Children's Services Act 2019* (the Act) passed Parliament in August of last year. To support the implementation of the Act draft regulations have been developed and released for public consultation.

Regulations support the implementation of the Act by providing guidance on how certain parts are interpreted and will establish further requirements, functions, and powers related to the Act.

This information sheet highlights the areas, and corresponding regulation, that will likely be of interest to you.

This is not an exhaustive list and should be used as a guide only. There may be other areas that are of particular importance to you, we recommend reviewing the draft regulations in full prior to providing any feedback.

Most of the regulations can be understood on their own, but where it is necessary to understand the regulation, we have included relevant information from the Act.

WHAT THE ACT SAYS	PROPOSED REGULATIONS
Enrolment	
<p>The Chief Executive can direct that a child be enrolled in a specific government school in specified circumstances including where necessary to:</p> <ul style="list-style-type: none">- support a child with disabilities or learning difficulties- ensure the health, safety and welfare of the child- ensure the health, safety and welfare of staff and students at the school that the child attends.	<p>Regulation 12</p> <p>Says the Chief Executive can only make this direction when they are satisfied that the school to which the child is to be directed can manage the circumstances which caused the need for the direction.</p>
School days	
	<p>Regulation 17</p> <p>Sets out:</p> <ul style="list-style-type: none">- the amount of time that must be set aside for instruction at government schools- that time is to be set aside for recess and lunch. <p>Allows the Chief Executive to authorise alternative arrangements at a specified school or class of school.</p>
Homework	
<p>The regulations may provide for the method to be adopted in teaching in Government schools, Government preschools or children's services centres.</p>	<p>Regulation 18</p> <p>Says teachers at government schools are permitted to require students to complete homework.</p> <p>Says teachers must consider any objections parents and caregivers have regarding the volume of homework expected.</p>

Protections for teachers, staff and students

Teachers, staff and students, in schools, preschools and children's services centres (both government and non-government) are provided a range of new and expanded protections, including:

- offences related to offensive and threatening behaviour
- ability to ban individuals from relevant premises.

Relevant premises include:

- schools
- preschools
- children's services centres
- approved education and care services under the *Education and Care Services National Law (South Australia)*
- other premises prescribed by the regulations.

Regulations 37 and 38

Permit the Minister to determine any additional premises to which the protections, or banning of individuals apply.

Appointment to the teaching service

The Chief Executive can appoint teachers to the teaching service on an ongoing, term or casual basis.

Certain appointments to the teaching service may only occur following a merit-based selection process.

Regulation 39

Sets out requirements that apply to merit-based selection processes and provides for the establishment of pools of applicants through such processes.

Regulation 40

Sets out the requirements for applying to the teaching service including:

- registration as a teacher
- the manner and form of applications and the information to be provided.

Regulation 41

Allows the Chief Executive to determine requirements for the inclusion in a pool of applicants.

Regulation 42

Sets out circumstances, in addition to those outlined in the Act, in which merit-based selection processes do not apply.

A person appointed to the teaching service as a term employee is on probation for a period determined in accordance with the regulations.

Regulation 43

Sets out the probation arrangements for term employees.

The Chief Executive can determine the duties of an officer of the teaching service and the place or places at which the duties are to be performed.

Regulation 44

Says that as a condition of employment an officer of the teaching service will serve in any part of the state during any period of their service, if required.

Duties, classification, promotion and transfer

The Chief Executive may transfer an officer of the teaching service from a teaching position to a non-teaching position, such as administration.

Regulation 45

Confirms an officer transferred to a non-teaching position is subject to the conditions and remuneration of the position to which they are transferred.

Regulation 46

Allows the Minister to determine the number of officers classified at HAT or Lead Teacher and number of positions classified at promotional level, on the recommendation of the Chief Executive, made following consultation with the Australian Education Union.

Officers of the teaching service may apply for reclassification.

Regulation 47

Sets limitations on the classifications to which an application for reclassification can be made and provides that an approved reclassification is effective from the day the application was made.

The Act sets out the process by which an officer of the teaching service might apply and be appointed to a promotional level position.

Regulation 48

Allows the Chief Executive to determine the manner in which a call for applications for promotional level positions are made.

Requires the call for applications to be published on a website.

Specifies circumstances, in addition to those outlined in the Act, in which a call for applications for a promotional level position is not required.

The Chief Executive may appoint officers of the teaching service to promotional level positions in an acting capacity.

Regulation 49

Sets out the entitlements of officers appointed to promotional level positions in an acting capacity.

Leave of absence

Regulation 50

Says how sick leave entitlements will be calculated for officers of the teaching service.

Regulation 51

Says how entitlement to skills and retention leave will be calculated.

Regulation 52

Says how long service leave on half pay will be calculated.

Regulation 53

Says a officer of the teaching service is required to apply for leave if they are absent from duty. If unable to do so the principal may make the application on their behalf.

	<p>Regulation 54</p> <p>Allows the Chief Executive to grant special leave with or without pay.</p>
	<p>Regulation 55</p> <p>Sets out special provisions related to the extension of maternity leave in specified circumstances.</p>
	<p>Regulation 56</p> <p>Allows special leave to be granted where an officer is absent due to suffering from particular infectious diseases.</p>
	<p>Regulation 57</p> <p>Allows the Chief Executive to grant war service sick leave to an officer of the teaching service in specified circumstances.</p>
Absence from duty	
	<p>Regulation 59</p> <p>Allows the Chief Executive to make a salary deduction from a member of the teaching service where their participation in industrial action means that they are absent from duty during their ordinary hours of work or have not discharged their duties.</p>
Salaries and allowances	
	<p>Regulation 60</p> <p>Allows the Chief Executive to approve a commencing salary above the minimum rate for the position.</p>
	<p>Regulation 61</p> <p>Allows the Chief Executive to determine salary in relation to special work performed in a temporary capacity that is not covered by the award.</p>
The Chief Executive is to arrange residences for the accommodation of teachers.	<p>Regulation 62</p> <p>Says that where a teacher resides in a property owned or leased by the Minister rent may be deducted from their salary.</p>
	<p>Regulation 63</p> <p>Says any reasonable expenses incurred by an officer of the teaching service as a result of approved travel will be paid at the same rates as public service employees.</p>

Disciplinary action and performance management

Regulation 64

Says where an officer of the teaching service has been reclassified following misconduct, the Chief Executive can determine that they cannot apply for or be appointed to a promotional position for a specified period not exceeding 3 years.

Where it appears the unsatisfactory performance of an officer of the teaching service may be caused by physical or mental incapacity, the Chief Executive can require the officer to undergo a medical examination.

Regulation 65

Says the Minister will pay for the cost of such medical examinations.

Discussing contentious issues with students

Regulation 67

Says that when officers of the teaching service discuss contentious issues with their students they do so fairly and reasonably.

Responsibilities

Regulation 68

Sets out, in detail, the responsibilities of principals and officers of the teaching service.

Appeals

Regulation 74

Lists various employment decisions by the Chief Executive for which an officer of the teaching service does not have a right of review by the South Australian Employment Tribunal.