

South Australia

Teachers Registration and Standards Regulations 2021

under the *Teachers Registration and Standards Act 2004*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Committees
- 5 Accreditation of initial teacher education programs
- 6 Exemption from requirement to be registered
- 7 Prescribed qualifications, experience and requirements for registration as teacher
- 8 Assessment by Teachers Registration Board of qualifications
- 9 Annual fee
- 10 Replacement of certificate of registration
- 11 Specified amount to accompany application for special authority for unregistered person to teach
- 12 Exemptions from working with children check requirements
- 13 Mandatory notification course to be completed before special authority to teach granted
- 14 Prescribed offences
- 15 Employer to notify Teachers Registration Board of certain matters relating to practising teachers
- 16 Sharing of information between Teachers Registration Board and certain persons and bodies
- 17 Fees and waiver of fees

Schedule 1—Prescribed offences

Schedule 2—Fees

- 1 Preliminary
- 2 Fees

Schedule 3—Revocation of *Teachers Registration and Standards Regulations 2016*

Legislative history

1—Short title

These regulations may be cited as the *Teachers Registration and Standards Regulations 2021*.

2—Commencement

These regulations come into operation on the day on which the *Teachers Registration and Standards (Miscellaneous) Amendment Act 2020* comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

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

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

4—Committees

- (1) Pursuant to section 16(3) of the Act, the following provisions apply in relation to committees established by the Teachers Registration Board under the Act:
 - (a) the membership of a committee may (subject to the Act) include 1 or more persons who are not members of the Board;
 - (b) the presiding member of a committee is to be appointed by the Board and, other than in the case of a committee established for the purposes of Part 3A of the Act, the presiding member must be a member of the Board;
 - (c) if a committee is established on an ongoing basis, the membership of the committee must be reviewed by the Board at least once in every 3 years.
- (2) An act or proceeding of a committee is not invalid by reason only of a failure of the Board to conduct a review referred to in subregulation (1)(c).

5—Accreditation of initial teacher education programs

For the purposes of the definition of **prescribed accreditation standards** in section 19A(4) of the Act, the *Accreditation of initial teacher education programs in Australia—Standards and Procedures* published by Education Services Australia is prescribed.

6—Exemption from requirement to be registered

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

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

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

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

 - (a) out of school hours care that consists of, or includes, pre-school education; or

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

7—Prescribed qualifications, experience and requirements for registration as teacher

- (1) For the purposes of section 21(1)(a) of the Act, the qualifications required for registration as a teacher are as follows:
 - (a) an approved teacher education degree, diploma or other qualification awarded on satisfactory completion of a higher education course of pre-service teacher education in pre-school, primary or secondary education that—
 - (i) is of at least 4 years' full-time duration or part-time equivalent duration; and
 - (ii) includes a practical student teaching component undertaken at a school or prescribed service; or
 - (b) —
 - (i) an approved non-teacher education degree, diploma or other qualification awarded on satisfactory completion of a higher education course that is of at least 3 years' full-time duration or part-time equivalent duration; and
 - (ii) an approved postgraduate degree, diploma or other qualification awarded on satisfactory completion of a higher education course of pre-service teacher education in pre-school, primary or secondary education that—
 - (A) is of at least 1 year's full-time duration or part-time equivalent duration; and
 - (B) includes a practical student teaching component undertaken at a school or prescribed service.
- (2) For the purposes of section 21(1)(a) of the Act, the experience required for registration as a teacher is 1 year's full-time (or part-time equivalent of 200 days') satisfactory service as a teacher (as determined in accordance with any policy of the Board) at a school or prescribed service in Australia or New Zealand.
- (3) For the purposes of section 21(1)(b) of the Act, a person must have satisfactorily completed a mandatory notification course during the period of 12 months before an application for registration as a teacher is made.
- (4) However, subregulation (3) does not apply to a person who applies for registration as a teacher within 2 years after having satisfactorily completed a course of teacher education referred to in subregulation (1) during which the person satisfactorily completed a mandatory notification course.
- (5) In this regulation—

approved degree, diploma or other qualification means—

 - (a) a degree, diploma or other qualification awarded by a higher education institution that is a member of Universities Australia; or

- (b) a degree, diploma or other qualification that was at any time nationally registered by the former Australian Council on Awards in Advanced Education or the former Australian Council on Tertiary Awards, but does not include a degree, diploma or other qualification that the Teachers Registration Board has determined is not an appropriate qualification for registration.

8—Assessment by Teachers Registration Board of qualifications

- (1) The Teachers Registration Board may, on application, make an assessment as to whether a qualification is an appropriate qualification for registration.
- (2) An application for assessment of a qualification must—
 - (a) be made to the Teachers Registration Board in the manner and form approved by the Board; and
 - (b) be accompanied by the prescribed fee.
- (3) An applicant for assessment of a qualification must provide the Teachers Registration Board with any information required by the Board for the purposes of determining the application, verified, if the Board so requires, by statutory declaration.

9—Annual fee

Pursuant to section 26A(2) of the Act—

- (a) the annual fee prescribed for the purposes of the Act is payable on or before 31 January in each year; and
- (b) the *annual fee period* in respect of which the prescribed annual fee is to be paid is the period of 12 months from 1 February in a given year to 31 January of the subsequent year.

10—Replacement of certificate of registration

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

11—Specified amount to accompany application for special authority for unregistered person to teach

An application for a special authority under Part 6 of the Act must be accompanied by an amount specified by the Teachers Registration Board, being the amount payable by the Board for the conduct by the Board of a criminal record check relating to the applicant under section 30(3a) of the Act.

12—Exemptions from working with children check requirements

- (1) Pursuant to section 61(2)(a) of the Act, a special authority granted under Part 6 of the Act to a person who is the subject of an exemption under section 14 of the *Child Safety (Prohibited Persons) Act 2016* that is in force is exempt from the requirement under section 30(1a) of the Act—
 - (a) for the period that the exemption under section 14 of the *Child Safety (Prohibited Persons) Act 2016* remains in force; or

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

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

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

14—Prescribed offences

The offences prescribed for the purposes of section 34A(1) of the Act are set out in Schedule 1.

15—Employer to notify Teachers Registration Board of certain matters relating to practising teachers

For the purpose of section 37(2)(d) of the Act, an employer of a practising teacher must notify the Teachers Registration Board if the employer becomes aware of the incompetence (however described) of the teacher.

16—Sharing of information between Teachers Registration Board and certain persons and bodies

For the purposes of section 49B(1)(h) of the Act, the following are declared to be included within the ambit of subsection (1) of section 49B:

- (a) The Association of Independent Schools of South Australia;
- (b) Catholic Education South Australia.

17—Fees and waiver of fees

- (1) The fees set out in Schedule 2 are prescribed for the purposes of the Act and these regulations, and are payable in accordance with the Schedule.
- (2) The Teachers Registration Board may, if satisfied that reasonable cause exists for doing so, waive a fee prescribed for the purposes of the Act or these regulations, in whole or in part.

Schedule 1—Prescribed offences

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

- (a) an offence against a following provision of the *Criminal Law Consolidation Act 1935*:
 - (i) Part 3 Division 1 (homicide);
 - (ii) Part 3 Division 1A (criminal neglect etc);

- (iii) Part 3 Division 4 (unlawful threats);
- (iv) Part 3 Division 5 (stalking);
- (v) section 20AA (causing harm to, or assaulting, certain emergency workers etc);
- (vi) Part 3 Division 7AA (choking etc in a domestic setting);
- (vii) Part 3 Division 7A (causing physical or mental harm);
- (viii) Part 3 Division 8 (female genital mutilation);
- (ix) Part 3 Division 8A (child marriage);
- (x) Part 3 Division 9 (kidnapping and unlawful child removal);
- (xi) Part 3 Division 11 (rape and other sexual offences);
- (xii) Part 3 Division 11A (child exploitation material and related offences);
- (xiii) Part 3 Division 12 (commercial sexual services and related offences);
- (xiv) Part 3 Division 16 (abduction of children);
- (xv) Part 3B Division 1 (participation in criminal organisation);
- (xvi) section 85(1) (arson and other property damage);
- (xvii) Part 5 Division 3 (robbery);
- (xviii) Part 5 Division 5A (dishonest communication with children);
- (b) an offence against section 72 of the *Criminal Law Consolidation Act 1935* (incest) where the victim is a child;
- (c) an offence against section 270B of the *Criminal Law Consolidation Act 1935* (assaults with intent) with intent to commit an offence referred to in any of the preceding paragraphs;
- (d) an offence against Part 5 Division 2 or 3 of the *Controlled Substances Act 1984*;
- (e) an offence against a law previously in force in this State that corresponds to an offence referred to in a preceding paragraph;
- (f) an offence against the law of another State or Territory that corresponds to an offence referred to in any of the preceding paragraphs;
- (g) an offence against a following provision of the *Criminal Code* of the Commonwealth:
 - (i) section 271.4;
 - (ii) section 271.7;
 - (iii) section 272.8;
 - (iv) section 272.9;
 - (v) section 272.10;
 - (vi) section 272.11;
 - (vii) section 272.12;
 - (viii) section 272.13;
 - (ix) section 272.14;

- (x) section 272.15;
- (xi) section 272.15A;
- (xii) section 272.18;
- (xiii) section 272.19;
- (xiv) section 272.20;
- (xv) section 273.6;
- (xvi) section 273.7;
- (xvii) section 273A.1;
- (xviii) section 273B.4;
- (xix) section 273B.5;
- (xx) section 302.2;
- (xxi) section 302.3;
- (xxii) section 302.4;
- (xxiii) section 303.4;
- (xxiv) section 303.5;
- (xxv) section 303.6;
- (xxvi) section 304.1;
- (xxvii) section 304.2;
- (xxviii) section 304.3;
- (xxix) section 305.3;
- (xxx) section 305.4;
- (xxxi) section 305.5;
- (xxxii) section 309.2;
- (xxxiii) section 309.3;
- (xxxiv) section 309.4;
- (xxxv) section 309.7;
- (xxxvi) section 309.8;
- (xxxvii) section 309.10;
- (xxxviii) section 309.11;
- (xxxix) section 309.12;
- (xl) section 309.13;
- (xli) section 309.14;
- (xlii) section 309.15;
- (xliii) section 310.2;
- (xliv) section 310.3;

- (xlv) section 471.19;
- (xlvi) section 471.20;
- (xlvii) section 471.22;
- (xlviii) section 471.24;
- (xlix) section 471.25;
- (l) section 471.25A;
- (li) section 471.26;
- (lii) section 474.22;
- (liii) section 474.22A;
- (liv) section 474.23;
- (lv) section 474.23A;
- (lvi) section 474.24A;
- (lvii) section 474.25A;
- (lviii) section 474.25B;
- (lix) section 474.25C;
- (lx) section 474.26;
- (lxi) section 474.27;
- (lxii) section 474.27AA;
- (lxiii) section 474.27A;
- (h) an offence against a law of the Commonwealth previously in force that corresponds to an offence referred to in paragraph (g);
- (i) a conspiracy to commit, or an attempt to commit, an offence referred to in any of the preceding paragraphs;
- (j) an offence of aiding, abetting, counselling or procuring the commission of an offence referred to in any of the preceding paragraphs;
- (k) an offence against the law of a foreign jurisdiction that corresponds to an offence referred to in any of the preceding paragraphs.

Schedule 2—Fees

1—Preliminary

- (1) In this Schedule, unless the contrary intention appears—

CPI means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;

relevant indexation factor means the quotient obtained by dividing the CPI for the quarter ending 30 September in the year immediately preceding the year for which a particular fee is payable by the CPI for the quarter ending 30 September 2020;

rounded to the nearest dollar means that, where the calculated amount is not an exact multiple of 1 dollar, it is to be rounded up or down to the nearest multiple of 1 dollar (and if the amount to be rounded is 50 cents or more, then the amount is to be rounded up).

- (2) For the purposes of this Schedule, if the amount of a prescribed fee is followed by the word (indexed), the amount of the prescribed fee will be taken to be—
 - (a) until 31 January 2022—the amount so prescribed; and
 - (b) in relation to the period of 12 months commencing on 1 February 2022 or any subsequent year—the amount of the fee so prescribed multiplied by the relevant indexation factor.
- (3) If the amount of a prescribed fee payable in respect of a particular period of 12 months is, when adjusted in accordance with subclause (2)(b), less than the amount paid in respect of the immediately preceding period of 12 months, the amount payable in that particular period of 12 months will not be the amount as adjusted in accordance with subclause (2)(b), but will instead be an amount equal to the amount that was payable in respect of the immediately preceding period of 12 months.
- (4) The amount of any fee payable under the Act or these regulations is to be rounded to the nearest dollar.

2—Fees

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|--|---|-------------------|
| 1 | Application fee for accreditation of initial teacher education program | \$2 500 (indexed) |
| 2 | Application fee for registration as a teacher | \$175 (indexed) |
| 3 | Application fee for renewal of registration as a teacher | \$100 (indexed) |
| 4 | Administrative fee for late application for renewal of registration as a teacher— | |
| | (a) where the application is made less than 1 month before the expiry of the registration (as required by section 22(4) of the Act) | \$25 |
| | (b) where the application is made within 1 month following the expiry of the registration | \$100 (indexed) |
| Note— | | |
| The fees in paragraphs (a) and (b) are in addition to the fee referred to at item 3. | | |
| 5 | Annual fee | |
| | (a) if the annual fee is in respect of a period of the teacher's registration that is less than 1 year | \$110 (indexed) |
| | (b) if the annual fee is paid in respect of 1 year of the teacher's registration period | \$110 (indexed) |
| | (c) if the annual fee is paid in respect of more than 1 year of the teacher's registration period, then as follows: | |
| | (i) in respect of 2 years of the registration period | \$220 (indexed) |
| | (ii) in respect of 3 years of the registration period | \$330 (indexed) |

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| (iii) in respect of 4 years of the registration period | \$440 (indexed) |
| (iv) in respect of 5 years of the registration period | \$550 (indexed) |

However, if under section 24(1)(e) of the Act the period of a teacher's registration is granted in respect of a period that is, or includes, a period that is part of a year, the annual fee payable in respect of the part year of registration is a proportion of the fee that applies under paragraph (b), being the proportion that the number of complete months in that period of registration bears to 12.

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| 6 Penalty for default in payment of annual fee | \$75 |
| 7 Application fee for assessment of qualifications for registration | \$130 (indexed) |
| 8 Fee for replacement of certificate of registration | \$30 |
| 9 Application fee for special authority to teach— | |
| (a) where the special authority is to be in force for a period of 12 months or less | \$260 (indexed) |
| (b) where the special authority is to be in force for a period of more than 12 months | \$260 (indexed) for the initial 12 month period plus an amount of \$110 (indexed) for each additional 12 month period, or part of such period for which the special authority is to be in force |

Schedule 3—Revocation of *Teachers Registration and Standards Regulations 2016*

The *Teachers Registration and Standards Regulations 2016* are revoked.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

| Year | No | Reference | Commencement |
|------|----|-------------------------------|---------------|
| 2021 | 49 | <i>Gazette 6.5.2021 p1305</i> | 1.7.2021: r 2 |