

South Australia

Adelaide University (Transitional) Regulations 2024

under the *Adelaide University Act 2023*

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Legislative history

1—Short title

These regulations may be cited as the *Adelaide University (Transitional) Regulations 2024*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

- (1) In these regulations—

Act means the *Adelaide University Act 2023*;

designated university means—

- (a) a prescribed university; or
- (b) Adelaide University;

document includes a contract;

information includes—

- (a) information that relates to a person other than a designated university; and
- (b) information gained, acquired or created during the conduct of research or teaching,

and includes information provided or held in the form of data or in any other form;

local legal practitioner means a local legal practitioner within the meaning of the *Legal Practitioners Act 1981*;

personal information includes personal information within the meaning of the *Privacy Act 1988* of the Commonwealth.

- (2) In addition to section 12 of the *Legislation Interpretation Act 2021*, terms used in these regulations and in Part 7 of Schedule 1 of the Act have the same meaning in these regulations as they have in that Part.

4—Disclosure, transfer and use of information

- (1) A relevant entity is authorised (and will be taken to have been authorised) to disclose or transfer to another relevant entity any records or information, and to disclose to another relevant entity any document or the contents of any document, in connection with supporting or facilitating, in any way—
- (a) the establishment of Adelaide University; or
 - (b) the operations of Adelaide University (whether before or after it commences providing courses and other tertiary education programs); or
 - (c) the operations of a prescribed university (whether before or after it ceases to provide courses and other tertiary education programs); or
 - (d) the operations of any other relevant entity; or
 - (e) the future retention by Adelaide University of any records or information that have been held by a prescribed university (whether those records or information are provided to Adelaide University on or before the prescribed day for the prescribed university); or
 - (f) the transfer of operations or activities to Adelaide University; or
 - (g) without limiting a preceding paragraph—the achievement of the objects of the Act.
- (2) A relevant entity is authorised (and will be taken to have been authorised) to collect, store, use or otherwise handle any record or information disclosed or transferred to it under this regulation for any purpose described in subregulation (1) (including where the record or information has been transferred between relevant entities on a temporary basis).
- (3) Without limiting subregulations (1) and (2), an authorisation under this regulation includes an authorisation to disclose, transfer, collect, store, use or otherwise handle any personal information, including any personal information that relates to a relevant person.
- (4) An authorisation under this regulation operates subject to any limitation, restriction or prohibition determined by a designated university in connection with the operation of this regulation.
- (5) In this regulation—
- employee**, in relation to a prescribed university or merged entity (as the case may be), includes a person who works, or has worked, in any capacity in the prescribed university or merged entity, including in a voluntary or unpaid capacity, and a person who holds, or has held, a title conferred by a prescribed university or merged entity;

merged entity means an entity that was merged with, or overtaken by, a prescribed university under the *Statutes Amendment and Repeal (Merger of Tertiary Institutions) Act 1990*;

relevant day means the day on which these regulations come into operation;

relevant entity means—

- (a) a designated university; or
- (b) an entity—
 - (i) that has been established by a designated university; or
 - (ii) that is controlled by a designated university; or
 - (iii) in which a designated university has an interest; or
 - (iv) that has been engaged by a designated university to assist the designated university in the performance of any function or the undertaking of any work or activity; or
- (c) an entity that forms part of a designated university's community on account of engaging with or supporting 1 or more groups of relevant persons;

relevant person means a person who—

- (a) has, at any time before the relevant day, been an employee of a prescribed university or a merged entity; or
- (b) is, on the relevant day, an employee of a prescribed university; or
- (c) becomes (or has become), after the relevant day, an employee of a designated university; or
- (d) has, before the relevant day, been a student of a prescribed university or a merged entity; or
- (e) is, on the relevant day, a student or graduate of a prescribed university, or a graduate of a merged entity; or
- (f) becomes (or has become), after the relevant day, a student or graduate of a designated university; or
- (g) has, before or after the relevant day, expressed an interest in attending a designated university, or has applied to be enrolled in a course or other tertiary education program at a designated university; or
- (h) has, before or after the relevant day, been accepted into a course or other tertiary education program at a designated university; or
- (i) has, before or after the relevant day, donated, or expressed an interest to donate, a gift or other benefit to a designated university; or
- (j) has, before or after the relevant day, provided or received, or agreed to provide or receive, goods or services under a contract, agreement, arrangement, undertaking or understanding with a designated university; or
- (k) has provided information for the purpose of the conduct of research or teaching, or to whom information gained, acquired or created, during the conduct of research or teaching relates.

5—Support to prescribed universities

- (1) Adelaide University is authorised (and will be taken to have been authorised) to take steps and to provide resources to support the operations of a prescribed university until the prescribed university's dissolution under the Act, including by making available staff, resources and facilities of Adelaide University for the benefit of a prescribed university.
- (2) Without limiting subregulation (1)—
 - (a) the Transition Council may take steps to support a prescribed university as staff and resources are transferred from the prescribed universities to Adelaide University under the Act; and
 - (b) a member of the Transition Council will not be in breach of any duty under the Act, or any other Act or law, if the member—
 - (i) acts for the purposes of paragraph (a); or
 - (ii) supports the expenditure or application of any financial or other resources of Adelaide University to support a prescribed university; and
 - (c) a member of the Transition Council may work with the Council of a prescribed university to support the activities of the prescribed university.
- (3) In connection with subregulations (1) and (2), the designated universities must enter into an agreement or agreements that will provide for support to The University of Adelaide and the University of South Australia (to the extent agreed between the universities that are parties to the agreement) on account of staff and resources being transferred to Adelaide University under the Act before the prescribed days for those 2 universities, with particular reference to ensuring that those 2 universities may continue to undertake research and provide courses and other tertiary education programs until 1 January 2026.

6—Delegations

- (1) In addition to the power of an authorised entity to make a delegation or subdelegation under section 10 of the *University of Adelaide Act 1971*, the authorised entity is authorised to delegate or subdelegate (as the case requires) any power or function—
 - (a) to an employee of Adelaide University or the University of South Australia; or
 - (b) to the holder of a particular office or position in Adelaide University or the University of South Australia; or
 - (c) to a committee of Adelaide University, or any other body established by Adelaide University; or
 - (d) to any other body established jointly by—
 - (i) Adelaide University and The University of Adelaide; or
 - (ii) Adelaide University, The University of Adelaide and the University of South Australia.

- (2) In addition to the power of the Council of the University of South Australia to make a delegation under section 15 of the *University of South Australia Act 1990*, that Council is authorised to delegate any of its powers or functions—
- (a) to an employee of Adelaide University or The University of Adelaide; or
 - (b) to the holder of a particular office or position in Adelaide University or The University of Adelaide; or
 - (c) to a committee of Adelaide University, or any other body established by Adelaide University; or
 - (d) to any other body established jointly by—
 - (i) Adelaide University and the University of South Australia; or
 - (ii) Adelaide University, The University of Adelaide and the University of South Australia.
- (3) If —
- (a) the employment of an employee of a prescribed university is transferred to Adelaide University by proclamation under clause 15 of Schedule 1 of the Act; and
 - (b) the employee, immediately before the transfer, is a delegate or subdelegate of the Council of the prescribed university,
- the delegation or subdelegation will continue in force despite the fact that the employee no longer, by virtue of the transfer, is an employee of the prescribed university, or is the holder of a particular office or position in the prescribed university.
- (4) Subregulation (3) operates subject to a decision to vary or revoke the delegation or subdelegation made under the *University of Adelaide Act 1971* or the *University of South Australia Act 1990*.
- (5) In this regulation—
- authorised entity** means—
- (a) in relation to a power of delegation—the Council of the University of Adelaide; and
 - (b) in relation to a power of subdelegation—
 - (i) the Vice-Chancellor of The University of Adelaide; or
 - (ii) a committee of the Council of The University of Adelaide; or
 - (iii) a committee of The University of Adelaide.

7—Legal practitioners

- (1) A qualifying legal practitioner—
- (a) whose employment is transferred from a prescribed university to Adelaide University under the Act; or
 - (b) who is employed by Adelaide University (whether before or after the commencement of these regulations),
- may—

- (c) subject to any requirement for supervision, provide legal services to a prescribed university in addition to the provision of legal services to Adelaide University; and
 - (d) while they continue to be employed by Adelaide University, have their practising certificate issued or renewed without the need for compliance with section 19(1) of the *Legal Practitioners Act 1981* even if they are providing legal services to a prescribed university in addition to the provision of legal services to Adelaide University (and this paragraph will cease to apply on the prescribed day for that prescribed university).
- (2) Adelaide University will not be taken to be an incorporated legal practice under Schedule 1 of the *Legal Practitioners Act 1981* merely because it employs or engages a qualifying legal practitioner to provide legal services to a prescribed university and whether or not it receives any form of, or has any expectation of, a fee, gain or reward for the provision of those services.
- (3) In this regulation—
qualifying legal practitioner means a local legal practitioner—
 - (a) who is employed to provide legal services exclusively to 1 or more designated universities; and
 - (b) who does not provide legal services outside of this corporate role.

8—Accreditations, licences, permits and other authorities

If a person's employment is transferred from a prescribed university to Adelaide University, any accreditation, licence, permit or other authority held by the person or the prescribed university immediately before the transfer of their employment that relates to the work of the person at or on behalf of the prescribed university will, on that transfer of employment, be taken to be held with respect to, and to authorise and permit—

- (a) any work that the person continues to perform at or on behalf of the prescribed university after the transfer of employment; and
- (b) any work that the person performs at or on behalf of Adelaide University after the transfer of employment.

9—Licences and fees

- (1) This regulation applies if—
 - (a) the employment of a person is transferred from a prescribed university to Adelaide University; or
 - (b) a function or activity is transferred from a prescribed university to Adelaide University.
- (2) If this regulation applies—
 - (a) any provision in a contract, agreement, arrangement, undertaking or understanding, or in an accreditation, licence, permit or other authority, that imposes a restriction, requirement or fee in relation to the prescribed university may not restrict or limit the transfer from the prescribed university to Adelaide University; and

- (b) no additional restriction, requirement or fee may be imposed in relation to a prescribed university or Adelaide University on account of a transfer from the prescribed university to Adelaide University without the agreement of the prescribed university or Adelaide University (as the case may be).
- (3) This regulation does not apply so as to limit the exercise of a statutory power.

10—General authorisation

The conduct of—

- (a) a designated university; or
 - (b) the Council of a prescribed university or the members of a Council of a prescribed university; or
 - (c) the Transition Council or the members of the Transition Council,
- including conduct that involves entering into, or giving effect to, agreements, sharing information, or other practices or things, in connection with—
- (d) the establishment of Adelaide University; or
 - (e) providing support to Adelaide University, The University of Adelaide or the University of South Australia; or
 - (f) facilitating the combining of The University of Adelaide or the University of South Australia,

is (and will be taken to have been) authorised.

11—Annual meeting

The Council of The University of Adelaide does not need to convene an annual meeting of the University community in 2026 pursuant to section 18 of the *University of Adelaide Act 1971*.

12—Saving provisions

- (1) The disclosure or transfer of any records or information, the disclosure of any document, or the contents of any document, the use of any records or information, and anything else authorised or permitted (or taken to have been authorised or permitted) by or under these regulations or otherwise done under these regulations—
 - (a) may occur despite any limitation, duty or prohibition under—
 - (i) a contract, agreement, arrangement, undertaking or understanding; or
 - (ii) an accreditation, licence, permit or other authority; and
 - (b) does not constitute a breach of, or default under—
 - (i) a contract, agreement, arrangement, undertaking or understanding; or
 - (ii) an accreditation, licence, permit or other authority.
- (2) The transfer of employment of a person effected under Part 7 of Schedule 1 of the Act does not constitute a breach of, or default under—
 - (a) a contract, agreement, arrangement, undertaking or understanding; or
 - (b) an accreditation, licence, permit or other authority,

that relates to their employment, position or work (including in relation to the funding of their position or work or the conduct of their work).

- (3) Without limiting subregulation (1), nothing done under these regulations—
 - (a) constitutes a breach of a duty of confidence (whether arising under a contract, in equity or by custom or in any other way); or
 - (b) constitutes a civil or criminal wrong.
- (4) Without limiting subregulation (1) or (2), nothing done under these regulations or on account of the transfer of employment of a person effected under Part 7 of Schedule 1 of the Act—
 - (a) constitutes a breach of, or default under, an Act or any other law; or
 - (b) terminates an agreement or obligation; or
 - (c) fulfils any condition that allows a person to terminate an agreement or obligation; or
 - (d) gives rise to, or allows a person to exercise, any other right or remedy; or
 - (e) allows a person to impose or increase a fee; or
 - (f) releases a surety or other obligee wholly or in part from an obligation.
- (5) If—
 - (a) a person's employment is transferred from a prescribed university to Adelaide University by proclamation under clause 15 of Schedule 1 of the Act; and
 - (b) the person was, immediately before the transfer, an elected member of the Council of the prescribed university,

the person may continue as a member of the Council despite the fact that they no longer, by virtue of the transfer, continue in the capacity in which they were elected to the membership of the Council.
- (6) The office of a person who continues in office under subregulation (5) becomes vacant if—
 - (a) the person ceases to be an employee of Adelaide University; or
 - (b) the office of the member becomes vacant under—
 - (i) in the case of The University of Adelaide—section 13(1) or (2)(a), (b), (d), (e) or (f) of the *University of Adelaide Act 1971*; or
 - (ii) in the case of the University of South Australia—section 11(6) or (7)(a), (b), (d), (e) or (f) of the *University of South Australia Act 1990*.
- (7) If the office of an appointed or elected member of the Council of a prescribed university becomes vacant after the commencement of this regulation—
 - (a) a person does not need to be appointed or elected to the office if the Council of the prescribed university determines that the vacancy does not need to be filled; and

- (b) the Council of the prescribed university will be taken to be validly constituted even if the number of members of the Council is less than the number required by the *University of Adelaide Act 1971* or the *University of South Australia Act 1990* (as the case may be); and
- (c) in the absence of a determination of the Council of a prescribed university under paragraph (a)—
 - (i) a prescribed university may appoint a person whose employment has been transferred from the prescribed university to Adelaide University pursuant to Schedule 1 clause 15 of the Act to fill the vacancy; and
 - (ii) the person so appointed will hold office—
 - (A) in the case of a person appointed to the Council of The University of Adelaide—
 - if the Council so determines—for a term determined by the Council; or
 - in any other case—for the duration of the term applying to the relevant office under section 12A of the *University of Adelaide Act 1971* as if the person been elected to the office pursuant to that Act; and
 - (B) in the case of a person appointed to the Council of the University of South Australia—
 - if the Council so determines—for a term determined by the Council; or
 - in any other case—for the duration of the term applying to the relevant office under section 11 of the *University of South Australia Act 1990* as if the person been elected to the office pursuant to that Act.

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
2024	100	<i>Gazette 21.11.2024 p4218</i>	21.11.2024: r 2