

SUPPLEMENTARY GAZETTE



THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE

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All instruments appearing in this gazette are to be considered official, and obeyed as such

GOVERNOR'S INSTRUMENTS

APPOINTMENTS

Department of the Premier and Cabinet
Adelaide, 16 August 2023

Her Excellency the Governor in Executive Council has been pleased to appoint Danny Connor as a full-time Commissioner of the South Australian Employment Tribunal for a period of five years commencing on 18 September 2023 and expiring on 17 September 2028 - pursuant to section 16(1) of the South Australian Employment Tribunal Act 2014.

By command,

KATRINE ANNE HILDYARD, MP
For Premier

AGO0144-23CS

Department of the Premier and Cabinet
Adelaide, 16 August 2023

Her Excellency the Governor in Executive Council has been pleased to appoint Jodie Marieka Carrel as an Auxiliary Magistrate and Auxiliary Deputy President of the South Australian Employment Tribunal from 17 August 2023 until 30 June 2024, it being a condition of appointment that the powers and jurisdictions of office should be exercised only during the time or times the actual duties are being undertaken, but at no other time throughout the period of appointment - pursuant to section 3(1) of the Judicial Administration (Auxiliary Appointments and Powers) Act 1988.

By command,

KATRINE ANNE HILDYARD, MP
For Premier

AGO0144-23CS

Department of the Premier and Cabinet
Adelaide, 16 August 2023

Her Excellency the Governor in Executive Council has been pleased to appoint Taimi Allan as the Mental Health Commissioner for a term of three years commencing on 30 October 2023 and expiring on 29 October 2026 - pursuant to section 68 of the Constitution Act 1934.

By command,

KATRINE ANNE HILDYARD, MP
For Premier

HEAC-2023-00045

REGULATIONS

South Australia

Planning, Development and Infrastructure (General) (Schedule 6A) Amendment Regulations 2023

under the *Planning, Development and Infrastructure Act 2016*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement

Part 2—Amendment of *Planning, Development and Infrastructure (General) Regulations 2017*

- 3 Amendment of Schedule 6A—Accepted development
 - 3 Dwellings in certain zones
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (General) (Schedule 6A) Amendment Regulations 2023*.

2—Commencement

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

Part 2—Amendment of *Planning, Development and Infrastructure (General) Regulations 2017*

3—Amendment of Schedule 6A—Accepted development

Schedule 6A—after clause 2 insert:

3—Dwellings in certain zones

- (1) The construction of a detached dwelling in—
 - (a) a Master Planned Neighbourhood Zone or a Master Planned Township Zone under the Planning and Design Code; or
 - (b) a zone or area designated by the Minister by notice published in the Gazette,if the development is in accordance with the following subclauses.
- (2) The development will not result in more than 1 dwelling on—
 - (a) an existing allotment; or
 - (b) an allotment granted a development authorisation under the Act.

- (3) The setback of the dwelling from the primary street boundary is at least—
 - (a) where the allotment adjoins a public reserve greater than 2 000 m² (including where the allotment would adjoin a reserve if not separated by a public road), the dwelling faces that reserve and access is provided to the rear of the allotment—1.5 m; or
 - (b) in any other case—3 m.
- (4) For the purposes of subclause (3), any proposed projections such as a verandah, porch, balcony, awning or bay window may encroach not more than 1.5 m into the minimum setback prescribed.
- (5) Building walls (except for ancillary buildings and structures) are set back at least 900 mm from a secondary street boundary.
- (6) Building walls (except for ancillary buildings and structures) on side boundaries satisfy either of the following:
 - (a) adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height;
 - (b) do not—
 - (i) exceed 3 m in wall height; and
 - (ii) exceed 11.5 m in length; and
 - (iii) with respect to all boundary walls on the same boundary, exceed 45% of the total length of the boundary; and
 - (iv) encroach within 3 m of any other existing or proposed boundary walls on the subject land.
- (7) Building walls are set back from the rear boundary at least—
 - (a) 3 m for the first building level or 0 m where the rear boundary adjoins a laneway; and
 - (b) 5 m for any second building level or 0 m where the rear boundary adjoins a laneway.
- (8) A dwelling does not exceed the following:
 - (a) a maximum building height of 2 building levels or 9 m;
 - (b) a wall height of 7 m (except where a gable end).
- (9) Each dwelling with a frontage to a public street—
 - (a) includes at least 1 window facing the primary street from a habitable room; and
 - (b) has an aggregate window area of at least 2 m² facing the primary street.
- (10) Upper level windows facing side or rear boundaries shared with another residential allotment or site—
 - (a) are permanently obscured to a height of 1.5 m above finished floor level and are fixed or not capable of being opened more than 125 mm; or

- (b) have sill heights greater than or equal to 1.5 m above finished floor level; or
 - (c) incorporate screening to a height of 1.5 m above finished floor level.
- (11) If the dwelling exceeds 1 building level, any balconies satisfy at least 1 of the following:
 - (a) the longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15 m wide in all places faced by the balcony or terrace;
 - (b) all sides of balconies or terraces on upper building levels are permanently obscured by screening with a maximum 25% transparency or openings fixed to a minimum height of—
 - (i) if the balcony is located at least 15 m from the nearest habitable window of a dwelling on adjacent land—1.5 m above finished floor level; or
 - (ii) in all other cases—1.7 m above finished floor level.
- (12) Private open space is provided in accordance with the following:
 - (a) the total private open space area must be—
 - (i) if the site area is less than 301 m²—24 m² located behind the building line; or
 - (ii) in any other case—60 m² located behind the building line;
 - (b) the private open space area that is directly accessible from a living room must be at least 16 m² with a minimum dimension of 3 m.
- (13) Car parking spaces are provided on-site as part of the development at a rate no less than—
 - (a) in the case of a 1 bedroom dwelling—1 space per dwelling; or
 - (b) in any other case—2 spaces per dwelling, 1 of which must be covered.
- (14) Vehicle access to car parking spaces is located—
 - (a) 500 mm or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the infrastructure owner; and
 - (b) 2 m or more from the base of the trunk of a street tree unless consent is provided from the tree owner; and
 - (c) 6 m or more from the tangent point of an intersection of 2 or more roads or a pedestrian-actuated crossing; and
 - (d) so that access is not obtained from, and is located at least 25 m from, the tangent point of any State Maintained Road.

- (15) Driveways are designed and sited so that—
- (a) the gradient from the place of access on the boundary of the allotment to the finished floor level at the front of the garage or carport is not steeper than 1:4 on average; and
 - (b) the driveways are aligned relative to the street boundary so that there is no more than a 20 degree deviation from 90 degrees between the centreline of any dedicated car parking space to which it provides access (measured from the front of that space) and the street boundary.
- (16) Development does not involve any of the following:
- (a) excavation exceeding a vertical height of 1 m;
 - (b) filling exceeding a vertical height of 1 m;
 - (c) a total combined excavation and filling vertical height of 2 m or more.
- (17) One of the following is satisfied:
- (a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the *Electricity Act 1996*;
 - (b) there are no aboveground powerlines adjoining the site that are the subject of the proposed development.
- (18) A dwelling is connected, or will be connected, to a reticulated water scheme or mains water supply with the capacity to meet the requirements of the development.
- (19) Development is connected, or will be connected, to an approved common waste water disposal service with the capacity to meet the requirements of the development.
- (20) Where the Native Vegetation Overlay or State Significant Native Vegetation Overlay under the Planning and Design Code applies in relation to the relevant site or allotment, the application is accompanied by—
- (a) a declaration stating that the proposal will not, or would not, involve clearance of native vegetation under the *Native Vegetation Act 1991*, including any clearance that may occur—
 - (i) in connection with a relevant access point or driveway; or
 - (ii) within 20 m of a dwelling for fire prevention and control; or
 - (iii) within 50 m of residential accommodation in connection with a requirement under a relevant overlay to establish an asset protection zone in a bushfire prone area; or
 - (b) a report prepared in accordance with regulation 18(2)(a) of the *Native Vegetation Regulations 2017* that establishes that the clearance is categorised as Level 1 clearance.

- (21) Terms used in this clause and in the Planning and Design Code have the same meaning in this clause as they have in the Code.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 August 2023

No 87 of 2023

South Australia

Return to Work (Medical Expenses—Period of Entitlement) Amendment Regulations 2023

under the *Return to Work Act 2014*

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- 1 Short title
- 2 Commencement

Part 2—Amendment of *Return to Work Regulations 2015*

- 3 Amendment of regulation 23—Medical expenses—period of entitlement (section 33(21) of Act)
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Return to Work (Medical Expenses—Period of Entitlement) Amendment Regulations 2023*.

2—Commencement

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

Part 2—Amendment of *Return to Work Regulations 2015*

3—Amendment of regulation 23—Medical expenses—period of entitlement (section 33(21) of Act)

Regulation 23—after subregulation (2a) insert:

- (2b) For the purposes of section 33(21)(b)(iv) of the Act, section 33(20) of the Act will not apply in relation to travel and accommodation costs incurred by a worker in attending an assessment for permanent impairment under Part 2 Division 5 of the Act.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 August 2023

No 88 of 2023

South Australia

Public Corporations (StudyAdelaide) Regulations 2023

under the *Public Corporations Act 1993*

Contents

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Schedule 1—Repeal of *Public Corporations (StudyAdelaide) Regulations 2011*

- 1 Repeal of *Public Corporations (StudyAdelaide) Regulations 2011*
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Public Corporations (StudyAdelaide) Regulations 2023*.

2—Commencement

These regulations come into operation on 1 September 2023.

3—Interpretation

In these regulations—

Act means the *Public Corporations Act 1993*;

board means the board of directors established as the governing body of the subsidiary under Part 3;

director means a person appointed or holding office as a member of the board under Part 3;

Minister means the Minister for Industry, Innovation and Science;

repealed regulations means the *Public Corporations (StudyAdelaide) Regulations 2011*;

subsidiary means StudyAdelaide continued in existence under Part 3.

Part 2—Application of Act to Minister

4—Application of Act to Minister

The following provisions of the Act apply to the Minister:

- (a) Part 1 (Preliminary);
- (b) section 24 (Formation of subsidiary by regulation);
- (c) section 25 (Dissolution of subsidiary established by regulation);
- (d) the Schedule (Provisions applicable to subsidiaries).

Part 3—StudyAdelaide

Division 1—Continuation and constitution of subsidiary

5—Continuation of subsidiary (section 24)

- (1) *StudyAdelaide* (established as *Education Adelaide* and continued in existence as a subsidiary of the Minister as *StudyAdelaide* under the repealed regulations) continues in existence as a subsidiary of the Minister.
- (2) The subsidiary—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) is capable of suing and being sued in its corporate name.

6—Continuation of board

- (1) A board of directors continues as the governing body of the subsidiary.
- (2) A member of the board in office immediately before the commencement of this clause continues in office, subject to these regulations, for the remainder of the term for which the member was appointed.
- (3) Anything done by the board in the administration of the subsidiary's affairs is binding on the subsidiary.

7—Composition of board

- (1) The board consists of not less than 8 members appointed by the Minister.
- (2) 1 director will be appointed by the Minister to chair meetings of the board.
- (3) The Minister may appoint a director to be the deputy of the director appointed to chair the board and the deputy may perform or exercise the functions and powers of that director in their absence.
- (4) On the office of a director becoming vacant, a person may be appointed in accordance with this regulation to the vacant office.
- (5) The Minister may appoint a suitable person to be deputy of a member of the board during any period of absence of the member (and any reference to a director in these regulations will be taken to include, unless the contrary intention appears, a reference to a deputy while acting as a member of the board).

8—Conditions of membership

- (1) A director will be appointed for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.
- (2) The office of a director becomes vacant if the director—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
 - (e) is convicted of an indictable offence; or
 - (f) is removed from office by the Minister by written notice.

9—Vacancies or defects in appointment of directors

An act of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

10—Allowances and expenses

A director is entitled to be paid from the funds of the subsidiary such allowances and expenses as may be determined by the Minister.

11—Proceedings

- (1) A quorum of the board consists of one-half of the total number of its members (ignoring any resulting fraction) plus 1.
- (2) The director appointed to chair the board will preside at meetings of the board at which they are present.
- (3) If the director appointed to chair the board is absent from a meeting of the board—
 - (a) if another director has been appointed as that director's deputy and is present at the meeting—the deputy; or
 - (b) in any other case—a director chosen by the directors present at the meeting,will preside.
- (4) A decision carried by a majority of the votes cast by directors at a meeting is a decision of the board.
- (5) Each director present at a meeting of the board has 1 vote on a question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.
- (6) A meeting held remotely by means of audio visual or audio communication (or a combination of both those means of communication) between directors will, for the purposes of this regulation, be taken to be a meeting of the board at which the participating directors are present if—
 - (a) notice of the meeting is given to all directors in the manner determined by the board for that purpose; and
 - (b) each participating director is capable of communicating with every other participating director during the meeting.
- (7) A proposed resolution of the board will be taken to be a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—
 - (a) notice of the proposed resolution is given to all directors in accordance with procedures determined by the board; and
 - (b) a majority of the directors express their concurrence in the proposed resolution in writing setting out the terms of the resolution.
- (8) The board must cause accurate minutes to be kept of its proceedings.
- (9) The director presiding at a meeting of the board may allow other persons to attend (but not participate in) all or part of a meeting of the board.
- (10) A person authorised in writing by the Treasurer may attend (but not participate in) a meeting of the board and may have access to papers provided to directors for the purpose of the meeting.
- (11) If the board considers that a matter dealt with at a meeting attended by a representative of the Treasurer should be treated as confidential, the board may advise the Treasurer of that opinion giving the reason for the opinion and the Treasurer may, subject to subregulation (12), act on that advice as the Treasurer thinks fit.
- (12) If the Treasurer is satisfied on the basis of the board's advice under subregulation (11) that the subsidiary owes a duty of confidence in respect of a matter, the Treasurer must ensure the observance of that duty in respect of the matter, but this subregulation does not prevent a disclosure as required in the proper performance of ministerial functions or duties.

- (13) Subject to these regulations, the board may determine its own procedures.

12—Disclosure

- (1) If the subsidiary discloses to the Minister or the Treasurer a matter in respect of which the subsidiary owes a duty of confidence, the subsidiary must give notice in writing of the disclosure to the person to whom the duty is owed.
- (2) A director of the subsidiary does not commit a breach of duty by reporting a matter relating to the affairs of the subsidiary to the Minister or the Treasurer.

Division 2—Functions and performance

13—Functions of subsidiary

- (1) The subsidiary's functions are limited to the following:
 - (a) engaging in marketing promoting Adelaide as a viable and attractive destination for international students (*destination marketing*) and supporting a positive destination experience through the delivery of initiatives for international students studying with South Australian education providers;
 - (b) fostering community support for international students in South Australia;
 - (c) communications management, as required from time to time, of any situation that may adversely affect South Australia's reputation as an education destination;
 - (d) acquisition and management of resources and services of the subsidiary in accordance with the laws of this jurisdiction and any other jurisdiction in which the subsidiary carries out its functions;
 - (e) to carry out any other function (consistent with the subsidiary's strategic direction) that is conferred on the subsidiary by the Minister.
- (2) The subsidiary must obtain the approval of the Minister before it makes a material change to its policy direction or budget.

14—Charter

- (1) The subsidiary must continue to have a charter prepared by the Minister.
- (2) The charter must address—
 - (a) the nature and scope of the subsidiary's operations;
 - (b) the subsidiary's obligations to report on its operations;
 - (c) the form and contents of the subsidiary's accounts and financial statements;
 - (d) any accounting, internal auditing or financial systems or practices to be established or observed by the subsidiary;
 - (e) the acquisition or disposal of capital or assets.
- (3) The charter may deal with any other matter not specifically referred to in subregulation (2).
- (4) The charter must be reviewed by the Minister at the end of each financial year.
- (5) The Minister may amend the charter at any time.
- (6) The charter, or an amendment to the charter, comes into force and is binding on the subsidiary on a day specified in the charter or amendment (but without affecting any contractual obligations previously incurred by the subsidiary).

- (7) On the charter or an amendment to the charter coming into force, the Minister must, within 12 sitting days, have copies of the charter, or the charter in its amended form, laid before both Houses of Parliament.

15—Performance statement

- (1) The subsidiary continues to be subject to the performance statement prepared by the Minister setting out the various performance targets that the subsidiary is to pursue in the coming financial year or other period specified in the statement and dealing with such other matters as the Minister considers appropriate.
- (2) The Minister must, after consultation with the subsidiary, review the performance statement when reviewing the subsidiary's charter.
- (3) The Minister may, after consultation with the subsidiary, amend the performance statement at any time.

16—Subsidiary companies

- (1) The subsidiary must not, without the approval of the Treasurer—
 - (a) form a subsidiary company; or
 - (b) acquire, or enter into any arrangement under which it will at a future time or would on the happening of some contingency hold, relevant interests in shares in a company such that the company becomes a subsidiary of the subsidiary.
- (2) The Treasurer may, as a condition of approval under this regulation, or by direction, require the subsidiary to take steps to include in a subsidiary company's constitution such provisions as the Treasurer considers appropriate—
 - (a) imposing limitations on the nature or scope of the company's operations; or
 - (b) imposing other controls or practices,consistent with those applicable to the subsidiary.

17—Indirect or joint operations by subsidiary

The subsidiary must not, without the approval of the Treasurer, establish a trust scheme or a partnership or other scheme or arrangement for sharing of profits or joint venture with another person or undertake any operations or transactions pursuant to such a scheme or arrangement.

Division 3—Financial and related matters

18—Internal audit

- (1) The subsidiary must maintain effective internal auditing of its operations.
- (2) The subsidiary must, unless exempted by the Treasurer, have an audit committee.
- (3) The audit committee must comprise at least 4 persons, being—
 - (a) a member of the board of the subsidiary, or such members of the board as the board may from time to time determine; and
 - (b) such other person or persons as the board may from time to time appoint,but must not include the chief executive (if any) of the subsidiary.

- (4) The functions of the audit committee include—
- (a) reviewing annual financial statements to ensure that they provide a true and fair view of the state of affairs of the subsidiary; and
 - (b) liaising with external auditors; and
 - (c) reviewing the adequacy of the accounting, internal auditing, reporting and other financial management systems and practices of the subsidiary on a regular basis.

19—Quarterly reports

The subsidiary must report to the Minister on the subsidiary's financial position on a quarterly basis.

20—Loans etc require approval

- (1) The subsidiary must not lend or advance to any person any money, securities or property without the prior written approval of the Treasurer.
- (2) The subsidiary must not undertake commercial borrowings without the prior written approval of the Treasurer.

21—Provision of information

- (1) The subsidiary must, at the request in writing of the Treasurer, provide the Treasurer with such information or records in the possession or control of the subsidiary as the Treasurer may require in such manner and form as the Treasurer may require.
- (2) If a record in the possession or control of the subsidiary is provided to the Treasurer under this regulation, the Treasurer may make, retain and deal with copies of the record as the Treasurer thinks fit.
- (3) If the board considers that information or a record provided under this regulation contains matters that should be treated as confidential, the board may advise the Treasurer of that opinion giving the reason for the opinion and the Treasurer may, subject to subregulation (4), act on that advice as the Treasurer thinks fit.
- (4) If the Treasurer is satisfied on the basis of the board's advice under subregulation (3) that the subsidiary owes a duty of confidence in respect of a matter, the Treasurer must ensure the observance of that duty in respect of the matter, but this subregulation does not prevent a disclosure as required in the proper performance of ministerial functions or duties.
- (5) The subsidiary must notify the Minister if a request is made under this regulation.

22—Dividends

- (1) The subsidiary must, before the end of each financial year, after consultation with the Minister, recommend by writing to the Treasurer that the subsidiary pay a specified dividend, or not pay any dividend, for that financial year, as the subsidiary considers appropriate.
- (2) The Treasurer may, after consultation with the Minister, by notice in writing to the subsidiary—
 - (a) approve a recommendation of the subsidiary under subregulation (1); or
 - (b) determine that a dividend specified by the Treasurer be paid, or that no dividend be paid,as the Treasurer considers appropriate.

- (3) The subsidiary must, if so required by the Treasurer by notice in writing to the subsidiary at any time during a financial year, after consultation with the Minister, recommend by writing to the Treasurer that a specified interim dividend or specified interim dividends be paid by the subsidiary for that financial year, or that no such dividend or dividends be paid by the subsidiary as the subsidiary considers appropriate.
- (4) The Treasurer may, after consultation with the Minister, by notice in writing to the subsidiary—
 - (a) approve a recommendation of the subsidiary under subregulation (3); or
 - (b) determine that an interim dividend or interim dividends specified by the Treasurer be paid, or that no interim dividend be paid,as the Treasurer considers appropriate.
- (5) If the Treasurer approves a recommendation or determines under this regulation that a dividend or interim dividend or dividends be paid by the subsidiary, the dividend or interim dividend or dividends must be paid at the direction of the Treasurer, in the manner and at the time or times determined by the Treasurer, after consultation with the subsidiary and the Minister.
- (6) A recommendation under this regulation must be made by the board and may not be made by any person or committee pursuant to a delegation.

23—Common seal and execution of documents

- (1) The common seal of the subsidiary must not be affixed to a document except in accordance with a decision of the board, and the affixing of the seal must be attested by the signatures of 2 directors.
- (2) The board may, by instrument under the common seal of the subsidiary, authorise a director, an employee of the subsidiary (whether nominated by name or by office or title) or any other person to execute documents on behalf of the subsidiary subject to limitations (if any) specified in the instrument of authority.
- (3) Without limiting subregulation (2), an authority may be given so as to authorise 2 or more persons to execute documents jointly on behalf of the subsidiary.
- (4) A document is duly executed by the subsidiary if—
 - (a) the common seal of the subsidiary is affixed to the document in accordance with this regulation; or
 - (b) the document is signed on behalf of the subsidiary by a person or persons in accordance with authority conferred under this regulation.

24—Annual report

- (1) The subsidiary must, within 3 months after the end of each financial year, deliver to the Minister a report on the operations of the subsidiary during that financial year.
- (2) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after receipt of the report.

Schedule 1—Repeal of *Public Corporations (StudyAdelaide) Regulations 2011*

1—Repeal of *Public Corporations (StudyAdelaide) Regulations 2011*

The *Public Corporations (StudyAdelaide) Regulations 2011* are repealed.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 August 2023

No 89 of 2023

South Australia

Public Corporations (General) Regulations 2023

under the *Public Corporations Act 1993*

Contents

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- 3 Interpretation
- 4 Disclosure of pecuniary interests

Schedule 1—Repeal of *Public Corporations (General) Regulations 2008*

1—Short title

These regulations may be cited as the *Public Corporations (General) Regulations 2023*.

2—Commencement

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

3—Interpretation

In these regulations—

Act means the *Public Corporations Act 1993*.

4—Disclosure of pecuniary interests

(1) The table below specifies—

- (a) the pecuniary interests to be disclosed by the following persons:
 - (i) a senior executive of a public corporation for the purposes of section 36B of the Act;
 - (ii) a senior executive of a subsidiary for the purposes of clause 14B of the Schedule to the Act; and
- (b) the information that must be disclosed by the senior executive in respect of any such pecuniary interest.

Pecuniary interest	Information required
1 A contract of service, office, trade, vocation, business or profession in respect of which the person receives or is entitled to receive any remuneration, fee or other pecuniary sum (not being payable under the Act)	A description of the contract, office, trade, vocation, business or profession and the amount and source of the remuneration, fee or other pecuniary sum.
2 An office held by the person (whether as a director or otherwise) in a company or other body (whether or not incorporated) in respect of which the person received or is entitled to receive any remuneration, fee or other pecuniary sum	The name and address of the company or other body and the amount of the remuneration, fee or other pecuniary sum.
3 A company, partnership, association or other body in which the person is an investor	The name and address or description of the company, partnership, association or other body.

Pecuniary interest	Information required
4 Land in which the person has a beneficial interest (other than by way of security for a debt)	The address or description of the land.
5 A trust (other than a testamentary trust) of which the person is a beneficiary or trustee	A description of the trust and the name and address of each trustee.
6 Any other pecuniary interest of the person of a kind determined by the Minister	The information required by the Minister to be disclosed in respect of that pecuniary interest.

(2) For the purposes of this regulation—

- (a) a reference to a beneficial interest in land includes a reference to a right to reacquire land;
- (b) a person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust;
- (c) a person is an investor in a body if—
 - (i) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
 - (ii) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.

Schedule 1—Repeal of *Public Corporations (General) Regulations 2008*

The *Public Corporations (General) Regulations 2008* are repealed.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 August 2023

No 90 of 2023

South Australia

Health Care Regulations 2023

under the *Health Care Act 2008*

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Schedule 3—Repeal of *Health Care Regulations 2008*

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Health Care Regulations 2023*.

2—Commencement

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

3—Interpretation

In these regulations—

Act means the *Health Care Act 2008*;

authorised person has the same meaning as in section 63 of the Act;

baby means a baby whether born dead or alive, but does not include a baby who does not achieve a gestational age of 20 weeks or a birth weight of 400 grams;

cancer means—

- (a) a malignant growth of human tissue which, if unchecked, is likely to spread to adjacent tissue or beyond its place of origin and which has the propensity to recur, including but not limited to—
 - (i) a malignant neoplasm, whether invasive or *in situ* (including *in situ* melanoma, breast cancer and bladder cancer); or
 - (ii) any lymphohaematopoietic neoplasm; or
- (b) a neoplasm of the brain, spinal cord or cranial nerves, or other intracranial neoplasm whether benign, malignant or of uncertain malignant potential;

congenital abnormality means an abnormality of prenatal origin, and includes structural, genetic and chromosomal abnormalities and biochemical defects, but does not include minor malformations that do not require medical treatment;

sentinel event has the same meaning as in the *Australian Commission on Safety and Quality in Health Care. Australian Sentinel Event List (version 2): Specifications. Sydney: ACSQHC; 2020.*

Part 2—Regulations relating to specific provisions of Act

4—Health service

The provision of linen and laundry services to hospitals or other health care providers is brought within the ambit of the definition of **health service** in section 3 of the Act.

5—Establishment of Councils

- (1) For the purposes of section 15(5)(a) of the Act, the following is prescribed (with respect to the relevant HAC or each relevant HAC):
 - (a) the provision of a letter to the members of the HAC from the Minister—
 - (i) setting out the course of action that is under consideration; and
 - (ii) setting out the grounds for that proposed course of action; and
 - (iii) containing a request that the HAC consult broadly with the relevant community (or with groups within the community) for a period of at least 4 weeks specified in the letter (and to the extent specified by the Minister);
 - (b) at the request of the HAC—the setting up of a meeting between members of the HAC and the Chief Executive or a person nominated by the Chief Executive;
 - (c) the provision of a written response to the Minister from the HAC that includes—
 - (i) a fair summary of the consultation under paragraph (a)(iii) (providing details of both the consultation undertaken and the outcomes from that consultation); and
 - (ii) any comments or response that the members of the HAC wish to make in relation to the matter.
- (2) For the purposes of section 15(5)(b)(ii) of the Act, the following grounds are prescribed:
 - (a) in the case of an incorporated HAC established in relation to a body in connection with the provision of health services at a particular site—that the undertaking of health services at that site has been transferred to another site;
 - (b) that the purpose for which the HAC was established no longer exists;
 - (c) that services in relation to which the HAC was established are no longer required or sought within the relevant part of the community;
 - (d) that the community has reasonable access to services that are a reasonable alternative to services in relation to which the HAC was established.

6—Administration

For the purposes of section 28 of the Act, the following grounds are prescribed:

- (a) the HAC has contravened, or failed to comply with, a provision of the Act or of its constitution;

- (b) the HAC has, in the opinion of the Minister, been guilty of serious financial mismanagement;
- (c) the HAC has, in the opinion of the Minister, persistently failed properly to perform the functions for which it was established;
- (d) the HAC seeks its own dissolution on the basis that a majority of its members are of the opinion that the HAC is unable to perform properly the functions for which it was established.

7—Prescribed requirements for engagement strategies

- (1) For the purposes of section 33A(3)(a) of the Act, the clinician engagement strategy developed by a governing board must—
 - (a) include the following:
 - (i) the objectives of the strategy;
 - (ii) an outline of how the strategy will contribute to the achievement of the functions of the governing board;
 - (iii) the manner in which consultation with health professionals will be conducted;
 - (iv) an outline of the key issues that will form the basis of consultation with health professionals, including issues focussed on the safety and quality of health services, service planning and design, service delivery and the monitoring and evaluation of service delivery;
 - (v) an outline of how the governing board will use information obtained from implementing the strategy to continuously improve consultation with health professionals;
 - (vi) an outline of how the effectiveness of consultation with health professionals under the strategy will be measured and publicly reported; and
 - (b) have regard to national and State strategies, policies, agreements and standards relevant to promoting consultation with health professionals; and
 - (c) outline the relationship between each of the following:
 - (i) the governing board's consumer and community engagement strategy;
 - (ii) the governing board's clinician engagement strategy;
 - (iii) providers of health services, including providers of primary health care services.
- (2) For the purposes of section 33A(3)(a) of the Act, the consumer and community engagement strategy developed by a governing board must—
 - (a) include the following:
 - (i) the objectives of the strategy;
 - (ii) an outline of how the strategy will contribute to the achievement of the functions of the governing board;

- (iii) the manner in which consultation with health consumers and members of the community will be conducted, including the manner in which consultation by health professionals and staff members with health consumers and members of the community will be conducted;
 - (iv) an outline of the key issues that will form the basis of consultation with health consumers and members of the community, including issues focussed on the safety and quality of health services, service planning and design, service delivery and the monitoring and evaluation of service delivery;
 - (v) an outline of how the governing board will use information obtained from implementing the strategy to identify and consult with health consumers and members of the community—
 - (A) who are or are at risk of experiencing poor health outcomes; or
 - (B) who may have difficulty accessing health services;
 - (vi) an outline of how the effectiveness of consultation with health consumers and members of the community under the strategy will be measured and publicly reported; and
- (b) have regard to national and State strategies, policies, agreements and standards relevant to promoting consultation with health consumers and members of the community about the provision of health services; and
 - (c) outline the relationship between each of the following:
 - (i) the governing board's consumer and community engagement strategy;
 - (ii) the governing board's clinician engagement strategy;
 - (iii) providers of health services, including providers of primary health care services.

8—Accrued rights for employees

For the purposes of section 53(2)(c) of the Act, employment at SAAS as constituted immediately before the commencement of section 49 of the Act is prescribed.

9—Emergency ambulance services

For the purposes of section 57(1)(b) of the Act, the following persons are prescribed:

- (a) Royal Flying Doctor Service of Australia Central Operations;
- (b) Babcock Mission Critical Services Australasia Pty Ltd;
- (c) the Commonwealth Department of Defence or an arm of the Australian Defence Force.

10—Licence to provide non-emergency ambulance services

For the purposes of section 58(1)(c) of the Act, the following persons are prescribed:

- (a) Royal Flying Doctor Service of Australia Central Operations;
- (b) Babcock Mission Critical Services Australasia Pty Ltd;
- (c) the Commonwealth Department of Defence or an arm of the Australian Defence Force.

11—Health services entities

For the purposes of the definition of *health services entity* under section 68 of the Act, the following entities involved in the provision of health services are brought within the ambit of the definition:

- (a) SAAS;
- (b) Royal District Nursing Service of SA Incorporated.

12—Appointment of RCA teams

- (1) For the purposes of section 69(2) of the Act, the following requirements are prescribed:
 - (a) an RCA team is to consist of not less than 3 members;
 - (b) the leader of an RCA team must have completed a formal training course in root cause analysis;
 - (c) at least 1 member of an RCA team must have a formal tertiary qualification in a health related field or significant experience in a health related field relevant to the investigation;
 - (d) each member of an RCA team must have knowledge and understanding of the member's obligations under Parts 7 and 8 of the Act.
- (2) For the purposes of section 69(5) of the Act, the following procedures and processes are adopted in relation to the conduct of an investigation:
 - (a) in the case of an RCA team appointed in relation to a hospital incorporated under the Act or SAAS—the RCA team must commence the investigation within 14 days after its appointment;
 - (b) in the case of an RCA team appointed in relation to a hospital incorporated under the Act or SAAS—the RCA team must provide any part of the report referred to in regulation 14—
 - (i) within 10 weeks after the commencement of the investigation; or
 - (ii) with the written consent of a member of the *Safety and Quality Unit* of the Department, within 20 weeks after the commencement of the investigation or such longer period as may be allowed under the terms of the consent;
 - (c) if an RCA team member becomes aware that they have, or may have, a direct or indirect personal or pecuniary interest in an adverse incident under investigation or to be investigated by the team, the following procedure is adopted:
 - (i) the member must, as soon as reasonably practicable after becoming aware of the interest, disclose in writing to the designated authority full and accurate details of the interest; and
 - (ii) the member is, subject to the designated authority's determination, precluded from taking part or taking further part in the investigation into the incident or the preparation of reports in relation to the incident.
- (3) For the purposes of subregulation (2)(c) but without limitation, an RCA team member will be taken to have an interest in an adverse incident if a relative of the member or of the member's spouse or domestic partner has an interest in the incident.

13—Restrictions on RCA teams

For the purposes of section 70(2) of the Act, the following procedures are prescribed:

- (a) the RCA team must notify the designated authority in writing of the suspected prescribed act and the reasons for the team's suspicion;
- (b) if the RCA team is of the view that a prescribed act of the same kind is or may be imminent, the team must immediately notify the designated authority of that view;
- (c) the RCA team must not, unless authorised to do so in writing by the designated authority, continue its investigation into the adverse incident;
- (d) the designated authority must not authorise the RCA team to continue its investigation unless satisfied that the suspected prescribed act—
 - (i) did not occur; or
 - (ii) is able to be investigated independently of the adverse incident.

14—Reports and protection of information

- (1) For the purposes of section 72(3)(d) of the Act, members of the *Safety and Quality Unit* of the Department who are members of the *Patient Safety Team* are prescribed as a class of persons who are entitled to receive the following parts of a second report prepared by an RCA team appointed in relation to a hospital incorporated under the Act or SAAS:
 - (a) any description of the adverse incident;
 - (b) any *causation* statement;
 - (c) the recommendations of the RCA team;
 - (d) any other material considered relevant by the RCA team.
- (2) For the purposes of section 73(2)(e) of the Act, a person who receives a report under section 72(3)(b) or (d) of the Act may make such records or use or disclose such information as is reasonably necessary in order—
 - (a) to analyse the report and assess and discuss any incident, contributing factor, statement, recommendation or other material identified or contained in the report; or
 - (b) to provide information or any report to an authorised quality improvement body.
- (3) For the purposes of subregulation (2), a reference to a report includes a reference to part of a report.

15—Recognised organisations

For the purposes of section 90 of the Act, the following organisations are declared to be recognised organisations:

- (a) Ambulance Employees Association of South Australia;
- (b) Association of Professional Engineers, Scientists & Managers, Australia (APESMA);
- (c) Australian Nursing & Midwifery Federation (SA Branch);
- (d) United Workers' Union;
- (e) Public Service Association of South Australia Incorporated;
- (f) South Australian Salaried Medical Officers' Association.

Part 3—Deductible gift recipient status

16—Deductible gift recipient status

- (1) This regulation applies to a hospital incorporated under the Act that is endorsed as a deductible gift recipient under the *Income Tax Assessment Act 1997* of the Commonwealth.
- (2) At the first occurrence of—
 - (a) an incorporated hospital ceasing to be a deductible gift recipient; or
 - (b) the winding up of a gift fund maintained by an incorporated hospital; or
 - (c) the dissolution of an incorporated hospital,

the surplus assets of any gift fund or, if the hospital has not maintained a gift fund, the surplus—

- (d) gifts of money or property for the principal purpose of the hospital;
- (e) deductible contributions received in relation to fund-raising events held for the principal purpose of the hospital; or
- (f) money received by the hospital because of such gifts or contributions,

must be transferred to a fund, authority or institution gifts to which can be deducted under the *Income Tax Assessment Act 1997* (Commonwealth).

Part 4—Private hospitals

17—Duration of licences

For the purposes of section 84(2) of the Act—

- (a) the prescribed day is 30 April; and
- (b) the prescribed information is that set out in Schedule 1 Part 1.

18—Prescribed records—licensee to keep register

The holder of a licence under Part 10 of the Act in respect of a private hospital must keep a register in which is recorded, in relation to every patient admitted to the hospital, the following details:

- (a) the full name, age, sex and usual place of residence of the patient;
- (b) the patient's date of admission;
- (c) the name and address of the patient's medical attendant;
- (d) the name and home address of the patient's next of kin;
- (e) the date of discharge, or in the event of death, the date of the patient's death;
- (f) in the case of a maternity patient, the patient's date and time of confinement and the sex and weight of any infant.

19—Provision of health services data and statistics to Minister

- (1) The holder of a licence under Part 10 of the Act in respect of a private hospital must provide to the Minister the data specified under subregulation (2) in respect of each month of operation of the private hospital.
- (2) For the purposes of subregulation (1), the Minister may specify any of the following kinds of data:
 - (a) data relating to admitted patient care, which may include (without limitation) the health status of admitted patients, health services provided to those patients and health outcomes for those patients;
 - (b) data relating to non-admitted patient emergency department care for presentations to an emergency department or emergency health service, which may include (without limitation) the health status of persons presenting to the service, health services provided to those persons and health outcomes for those persons;
 - (c) data relating to the occurrence of sentinel events.
- (3) Data required to be provided under this regulation relating to a particular month must be provided—
 - (a) in a form and manner acceptable to the Minister; and
 - (b) within the period specified by the Minister following the end of that month (which may vary according to the data or other circumstances to which it applies).
- (4) Subject to this regulation, a person must not in any circumstances (including proceedings before any court, tribunal or board) divulge confidential information obtained directly or indirectly as a result of a disclosure made under this regulation.

Maximum penalty: \$10 000.

- (5) Subregulation (4) does not prevent a person from disclosing confidential information in accordance with an authorisation given by the Chief Executive.
- (6) A person must not, when appearing as a witness in any proceedings before a court, tribunal or board, be asked, and, if asked, is not required to answer, any question directed at obtaining confidential information obtained by that person directly or indirectly as a result of a disclosure made under this regulation and any such information volunteered by such a person is not admissible in any proceedings.
- (7) In this regulation—

confidential information has the same meaning as in section 63 of the Act.

Part 5—Private day procedure centres

20—Interpretation

In this Part—

emergency service includes—

- (a) the South Australian Metropolitan Fire Service; and
- (b) the South Australian Country Fire Service; and
- (c) the Royal Flying Doctor Service.

21—Certain services excluded from definition of health services for purposes of Part 10A of Act

For the purposes of the definition of *health services* in section 3(1) of the Act, the following services will be taken to be excluded from the ambit of that definition for the purposes of Part 10A of the Act:

- (a) paramedical or ambulance services;
- (b) services provided by a member of an emergency service in the course of an emergency (including, to avoid doubt, services provided in the course of a trauma retrieval).

22—Prescribed health service

(1) For the purposes of paragraph (d) of the definition of *prescribed health service* in section 89(1) of the Act, the following health services are prescribed:

- (a) cardiac catheterisation;
- (b) chemotherapy (except when provided by or on behalf of an incorporated hospital, the holder of a private day procedure centre licence or another entity that ordinarily provides a prescribed health service at a private day procedure centre);
- (c) gastrointestinal endoscopy;
- (d) renal dialysis (except when provided by or on behalf of an incorporated hospital, the holder of a private day procedure centre licence or another entity that ordinarily provides a prescribed health service at a private day procedure centre);
- (e) the following cosmetic surgical procedures:
 - (i) abdominoplasty;
 - (ii) belt lipectomy;
 - (iii) biceps implants;
 - (iv) brachioplasty;
 - (v) breast augmentation or reduction;
 - (vi) buttock augmentation, reduction or lift;
 - (vii) calf implants;
 - (viii) deltoid implants;
 - (ix) facelift (other than a mini-lift that does not involve the superficial musculoaponeurotic system (SMAS));
 - (x) facial implants that involve—
 - (A) inserting an implant on the bone; or
 - (B) surgical exposure to deep tissue;
 - (xi) fat transfer that involves the transfer of more than 500 millilitres of lipoaspirate;
 - (xii) labiaplasty;
 - (xiii) liposuction that involves the removal of more than 2.5 litres of lipoaspirate;
 - (xiv) mastopexy or mastopexy augmentation;

- (xv) monsplasty;
 - (xvi) neck lift;
 - (xvii) pectoral implants;
 - (xviii) penis augmentation;
 - (xix) rhinoplasty;
 - (xx) triceps implants;
 - (xxi) vaginoplasty;
- (f) a health service, or health service of a class, determined by the Minister by notice in the Gazette.
- (2) For the purposes of section 89(2)(c) of the Act, health services of the following kinds are prescribed:
- (a) a health service consisting of the use of topical local anaesthetic;
 - (b) a health service provided by a registered health practitioner (being a person who is permitted or authorised under a law of the State to administer local anaesthetic of the relevant kind).

23—Conditions of licence

For the purposes of section 89D(1) of the Act, it is a condition of each private day procedure licence that the private day procedure centre to which the licence relates must be, at all times while the licence is in force, accredited under the Australian Health Service Safety and Quality Accreditation Scheme in accordance with the *National Safety and Quality Health Service Standards* published by the Australian Commission on Safety and Quality in Health Care under the *National Health Reform Act 2011* of the Commonwealth.

24—Duration of licences

- (1) For the purposes of section 89F(2) of the Act, the prescribed day is 30 April.
- (2) For the purposes of section 89F(2)(b) of the Act, such information as may be determined by the Minister is prescribed.

25—Prescribed records—licensee to keep register

The holder of a licence under Part 10A of the Act in respect of a private day procedure centre must keep a register in which is recorded, in relation to every person attending at the private day procedure centre for the provision of a prescribed health service, the following details:

- (a) the full name, age, sex and usual place of residence of the person;
- (b) the person's date of attendance at the private day procedure centre;
- (c) the name and address of the person's medical attendant;
- (d) the name and home address of the person's next of kin.

26—Provision of health services data and statistics to Minister

- (1) The holder of a licence under Part 10A of the Act in respect of a private day procedure centre must provide to the Minister the data specified under subregulation (2) in respect of each month of operation of the private day procedure centre.
- (2) For the purposes of subregulation (1), the Minister may specify any of the following kinds of data:
 - (a) data relating to admitted patient care, which may include (without limitation) the health status of admitted patients, health services provided to those patients and health outcomes for those patients;
 - (b) data relating to non-admitted patient emergency department care for presentations to an emergency department or emergency health service, which may include (without limitation) the health status of persons presenting to the service, health services provided to those persons and health outcomes for those persons;
 - (c) data relating to the occurrence of sentinel events.
- (3) Data required to be provided under this regulation relating to a particular month must be provided—
 - (a) in a form and manner acceptable to the Minister; and
 - (b) within the period specified by the Minister following the end of that month (which may vary according to the data or other circumstances to which it applies).
- (4) Subject to this regulation, a person must not in any circumstances (including proceedings before any court, tribunal or board) divulge confidential information obtained directly or indirectly as a result of a disclosure made under this regulation.

Maximum penalty: \$10 000.

- (5) Subregulation (4) does not prevent a person from disclosing confidential information in accordance with an authorisation given by the Chief Executive.
- (6) A person must not, when appearing as a witness in any proceedings before a court, tribunal or board, be asked, and, if asked, is not required to answer, any question directed at obtaining confidential information obtained by that person directly or indirectly as a result of a disclosure made under this regulation and any such information volunteered by such a person is not admissible in any proceedings.
- (7) In this regulation—

confidential information has the same meaning as in section 63 of the Act.

Part 6—Pregnancy outcome data and statistics

27—Provision of pregnancy outcome information

- (1) The following persons must provide the Minister with so much of the information required by Schedule 2 Part 1 as is applicable in the particular circumstances:
 - (a) if a baby is born at a place other than a hospital—the person in charge of the birth;
 - (b) if a baby is born in a hospital—the person responsible for the management of the hospital;

- (c) if, within 28 days after its birth, a baby or its mother or both a baby and its mother are admitted to a hospital—the person responsible for the management of the hospital.
- (2) For the purposes of subregulation (1), the applicable information must be forwarded to the Minister—
 - (a) in the case of a baby that has not been discharged from hospital within 28 days after its birth—within 7 days after the baby's discharge; or
 - (b) in any other case—within 30 days after the birth of the baby.
- (3) If, within 28 days after the birth of a baby at a place other than a hospital, the baby or its mother or both the baby and its mother are admitted to a hospital—
 - (a) the person in charge of the birth must, within 2 days after the admission, forward to the person responsible for the management of the hospital so much of the information required by Schedule 2 Part 1 as is applicable up to the time of the admission; and
 - (b) subregulation (1) applies to both the person in charge of the birth and the person responsible for the management of the hospital.
- (4) If, within 28 days after the birth of a baby, the baby or its mother or both the baby and its mother are transferred from 1 hospital (the *transferor hospital*) to another (the *transferee hospital*)—
 - (a) the person responsible for the management of the transferor hospital must, within 2 days after the transfer, forward to the person responsible for the management of the transferee hospital so much of the information required by Schedule 2 Part 1 as is applicable up to the time of the transfer; and
 - (b) subregulation (1) applies to both the person responsible for the management of the transferor hospital and the person responsible for the management of the transferee hospital.
- (5) For the purposes of this regulation, if a baby is born at a place other than a hospital, the *person in charge of the birth* is—
 - (a) if a medical practitioner supervises, attends or assists the birth or attends the baby or its mother immediately following the birth—the medical practitioner;
 - (b) if there is more than 1 such medical practitioner—the medical practitioner primarily responsible;
 - (c) if no medical practitioner supervises, attends or assists the birth or attends the baby or its mother immediately following the birth but a midwife does so—the midwife;
 - (d) if there is more than 1 such midwife—the midwife primarily responsible.

28—Notification of diagnosis of congenital abnormality

If a congenital abnormality is diagnosed in a child before the child's fifth birthday and there are reasonable grounds to believe that it has not previously been diagnosed, the following persons must, within 30 days of the diagnosis, notify the Minister of the diagnosis and forward to the Minister the information required by Schedule 2 Part 2:

- (a) in the case of a diagnosis made in a hospital—the person responsible for the management of the hospital;
- (b) in any other case—the medical practitioner who made the diagnosis.

29—Obligation of medical practitioner etc to provide information

A medical practitioner, midwife or nurse who—

- (a) supervised, attended or assisted with the birth of a baby; or
- (b) attended a baby or its mother within 28 days after the birth of the baby,

must, when requested by a person who is required by these regulations to provide the Minister or a hospital with information, supply to that person such of the information required to be provided as is known to the medical practitioner, midwife or nurse.

30—How information to be provided

Information required to be provided by this Part must be provided—

- (a) in writing (either personally or by post); or
- (b) in an electronic form acceptable to the Department, so long as a printed copy of the information can be produced if required.

31—Confidentiality

- (1) Subject to this regulation, a person must not in any circumstances (including proceedings before any court, tribunal or board) divulge confidential information obtained directly or indirectly as a result of a disclosure made under this Part.

Maximum penalty: \$10 000.

- (2) Subregulation (1) does not prevent a person from disclosing confidential information to any of the following:

- (a) an authorised person;
- (b) a person providing technical, administrative or secretarial assistance to an authorised person;
- (c) SA NT DataLink;
- (d) the Australian Institute of Health and Welfare of the Commonwealth.

- (3) A person must not, when appearing as a witness in any proceedings before a court, tribunal or board, be asked, and, if asked, is not required to answer, any question directed at obtaining confidential information obtained by that person directly or indirectly as a result of a disclosure made under this Part and any such information volunteered by such a person is not admissible in any proceedings.

- (4) In this regulation—

confidential information means information relating to a health service in which the identity of a patient or a registered health practitioner providing the service is revealed.

Part 7—Reporting of cancer

32—Reporting obligations of hospitals or health services incorporating radiotherapy clinics

- (1) The person responsible for the management of a hospital or health service that incorporates a radiotherapy clinic must provide the Minister with a report within 3 months after—
 - (a) a patient presenting at the hospital or health service—

- (i) is diagnosed with a cancer of a particular type at the hospital or health service (including where the diagnosis is made in respect of a recurrence of cancer); or
 - (ii) first discloses a history of, or is first treated for, a cancer of a particular type at the hospital or health service;
 - (b) a patient of a kind referred to in paragraph (a) dies (whether as a result of the cancer or any other cause) at the hospital or health service.
- (2) The report must contain the following:
- (a) the name and address of the hospital or health service;
 - (b) a unique identifier for the patient;
 - (c) the name of the medical practitioner responsible for the patient;
 - (d) the date on which the patient was admitted to or presented at the hospital or health service;
 - (e) the following details relating to the patient to the extent known or reasonably ascertainable:
 - (i) full name and usual residential or postal address;
 - (ii) gender;
 - (iii) date of birth;
 - (iv) country of birth;
 - (v) indigenous Australian status, race and ethnicity;
 - (f) to the extent that it is known, or is reasonably ascertainable or practicable, the occupation of the patient;
 - (g) the following details of the cancer and its diagnosis:
 - (i) a statement of the body part or system where the cancer arose, or if not known, a statement of that fact;
 - (ii) the date of diagnosis of the cancer if known (being the date that the diagnosis was confirmed by pathology, radiology or clinical assessment);
 - (iii) the type of diagnostic procedures and investigations undertaken (such as clinical assessment, cytology, haematology, histopathology, immunology or radiology);
 - (iv) if the diagnosis was confirmed by pathology—
 - (A) the name of, or a code identifying, the laboratory that performed the test to determine the presence in the patient of the cancer; and
 - (B) the type of tumour; and
 - (C) the slide or specimen number assigned to the specimen taken from the patient to test for the presence of the cancer;
 - (v) to the extent that it is known or reasonably ascertainable, the stage or extent of the cancer at the time of diagnosis;
 - (h) to the extent known or reasonably ascertainable, the following information as may be required by the Minister to be provided in relation to the cancer or the patient:

- (i) the prognosis of the cancer and the factors affecting the prognosis;
 - (ii) details of medical treatment provided to the patient in relation to the cancer at the hospital or health service;
 - (iii) details of patient reported outcome measures recorded in connection with the cancer at the hospital or health service;
- (i) if the patient has departed or been discharged from the hospital or health service—the date of and reason for the departure or discharge;
 - (j) if the patient has died at the hospital or health service—the date of death.
- (3) The report must be made in a form and manner acceptable to the Minister.

33—Reporting obligations of pathology laboratories

The person in charge of a pathology laboratory must, within 3 months after the completion by the laboratory of a cancer pathology report relating to a person, provide the Minister with a copy of the report along with the information as the Minister may require relating to cancer prognostic tests undertaken by the laboratory.

34—Provision of information by medical practitioners

If the Minister is aware of a person (the *patient*) who is or has been diagnosed with or treated for cancer, the Minister may request a medical practitioner involved in the patient's treatment or diagnosis of the cancer to notify the Minister in writing of any information referred to in regulation 32(2)(e) and (g) relating to the patient, as specified by the Minister, that is known to the medical practitioner, and the medical practitioner is authorised for the purposes of the Act or any other Act or law to provide that information by virtue of this regulation.

Part 8—Clinical competencies and scope of practice

35—Clinical competencies and scope of practice

For the purposes of section 100(2)(j) of the Act—

- (a) the Chief Executive may establish policies or protocols that set out practices in order to assess the clinical competencies of, and to determine the scope of the clinical practice of, specified classes of health care providers in specified settings or circumstances (including before a person is engaged as a health care provider) (being policies or practices that may be varied or substituted, and have effect, from time to time and according to their terms); and
- (b) the Chief Executive may establish committees to undertake practices associated with assessing the clinical competencies of, and to determine the scope of the clinical practice of, specified classes of health care providers under any policy or protocol established under paragraph (a); and
- (c) an incorporated hospital and SAAS, and any person engaged in connection with the Act, must comply with, and apply, any policies, protocols or practices established under paragraph (a); and
- (d) an incorporated hospital or SAAS may establish policies, protocols and practices that are secondary or subordinate to (and consistent with) any policies, protocols or practices established under paragraph (a).

Schedule 1—Private hospitals

Part 1—Prescribed information for annual return

1—Prescribed information for annual return

For the purposes of section 84(2)(b) of the Act, the following information is prescribed:

- (a) the period to which the return relates (the *relevant period*);
- (b) the name and address of the private hospital;
- (c) if the licensee is a private person—the name and address of the licensee;
- (d) if the licensee is a body corporate—its name and the address of its registered office;
- (e) if the licensee is an incorporated association—its name and address;
- (f) a statement as to whether or not there has been any change during the relevant period in the identity of—
 - (i) in the case of a body corporate, the secretary or directors; or
 - (ii) in the case of an incorporated association, the public officer or members,and if any such change has occurred the name, address and occupation of any new person appointed;
- (g) a statement as to whether or not there has been any change in the membership of the board of management of the private hospital during the relevant period and, if so, details of any such change;
- (h) a statement as to whether or not there has been any change in the identity of the manager or administrator of the private hospital during the relevant period and, if so, details of any such change;
- (i) a statement as to whether or not there has been any change, during the relevant period, in the identity of a person who—
 - (i) has any pecuniary interest, whether direct or indirect, in or from the running of the private hospital; or
 - (ii) is involved either directly or indirectly in the management and control of the private hospital,and, if so, details of any such change;
- (j) a statement as to whether or not, during the relevant period, there has been any change in the purpose for which the private hospital is used and, if so, details of any such change;
- (k) a statement as to whether or not, during the relevant period, there has been any change in the number of approved beds provided at the private hospital and, if so, details of any such change;
- (l) a statement as to whether or not, during the relevant period, there has been any change in the number of beds designated for a particular type of service and, if so, details of any such change;
- (m) a statement as to whether or not, during the relevant period, there has been any change in the clinical services provided as part of or ancillary to the principal services provided at the private hospital and, if so, details of any such change;

- (n) a statement as to whether or not, during the relevant period, there has been any change in the facilities provided at the private hospital and, if so, details of any such change;
- (o) a statement as to whether or not, during the relevant period, there has been any change in the specialist diagnostic equipment provided at the private hospital and, if so, details of any such change.

Schedule 2—Pregnancy outcome data and statistics

Part 1—Pregnancy outcome information

The information required for the purposes of regulation 27 is as follows:

Subject	Details required
1 The baby's birth	<p>Family name (if different from the birth mother's family name)</p> <p>Name of baby (if known)</p> <p>Place of birth</p> <ul style="list-style-type: none"> (a) if the baby was born in a hospital—the name and address of the hospital (b) if the baby was born in some other place—the name, or a description of, that place (eg birthing unit/centre, at home etc) <p>Case record number of the baby</p> <p>Date and time of birth</p> <p>Sex of the baby</p> <p>If the baby's birth was a multiple birth—</p> <ul style="list-style-type: none"> (a) the number of babies born (b) the baby's birth order <p>Birth weight</p> <p>Gestation at birth</p> <p>Apgar scores (1 minute and 5 minutes)</p> <p>The time taken to establish regular breathing</p> <p>If resuscitation was required at delivery, the type of resuscitation used</p> <p>Details of any condition occurring during the birth (eg a dislocation, fracture, nerve injury etc)</p> <p>Details of any congenital abnormality apparent in the baby [<i>Note—diagnosis of a congenital abnormality must be notified to the Minister in accordance with regulation 28</i>]</p> <p>Details of medical treatments provided to the baby after birth (eg treatments such as oxygen therapy for a period greater than 4 hours, phototherapy for jaundice, intravenous therapy etc)</p> <p>Details of nursery care required and, if the baby was transferred to intensive care, whether this was for a congenital abnormality</p> <p>Details of the outcome of the baby (eg fetal death, baby discharged alive, baby still in hospital 28 days after birth, neonatal death etc)</p>

Subject	Details required
2 The baby's birth mother	<p>If the baby was transferred from 1 hospital to another, details of the date this occurred and the baby's destination</p> <p>Date of final discharge (or death) of the baby</p> <p>Name</p> <p>Address</p> <p>Case record number</p> <p>Date of birth</p> <p>Indigenous Australian status, race and ethnicity</p> <p>Country of birth</p> <p>Type of patient (ie hospital/public patient or private patient)</p> <p>Marital status</p> <p>Occupation</p> <p>Details of the outcomes of any previous pregnancies (eg number of livebirths, stillbirths, neonatal deaths, miscarriages, ectopic pregnancies or terminations)</p> <p>Details of the pregnancy previous to the pregnancy resulting in the baby's birth, including—</p> <ul style="list-style-type: none"> (a) the outcome (b) the date of delivery or termination (whether by miscarriage or otherwise) <p>Details of the method of delivery of the baby born (if any) immediately previous to this baby's birth</p> <p>Number of caesarean sections (if any) the mother has undergone</p>
3 The pregnancy resulting in the baby's birth	<p>Date of last menstrual period</p> <p>Intended place of birth</p> <p>Details of any antenatal care received including—</p> <ul style="list-style-type: none"> (a) type of care (b) number of visits (c) gestation, height and weight at first antenatal visit <p>Details of the mother's tobacco smoking during pregnancy and, if relevant, details of any cessation advice given</p> <p>Details of any medical conditions of the mother present in this pregnancy (eg anaemia, epilepsy, diabetes etc)</p> <p>Details of any obstetric complications of the mother (eg threatened miscarriage, antepartum haemorrhage etc)</p> <p>Details of medical and surgical procedures performed during the pregnancy (eg medical procedures such as ultrasound examinations and surgical procedures such as amniocentesis, cordocentesis etc)</p> <p>Date of admission to hospital prior to delivery</p>

Subject	Details required
	Date of— <ul style="list-style-type: none"> (a) discharge (b) transfer to another hospital (c) death
4 The labour, delivery of the baby and puerperium	<p>Details of the onset of labour (eg spontaneous, no labour, induced labour etc)</p> <p>Details of any induction or augmentation of labour (including the reason for the induction)</p> <p>Details of the presentation of the baby prior to delivery (eg breech, vertex, brow etc)</p> <p>Details of the method of delivery of the baby (eg normal spontaneous, forceps, caesarean etc)</p> <p>If the baby was delivered by caesarean section, the reason for so doing</p> <p>Details of any complications of the labour, delivery and puerperium (eg fetal distress, retained placenta, cord prolapse etc)</p> <p>Details of any cardiocotocograph (CTG) or fetal scalp pH taken during labour</p> <p>Details of the perineal status after delivery (eg intact, tear, episiotomy etc)</p> <p>Details of any analgesia given for the labour (eg nitrous oxide and oxygen, narcotic, epidural etc)</p> <p>Details of any anaesthesia given for the delivery (eg pudendal, epidural, spinal, general etc)</p>
5 The baby's birth father	Occupation

Part 2—Information relating to congenital abnormalities

The information required for the purposes of regulation 28 is as follows:

Matter	Details required
1 The child	<p>Name and address</p> <p>Place of birth <ul style="list-style-type: none"> (a) if the child was born in a hospital—the name of the hospital and (if available) the child's case record number (b) if the child was born in some other place—the name, or a description of, that place (eg birthing unit/centre, at home etc) </p> <p>Date of birth</p> <p>If the child is receiving treatment in a hospital—the case record number from the hospital</p> <p>If the child was not born in South Australia, the place where the child was born</p> <p>Sex of the child</p>

Matter	Details required
	<p>If the child's birth was a multiple birth—</p> <p>(a) the number of babies born</p> <p>(b) the child's birth order</p> <p>The name, address and contact telephone number of any medical practitioner caring for the child</p> <p>If the child is deceased, the date of death and details of any autopsy performed</p>
2 The child's mother	<p>Name (including any previous names)</p> <p>Date of birth</p> <p>Indigenous Australian status, race and ethnicity</p>
3 The diagnosis	<p>Each congenital abnormality diagnosed</p> <p>Family history of any congenital abnormalities present in the baby's parents, siblings or other specified relatives</p> <p>Address of the mother during the first 16 weeks of pregnancy</p> <p>Exposure of the baby's parents to possible teratogens</p> <p>Whether any prenatal or postnatal diagnostic tests were carried out and (if so) the results of those tests</p> <p>Name and address of the obstetrician and midwife</p>
4 If the diagnosis was not made in a hospital—the medical practitioner who made the diagnosis	<p>Name</p> <p>Address of medical practice</p> <p>Date of diagnosis</p> <p>Signature</p> <p>Date</p>
5 If the diagnosis was made in a hospital—the person responsible for the management of the hospital	<p>Name</p> <p>Designation</p> <p>Address of hospital</p> <p>Signature</p> <p>Date</p>

Schedule 3—Repeal of *Health Care Regulations 2008*

The *Health Care Regulations 2008* are repealed.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 August 2023

No 91 of 2023

All instruments appearing in this gazette are to be considered official, and obeyed as such
