DELEGATIONS TO EASTERN HEALTH AUTHORITY

25 June 2019

CITY OF PROSPECT

DELEGATIONS REGISTER – EASTERN HEALTH AUTHORITY

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1. INSTRUMENT OF DELEGATION TO THE EASTERN HEALTH AUTHORITY

At its meeting held on 25 June 2019, City of Prospect made the following resolution regarding delegations to the Eastern Health Authority:

That having conducted its annual review of the Council's Delegations to the Eastern Health Authority (EHA), in accordance with Section 44 of the *Local Government Act 1999*, the Council:

1. Revocations

1.1 Hereby revokes its previous delegations to the EHA of those powers and functions under the following:

1.1.1 *Environment Protection Act 1993*
1.1.2 *Expiation of Offences Act 1996*
1.1.3 *Local Government Act 1999*
1.1.4 *Safe Drinking Water Act 2011*
1.1.5 *South Australian Public Health Act 2011* along with the *South Australian Public Health (Legionella) Regulations 2013* and the *South Australian Public Health (Wastewater) Regulations 2013* and the *South Australian Public Health (General) Regulations 2013*
1.1.6 *Fines Enforcement and Debt Recovery Act 2017*
1.1.7 *Supported Residential Facilities Act 1992* and *Supported Residential Facilities Regulation 2009*;
with effect from 18 September 2019.

2. Delegations made under *Local Government Act 1999*

2.1 In exercise of the power contained in Section 44 of the *Local Government Act 1999* the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Attachments 1-40 of the Report dated 25 June 2019 and entitled Item 13.8 Delegations to the Eastern Health Authority Inc. (each of which is individually identified as indicated below) are hereby delegated this 25th day of June 2019 to EHA with effect from 18 September 2019 subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.

2.1.1 *Environment Protection Act 1993* (Attachments 1-4);
2.1.2 *Expiation of Offences Act 1996* (Attachments 5-9);
2.1.3 *Local Government Act 1999* (Attachments 10-11);
2.1.4 *Safe Drinking Water Act 2011* (Attachments 12-16);

2.1.5 ***South Australian Public Health Act 2011*** **along with the** ***South Australian Public Health (Legionella) Regulations 2013***, ***South Australian Public Health (Wastewater) Regulations 2013***, **the** ***South Australian Public Health (General) Regulations 2013*** **and the** ***South Australian Public Health (Fees) Regulations 2018*** **(Attachments 17- 37);**

2.1.6 ***Fines Enforcement and Debt Recovery Act 2017*** **(Attachments 38-40)**

2.2 Such powers and functions may be further delegated by EHA in accordance with Section 44 of the Local Government Act 1999 as EHA sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.

3. Delegations under ***Supported Residential Facilities Act 1992***

3.1 In exercise of the power contained in Section 9 of the ***Supported Residential Facilities Act 1992***, **the powers and functions under the** ***Supported Residential Facilities Act 1992*** **and the** ***Supported Residential Facilities Regulations 2009*** **specified in the proposed Instrument of Delegation contained in Attachments 41-48 to the Report dated 25 June 2019 and entitled Item 13.8 Delegations to the Eastern Health Authority Inc. are hereby delegated this 25th day of June 2019 to EHA with effect from 18 September 2019 subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the** ***Supported Residential Facilities Act 1992*****.**

3.2 Such powers and functions may be further delegated by EHA as EHA sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992 and Supported Residential Facilities Regulation 2009.

4. Enforcement Agency under the ***Food Act 2001***

4.1 The Council acknowledges that:

4.1.1 EHA has been established as a regulatory subsidiary and is thereby prescribed, pursuant to Section 4 of the ***Food Act 2001*** **and in accordance with Regulation 4(1) of the** ***Food Regulations 2002***, **as an enforcement agency for the purposes of the** ***Food Act 2001*****; and**

4.1.2 EHA is completely responsible for the operation and enforcement of the ***Food Act 2001*** **within the area of City of Prospect;**

4.1.3 the Chief Executive Officer of EHA, as the person designated by the Constituent Councils of EHA as the principal officer of EHA, is, pursuant to Regulation 5 of the ***Food Regulations 2002***, **prescribed as the head of an enforcement agency for the purposes of the** ***Food Act 2001*****.**

5. The delegations made by the Council to Eastern Health Authority take effect 18 September 2019 and the powers and functions so delegated may not be exercised by Eastern Health Authority until that date.

APPENDIX 1

INSTRUMENT OF DELEGATION UNDER THE ENVIRONMENT PROTECTION ACT 1993 AND THE ENVIRONMENT PROTECTION (WASTE TO RESOURCES) POLICY 2010 TO EASTERN HEALTH AUTHORITY

NOTES

1. **Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.**
2. **Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended**

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

ENVIRONMENT PROTECTION ACT 1993		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 85	**Appointment of Authorised Officers**	
85(3)	The power pursuant to Section 85(3) of the Environment Protection Act 1993 ("the Act"), to appoint authorised officers for the purposes of the Act	**EHA**
85(4)	The power pursuant to Section 85(4) of the Act to make an appointment under Section 85(3) of the Act subject to conditions to be specified in the instrument of appointment, and subject to conditions prescribed by regulation.	**EHA**
85(5)	The power pursuant to Section 85(5) of the Act to revoke an appointment or to vary or revoke a condition specified in the instrument of such an appointment or impose a further such condition.	**EHA**

ENVIRONMENT PROTECTION (WASTE TO RESOURCES) POLICY 2010		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Clause 17	**Duties of Councils, Hospitals and Pharmacies in Relation to Medical Waste**	
17(2)	The duty pursuant to Clause 17(2) of the Policy to ensure that the following provisions are complied with in relation to any medical waste received by the Eastern Health Authority:	**EHA**
	(a) if any other waste is mixed with medical waste, the other waste is to be dealt with under this clause in the same way as is required in relation to medical waste;	
	(b) all medical waste must be stored in containers that are weatherproof, shatterproof, insect and vermin proof, and leak proof or, in the case of containers storing only medical sharps or any other sharp articles, leak resistant;	
	(c) all containers for medical waste that are kept for further use must be thoroughly cleaned and disinfected as soon as reasonably practicable after emptying;	
	(d) all containers used for the storage or transport of medical waste must be clearly labelled as containing medical waste;	
	(e) all containers of medical waste must be stored in a secure location;	
	(f) all necessary equipment required to clean and disinfect the area in case of accidental spillage of medical waste must be readily available and accessible;	
	(g) discarded medical sharps or any other sharp articles must be contained for disposal in containers that comply with the requirements of the Standards, as amended from time to time, set out in Clause 17(2)(g)(i) of the Policy and the containers must not be subject to compaction by a compacting device nor placed for storage or transport in a portable or mobile compactor;	
	(h) medical waste must be disposed of as soon as reasonably practicable;	
	(i) all medical waste must be:	
	(i) disposed of by incineration; or	
	(ii) disposed of by such other method of treatment or disposal as is approved by the Authority and subject to such conditions as the Authority thinks fit	
	(iii) collected for disposal by -	

ENVIRONMENT PROTECTION (WASTE TO RESOURCES) POLICY 2010		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	(A) a licensed waste transporter authorised to collect and transport medical waste; or	
	(B) a council;	
	(j) before the collection of medical waste for disposal, the transporter must be advised of the nature of the waste, hazards associated with the waste and any precautions that need to be taken during the collection, transport or disposal of the medical waste;	
	(k) the transporter must be given such assistance as is required to ensure that loading operations are carried out in such a way as to prevent spillage of any medical waste.	

INSTRUMENT OF DELEGATION UNDER THE EXPIATION OF OFFENCES ACT 1996 TO EASTERN HEALTH AUTHORITY

NOTES

1. **Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.**
2. **Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.**

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

EXPIATION OF OFFENCES ACT 1996		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 5	**Certain Offences may be Expiated**	
5(1)	The power pursuant to Section 5(1) of the Expiation of Offences Act 1996 ("the Act") to issue an expiation notice under the Act to a person alleged to have committed an offence under:	**EHA**
	Environment Protection Act 1993 and any regulation or Policy made thereunder;	
	South Australian Public Health Act 2011 along with the South Australian Public Health (General) Regulations 2013, the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013;	
	Supported Residential Facilities Act 1992 and Supported Residential Facilities Regulations 2009,	
	and the alleged offence may accordingly be expiated in accordance with the Act.	
Section 6	**Expiation Notices**	
6(3)	The power pursuant to Section 6(3)(b)(ii) of the Act to authorise a person in writing to give an expiation notice for an alleged offence under:	**EHA**
	Environment Protection Act 1993 and any regulation or Policy made thereunder;	
	South Australian Public Health Act 2011 along with the South Australian Public Health (General) Regulations 2013, the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013;	
	Supported Residential Facilities Act 1992 and Supported Residential Facilities Regulations 2009.	

EXPIATION OF OFFENCES ACT 1996		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 8A	**Review of Notices on Ground that Offence is Trifling**	
8A(2) and(3)	The power pursuant to Section 8A(2) and (3) of the Act to require an alleged offender who is seeking a review of the notice on the ground that the offence is trifling: to provide further information; and to provide a statutory declaration verifying the information contained in, or supporting, an application for review.	**EHA**
8A(4)	The power pursuant to Section 8A(4) of the Act to determine an application for review before providing the Chief Recovery Officer with relevant particulars under Section 22 of the Fines Enforcement and Debt Recovery Act 2017 in respect of the offence to which the application relates.	**EHA**
8A(5) and (6)	The duty pursuant and subject to Section 8A(5) and (6) of the Act upon being satisfied the offence is trifling to withdraw the expiation notice in respect of the offence by giving written notice to the alleged offender.	**EHA**
8A(6a)	The power pursuant to Section 8A(6a) of the Act, if an enforcement determination made under section 22 of the Fines and Enforcement Debt Recovery Act 2017 is revoked on the ground that the alleged offender had not had a reasonable opportunity to apply for review of the notice under Section 8A of the Act, and the alleged offender makes an application under Section 8A of the Act within 14 days of being notified of the revocation, to withdraw the expiation notice under Section 8A of the Act.	**EHA**
Section 11	**Expiation Reminder Notices**	
11(1)	The duty pursuant to Section 11(1) of the Act where an alleged offender has neither paid the expiation fee nor entered into an arrangement under Section 20 of the Fines Enforcement and Debt Recovery Act 2017 and the Council or EHA has not received a statutory declaration or other document sent to the Council or EHA by the alleged offender in accordance with a notice required by law to accompany the expiation notice, by the end of the expiation period, and before the Delegate takes any action under this Act or the Fines Enforcement and Debt Recovery Act 2017 to enforce the expiation notice, to give an expiation reminder notice in the prescribed form to the alleged offender.	**EHA**
Section 12	**Late Payment**	
12	The power pursuant to Section 12 of the Act to accept late payment of the amount due under an expiation notice at any time before an enforcement determination is made under Section 13 of the Act.	**EHA**

EXPIATION OF OFFENCES ACT 1996		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 16	**Withdrawal of Expiation Notices**	
16(1)	The power pursuant to Section 16(1) of the Act, to withdraw an expiation notice with respect to all or any of the alleged offences to which an expiation notice relates where:	**EHA**
	in the opinion of the Delegate the alleged offender did not commit the offence or offences, or that the notice should not have been given with respect to the offence or offences;	
	the Council or EHA as issuing authority receives a statutory declaration or other document sent to the Council or EHA by the alleged offender in accordance with a notice required by law to accompany the expiation notice or expiation reminder notice; or	
	the notice is defective; or	
	in the opinion of the Delegate the alleged offender is suffering from a cognitive impairment that excuses the alleged offending; or	
	the Delegate decides that the alleged offender should be prosecuted for the offence or offences.	
16(5)	The power pursuant to Section 16(5) of the Act, where an expiation notice is withdrawn under subsection (1), to commence prosecution for an offence to which the notice related.	**EHA**
16(6)	The duty pursuant to Section 16(6) of the Act, subject to Section 16(7) of the Act, to withdraw an expiation notice if it becomes apparent that the alleged offender did not receive the notice until after the expiation period, or has never received it, as a result of error on the part of the Council or EHA as issuing authority or failure of the postal system or failure in the transmission of an email.	**EHA**
16(11)	The duty pursuant to Section 16(11) of the Act, where an expiation notice is withdrawn under Section 16 of the Act and the notice of withdrawal does not specify that the notice is withdrawn for the purposes of prosecuting the alleged offender, and if an enforcement determination has been made under Section 22 of the Fines Enforcement and Debt Recovery Act 2014, to inform the Chief Recovery Officer of the withdrawal of the notice.	**EHA**
Section 18	**Provision of Information**	
18(1)	The power pursuant to Section 18 of the Act to enter into an agreement with the Chief Recovery Officer in relation to:	**EHA**
	the manner in which the Chief Recovery Officer is to provide information to EHA in relation to action taken by the Chief Recovery Officer under the Act in respect of an expiation notice issued by EHA as a delegate of the Council; and	
	the manner in which EHA is to provide information to the Chief Recovery Officer in relation to the issuing of an expiation notice by EHA as a delegate of the Council or any other action taken by EHA as a delegate of the Council in respect of an expiation notice so issued	

INSTRUMENT OF DELEGATION UNDER THE FINES ENFORCEMENT AND DEBT RECOVERY ACT 2017 TO EASTERN HEALTH AUTHORITY

NOTES

1. **Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.**
2. **Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.**

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

FINES ENFORCEMENT AND DEBT RECOVERY ACT 2017		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 9	**Amounts Due Under Expiation Notices may be Treated as Part of Pecuniary Sum**	
9(2)	The power pursuant to Section 9(2) of the Fines Enforcement and Debt Recovery Act 2017 (the Act) if a debtor requests the making of an aggregation determination but no enforcement determination has been made under Section 22 of the Act in relation to the expiation amount, to pay the prescribed fee.	**EHA**
Section 20	**Arrangements as to Manner and Time of Payment**	
20(4)	The power pursuant to Section 20(4) of the Act to agree with the Chief Recovery Officer the manner in which the Chief Recovery Officer is to give the Health Authority (EHA) notice of an arrangement entered into under Section 20 of the Act in its capacity as delegate of Council.	**EHA**
20(18)	The power pursuant to Section 20(18) of the Act to agree with the Chief Recovery Officer the manner in which, if an arrangement terminates under Sections 20(15) or (17) of the Act, the chief Recovery Officer is to give the EHA notice of the termination and the amount then outstanding as delegate of Council (taking into account, where the arrangement required the performance of community service, the number of hours of community service to be performed).	**EHA**

FINES ENFORCEMENT AND DEBT RECOVERY ACT 2017		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 22	**Enforcement Determinations**	
22(1)	The power pursuant to Section 22(1) of the Act to enforce an expiation notice against the alleged offender by providing to the Chief Recovery Officer the particulars determined by the Chief Recovery officer relating to:	**EHA**
	(a) the alleged offender; and (b) the offence or offences that remain unexpiated; and (c) the amount due under the notice; and (d) compliance by the EHA as delegate of Council with the requirements of the Act and any other Act.	
22(2)	The power pursuant to Section 22(2) of the Act to pay the prescribed fee.	**EHA**

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999 TO EASTERN HEALTH AUTHORITY

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

LOCAL GOVERNMENT ACT 1999		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 36	**General Powers and Capacities**	
36(1)	The power pursuant to Section 36(1) of the Local Government Act 1999 ("the Act") to commence a prosecution for a breach of the: Supported Residential Facilities Act 1992 and Supported Residential Facilities Regulations 2009, where the instruments empower the Council to commence prosecution for a breach and to do anything necessary, expedient or incidental to performing or discharging the Council's power. – Condition Applies	**EHA**
Section 144	**Recovery of Amounts Due to Council**	
144(1)	The power pursuant to Section 144(1) of the Act to recover as a debt, by action in a Court of competent jurisdiction, any fee, charge, expense or other amount recoverable from a person or payable by a person under the Act or another Act.	**EHA**
144(2), (3) and (4)	The power pursuant to Section 144(2), (3) and (4) of the Act to recover any fee, charge, expense or other amount as if it were a rate declared on the property, after giving at least 14 days notice requiring payment, where the fee, charge, expense or other amount payable to the Council relates to something done in respect of rateable or other property. - Not delegated	**EHA**

SCHEDULE OF CONDITIONS

CONDITIONS OR LIMITATIONS APPLICABLE TO DELEGATIONS CONTAINED IN THIS INSTRUMENT

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
1	Can only be exercised with agreement of the Council's Chief Executive Officer
1.2	The powers delegated at paragraphs 2.1-2.2 of this instrument can only be exercised by EHA in respect of any fee, charge, expense or other amount recoverable from a person or payable by a person in circumstances where the amount has become recoverable or payable on account of EHA acting in accordance with a delegated authority provided by the Council under the Act or any other Act.

INSTRUMENT OF DELEGATION UNDER THE SAFE DRINKING WATER ACT 2011 TO EASTERN HEALTH AUTHORITY

NOTES

1. **Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.**
2. **Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.**

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

SAFE DRINKING WATER ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 5	**Drinking Water Providers to be Registered**	
5(2)	The power pursuant to Section 5(2)(a) and (b) of the Safe Drinking Water Act 2011 (the Act) and in accordance with Section 5(3) of the Act to make an application for registration of the Council under the Act to the Minister and in a manner and form determined by the Minister.	**EHA**
Section 8	**Conditions of Registration**	
8(3)	The power pursuant to Section 8(3) of the Act where the Council holds a registration, to make application to the Minister in a manner and form determined by the Minister, requesting the variation of a condition to which the registration is subject.	**EHA**
Section 9	**Suspension of Registration**	
9(5)	The power pursuant to Section 9(5) of the Act after the Council or the Eastern Health Authority (EHA) has received notice from the Minister, lodge with the Minister a written objection (setting out the grounds of objection).	**EHA**
9(5)	The power pursuant to Section 9(5) of the Act to make submissions to the Minister in relation to the matter.	**EHA**
9(10)	The power pursuant to Section 9(10) of the Act where the Council's registration has been suspended to make application to the Minister for the cancellation of the suspension.	**EHA**
Section 10	**Reviews**	
10(1)	The power pursuant to Section 10(1) of the Act and in accordance with Section 10(2) of the Act, to seek a review by the South Australian Civil and Administrative Tribunal against:	**EHA**

SAFE DRINKING WATER ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	(a) a condition imposed by the Minister in relation to a registration under Part 2 of the Act;	
	(b) a variation of a condition of registration made by the Minister on the Minister's own initiative; or	
	(c) a decision of the Minister to refuse to grant an application to vary a condition of registration; or	
	(d) a decision of the Minister to suspend a registration under Part 2 of the Act.	
Section 12	**Drinking Water Providers to Prepare, Implement and Review Risk Management Plans**	
12(1)	The power pursuant to Section 12(1) of the Act and in accordance with Section 13 of the Act, to:	**EHA**
	(a) prepare a risk management plan in relation to the supply of drinking water to the public; and	
	(b) keep the plan under continuous review with a view to updating and improving it; and	
	(c) revise any aspect of the plan that is found, on review, to need revision.	
12(3)	The power pursuant to Section 12(3) of the Act, if a standard risk management plan is in place under Section 12(2) of the Act and the Council falls within the specified class to which the standard risk management plan applies to, subject to any requirement published by the Chief Executive in connection with the risk management plan and in a manner and form determined by the Chief Executive, adopt the standard risk management plan rather than preparing a separate plan under Section 12(1)(a) of the Act.	**EHA**
Section 14	**Related Matters**	
14(2)	The power pursuant to Section 14(2) of the Act, to furnish to the Minister in a manner and form determined by the Minister a copy of the Council's monitoring program and incident identification and notification protocol.	**EHA**
14(3)	The power pursuant to Section 14(3)(b) of the Act to consult with the Minister in relation to alterations to the program or protocol (or both) submitted for the purposes of Section 14 of the Act.	**EHA**
14(4)	The power pursuant to Section 14(4) of the Act and in accordance with Section 14(5) of the Act, where the Council is required to make an alteration under Section 14(3), to seek a review of the requirement by the South Australian Civil and Administrative Tribunal.	**EHA**
Section 38	**Notices**	
38(6)	The power pursuant to Section 38(6) of the Act to, by written notice served on a person to whom a notice under Section 38 has been issued by the Council, vary or revoke the notice.	**EHA**

SAFE DRINKING WATER ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 39	**Action or Non-Compliance with a Notice**	
39(1)	The power pursuant to Section 39(1) of the Act, if the requirements of a notice under Division 3 of the Act by the Council are not complied with, to take any action required by the notice.	**EHA**
39(2)	The power pursuant to Section 39(2) of the Act to authorise another person to take action under Section 39(1) of the Act on the Council's behalf.	**EHA**
39(4)	The power pursuant to Section 39(4) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 39 of the Act from the person who failed to comply with the requirements of the notice as a debt in a court of competent jurisdiction.	**EHA**
39(5)	The power pursuant to Section 39(5) of the Act, if an amount is recoverable from a person by the Council under Section 39 of the Act, to by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.	**EHA**
Section 40	**Action in Emergency Situations**	
40(5)	The power pursuant to Section 40(5) of the Act to recover the reasonable costs and expenses incurred by an authorised officer of the Council in taking action under Section 40 of the Act as a debt in a court of competent jurisdiction.	**EHA**
Section 42	**Reviews**	
42(3)	The power pursuant to Section 42(3) of the Act to apply for the Council to be a party to proceedings under Section 42 of the Act.	**EHA**
Section 52	**Annual reports by enforcement agencies**	
52(1)	The power pursuant to Section 52(1) of the Act to on or before 30 September in each year, furnish to the Minister a report on the activities of the Council under the Act during the financial year ending on the preceding 30 June.	**EHA**

APPENDIX 6

INSTRUMENT OF DELEGATION UNDER THE SA PUBLIC HEALTH ACT 2011 ALONG WITH THE SOUTH AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013, SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013, SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013 AND THE SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018 TO EASTERN HEALTH AUTHORITY

NOTES

1. **Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.**
2. **Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.**

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

SA PUBLIC HEALTH ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 18	**Power to Require Reports**	
18(2)	The power pursuant to Section 18(2) of the South Australian Public Health Act 2011 (the Act) to, if required by the Minister, provide a report on any matter relevant to the administration or operation of the Act.	**EHA**
18(3)	The power pursuant to Section 18(3) of the Act to, if required by the Minister, in a case involving the Council provide a combined report with 1 or more other councils.	**EHA**
18(5)	The power pursuant to Section 18(5) of the Act to provide the report in accordance with the requirements of the Minister	**EHA**
Section 22	**Risk of Avoidable Mortality or Morbidity**	
22(2)	The power pursuant to Section 22(2) of the Act, if the Eastern Health Authority (EHA) and/or the Council receives a request under Section 22(1) of the Act, to consider the request and then respond in accordance with Section 22(3) of the Act to the Chief Public Health Officer within a reasonable time.	**EHA**

SA PUBLIC HEALTH ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
22(3)	The power pursuant to Section 22(3) of the Act to include in a response under Section 22(2) of the Act details about:	**EHA**
	any steps already being taken by EHA and/or the Council that may be relevant in the circumstances; and	
	any plans that EHA and/or the Council may have that may be relevant in the circumstances; and	
	any steps that EHA and/or the Council is willing to take in the circumstances; and	
	any other matter relating to EHA and/or the Council that appears to be relevant.	
Section 39	**Cooperation Between Councils**	
39(1)	The power pursuant to Section 39(1) of the Act to, in performing the Council's functions or exercising the Council's powers under the Act, act in conjunction or partnership with, or cooperate or coordinate the Council's activities with, 1 or more other councils	**EHA**
39(2)	The power pursuant to Section 39(2) of the Act to, if requested by the Chief Public Health Officer, cooperate with 1 or more other councils.	**EHA**
39(3)	The power pursuant to Section 39(3) of the Act to, if the Council receives a request under Section 39(2) of the Act, within 28 days after receiving the request or such longer period as the Chief Public Health Officer may specify, furnish the Chief Public Health Officer with a written report on the action that the Council intends to take in response to the request.	**EHA**
Section 40	**Power of Chief Public Health Officer to Act**	
40(2)	The power pursuant to Section 40(2) of the Act to consult with the Chief Public Health Officer.	**EHA**
Section 41	**Council Failing to Perform a Function Under Act**	
41(1)	The power pursuant to Section 41(1) of the Act to consult with the Minister in relation to the Minister's opinion that the Council has failed, in whole or in part, to perform a function conferred on the Council under the Act.	**EHA**
41(6)	The power pursuant to Section 41(6) of the Act to:	**EHA**
	make written submissions to the Minister in relation to the matter within a period specified by the Minister; and	
	request in the written submissions to the Minister that the Minister discuss the matter with a delegation representing the Council; and	
	appoint a delegation representing the Council to discuss the matter with the Minister.	
Section 42	**Transfer of Function of Council at Request of Council**	
42(1)	The power pursuant to Section 42(1) of the Act to request, in accordance with Section 42(2), of the Act that a function of the Council under the Act be performed by the Chief Public Health Officer.	**EHA**

SA PUBLIC HEALTH ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
42(10)	The power pursuant to Section 42(10) of the Act to enter into an agreement with the Minister for the Minister to recover costs and expenses associated with the Chief Public Health Officer acting under Section 42 of the Act.	**EHA**
42(11)	The power pursuant to Section 42(11) of the Act to request that the Minister vary or revoke a notice under Section 42 of the Act.	**EHA**
42(11)	The power pursuant to Section 42(11) of the Act to consult with the Minister in relation to the Minister varying or revoking a notice under Section 42 of the Act.	**EHA**
Section 44	**Local Authorised Officers**	
44(1)	The power pursuant to Section 44(1) of the Act, subject to Section 45 of the Act, to, by instrument in writing, appoint a suitably qualified person to be a local authorised officer.	**EHA**
44(2)	The power pursuant to Section 44(2) of the Act to make an appointment under Section 44 subject to such conditions or limitations as the Delegate thinks fit.	**EHA**
44(4)	The power pursuant to Section 44(4) of the Act to direct a local authorised officer.	**EHA**
44(6)	The power pursuant to Section 44(6) of the Act to vary or revoke an appointment at any time.	**EHA**
44(7)	The power pursuant to Section 44(7) of the Act to notify the Chief Public Health Officer in accordance with Section 44(8) of the Act, if the Council or the Delegate:	**EHA**
	makes an appointment under Section 44 of the Act; or	
	revokes an appointment under Section 44 of the Act.	
44(9)	The power pursuant to Section 44(9) of the Act to determine the number of local authorised officers who should be appointed for the Council's area and in determining the number of local authorised officers who should be appointed for the Council's area, take into account any policy developed by the Chief Public Health Officer for the purposes of Section 44 of the Act.	**EHA**
Section 46	**Identity Cards**	
46(1)	The power pursuant to Section 46(1) of the Act to issue in accordance with Section 46(2) of the Act to an authorised officer appointed under the Act an identity card in a form approved by the Chief Public Health Officer:	**EHA**
	containing the person's name and a photograph of the person; and	
	stating that the person is an authorised officer for the purposes of the Act; and	
	setting out the name or office of the issuing authority.	
Section 49	**Specific Power to Require Information**	
49(1)	The power pursuant to Section 49(1) of the Act to require a person to furnish such information relating to public health as may be reasonably required for the purposes of the Act.	**EHA**

SA PUBLIC HEALTH ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 51	**Regional Public Health Plans**	
51(1)	The power pursuant to Section 51(1) of the Act to in accordance with Sections 51(2), (5), (6), (8), (9), (11), (12), (13) and (15) of the Act prepare and maintain a plan or, if the Minister so determines or approves, with a group of councils, prepare and maintain a plan, for the purposes of the operations of the Council or Councils under the Act (a regional public health plan).	**EHA**
51(10)	The power pursuant to Section 51(10) of the Act, to, subject to Section 51(11), amend a regional public health plan at any time.	
51(11)	The power pursuant to Section 51(11) of the Act to, in relation to any proposal to create or amend a regional public health plan:	**EHA**
	prepare a draft of the proposal; and	
	when the draft plan is completed, subject to Section 51(12) of the Act:	
	give a copy of it to:	
	(a)the Minister; and	
	(b)any incorporated hospital established under the Health Care Act 2008 that operates a facility within the region; and	
	(c) any relevant public health partner authority under Section 51(23); and	
	(d) any other body or group prescribed by the regulations; and	
	take steps to consult with the public.	
51(12)	The power pursuant to Section 51(12) of the Act to, if required by the Minister, consult with the Minister, or any other person or body specified by the Minister, before the Council or EHA releases a draft plan under Section 51(11).	**EHA**
51(13)	The power pursuant to Section 51(13) of the Act to, before bringing a regional public health plan into operation, submit the plan to the Chief Public Health Officer for consultation.	**EHA**
51(15)	The power pursuant to Section 51(15) of the Act to take into account any comments made by the Chief Public Health Officer, SAPHC, and any other body within the ambit of a determination under Section 51(14) of the Act, at the conclusion of the consultation processes envisaged by Sections 51(13) and (14).	**EHA**
51(16)	The power pursuant to Section 51(16) of the Act to then adopt a plan or amend a plan with or without alteration	**EHA**
51(18)	The power pursuant to Section 51(18) of the Act to provide in a regional public health plan, by agreement with the public health partner authority, for a public health partner authority to take responsibility for undertaking any strategy, or for attaining any priority or goal, under the plan.	**EHA**

SA PUBLIC HEALTH ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
51(19)	The power pursuant to Section 51(19) of the Act to review a regional public health plan at least once in every 5 years.	**EHA**
51(20)	The power pursuant to Section 51(20) of the Act to, in preparing and reviewing the Council's regional public health plan insofar as is reasonably practicable, give due consideration to the plans of other councils insofar as this may be relevant to issues or activities under the Council's plan.	**EHA**
51(21)	The power pursuant to Section 51(21) of the Act to, when performing functions or exercising powers under the Act or any other Action on behalf of the Council, insofar as may be relevant and reasonable, have regard to the State Public Health Plan, any regional public health plan that applies within the relevant area and any other requirement of the Minister, and in particular to give consideration to the question whether the Council or EHA should implement changes to the manner in which, or the means by which, the Council or EHA performs a function or exercises a power or undertakes any other activity that has been identified in the State Public Health Plan as requiring change.	**EHA**
Section 66	**Action to Prevent Spread of Infection**	
66(6)	The power pursuant to Section 66(6) of the Act to recover as a debt costs and expenses reasonably incurred in exercising powers under Section 66(5) of the Act from the person who failed to take the required action.	**EHA**
66(9)	The power pursuant to Section 66(9) of the Act to, if the Chief Public Health Officer informs the Council of the occurrence of a disease constituting a notifiable condition, take such action as is reasonably open to EHA to assist in preventing the spread of the disease.	**EHA**
Section 92	**Notices**	
92(1)	The power pursuant to Section 92(1) of the Act and subject to Sections 92(2), (3), (4), (5) and (12) of the Act to issue a notice for the purpose of:	**EHA**
	securing compliance with a requirement imposed by or under the Act (including the duty under Part 6 or a requirement imposed under a regulation or a code of practice under the Act); or	
	averting, eliminating or minimising a risk, or a perceived risk, to public health.	
92(2)	The power pursuant to Section 92(2) of the Act and subject to Section 92(12) of the Act, to, before issuing a notice to secure compliance with the general duty under Part 6 of the Act:	**EHA**
	have regard to:	
	the number of people affected, or potentially affected, by the breach of the duty;	
	the degree of harm, or potential degree of harm, to public health on account of the breach of the duty;	
	any steps that a person in breach of the duty has taken, or proposed to take, to avoid or address the	

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STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	impact of the breach of the duty, and such other matters as EHA thinks fit; an	
	subject to Section 92 of the Act, give the person to whom it is proposed that the notice be given a preliminary notice in writing:	
	stating the proposed action, including the terms of the proposed notice and the period within which compliance with the notice will be required; and	
	stating the reasons for the proposed action; and	
	inviting the person show, within a specified time (of a reasonable period), why the proposed action should not be taken (by making representations to EHA or a person nominated to act on behalf of the Council).	
92(2)	The power pursuant to Section 92(2)(b)(iii) of the Act to nominate a person to act on behalf of the Council.	
92(3)	The power pursuant to Section 92(3) of the Act to, in a case where Section 92(2)(b) of the Act applies, after considering representations made within the time specified under Section 92(2)(b) of the Act:	**EHA**
	issue a notice in accordance with the terms of the original proposal; or	
	issue a notice with modifications from the terms of the original proposal; or	
	determine not to proceed further under Section 92.	
92(4)	The power pursuant to Section 92(4) of the Act to:	**EHA**
	not give notice under Section 92(2)(b) of the Act if the Delegate considers that urgent or immediate action is required in the circumstances of the particular case; and	
	not give further notice before issuing a notice with modifications under Section 92(3)(b) of the Act.	
92(5)	The power pursuant to Section 92(5) of the Act issue a notice under Section 92 of the Act:	**EHA**
	in the form of a written notice served on the person to whom it is issued; and	
	specifying the person to whom it is issued (whether by name or by a description sufficient to identify the person); and	
	directing 2 or more persons to do something specified in the notice jointly; and	
	without limiting any other provision, in the case of a notice that relates to the condition of any premises, to any person who:	
	is the owner or occupier of the premises; or	
	has the management or control of the premises; or	
	is the trustee of a person referred to in Section 92(5)(i) or (ii) of the Act or is managing the affairs of such a person on some other basis; and	
	stating the purpose for which the notice is issued and giving notice of the requirement or the risk to which it relates; and	
	imposing any requirement reasonably required for the purpose for which the notice is issued including 1	

SA PUBLIC HEALTH ACT 2011		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	or more of the following:	
	a requirement that the person discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from a relevant authority;	
	a requirement that the person not carry on a specified activity except at specified times or subject to specified conditions;	
	a requirement that the person take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;	
	a requirement that the person take action to prevent, eliminate, minimise or control any specified risk to public health, or to control any specified activity;	
	a requirement that the person comply with any specified code or standard prepared or published by a body or authority referred to in the notice;	
	a requirement that the person undertake specified tests or monitoring;	
	a requirement that the person furnish to a relevant authority specified results or reports;	
	a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the relevant authority, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to public health;	
	a requirement prescribed under or for the purposes of the regulations; and	
	stating that the person may, within 14 days, apply for a review of the notice or institute an appeal against the notice under the provisions of the Act.	
92(9)	The power pursuant to Section 92(9) of the Act by written notice served on a person to whom a notice under Section 92 of the Act has been issued by EHA or the Council, vary or revoke the notice.	**EHA**
92(15)	The power pursuant to Section 92(15) of the Act to, not comply with any other procedure, or hear from any other person, except as provided by Section 92 of the Act before EHA issues a notice under Section 92 of the Act.	**EHA**
Section 93	**Action on Non-compliance with Notice**	
93(1)	The power pursuant to Section 93(1) of the Act if the requirements of a notice under Part 12 of the Act are not complied with, to take any action required by the notice.	**EHA**
93(2)	The power pursuant to Section 93(2) of the Act to authorise a person for the purpose of taking action on the Council's behalf under Section 93(1) of the Act.	**EHA**
93(4)	The power pursuant to Section 93(4) of the Act to recover the reasonable costs and expenses incurred by EHA or Council in taking action under Section 93 of the Act as a debt from the person who failed to comply with the requirements of the notice.	**EHA**

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STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
93(5)	The power pursuant to Section 93(5) of the Act, if an amount is recoverable from a person by the Council under Section 93, to, by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.	**EHA**
Section 94	**Action in Emergency Situations**	
94(5)	The power pursuant to Section 94(5) of the Act to recover the reasonable costs and expenses incurred by a local authorised officer in taking action under Section 94 from any person who caused the risk to which the action relates, as a debt.	**EHA**
Section 95	**Reviews – Notices Relating to General Duty**	
95(13)	The power pursuant to Section 95(13) of the Act to appear in proceedings before the Review Panel as a representative of the Council.	**EHA**
95(15)	The power pursuant to Section 95(15) of the Act to make an application to the Review Panel to:	**EHA**
	dismiss or determine any proceedings that appear:	
	to be frivolous or vexatious; or	
	to have been instituted for the purpose of delay or obstruction, or for some other improper purpose;	
	bring any proceedings to an end that appear:	
	to be more appropriate suited to proceedings before the District Court rather than the Review Panel; or	
	to be unable to be satisfactorily resolved (or resolved within a reasonable period) by proceedings before the Review Panel; or	
	bring any proceedings to an end for any other reasonable cause.	
Section 96	**Appeals**	
96(3)	The power pursuant to Section 96(3) of the Act and subject to Section 96(4) of the Act, appeal to the District Court against the outcome of review proceedings under Division 3, Part 12 of the Act.	**EHA**

THE SOUTH AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Regulation 5	**Duty to Register High Risk Manufactured Water System**	
5(3)	The power pursuant to Regulation 5(3) of the South Australian Public Health (Legionella) Regulations 2013 (the Legionella Regulations) to, on application made in a manner and form approved by the Council or EHA and payment of the prescribed fee to the Council or EHA, register the high risk manufactured water system to which the application relates.	**EHA**
5(6)	The power pursuant to Regulation 5(6) of the Legionella Regulations, to, on application made in a manner and form approved by the Council or EHA and payment of the prescribed fee to the Council or EHA, renew the registration of the high risk manufactured water system to which the application relates.	**EHA**
Regulation 6	**Register of High Risk Manufactured Water Systems**	
6(2)	The power pursuant to Regulation 6(2) of the Legionella Regulations and subject to Regulation 6(3) of the Legionella Regulations to determine the manner and form of a register of high risk manufactured water systems registered by EHA and/or the Council.	**EHA**
6(3)	The power pursuant to Regulation 6(3) of the Legionella Regulations to include in relation to each high risk manufactured water system on the register:	**EHA**
	the type of water system; and	
	the address of the premises on which the water system is installed; and	
	the location of the water system on the premises; and	
	the full name and residential and business addresses of the owner of the premises; and	
	the full name, residential and business addresses, and residential and business telephone numbers, of the person nominated by the owner of the premises as being responsible for the operation and maintenance of the water system, and such other information as EHA thinks fit.	

THE SOUTH AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
15(2)	The power pursuant to Regulation 15(2) of the Legionella Regulations to, at least once in every 12 months, give the owner of each of the premises on which a high risk manufactured water system registered with EHA and/or the Council is installed, written notice:	**EHA**
	requiring the owner, within the period specified in the notice:	
	to cause an inspection of the water system to be carried out by a competent person (not being the owner or person responsible for the operation and maintenance of the system); and	
	to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896:	
	(a) of at least 1 sample of water taken from a cooling water system; and	
	(b) of at least 2 samples of water taken from a warm water system,	
	to determine the presence and number of colony forming units of Legionella in the water; and	
	requiring the owner to submit to the Council or EHA written reports setting out the findings of the inspection and the results of the microbiological testing within 1 month of receiving the reports.	
Regulation 16	**Power of Council to Require Microbiological Testing in Other Circumstances**	
16(1)	The power pursuant to Regulation 16(1) of the Legionella Regulations, if:	**EHA**
	the Council or EHA is investigating the occurrence of Legionellosis in the near vicinity of premises on which a high risk manufactured water system is installed; or	
	the Council or EHA has reason to believe that a high risk manufactured water system installed on premises situated in its area is not being maintained as required by these regulations to give the owner of the premises written notice:	
	requiring the owner (either immediately or within a period specified in the notice) to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896, of water taken from the system, to determine the presence and number of colony forming units of Legionella in the water; and	
	requiring the owner to submit to EHA or the Council a written report setting out the results of the microbiological testing within 24 hours of receiving the report.	
Regulation 21	**Fees**	
21(3)	The power pursuant to Regulation 21(3) of the Legionella Regulations, if a person is liable to pay a fee to EHA or the Council, to give the person written notice requiring the person to pay the fee within the period specified in the notice.	**EHA**

SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Regulation 6	**Relevant Authority**	
6(1)	The power pursuant to Regulation 6(1)(b) of the South Australian Public Health (Wastewater) Regulations 2013 (the Wastewater Regulations) to, agree to act as the relevant authority for a matter relating to an on-site wastewater system with a capacity that does not, or will not, on completion of wastewater works, exceed 40 EP and that is located or to be located in another council area if the system is to be operated by another council or wastewater works related to the system are to be undertaken by another council, or by a person acting in partnership, or in conjunction with that other council.	**EHA**
Regulation 10	**Exemptions**	
10(3)	The power pursuant to Regulation 10(3) of the Wastewater Regulations to give an exemption by written notice and subject to conditions determined by EHA and stated in the notice	**EHA**
10(4)	The power pursuant to Regulation 10(4) of the Wastewater Regulations to vary or revoke an exemption by further written notice to the holder of the exemption.	**EHA**
Regulation 15	**Exemptions From Prescribed Codes**	
15(3)	The power pursuant to Regulation 15(3) of the Wastewater Regulations to give an exemption by written notice and is subject to conditions determined by EHA and stated in the notice.	**EHA**
15(5)	The power pursuant to Regulation 15(5) of the Wastewater Regulations to vary or revoke an exemption by further written notice to the holder of the exemption.	**EHA**
Regulation 23	**Application**	
23(2)	The power pursuant to Regulation 23(2) of the Wastewater Regulations to, by written notice, ask the applicant to provide EHA or the Council with further technical specifications, information or documents relevant to the application or to modify the technical specifications submitted for approval.	**EHA**
Regulation 24	**Determination of Application**	
24(1)	The power pursuant to Regulation 24(1) of the Wastewater Regulations to refuse to grant a wastewater works approval:	**EHA**
	if the applicant fails to satisfy EHA of either or both of the following:	
	that the technical specifications for the wastewater works comply with the prescribed codes;	
	that the wastewater works will not, if undertaken in accordance with the conditions of approval, adversely	

SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	affect or threaten public or environmental health; or	
	for any other sufficient reason.	
24(2)	The power pursuant to Regulation 24(2) of the Wastewater Regulations, if an application for a wastewater works approval relates to the connection of a community wastewater management system to SA Water sewerage infrastructure or a significant increase in the amount of wastewater to be discharged from a community wastewater management system to SA Water sewerage infrastructure, to give SA Water a reasonable opportunity to comment on the application and take into account any comments so made.	**EHA**
Regulation 25	**Conditions of Approval**	
25(2)	The power pursuant to Regulation 25(2) of the Wastewater Regulations to impose:	**EHA**
	any 1 or more of the following prescribed expiable conditions:	
	a condition that sets out mandatory notification stages during the progress of wastewater works when a person is required to notify EHA and/or the Council in a specified manner and stop the work pending an inspection carried out at the person's expense;	
	a condition that requires the display of specified notices on the premises on which the wastewater system is located;	
	a condition that requires a person to monitor the performance of the wastewater system in a specified manner (including by inspections carried out at specified times at the person's expense) and to provide EHA and/or the Council with specified information in a specified manner and at specified times;	
	a condition that provides that specified material must not, or that only specified material may, be discharged into, or from, the wastewater system;	
	a condition that requires the wastewater system to be operated, maintained or serviced by a person of a specified class;	
	a condition that requires records of a specified kind to be created, maintained, and provided to EHA and/or Council; or	
	any other conditions including any 1 or more of the following:	
	a condition that requires decommissioning of the wastewater system:	
	(a) after a specified trial period; or	
	(b) in specified circumstances; or	
	(c) on written notice to the operator of the system;	
	a condition that requires a wastewater system to be connected to a community wastewater management system;	
	a condition that prevents activities that would adversely affect the operation or maintenance of a drain or treatment or disposal system or the reuse of wastewater from the wastewater system;	

SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	a condition that requires a wastewater system to have various access points for maintenance or inspection (raised to or terminating at surface level, or as required by EHA or the Council);	
	a condition that provides that a wastewater system must not be used unless or until it has been inspected or tested by an independent wastewater engineer and the Council EHA supplied with a certificate given by that expert certifying that the wastewater works have been undertaken in accordance with the approved technical specifications;	
	a condition that otherwise specifies requirements relating to:	
	(a) the installation of the wastewater system; or	
	(b) the decommissioning of the wastewater system; or	
	(c) the connection of the wastewater system to a community wastewater management system or SA Water sewerage infrastructure or the disconnection of the wastewater system from a community wastewater management system or from SA Water sewerage infrastructure; or	
	(d) the operation, servicing and maintenance of the wastewater system; or	
	(e) the reuse or disposal of wastewater from the wastewater system.	
25(3)	The power pursuant to Regulation 25(3) of the Wastewater Regulations to impose a condition of approval that:	**EHA**
	provides that a matter or thing is to be determined according to the discretion of the Council, EHA, or some other specified person or body; and	
	operates by reference to the manuals referred to in a product approval for the wastewater system; and	
	operates by reference to a specified code as in force at a specified time or as in force from time to time.	
25(6)	The power pursuant to Regulation 25(6) of the Wastewater Regulations to, on application and payment of the prescribed fee, by written notice to the applicant, vary or revoke a condition of a wastewater works approval.	**EHA**

SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
25(7)	The power pursuant to Regulation 25(7) of the Wastewater Regulations to, on EHA's own initiative, by written notice to the operator of a wastewater system to which a wastewater works approval applies, vary or revoke a condition of the approval or impose a further condition, provided that the variation, revocation or imposition does not take effect until at least 6 months after the giving of the notice unless:	**EHA**
	the operator consents; or	
	EHA states in the notice that, in his/her opinion, the variation, revocation or imposition is necessary in order to prevent or mitigate significant harm to public or environmental health or the risk of such harm.	
Regulation 26	**Expiry of Approval**	
26(2)	The power pursuant to Regulation 26(2) of the Wastewater Regulations to, on application and payment of the prescribed fee, postpone the expiry of a wastewater works approval for a specified period.	**EHA**
Regulation 27	**Registers of Wastewater Works Approvals**	
27(3)	The power pursuant to Regulation 27(3) of the Wastewater Regulations, to extend the registers to include wastewater works approvals granted under the revoked regulations.	**EHA**
27(6)	The power pursuant to Regulation 27(6) of the Wastewater Regulations to include in the registers other information considered appropriate by the EHA.	**EHA**
Regulation 29	**Requirement to Obtain Expert Report**	
29(1)	The power pursuant to Regulation 29(1) of the Wastewater Regulations, if EHA suspects on reasonable grounds that a wastewater system is adversely affecting or threatening public or environmental health, to give the operator of the system a written notice requiring the operator to obtain and provide to EHA and/or the Council a written report from an independent wastewater engineer within a specified period addressing specified matters.	**EHA**
29(3)	The power pursuant to Regulation 29(3) of the Wastewater Regulations, if the requirements of a notice under Regulation 29 of the Wastewater Regulations are not complied with to obtain the required report and recover the costs and expenses reasonable incurred in doing so from the person who failed to comply with the notice, as a debt	**EHA**
29(3)	The power pursuant to Regulation 29(3) of the Wastewater Regulations, to authorise a person to enter land at any reasonable time for the purposes of the report.	**EHA**

SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Regulation 5B	**Non-Compliance with Notices (Section 93(6) of Act)**	
5B(2)	The power pursuant to Regulation 5B(2) of the South Australian Public Health (General) Regulations 2013 (the General Regulations), for the purposes of the creation of a charge on land under Section 93 of the Act, to deliver to the Registrar-General a notice, in a form determined by the Minister on the recommendation or with the approval of the Registrar-General:	**EHA**
	setting out the amount recoverable under Section 93 of the Act; and	
	requesting the Registrar-General to make a notation under Regulation 5B of the General Regulations in relation to the relevant land.	
	The power pursuant to Regulation 5B(7) of the General Regulations to recover an amount as if it were a rate constituting a charge on land under Section 144(2) of the Local Government Act 1999.	**EHA**
	The power pursuant to Regulation 5B(8) of the General Regulations, if or when the amount to which the charge relates is paid, to by further notice in writing to the Registrar-General (being a notice in a form determined by the Minister on the recommendation or with the approval of the Registrar-General) cancel the charge.	**EHA**

SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Regulation 2	**Refund and Recovery of Fees**	
2(1)	The power pursuant to Clause 2(1) of Schedule 1 of the South Australian Public Health (Fees) Regulations 2018 (the Fees Regulations), to, where the Council is the relevant authority within the meaning of the respective regulations specified in Schedule 1 of the Fees Regulations, refund, reduce or remit payment of a fee payable under those regulations if the delegate considers that appropriate in the circumstances.	**EHA**
2(2)	The power pursuant to Clause 2(2) of the Fees Regulations to recover a fee payable to the Council by action in a Court of competent jurisdiction as a debt due to the Council.	**EHA**

SCHEDULE OF CONDITIONS

CONDITIONS OR LIMITATIONS APPLICABLE TO DELEGATIONS CONTAINED IN THIS INSTRUMENT

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
3	The powers delegated at paragraphs 3.1-3.3 of this instrument can only be exercised after EHA has received consent from the Chief Executive Officer of the Council to exercise those powers on a case-by-case basis.
5.2	The powers delegated at paragraph 5.2 of this instrument can only be exercised after EHA has received consent from the Chief Executive Officer of the Council to exercise those powers on a case-by-case basis.
6	The powers delegated at paragraphs 6.1-6.4 of this instrument can only be exercised after EHA has received consent from the Chief Executive Officer of the Council to exercise those powers on a case-by-case basis.

INSTRUMENT OF DELEGATION UNDER THE SUPPORTED RESIDENTIAL FACILITIES ACT 1992 AND THE SUPPORTED RESIDENTIAL FACILITIES REGULATIONS 2009 TO EASTERN HEALTH AUTHORITY

NOTES

1. **Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document**
2. **Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.**

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

SUPPORTED RESIDENTIAL FACILITIES ACT 1992		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 9	**Role of Councils**	
9	The power pursuant to Section 9 of the Supported Residential Facilities Act 1992 ("the Act") to commence a prosecution for a breach of the Supported Residential Facilities Act 1992 and/or the Supported Residential Facilities Regulations 2009 where those instruments empower the Council to commence prosecution for a breach and to do anything necessary, expedient or incidental to performing or discharging the Council's power.	**EHA**
Section 21	**Appointment of Authorised Officers**	
21(1)	The power pursuant to Section 21(1) of the Act to appoint a person to be an authorised officer under the Act;	**EHA**
21(2)	The duty pursuant to Section 21(2) of the Act to issue to an authorised officer an identity card; and	**EHA**
21(4)	The power pursuant to Section 21(4) of the Act by notice in writing served on an authorised officer, to revoke the appointment as an authorised officer.	**EHA**

SUPPORTED RESIDENTIAL FACILITIES ACT 1992		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 24	**Application for a Licence**	
24(3)	The power pursuant to Section 24(3) of the Act by notice in writing not later than two months after a licence application has been made, to require the applicant to furnish specified information	**EHA**
24(5)	The power pursuant to Section 24(5) of the Act to require any information included in an application or required by a notice to be verified by statutory declaration;	**EHA**
24(9)	The power pursuant to Section 24(9) of the Act subject to such conditions as Eastern Health Authority (EHA) thinks fit, to conditionally approve the issue of a licence in respect of proposed premises and the duty where satisfied that the premises have been established in substantial compliance with those conditions (and within such a period, if any as EHA may have determined), to grant a licence; and	**EHA**
24(10)	Where an application for a licence is refused, the duty pursuant to Section 24(10) of the Act notify the applicant in writing of the refusal, the reasons for the refusal, and any rights of review that the applicant has under the Act.	**EHA**
25(1)	The duty, pursuant to Section 25(1) of the Act in considering an application for a licence in respect of the use of premises as a supported residential facility, to take into account those matters specified in this Section and such other matters as EHA thinks fit;	**EHA**
25(2)	The duty pursuant to Section 25(2) of the Act in determining whether or not an applicant is suitable to be granted a licence, to have regard to those matters specified in this Section and to such other matters as EHA thinks fit;	**EHA**
25(3)	The duty pursuant to Section 25(3) of the Act in determining whether or not premises are suitable to be used as a supported residential facility, to have regard to those matters specified in Section 25(3) of the Act and to such other matters as EHA thinks fit;	**EHA**
Section 27	**Renewal of Licence**	
27(3)	The power pursuant to Section 27(3) of the Act at EHA's discretion, to determine a late application for renewal provided that the applicant pays the prescribed late application fee;	**EHA**
27(4)	The duty pursuant to Section 27(4) of the Act by notice in writing served on the applicant, to give a decision on an application for the renewal of a licence before the date of expiry of the licence and where EHA decides to refuse an application for renewal of a licence, the duty to state in the notice of refusal the reasons for the refusal and the rights of review that the applicant may have under the Act.	**EHA**
28	The power pursuant to Section 28 of the Act to refuse to renew a licence on any ground on which a licence may be cancelled.	**EHA**
Section 29	**Licence Conditions**	
29(2)	The power pursuant to Section 29(2) of the Act to impose licence conditions with respect to such matters as are contemplated by the Act or as EHA considers necessary or expedient for the purposes of the Act;	**EHA**

SUPPORTED RESIDENTIAL FACILITIES ACT 1992		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
29(3)	Pursuant to Section 29(3) of the Act where conditions are imposed by EHA:	**EHA**
	if imposed at the time of grant or renewal of the licence – the duty to include them in the licence itself;	
	if imposed during the currency of the licence – the duty to impose them by notice in writing served on the holder of the licence;	
	the power to vary or revoke conditions at any time by notice in writing served on the holder of the licence;	
Section 30	**Transfer of Licence**	
30(4)	The duty pursuant to Section 30(4) of the Act, upon due application under Section 30 of the Act and payment of the prescribed fee, to transfer the licence to the proposed transferee if satisfied that the proposed transferee would be a suitable person to be granted a licence under the Act.	**EHA**
Section 31	**Cancellation of Licence**	
31(1)	The power pursuant to Section 31(1) of the Act, to cancel a licence, on reasonable grounds, where satisfied that any of the matters specified in this Section are applicable;	**EHA**
31(2)	The duty pursuant to Section 31(2) of the Act before acting under this Section, to notify the holder of the licence in writing of the proposed cancellation of the licence and allow the holder of the licence at least 28 days within which to make submissions in relation to the proposed action;	**EHA**
31(3)	The power pursuant to Section 31(3) of the Act pending the cancellation (or possible cancellation) of a licence under this Section, to impose conditions to protect the interests of the residents of the facility; and	**EHA**
31(4)	The power pursuant to Section 31(4) of the Act, to appoint an administrator of the facility and to take such other steps as may be reasonable to secure the proper care of the residents of the facility.	**EHA**
Section 32	**Review of Decision or Order**	
32(3)	The power pursuant to Section 32(3) of the Act, if an application for review is in respect of an application for renewal of a licence, to order that the licence remain in force until the determination of the review.	**EHA**
32(4)	The power pursuant to Section 32(4) of the Act to:	**EHA**
	make an order under Section 32(3) of the Act subject to such conditions as determined by EHA and specified in the order; and	
	vary or revoke an order made by the Council or EHA under Section 32(3) of the Act by further order.	
33(1)	The duty pursuant to Section 33(1) of the Act, and subject to Section 33(2), where application is made for a licence in respect of a facility that was in operation during the period of three (3) months immediately preceding the commencement of the Section, to upon payment of the prescribed fee, grant a licence in accordance with the Act for a term of one year.	**EHA**

SUPPORTED RESIDENTIAL FACILITIES ACT 1992		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Section 34	**Appointment of Manager**	
34(1)	The power pursuant to Section 34(1) of the Act where the proprietor of a facility is not directly involved in the management of the facility or the proprietor of a facility is a body corporate, to approve a natural person for the purpose of managing the facility under that person's personal supervision.	**EHA**
34(2)	The power pursuant to Section 34(2) of the Act to extend the period of management without supervision.	**EHA**
Section 35	**Death of Licensee**	
35	The power pursuant to Section 35 of the Act, where the holder of a licence dies, to approve the personal representative or some other person to be taken to be the holder of the licence (on the same conditions as applicable to the former holder of the licence) as from the date of death until the expiration of six months from that date or until such later date as may be fixed by EHA.	**EHA**
Section 39	**Recission of Resident Contract by Proprietor**	
39(2)	The power pursuant to Section 39(2)(b) of the Act to approve the method of providing a termination notice subject to this Section.	**EHA**
Section 43	**Disputes**	
43(2)	The power pursuant to Section 43(2) of the Act on an application made in relation to any of the matters specified in Section 43(1) of the Act, to explore any possible avenue of achieving conciliation between the parties and for these purposes, EHA, may as it thinks fit, take any action in accordance with Section 43(3) of the Act;	**EHA**
43(6)	The power pursuant to Section 43(6) of the Act, to require an applicant, to furnish such further information in relation to the subject matter of the application as EHA thinks necessary, and to verify any information by statutory declaration;	**EHA**
43(7)	The duty pursuant to Section 43(7) of the Act to give the applicant and the respondent reasonable notice of the time and place of any hearing of the application;	**EHA**
43(9)	The power pursuant to Section 43(9) of the Act where satisfied that an interim order is justified by the urgent circumstances of the case, to make an interim order pending final resolution of the matter.	**EHA**
43(11)	The power pursuant to Section 43(11) of the Act to vary or revoke an order made under Section 43 of the Act;	**EHA**
43(12)	The power, pursuant to Section 43(12) of the Act -	**EHA**
	to decline to proceed with an application under this Section until satisfied that reasonable steps have been taken to resolve the dispute pursuant to other procedures specified by EHA;	

SUPPORTED RESIDENTIAL FACILITIES ACT 1992		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
	to decline to proceed with an application under this Section if EHA considers that it would be more appropriate for proceedings to be taken in a court or tribunal constituted by law; or	
	to decline to proceed (or further proceed) with an application under this Section if proceedings related to the subject matter of the application have been commenced in a court or tribunal constituted by law; and	
43(13)	The duty pursuant to Section 43(13) of the Act in determining any application under this Section, to act with as much expedition as is reasonably practicable in the circumstances.	**EHA**
Section 47	**Attendance by Health Service Providers etc.**	
47(1)	The power pursuant to Section 47(1) of the Act to approve a health service provider, social worker, or any person, for the purposes of Section 47.	**EHA**
Section 49	**Complaints**	
49(1)	The power pursuant to Section 49(1) of the Act to receive a complaint about the management of a supported residential facility or any residential-only premises or about the conduct of a resident of a supported residential facility or any residential-only premises.	**EHA**
49(2)	The power pursuant to Section 49(2) of the Act to require a complaint to be reduced to writing.	**EHA**
49(3)	The power pursuant to Section 49(3) of the Act to take such action as EHA thinks fit in view of the complaint.	**EHA**
49(4)	The power pursuant to Section 49(4) of the Act to appoint an authorised officer to carry out an investigation into the circumstances surrounding the complaint and to attempt to resolve the matter as expeditiously as possible.	**EHA**
Section 57	**Regulations**	
57(5) and (6)	Pursuant to Sections 57(5) and (6) of the Act where the proprietor of a facility who holds a licence under the Act applies to EHA for an exemption from a regulation that applies to the facility and EHA is satisfied-	**EHA**
	that EHA can grant the exemption without seriously affecting the interests of a resident of the facility; and	
	that it is appropriate for EHA to grant the exemption in the circumstances of the particular case,	
	the power to, by notice in writing to the proprietor, exempt the proprietor from the regulation to which the application relates, on such conditions as EHA thinks fit.	
57(7)	The power pursuant to Section 57(7) of the Act, to, at any time, by further notice to the proprietor:	**EHA**
	revoke an exemption under Section 57(5);	
	vary or revoke a condition under Section 57(6)	

SUPPORTED RESIDENTIAL FACILITIES REGULATIONS 2009		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Regulation 4	**Licensing Scheme**	
4(1)	The duty pursuant to Regulation 4(1) of the Supported Residential Facilities Regulations 2009 ("the Regulations") to decide an application for a licence under Section 24 of the Act within eight weeks of the application being made.	**EHA**
4(2)	The duty pursuant to Regulation 4(2) of the Regulations, in considering an application for a licence in respect of the use of premises (or proposed premises) as a supported residential facility, to take into account the extent to which the premises (or proposed premises) accord with the standards prescribed by or under the Building Code of Australia.	**EHA**
Regulation 5	**Prospectus**	
5(2)	The power pursuant to Regulation 5(2) of the Regulations to receive a copy of a prospectus, or a copy of an alteration to a prospectus, and a copy of the written statement required to accompany the prospectus or alteration to the prospectus pursuant to Regulation 5(2)(b) of the Regulations.	**EHA**
Regulation 14	**Notification of Certain Events**	
14(1)	The power pursuant to Regulation 14(1)(b) of the Regulations to receive information of any untoward medical event that occurs in relation to a resident of a facility.	**EHA**
Regulation 17	**Acting Managers**	
17(2)	The power pursuant to Regulation 17(2) of the Regulations to approve an acting manager for the purpose of appointment to or otherwise assuming the duties of the office of manager of a facility if, for a period exceeding seven days, a manager is absent from the duties of office, or t services.	**EHA**
Regulation 18	**Management of Nursing Homes**	
18(1)	The power pursuant to Regulation 18(1) of the Regulations to approve a registered nurse as being a person who has appropriate qualifications, skills and experience to oversee the provision of nursing care at a facility.	**EHA**
18(2)	The power pursuant to Regulation 18(2) of the Regulations, if there is a change in the type or level of services provided at a nursing home, to revoke, by notice in writing to the proprietor, an approval under Regulation 18(1) of the Regulations and require that a new appointment be made to ensure that the person who oversees the provision of nursing care at the facility has the qualifications, skills and experience appropriate to the facility.	**EHA**

SUPPORTED RESIDENTIAL FACILITIES REGULATIONS 2009		
STATUTORY PROVISION	**POWER / FUNCTION**	**DELEGATE / LIMITATION**
Regulation 21	**Facilities, Hygiene, Maintenance etc**	
21(1)	The power pursuant to Regulation 21(1)(b) of the Regulations to approve a kitchen at a facility otherwise than in accordance with the requirements of Regulation 21(1)(b) of the Regulations.	**EHA**
21(3)	The power pursuant to Regulation 21(3)(e) of the Regulations to require the fitting of handrails, ramps and, for a multi-storey building, lifts.	**EHA**
Regulation 24	**Communication Facility**	
24(1)	The power pursuant to Regulation 24(1) of the Regulations to direct the proprietor of a facility to install a communication system at the facility.	**EHA**
Regulation 26	**Indemnity Fund**	
26(2)	The duty pursuant to Regulation 26(2) of the Regulations to remit amounts payable to the indemnity fund under Section 56(4) of the Act to the fund manager within 28 days after the end of the financial year in which they are received by EHA.	**EHA**