

## **INSTRUMENT OF DELEGATION UNDER THE SOUTH AUSTRALIAN PUBLIC HEALTH ACT 2011 AND SOUTH AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013 AND SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013 AND SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL)**

### **Preamble**

### **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**

#### **Delegation Sources**

- South Australian Public Health Act 2011
- South Australian Public Health (Legionella) Regulations 2013
- South Australian Public Health (Wastewater) Regulations 2013
- South Australian Public Health (General) Regulations 2013

#### **Titles**

- Chief Executive Officer
- Director Infrastructure & Environmental Services
- Environmental Health Officer

**Instrument of Delegation under the South Australian Public Health Act 2011 and South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013 and South Australian Public Health (General)**

South Australian Public Health Act 2011			
Provision	Item Delegated	Delegate	Conditions and Limitations
s18(2)	1. Power to Require Reports 1.1 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.	Environmental Health Officer	
s18(3)	1. Power to Require Reports 1.2 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.	Environmental Health Officer	
s18(5)	1. Power to Require Reports 1.3 The power pursuant to Section 18(5) of the Act to provide the report in accordance with the requirements of the Minister.	Environmental Health Officer	
s22(2)	2. Risk of Avoidable Mortality or Morbidity 2.1 The power pursuant to Section 22(2) of the Act, if 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.	Chief Executive Officer	
s22(3)	2. Risk of Avoidable Mortality or Morbidity 2.2 The power pursuant to Section 22(3) of the Act to include in a response under Section 22(2) of the Act details about:  2.2.1 any steps already being taken by the Council that may be relevant in the circumstances; and  2.2.2 any plans that the Council may have that may be relevant in the circumstances; and  2.3 any steps that the Council is willing to take in the circumstances; and  2.4 any other matter relating to the Council that appears to be relevant.	Chief Executive Officer	
s39(1)	3. Cooperation Between Councils 3.1 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	Chief Executive Officer	

<b>South Australian Public Health Act 2011</b>			
	councils		
s39(2)	3. Cooperation Between Councils 3.2 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.	Chief Executive Officer	
s39(3)	3. Cooperation Between Councils 3.3 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.	Chief Executive Officer	
s40(2)	4. Power of Chief Public Health Officer to Act 4.1 The power pursuant to Section 40(2) of the Act to consult with the Chief Public Health Officer.	Chief Executive Officer	
s41(1)	5. Council Failing to Perform a Function Under Act 5.1 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.	Chief Executive Officer	
s41(6)	5. Council Failing to Perform a Function Under Act 5.2 The power pursuant to Section 41(6) of the Act to:  5.2.1 make written submissions to the Minister in relation to the matter within a period specified by the Minister; and  5.2.2 request in the written submissions to the Minister that the Minister discuss the matter with a delegation representing the Council; and  5.2.3 appoint a delegation representing the Council to discuss the matter with the Minister.	Chief Executive Officer	
s42(1)	6. Transfer of Function of Council at Request of Council 6.1 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.	Chief Executive Officer	
s42(10)	6. Transfer of Function of Council at Request of Council 6.2 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.	Chief Executive Officer	
s42(11)	6. Transfer of Function of Council at Request of Council 6.3 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.	Chief Executive Officer	

<b>South Australian Public Health Act 2011</b>			
s42(11)	6. Transfer of Function of Council at Request of Council 6.4 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.	Chief Executive Officer	
s44(1) s45	7. Local Authorised Officers 7.1 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.	Chief Executive Officer	
s44(2)	7. Local Authorised Officers 7.2 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.	Chief Executive Officer	
s44(4)	7. Local Authorised Officers 7.3 The power pursuant to Section 44(4) of the Act to direct a local authorised officer.	Environmental Health Officer	
s44(6)	7. Local Authorised Officers 7.4 The power pursuant to Section 44(6) of the Act to vary or revoke an appointment at any time.	Chief Executive Officer	
s44(7)	7. Local Authorised Officers 7.5 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:  7.5.1 makes an appointment under Section 44 of the Act; or  7.5.2 revokes an appointment under Section 44 of the Act.	Chief Executive Officer	
s44(9)	7. Local Authorised Officers 7.6 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.	Chief Executive Officer	
s46(1) s46(2)	8. Identity Cards 8.1 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:  8.1.1 containing the person's name and a photograph of the person; and  8.1.2 stating that the person is an authorised officer for the purposes of the Act; and	Chief Executive Officer	

South Australian Public Health Act 2011			
	8.1.3 setting out the name or office of the issuing authority.		
s49(1)	9. Specific Power to Require Information 9.1 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.	Environmental Health Officer	
s51(1), (2),(5),(6),(8),(9),(11), (12), (13), (15)	10. Regional Public Health Plans 10.1 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).	Chief Executive Officer	
s51(10), (11)	10. Regional Public Health Plans 10.2 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.	Chief Executive Officer	
s51(11) s51(12)	10. Regional Public Health Plans 10.3 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:  10.3.1 prepare a draft of the proposal; and  10.3.2 when the draft plan is completed, subject to Section 51(12) of the Act:  10.3.2.1 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  10.3.2.2 take steps to consult with the public.	Chief Executive Officer	
s51(12) s51(11)	10. Regional Public Health Plans 10.4 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 the Delegate releases a draft plan under Section 51(11).	Chief Executive Officer	

<b>South Australian Public Health Act 2011</b>			
s51(13)	10. Regional Public Health Plans 10.5 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.	Chief Executive Officer	
s51(15)	10. Regional Public Health Plans 10.6 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).	Chief Executive Officer	
s51(16)	10. Regional Public Health Plans 10.7 The power pursuant to Section 51(16) of the Act to then adopt a plan or amend a plan with or without alteration.	Chief Executive Officer	
s51(17)	10. Regional Public Health Plans 10.8 The power pursuant to Section 51(17) of the Act to undertake the processes set out in Section 51 of the Act in conjunction with the preparation and adoption of its strategic management plans under Section 122 of the Local Government Act 1999 (and the power if the delegate thinks fit, incorporate a regional public health plan into the Council's strategic management plans under that Act).	Chief Executive Officer	
s51(18)	10. Regional Public Health Plans 10.9 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.	Chief Executive Officer	
s51(19)	10. Regional Public Health Plans 10.10 The power pursuant to Section 51(19) of the Act to review a regional public health plan at least once in every 5 years.	Chief Executive Officer	
s51(20)	10. Regional Public Health Plans 10.11 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.	Chief Executive Officer	
s51(21)	10. Regional Public Health Plans 10.12 The power pursuant to Section 51(21) of the Act to, when performing functions or exercising powers under the Act or any other Act, 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 the Delegate should implement changes to the manner in which, or the means by which, the Council or the Delegate 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.	Chief Executive Officer	
s52(1)	11. Reporting on Regional Public Health Plans	Environmental	

<b>South Australian Public Health Act 2011</b>			
	11.1 The power pursuant to Section 52(1) of the Act to, in relation to a regional health plan for which the Council is responsible, on a 2 yearly basis, prepare a report that contains a comprehensive assessment of the extent to which, during the reporting period, the Council has succeeded in implementing its regional public health plan to the Chief Public Health Officer in accordance with Sections 52(2), (3) and (4) of the Act.	Health Officer	
s66(6)	12. Action to Prevent Spread of Infection 12.1 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.	Director Infrastructure & Environmental Services, Environmental Health Officer	
s66(5)	12. Action to Prevent Spread of Infection 12.2 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 the Delegate to assist in preventing the spread of the disease.	Director Infrastructure & Environmental Services, Environmental Health Officer	
s92(1)	13. Notices 13.1 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:  13.1.1 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  13.1.2 averting, eliminating or minimising a risk, or a perceived risk, to public health.	Director Infrastructure & Environmental Services, Environmental Health Officer	
13. Notices	13. Notices 13.2 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:  13.2.1 have regard to:  13.2.1.1 the number of people affected, or potentially affected, by the breach of the duty;  13.2.1.2 the degree of harm, or potential degree of harm, to public health on account of the breach of the duty;	Environmental Health Officer	

South Australian Public Health Act 2011			
	<p>13.2.1.3 any steps that a person in breach of the duty has taken, or proposed to take, to avoid or address the impact of the breach of the duty,</p> <p>and such other matters as the Delegate thinks fit; and</p> <p>13.2.2 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:</p> <p>13.2.2.1 stating the proposed action, including the terms of the proposed notice and the period within which compliance with the notice will be required; and</p> <p>13.2.2.2 stating the reasons for the proposed action; and</p> <p>13.2.2.3 inviting the person show, within a specified time (of a reasonable period), why the proposed action should not be taken (by making representations to the Delegate or a person nominated to act on behalf of the Council).</p>		
s92(2)(b)(iii)	<p>13. Notices</p> <p>13.3 The power pursuant to Section 92(2)(b)(iii) of the Act to nominate a person to act on behalf of the Council.</p>	Environmental Health Officer	
s92(3)	<p>13. Notices</p> <p>13.4 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:</p> <p>13.4.1 issue a notice in accordance with the terms of the original proposal; or</p> <p>13.4.2 issue a notice with modifications from the terms of the original proposal; or</p> <p>13.4.3 determine not to proceed further under Section 92.</p>	Environmental Health Officer	
s92(4)	<p>13. Notices</p> <p>13.5 The power pursuant to Section 92(4) of the Act to:</p> <p>13.5.1 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</p>	Environmental Health Officer	



South Australian Public Health Act 2011			
	13.5.2 not give further notice before issuing a notice with modifications under Section 92(3)(b) of the Act.		
s92(5)	<p>13. Notices</p> <p>13.6 The power pursuant to Section 92(5) of the Act issue a notice under Section 92 of the Act:</p> <p>13.6.1 in the form of a written notice served on the person to whom it is issued; and</p> <p>13.6.2 specifying the person to whom it is issued (whether by name or by a description sufficient to identify the person); and</p> <p>13.6.3 directing 2 or more persons to do something specified in the notice jointly; and</p> <p>13.6.4 without limiting any other provision, in the case of a notice that relates to the condition of any premises, to any person who:</p> <p>13.6.4.1 is the owner or occupier of the premises; or</p> <p>13.6.4.2 has the management or control of the premises; or</p> <p>13.6.4.3 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</p> <p>13.6.5 stating the purpose for which the notice is issued and giving notice of the requirement or the risk to which it relates; and</p> <p>13.6.6 imposing any requirement reasonably required for the purpose for which the notice is issued including 1 or more of the following:</p> <p>13.6.6.1 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;</p> <p>13.6.6.2 a requirement that the person not carry on a specified activity except at specified times or subject to specified conditions;</p> <p>13.6.6.3 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;</p>	Environmental Health Officer	

South Australian Public Health Act 2011			
	<p>13.6.6.4 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;</p> <p>13.6.6.5 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;</p> <p>13.6.6.6 a requirement that the person undertake specified tests or monitoring;</p> <p>13.6.6.7 a requirement that the person furnish to a relevant authority specified results or reports;</p> <p>13.6.6.8 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;</p> <p>13.6.6.9 a requirement prescribed under or for the purposes of the regulations; and</p> <p>13.6.7 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.</p>		
s92(9)	<p>13. Notices</p> <p>13.7 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 the Delegate or the Council, vary or revoke the notice.</p>	Environmental Health Officer	
s95(15)	<p>13. Notices</p> <p>13.8 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 the Delegate issues a notice under Section 92 of the Act.</p>	Environmental Health Officer	
s93(1)	<p>14. Action on Non-compliance with Notice</p> <p>14.1 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.</p>	Director Infrastructure & Environmental Services, Environmental Health Officer	
s93(2)	<p>14. Action on Non-compliance with Notice</p> <p>14.2 The power pursuant to Section 93(2) of the Act to authorise a person for the purpose of taking action on the Council's</p>	Director Infrastructure &	

<b>South Australian Public Health Act 2011</b>			
	behalf under Section 93(1) of the Act.	Environmental Services, Environmental Health Officer	
s93(4)	14. Action on Non-compliance with Notice 14.3 The power pursuant to Section 93(4) of the Act to recover the reasonable costs and expenses incurred by the 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.	Director Infrastructure & Environmental Services, Environmental Health Officer	
s93(5)	14. Action on Non-compliance with Notice 14.4 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.	Director Infrastructure & Environmental Services, Environmental Health Officer	
s94(5)	15. Action in Emergency Situations 15.1 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.	Director Infrastructure & Environmental Services, Environmental Health Officer	
s95(13)	16. Reviews - Notices Relating to General Duty 16.1 The power pursuant to Section 95(13) of the Act to appear in proceedings before the Review Panel as a representative of the Council.	Director Infrastructure & Environmental Services, Environmental Health Officer	
s95(15)	16. Reviews - Notices Relating to General Duty 16.2 The power pursuant to Section 95(15) of the Act to make an application to the Review Panel to:  16.2.1 dismiss or determine any proceedings that appear:	Director Infrastructure & Environmental Services, Environmental	

<b>South Australian Public Health Act 2011</b>			
	<p>16.2.1.1 to be frivolous or vexatious; or</p> <p>16.2.1.2 to have been instituted for the purpose of delay or obstruction, or for some other improper purpose;</p> <p>16.2.2 bring any proceedings to an end that appear:</p> <p>16.2.2.1 to be more appropriate suited to proceedings before the District Court rather than the Review Panel; or</p> <p>16.2.2.2 to be unable to be satisfactorily resolved (or resolved within a reasonable period) by proceedings before the Review Panel; or</p> <p>16.2.3 bring any proceedings to an end for any other reasonable cause.</p>	Health Officer	
s96(3)	<p>17. Appeals</p> <p>17.1 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.</p>	Chief Executive Officer	
<b>South Australian Public Health (Legionella) Regulations 2013</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r5(3)	<p>18. Duty to Register High Risk Manufactured Water System</p> <p>18.1 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 Delegate and payment of the registration fee specified in Schedule 1 to the Council, register the high risk manufactured water system to which the application relates.</p>	Environmental Health Officer	
r5(6)	<p>18. Duty to Register High Risk Manufactured Water System</p> <p>18.2 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 Delegate and payment of the renewal fee specified in Schedule 1 to the Council, renew the registration of the high risk manufactured water system to which the application relates.</p>	Environmental Health Officer	
r6(2)	<p>19. Register of High Risk Manufactured Water Systems</p> <p>19.1 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 the Council.</p>	Environmental Health Officer	
r6(3)	<p>19. Register of High Risk Manufactured Water Systems</p> <p>19.2 The power pursuant to Regulation 6(3) of the Legionella Regulations to include in relation to each high risk manufactured</p>	Environmental Health Officer	

South Australian Public Health (Legionella) Regulations 2013			
	<p>water system on the register:</p> <p>19.2.1 the type of water system; and</p> <p>19.2.2 the address of the premises on which the water system is installed; and</p> <p>19.2.3 the location of the water system on the premises; and</p> <p>19.2.4 the full name and residential and business addresses of the owner of the premises; and</p> <p>19.2.5 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,</p> <p>and such other information as the Delegate thinks fit.</p>		
r15(2)	<p>19. Register of High Risk Manufactured Water Systems</p> <p>19.3 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 the Council is installed, written notice:</p> <p>19.3.1 requiring the owner, within the period specified in the notice:</p> <p>19.3.1.1 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</p> <p>19.3.1.2 to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896:</p> <p>(a) of at least 1 sample of water taken from a cooling water system; and</p> <p>(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</p>	Environmental Health Officer	
r15(2)	<p>19. Register of High Risk Manufactured Water Systems</p> <p>19.4 requiring the owner to submit to the Council written reports setting out the findings of the inspection and the results of the microbiological testing within 1 month of receiving the reports.</p>	Environmental Health Officer	
r16(1)	<p>20. Power of Council to Require Microbiological Testing in Other Circumstances</p> <p>20.1 The power pursuant to Regulation 16(1) of the Legionella Regulations, if:</p>	Environmental Health Officer	

<b>South Australian Public Health (Legionella) Regulations 2013</b>			
	<p>20.1.1 the Council is investigating the occurrence of Legionellosis in the near vicinity of premises on which a high risk manufactured water system is installed; or</p> <p>20.1.2 the Council or Delegate 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:</p> <p>20.1.3 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</p> <p>20.1.4 requiring the owner to submit to the Council a written report setting out the results of the microbiological testing within 24 hours of receiving the report.</p>		
r21(3)	<p>21. Fees</p> <p>21.1 The power pursuant to Regulation 21(3) of the Legionella Regulations, if a person is liable to pay a fee to the Council, to give the person written notice requiring the person to pay the fee within the period specified in the notice.</p>	Environmental Health Officer	
r21(4)	<p>21. Fees</p> <p>21.2 The power pursuant to Regulation 21(4) of the Legionella Regulations, to reduce or remit a fee payable to the Council under the Legionella Regulations if satisfied that it is appropriate to do so in a particular case.</p>	Environmental Health Officer	
r21(5)	<p>21. Fees</p> <p>21.3 The power pursuant to Regulation 21(5) of the Legionella Regulations, to recover a fee payable to the Council under the Legionella Regulations by action in a court of competent jurisdiction as a debt due to the Council.</p>	Environmental Health Officer	
<b>South Australian Public Health (Wastewater) Regulations 2013</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r6(1)	<p>22. Relevant Authority</p> <p>22.1 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.</p>	Chief Executive Officer	

<b>South Australian Public Health (Wastewater) Regulations 2013</b>			
r8(1)	<p>23. Public Notification of Proposed Community Wastewater Management System</p> <p>23.1 The power pursuant to Regulation 8(1) of the Wastewater Regulations to, if the Council proposes to establish a community wastewater management system for the whole or part of its area in the interests of public and environmental health, to give notice to the owners of land in the area affected by the proposal containing the prescribed details relating to the proposal and inviting submissions in relation to the proposal within a period (which must be at least 21 days) specified in the notice.</p>	Director Infrastructure & Environmental Services	
r9(1)	<p>24. Connection to Community Wastewater Management System</p> <p>24.1 The power pursuant to Regulation 9(1) of the Wastewater Regulations and subject to Regulation 9(2) of the Wastewater Regulations on obtaining a wastewater works approval for a community wastewater management system, to, by written notice, require the operator of an on-site wastewater system:</p> <p>24.1.1 to connect the system to the community wastewater management system; and</p> <p>24.1.2 for that purpose, to complete and submit an application to the Council, within the period specified in the notice, for a wastewater works approval for:</p> <p>24.1.2.1 the connection; and</p> <p>24.1.2.2 if necessary, consequential alterations to the on-site wastewater system.</p>	Director Infrastructure & Environmental Services, Environmental Health Officer	
r9(4)	<p>24. Connection to Community Wastewater Management System</p> <p>24.2 The power pursuant to Regulation 9(4) of the Wastewater Regulations, if the operator of an on-site wastewater system does not submit an application within the period specified in a notice under Regulation 9(1) of the Wastewater Regulations, to grant a wastewater works approval for the required wastewater works as if the application had been made.</p>	Director Infrastructure & Environmental Services, Environmental Health Officer	
r9(6)	<p>24. Connection to Community Wastewater Management System</p> <p>24.3 The power pursuant to Regulation 9(6) of the Wastewater Regulations, if wastewater works are not carried out in accordance with a wastewater works approval for the connection of an on-site wastewater system to a community wastewater management system required under Regulation 9 of the Wastewater Regulations, to cause the requirements to be carried out (and a person authorised to do so by the Council may enter land at any reasonable time for the purposes of carrying out the relevant work).</p>	Director Infrastructure & Environmental Services, Environmental Health Officer	
r9(6)	<p>24. Connection to Community Wastewater Management System</p> <p>24.4 The power pursuant to Regulation 9(6) of the Wastewater Regulations to if wastewater works are not carried out in accordance with a wastewater approval for the connection of an on-site wastewater system to a community wastewater</p>	Director Infrastructure & Environmental	

<b>South Australian Public Health (Wastewater) Regulations 2013</b>			
	management system required under Regulation 9 of the Wastewater Regulations, authorise a person to enter land at any reasonable time for the purpose of carrying out the relevant work.	Services, Environmental Health Officer	
r9(7)	24. Connection to Community Wastewater Management System 24.5 The power pursuant to Regulation 9(7) of the Wastewater Regulations to recover as a debt the costs and expenses reasonably incurred in exercising a power under Regulation 9(6) of the Wastewater Regulations and the fee that would have been payable had the application been made as required under Regulation 9(1) of the Wastewater Regulations from the person who failed to comply with the notice.	Director Infrastructure & Environmental Services, Environmental Health Officer	
r10(3)	25. Exemptions 25.1 The power pursuant to Regulation 10(3) of the Wastewater Regulations to give an exemption by written notice and subject to conditions determined by the Delegate and stated in the notice.	Director Infrastructure & Environmental Services, Environmental Health Officer	
r10(4)	25. Exemptions 25.2 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.	Environmental Health Officer	
r15(3)	26. Exemptions From Prescribed Codes 26.1 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 the Delegate and stated in the notice.	Environmental Health Officer	
r15(5)	26. Exemptions From Prescribed Codes 26.2 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.	Environmental Health Officer	
r23(2)	27. Application 27.1 The power pursuant to Regulation 23(2) of the Wastewater Regulations to, by written notice, ask the applicant to provide the Council with further technical specifications, information or documents relevant to the application or to modify the technical specifications submitted for approval.	Environmental Health Officer	
r24(1)	28. Determination of Application 28.1 The power pursuant to Regulation 24(1) of the Wastewater Regulations to refuse to grant a wastewater works approval:  28.1.1 if the applicant fails to satisfy the Delegate of either or both of the following:	Environmental Health Officer	



South Australian Public Health (Wastewater) Regulations 2013			
	<p>28.1.1.1 that the technical specifications for the wastewater works comply with the prescribed codes;</p> <p>28.1.1.2 that the wastewater works will not, if undertaken in accordance with the conditions of approval, adversely affect or threaten public or environmental health; or</p> <p>28.1.2 for any other sufficient reason.</p>		
r24(2)	<p>28. Determination of Application</p> <p>28.2 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.</p>	Director Infrastructure & Environmental Services	
r25(2)	<p>29. Conditions of Approval</p> <p>29.1 The power pursuant to Regulation 25(2) of the Wastewater Regulations to impose:</p> <p>29.1.1 any 1 or more of the following prescribed expiable conditions:</p> <p>29.1.1.1 a condition that sets out mandatory notification stages during the progress of wastewater works when a person is required to notify the Council in a specified manner and stop the work pending an inspection carried out at the person's expense;</p> <p>29.1.1.2 a condition that requires the display of specified notices on the premises on which the wastewater system is located;</p> <p>29.1.1.3 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 the Council with specified information in a specified manner and at specified times;</p> <p>29.1.1.4 a condition that provides that specified material must not, or that only specified material may, be discharged into, or from, the wastewater system;</p> <p>29.1.1.5 a condition that requires the wastewater system to be operated, maintained or serviced by a person of a specified class;</p> <p>29.1.1.6 a condition that requires records of a specified kind to be created, maintained, and provided to the Council; or</p>	Director Infrastructure & Environmental Services, Environmental Health Officer	

South Australian Public Health (Wastewater) Regulations 2013			
	<p>29.1.2 any other conditions including any 1 or more of the following:</p> <p>29.1.2.1 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;</p> <p>29.1.2.2 a condition that requires a wastewater system to be connected to a community wastewater management system;</p> <p>29.1.2.3 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;</p> <p>29.1.2.4 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 the Council);</p> <p>29.1.2.5 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 supplied with a certificate given by that expert certifying that the wastewater works have been undertaken in accordance with the approved technical specifications;</p> <p>29.1.2.6 a condition that otherwise specifies requirements relating to:            (a) the installation of the waste watersystem; 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.</p>		
r25(3)	<p>29. Conditions of Approval</p> <p>29.2 The power pursuant to Regulation 25(3) of the Wastewater Regulations to impose a condition of approval that:</p> <p>29.2.1 provides that a matter or thing is to be determined according to the discretion of the Council or some other specified person or body; and</p> <p>29.2.2 operates by reference to the manuals referred to in a product approval for the wastewater system; and</p>	<p>Director            Infrastructure &amp;            Environmental            Services,            Environmental            Health Officer</p>	

<b>South Australian Public Health (Wastewater) Regulations 2013</b>			
	29.2.3 operates by reference to a specified code as in force at a specified time or as in force from time to time.		
r25(6)	29. Conditions of Approval 29.3 The power pursuant to Regulation 25(6) of the Wastewater Regulations to, on application and payment of the fee fixed by Schedule 1, by written notice to the applicant, vary or revoke a condition of a wastewater works approval.	Director Infrastructure & Environmental Services, Environmental Health Officer	
r25(7)	29. Conditions of Approval 29.4 The power pursuant to Regulation 25(7) of the Wastewater Regulations to, on the Delegate'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:  29.4.1 the operator consents; or  29.4.2 the Delegate 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.	Director Infrastructure & Environmental Services, Environmental Health Officer	
r26(2)	30. Expiry of Approval 30.1 The power pursuant to Regulation 26(2) of the Wastewater Regulations to, on application and payment of the fee fixed by Schedule 1, postpone the expiry of a wastewater works approval for a specified period.	Environmental Health Officer	
r27(3)	31. Registers of Wastewater Works Approvals 31.1 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.	Environmental Health Officer	
r27(6)	31. Registers of Wastewater Works Approvals 31.2 The power pursuant to Regulation 27(6) of the Wastewater Regulations to include in the registers other information considered appropriate by the Delegate.	Environmental Health Officer	
r29(1)	32. Requirement to Obtain Expert Report 32.1 The power pursuant to Regulation 29(1) of the Wastewater Regulations, if the Delegate 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 the Council a written report from an independent wastewater engineer within a specified period addressing specified matters.	Environmental Health Officer	

<b>South Australian Public Health (Wastewater) Regulations 2013</b>			
r29(3)	32. Requirement to Obtain Expert Report 32.2 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.	Environmental Health Officer	
r29(3)	32. Requirement to Obtain Expert Report 32.3 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.	Environmental Health Officer	
r33(1)	33. Fees 33.1 The power pursuant to Regulation 33(1) of the Wastewater Regulations, to refund, reduce or remit payment of a fee payable under the Wastewater Regulations if the Delegate considers that appropriate in the circumstances.	Environmental Health Officer	
r33(2)	33. Fees 33.2 The power pursuant to Regulation 33(2) of the Wastewater Regulations, to recover a fee payable to the Council by action in a court of competent jurisdiction as a debt due to the Council.	Environmental Health Officer	
<b>South Australian Public Health (General) Regulations 2013</b>			
<b>Provision</b>	<b>Item Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>
r5B(2)	34. Non-compliance with Notices (Section 93(6) of Act) 34.1 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:  34.1.1 setting out the amount recoverable under Section 93 of the Act; and  34.1.2 setting out the land in relation to which the relevant action was taken; and  34.1.3 requesting the Registrar-General to make a notation under Regulation 5B of the General Regulations in relation to the relevant land.	Environmental Health Officer	
r5B(8)	34. Non-compliance with Notices (Section 93(6) of Act) 34.2 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.	Environmental Health Officer	

**Document history and version control**

<b>Date</b>	<b>Council/Chief Executive Officer</b>	<b>Comment</b>
27/6/2017	Full annual review adopted at the Council meeting of 27 June 2017	