



Western Australia

Public Health (Consequential Provisions) Act 2016

As at 25 Jul 2016

No. 19 of 2016

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Public Health (Consequential Provisions) Act 2016

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Western Australia

Public Health (Consequential Provisions) Act 2016

No. 19 of 2016

An Act to amend the *Health Act 1911* and various other Acts as a consequence of the enactment of the *Public Health Act 2016*, and for related purposes.

[Assented to 25 July 2016]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Public Health (Consequential Provisions) Act 2016*.

2. Commencement

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) Part 2 — on a day fixed by proclamation;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

(2) Subsection (1)(c) is subject to sections 204 and 344.

Part 2 — *Health Act 1911* amended

Division 1 — Act amended

3. Act amended

This Part amends the *Health Act 1911*.

Division 2 — Long title and Part I amended

4. Long title amended

In the long title delete “**consolidate and amend the law relating to**” and insert:

deal with certain matters concerning

5. Section 1 amended

In section 1(1) after “*Health*” insert:

(Miscellaneous Provisions)

6. Section 3 amended

(1) In section 3(1) delete the definitions of:

Analytical Committee

environmental health officer

Executive Director, Personal Health

Executive Director, Public Health

medical officer

public health official

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 2 Long title and Part I amended

s. 7

- (2) In section 3(1) insert in alphabetical order:

Analytical Committee has the meaning given in section 247AA;

authorised officer has the meaning given in subsection (2A);

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

nurse means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession whose name is entered on the Register of Nurses kept under that Law;

- (3) In section 3(1) in the definition of *apparatus for the treatment of sewage* delete “Executive Director, Public Health” and insert:

Chief Health Officer

- (4) After section 3(1) insert:

- (2A) A reference in a provision of this Act to an *authorised officer* is a reference to a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) whose designation has effect for the purposes of that provision.

7. Section 5 amended

In section 5(3):

- (a) delete “CEO” and insert:

Chief Health Officer

- (b) delete “his” and insert:

the Chief Health Officer’s

Division 3 — Part II amended

8. Section 12 replaced

Delete section 12 and insert:

12. Powers of Chief Health Officer and authorised officers

- (1) The Chief Health Officer, and any authorised officer acting with the Chief Health Officer’s authority, has all the powers of an authorised officer of a local government, and may exercise those powers in any part of the State, and the Chief Health Officer has all the rights and powers that the local government would have in case its authorised officer exercised the power, or to enable its authorised officer to exercise the power.
- (2) Any provision of this Act conferring any power on an authorised officer of a local government, or relating to or connected with the exercise or intended exercise, or the consequences of the exercise of any power by an authorised officer of a local government, are to be construed and have effect for the purposes of this section as if —
- (a) the references in the provision to an authorised officer of the local government extended to the Chief Health Officer or any authorised officer acting with the Chief Health Officer’s authority; and

- (b) all references in the provision to a local government extended to the Chief Health Officer.

13A. CEO and Chief Health Officer may delegate

- (1) In this section —
 - departmental officer* —
 - (a) means a public service officer employed in the Department; and
 - (b) includes a public service officer appointed for the purposes of, or to assist in the administration of, an Act to which the *Health Legislation Administration Act 1984* applies under section 4 of that Act;
 - employed in the Department* includes seconded to perform functions or services for, or duties in the service of, the Department.
- (2) The CEO may delegate to a departmental officer all or any of the functions that the CEO has under this Act, other than this power of delegation.
- (3) The Chief Health Officer may delegate to a departmental officer all or any of the functions that the Chief Health Officer has under this Act, other than this power of delegation.
- (4) A delegation made under subsection (2) or (3) may expressly authorise the delegate to further delegate the function to another person.
- (5) A delegation or subdelegation made under this section must be in writing and signed by the delegator.
- (6) A person performing a function that has been delegated to the person under, or as authorised under, this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (7) Nothing in this section limits the ability of the CEO or the Chief Health Officer to act through an officer or agent.

9. Sections 27 to 34 deleted

Delete sections 27 to 34.

10. Section 39 amended

In section 39(1) and (2) delete “Executive Director, Personal Health, Executive Director, Public Health” (each occurrence) and insert:

Chief Health Officer

Division 4 — Part IV amended

11. Part IV Division 6 deleted

Delete Part IV Division 6.

Division 5 — Part VI amended

12. Section 173 amended

- (1) In section 173 delete the definition of *relevant certifying officer*.
- (2) In section 173:
- (a) in the definition of *authorised person* delete paragraph (a) and insert:
 - (a) an authorised officer; or

- (b) in the definition of *public building* delete “hospital;” and insert:

hospital.

13. Section 179 amended

- (1) In section 179(6) delete “the relevant certifying officer to which is attached a copy of a direction given under subsection (2) or subsection (3)(c) or (d)” and insert:

the authorised person who gave a direction under subsection (2) or (3)(c) or (d), to which is attached a copy of the direction,

- (2) After section 179(6) insert:

- (7) Any statement made under subsection (6) before the *Public Health (Consequential Provisions) Act 2016* section 13 (*section 13*) comes into operation and that would have been sufficient evidence in accordance with subsection (6) (as that subsection existed immediately before section 13 comes into operation) continues to be sufficient evidence in accordance with subsection (6) as if it had been made by the authorised person who gave the direction to which the statement relates.

Division 6 — Part VIIA amended

Subdivision 1 — Part VIIA Division 1 amended

14. Section 202 amended

(1) Delete section 202(2)(a) and insert:

(a) one shall be the Chief Health Officer or a medical practitioner nominated by the Chief Health Officer; and

(2) In section 202(3) delete “Executive Director, Public Health, or the medical officer” and insert:

Chief Health Officer, or the medical practitioner

15. Section 203 amended

In section 203(1):

(a) delete “Executive Director, Public Health,” (1st occurrence) and insert:

Chief Health Officer

(b) delete paragraph (b)(i) and insert:

(i) who is appointed as an analyst under the *Health Legislation Administration Act 1984* section 6; or

- (c) in paragraph (b)(ii) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

Subdivision 2 — Part VIIA Divisions 5, 6 and 7 amended

16. Section 225 amended

In section 225(2):

- (a) delete “A medical officer” and insert:

A medical practitioner

- (b) delete “a medical officer” and insert:

an authorised officer

17. Section 226 amended

(1) In section 226(1):

- (a) delete “Executive Director, Public Health, may, at his” and insert:

Chief Health Officer may, at the Chief Health Officer’s

- (b) delete “Executive Director, Public Health,” (2nd occurrence) and insert:

Chief Health Officer

- (2) In section 226(2) and (3) delete “Executive Director, Public Health,” (each occurrence) and insert:

Chief Health Officer

Note: The heading to amended section 226 is to read:

**Chief Health Officer may examine and report on
advertised drugs and appliances**

18. Section 227 amended

In section 227(1):

- (a) delete “A medical officer of health, environmental health” and insert:

An authorised

- (b) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

19. Section 228 amended

In section 228(1):

- (a) delete “medical officer of health, or environmental health” and insert:

authorised

- (b) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

- (c) delete “him” and insert:

the competent officer

Note: The heading to amended section 228 is to read:

Power of authorised officers in relation to drugs

20. Section 234 amended

- (1) In section 234(1):

- (a) delete “medical officer of health, environmental health” and insert:

authorised

- (b) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

- (2) In section 234(3):

- (a) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

- (b) delete “he” and insert:

the Chief Health Officer

21. Section 235 amended

In section 235(1), (2), (3), (4) and (5) delete “Executive Director, Public Health,” (each occurrence) and insert:

Chief Health Officer

Note: The heading to amended section 235 is to read:
Drugs may be declared dangerous by Chief Health Officer

22. Section 237 amended

In section 237(1) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

23. Section 238 amended

In section 238(4) and (6) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

24. Section 242 amended

In section 242(1) and (2) delete “Executive Director, Public Health,” (each occurrence) and insert:

Chief Health Officer

25. Section 243 amended

In section 243:

- (a) delete “Executive Director, Public Health,” (1st, 2nd, 3rd and 4th occurrences) and insert:

Chief Health Officer

- (b) delete “Executive Director, Public Health —” and insert:

Chief Health Officer —

26. Section 244 amended

In section 244 delete “Executive Director, Public Health,” and insert:

Chief Health Officer

Note: The heading to amended section 244 is to read:

Review of decision of Chief Health Officer

Subdivision 3 — Part VIIA Division 8 amended

27. Section 246B amended

Delete section 246B(2)(a) and insert:

- (a) one shall be the Chief Health Officer or a medical practitioner nominated by the Chief Health Officer; and

28. Section 246BA amended

In section 246BA(a) delete “Executive Director, Public Health,” (each occurrence) and insert:

Chief Health Officer

29. Section 246C amended

In section 246C(1)(c), (d), (j), (k), (l), (m), (p) and (q) and (2) delete “Executive Director, Public Health,” (each occurrence) and insert:

Chief Health Officer

Subdivision 4 — Part VIIA Division 9 amended

30. Section 246D amended

In section 246D(1):

- (a) in paragraph (k) delete “environmental health officer or public health official” and insert:

authorised officer

- (b) in paragraph (m) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

- (c) in paragraph (o) delete “environmental health” and insert:

authorised

Division 7 — Part VIIIA amended

31. Section 247AA inserted

At the beginning of Part VIIIA insert:

247AA. Terms used

In this Division —

Analytical Committee means the Local Health Authorities Analytical Committee established by section 247A(1);

member means a member of the Analytical Committee;

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4;

scheme means a scheme for the provision of analytical services for use by local governments, operated by the Analytical Committee under this Division;

WALGA has the meaning given in the *Local Government Act 1995* section 1.4.

32. Section 247A amended

Delete section 247A(3) to (7) and insert:

- (3) The Analytical Committee is to consist of 10 members appointed by the Minister, made up as follows —
 - (a) 7 members, who are to be persons nominated by WALGA to represent local government districts that are in the metropolitan area;

- (b) 3 members, who are to be persons nominated by WALGA to represent local government districts that are not in the metropolitan area.
- (4) The Minister is to appoint one of the members of the Analytical Committee to be the Chairperson.

33. Section 247BA inserted

After section 247A insert:

247BA. Term of office and vacation of office

- (1) The members hold office for a term of 3 years.
- (2) A member ceases to hold office —
 - (a) at the expiry of the term for which he or she is appointed, unless he or she —
 - (i) continues to hold office under subsection (4); or
 - (ii) is reappointed;
 - or
 - (b) if he or she resigns by written notice given to the Minister; or
 - (c) if he or she dies; or
 - (d) if his or her nomination as a member is withdrawn by written notice given to the Minister by WALGA; or
 - (e) if he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
 - (f) if the member's appointment is terminated under subsection (3).

- (3) The Minister may, by written notice given to a member, terminate the appointment of the member —
- (a) if, in the Minister's opinion, the member is unable to perform the functions of office because of —
 - (i) illness; or
 - (ii) mental or physical incapacity impairing the performance of his or her duties; or
 - (iii) absence from the State;
 - or
 - (b) if, in the Minister's opinion, the member misbehaves, neglects his or her duties or is incompetent; or
 - (c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Analytical Committee of which the member had notice; or
 - (d) for any other act or omission, or any circumstance arising, that, in the Minister's opinion, may adversely affect the functioning of the Analytical Committee.
- (4) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.
- (5) However, a member cannot continue in office under subsection (4) for longer than 3 months.

34. Section 247B amended

Delete section 247B(2) and insert:

- (2) At any meeting of the Analytical Committee —
- (a) 6 members constitute a quorum; and
 - (b) the Chairperson is to preside if he or she is present, but in his or her absence —
 - (i) the members present are to elect one of their number to preside at the meeting; and
 - (ii) that member, while presiding, has all the powers and duties of the Chairperson;
- and
- (c) each member present (including the member presiding) has a deliberative vote; and
 - (d) a question arising is to be decided by a majority of the votes of the members present, but if the votes are equal the member presiding has a casting vote.
- (3A) A resolution in writing to which at least 6 members of the Analytical Committee have each indicated their agreement by signing it or assenting to it by letter, fax, email or other written means has the same effect as if it had been passed at a meeting of the Analytical Committee.
- (3B) A meeting of the Analytical Committee may be held —
- (a) by a quorum of the members assembled together at the time and place appointed for the meeting; or

- (b) by telephone or audio visual or other electronic means, as long as —
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

35. Section 247D amended

- (1) In section 247D(1) delete “the scheme for the time being operated by the Analytical Committee under this Part,” and insert:

a scheme,

- (2) Delete section 247D(2) and insert:

- (2) If the Chief Health Officer considers that a local government that is not a participant in a scheme ought to be a participant —
 - (a) the Chief Health Officer may, by written notice served on the local government, direct it to participate in the scheme; and
 - (b) on the service of the direction, the local government is a participant in the scheme for the purposes of this Division and, in particular, for the purposes of subsection (4).

- (3) In section 247D(3) delete “the scheme” and insert:

a scheme

- (4) In section 247D(4) delete “operated by the Analytical Committee under this Part”.

Division 8 — Part XIII amended

36. Section 335 amended

- (1) In section 335(1) delete “her,” and insert:

the midwife,

- (2) In section 335(5)(a) delete “he” and insert:

the medical practitioner

- (3) In section 335(6)(c):

- (a) delete “Executive Director, Public Health” and insert:

Chief Health Officer

- (b) delete “he” and insert:

the Chief Health Officer

37. Section 336 amended

- (1) Delete section 336(2) and insert:
 - (2) On receiving the report, the Chief Health Officer must, by notice in writing signed by the Chief Health Officer —
 - (a) direct the investigator appointed under Part XIII A to inquire into the circumstances of the death; and
 - (b) require the investigator to present to the Chairperson of the Maternal Mortality Committee appointed under that Part, within a time specified in the notice, a full report of the investigation made by the investigator.
- (2) In section 336(3) delete “Chairman” and insert:

Chairperson

- (3) In section 336(4):
 - (a) delete “him” and insert:

the investigator
 - (b) delete “Chairman” (each occurrence) and insert:

Chairperson

38. Section 336A amended

- (1) Delete section 336A(2) and insert:
- (2) On receiving the report, the Chief Health Officer must, by notice in writing signed by the Chief Health Officer —
- (a) direct an investigator appointed under Part XIII B to enquire into the circumstances of that stillbirth or death; and
 - (b) require the investigator to present to the Chairperson of the Perinatal and Infant Mortality Committee appointed under that Part, within a time specified in the notice, a full report of the investigation made by the investigator.
- (3A) Subsection (2) does not apply if the Chief Health Officer is satisfied that the cause of death arose from —
- (a) a specific injury; or
 - (b) an illness that the Committee has directed does not require further investigation.
- (2) In section 336A(3) delete “Chairman” and insert:
- Chairperson
- (3) In section 336A(4):
- (a) delete “him” and insert:

the investigator

- (b) delete “Chairman” (each occurrence) and insert:

Chairperson

39. Section 336B amended

- (1) In section 336B(2) delete “Executive Director, Public Health that he” and insert:

Chief Health Officer that the medical practitioner

- (2) Delete section 336B(3) and insert:

- (3) On receiving a report made under subsection (1) or (2), the Chief Health Officer must, by notice in writing signed by the Chief Health Officer —

(a) direct an investigator appointed under Part XIIC to enquire into the circumstances of the death; and

(b) require the investigator —

- (i) if in the opinion of the investigator the death is likely to have been due to anaesthesia, to carry out the investigation and present to the Chairperson of the Anaesthetic Mortality Committee appointed under that Part, within a time specified in the notice, a full report of the investigation made by the investigator; or
- (ii) if in the opinion of the investigator the death was not likely to have been due to anaesthesia, to report the investigator’s finding to the Chief Health Officer.

- (3) In section 336B(5) delete “Chairman” and insert:

Chairperson

- (4) In section 336B(6):

- (a) delete “him” and insert:

the investigator

- (b) delete “Chairman” (each occurrence) and insert:

Chairperson

40. Sections 338 to 338C deleted

Delete sections 338 to 338C.

Division 9 — Parts XIII A to XIII C amended

Subdivision 1 — Part XIII A amended

41. Section 340A amended

- (1) In section 340A delete the definition of *metropolitan area* and insert:

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4.

- (2) In section 340A in the definition of *member* delete “Chairman” and insert:

Chairperson

42. Section 340B amended

Delete section 340B(2) to (4) and insert:

- (2) The Committee is to consist of 9 members appointed by the Minister, made up as follows —
- (a) one is to be the Professor of Obstetrics at the University of Western Australia, who is to be Chairperson of the Committee;
 - (b) one is to be a medical practitioner specialising in obstetrics, nominated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (W.A. Branch);
 - (c) 5 are to be medical practitioners, of whom —
 - (i) 2 are to be general medical practitioners practising in the metropolitan area, nominated by the Australian Medical Association (WA) Incorporated; and
 - (ii) 2 are to be general medical practitioners having not less than 5 years’ practice outside the metropolitan area, nominated by the Australian Medical Association (WA) Incorporated; and
 - (iii) one is to be nominated by the Chief Health Officer;
 - (d) 2 are to be midwives, nominated by the Chief Health Officer.

43. Section 340C amended

- (1) In section 340C(1) delete “Chairman” and insert:

Chairperson

- (2) In section 340C(2):

- (a) delete “Chairman)” and insert:

Chairperson)

- (b) after “he” (each occurrence) insert:

or she

44. Section 340D amended

- (1) Delete section 340D(1) and insert:

- (1) The bodies mentioned in section 340B(2)(b) and (c)(i) and (ii) must nominate to the Minister, when the Minister so requests, or when a vacancy occurs in accordance with section 340F, one or more appropriately qualified persons to become members of the Committee.

- (2) In section 340D(2):

- (a) delete “section 340B(3) or (4)” and insert:

section 340B(2)(b) or (c)(i) or (ii)

- (b) delete “permanent or provisional”;
- (c) delete “he” and insert:

the Minister

- (3) In section 340D(3) delete “he” (each occurrence) and insert:

the Minister

45. Section 340E amended

- (1) In section 340E(1):
 - (a) delete “permanent or provisional”;
 - (b) delete “Chairman)” and insert:

Chairperson)

- (2) Delete section 340E(2) and (3) and insert:

- (2) The term of tenure of office of the member referred to in section 340B(2)(a) continues until terminated by the Minister.

46. Section 340F replaced

Delete section 340F and insert:

340F. When office of member becomes vacant

- (1) The office of a member of the Committee becomes vacant if —

- (a) he or she dies; or
 - (b) he or she resigns by written notice given to the Minister; or
 - (c) his or her term of office expires by effluxion of time, unless he or she —
 - (i) continues to hold office under subsection (3); or
 - (ii) is reappointed;or
 - (d) the member's appointment is terminated under subsection (2); or
 - (e) in the case of the member referred to in section 340B(2)(a), the Minister terminates the term of tenure of his or her office; or
 - (f) he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.
- (2) The Minister may, by written notice given to a member, terminate the appointment of the member —
- (a) if, in the opinion of the Minister, the member is unable to perform the functions of office because of —
 - (i) illness; or
 - (ii) mental or physical incapacity impairing the performance of his or her duties; or
 - (iii) absence from the State;or
 - (b) if, in the opinion of the Minister, the member misbehaves, neglects his or her duties or is incompetent; or
 - (c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive

meetings of the Committee of which the member had notice.

- (3) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.
- (4) However, a member cannot continue in office under subsection (3) for longer than 3 months.

47. Section 340G amended

- (1) Delete section 340G(1) and (2) and insert:

- (1) When a vacancy occurs in the office of a member of the Committee, the Minister is to appoint a person to fill the vacancy.
- (2) If, under section 340B(2), a specified body has the right to nominate that member, the Minister is not to appoint a person unless he or she is nominated by the appropriate body mentioned in that section, or unless section 340D(3) applies to the office.

- (2) In section 340G(3) after “he” insert:

or she

48. Section 340H replaced

Delete section 340H and insert:

340H. Meetings and procedure of Committee

- (1) The Committee is to hold the meetings that are necessary for the performance of its functions.
- (2) At any meeting of the Committee, 5 members of the Committee or their respective deputies, including the Chairperson or his or her deputy, constitute a quorum.
- (3) A meeting of the Committee may be held —
 - (a) by a quorum of the members assembled together at the time and place appointed for the meeting; or
 - (b) by telephone or audio-visual or other electronic means, as long as —
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (4) Subject to this section, the Committee may regulate its own procedure in whatever manner it thinks fit.
- (5) Nothing done by the Committee is invalid or defective on the ground only that, when done, there was —
 - (a) a vacancy in the office of any member; or
 - (b) a defect in the appointment of any member or any deputy of a member.

49. Section 340I amended

In section 340I delete “Chairman” and insert:

Chairperson

50. Section 340K replaced

Delete section 340K and insert:

340K. Functions of Committee

- (1) Whenever an investigator presents to the Chairperson of the Committee a report under section 336, the Chairperson —
 - (a) must consider the report; and
 - (b) having regard to the circumstances disclosed by the report and the nature of the medical case history of the deceased woman, may notify the Chief Health Officer of the receipt of the report.
- (2) On receiving a notification under subsection (1), the Chief Health Officer must convene a meeting of the Committee to be held within whatever period after the receipt by the Chief Health Officer of the notification the Chairperson of the Committee considers appropriate.
- (3) The Committee must consider the report of the investigator, and for the purpose of assisting it in its consideration may co-opt any medical practitioners, nurses, midwives or other persons with specialised knowledge the Committee thinks necessary.
- (4) On its consideration of the report, the Committee must determine whether in the opinion of the Committee the

death the subject of the report might have been avoided, and may add to its determination any constructive comments the Committee considers advisable for the future assistance and guidance of medical practitioners, nurses and midwives.

- (5) The determination of the Committee, including the comments referred to in subsection (4) —
- (a) must be notified in writing by the Chairperson to —
 - (i) the medical practitioner (if any) who was attending the woman at the time of the occurrence of her death; and
 - (ii) the nurse or midwife (if any) who was attending the woman at that time;
- and
- (b) may be notified in writing by the Chairperson to any other medical practitioner, nurse or midwife who attended the woman before the occurrence of her death if the Committee considers that that medical practitioner, nurse or midwife should be informed of that determination and those comments.

340LA. Further provisions relating to proceedings of Committee

- (1) As soon as practicable after the Committee has made a determination under section 340K, the Chairperson must forward to the Chief Health Officer all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination.
- (2) The Chief Health Officer is to have the care and control of those records, reports, statements,

memoranda and other documents, and is to keep them, or cause them to be kept, in safe custody.

- (3) Except as provided by this Part and with the Chief Health Officer's permission in writing, the Chief Health Officer must not permit any of those records, reports, statements, memoranda or other documents to be inspected.
- (4) The Chairperson must forward to the Chief Health Officer a summary of the cases investigated by the investigator and considered by the Committee during each year.

340LB. Contents of notification confidential

- (1) The contents of a notification made under section 340K(5) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatever.
- (2) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under section 340K(5) to any person except for the purposes of, and in accordance with, this Part commits an offence.

51. Section 340L amended

- (1) In section 340L(1) delete "the Medical School of The University of Western Australia for use in the teaching of medical" and insert:

any educational institution for use in the teaching of

- (2) In section 340L(2) delete "medical students, nurses and trainee nurses" and insert:

nurses, midwives and students of any educational institution

52. Section 340M amended

- (1) In section 340M(1) after “him” insert:

or her

- (2) In section 340M(2):

- (a) after “his” insert:

or her

- (b) delete “practitioner” and insert:

practitioner, nurse or midwife

53. Section 340N deleted

Delete section 340N.

Subdivision 2 — Part XIII B amended

54. Section 340AA amended

- (1) In section 340AA delete the definition of *metropolitan area* and insert:

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4.

- (2) In section 340AA in the definition of *member* delete “Chairman” and insert:

Chairperson

55. Section 340AB amended

Delete section 340AB(2) to (5) and insert:

- (2) The Committee is to consist of 13 members appointed by the Minister.
- (3) Of the persons appointed as members of the Committee —
- (a) one is to be the Professor of Obstetrics at the University of Western Australia; and
 - (b) one is to be a medical practitioner specialising in obstetrics, nominated by the Chief Health Officer; and
 - (c) 2 are to be medical practitioners nominated by the chief executive of the health service provider for King Edward Memorial Hospital under the *Health Services Act 2016*, of whom —
 - (i) one is to be a medical practitioner specialising in neonatal paediatrics at that hospital; and
 - (ii) one is to be a medical practitioner specialising in obstetrics at that hospital;
- and
- (d) one is to be a medical practitioner specialising in neonatal paediatrics at Princess Margaret Hospital for Children, nominated by the chief executive of the health service provider for that

hospital under the *Health Services Act 2016*;
and

- (e) one is to be a medical practitioner specialising in obstetrics and perinatal care, nominated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (W.A. Branch); and
- (f) 3 are to be general medical practitioners (one of whom practises outside the metropolitan area), of whom —
 - (i) one is to be nominated by the Australian Medical Association (WA) Incorporated; and
 - (ii) one is to be nominated by the Royal Australian College of General Practitioners; and
 - (iii) one is to be nominated by the Chief Health Officer;and
- (g) one is to be a medical practitioner specialising in clinical epidemiology, nominated by the Chief Health Officer; and
- (h) one is to be a medical practitioner specialising in perinatal pathology, nominated by the Chief Health Officer; and
- (i) one is to be a midwife in clinical practice, nominated by the Chief Health Officer; and
- (j) one is to be a nurse specialising in neonatal paediatrics, nominated by the Chief Health Officer.

- (4) The Chairperson of the Committee is to be appointed by the Minister from among the members of the Committee.

56. Section 340AC amended

- (1) In section 340AC(1) delete “Chairman” and insert:

Chairperson

- (2) In section 340AC(2) after “he” (each occurrence) insert:

or she

57. Section 340AD amended

- (1) Delete section 340AD(1) and insert:

(1) The bodies mentioned in section 340AB(3) must nominate to the Minister, when he or she so requests, or when a vacancy occurs in accordance with section 340AF, one or more appropriately qualified persons to become members of the Committee.

- (2) In section 340AD(2):

- (a) delete “section 340AB(3) or (4)” and insert:

section 340AB(3)

- (b) delete “permanent or provisional”;

- (c) delete “he” and insert:

the Minister

- (3) In section 340AD(3) delete “he” (each occurrence) and insert:

the Minister

58. Section 340AE amended

- (1) In section 340AE(1) delete “permanent or provisional”.
- (2) Delete section 340AE(2) and insert:
 - (2) The Chairperson holds that office at the pleasure of the Minister.

59. Section 340AF replaced

Delete section 340AF and insert:

340AF. When office of member becomes vacant

- (1) The office of a member of the Committee becomes vacant if —
 - (a) he or she dies; or
 - (b) he or she resigns by written notice given to the Minister; or
 - (c) his or her term of office expires by effluxion of time, unless he or she —
 - (i) continues to hold office under subsection (3); or
 - (ii) is reappointed;or
 - (d) the member’s appointment is terminated under subsection (2); or

- (e) in the case of the Chairperson, the Minister terminates the term of tenure of his or her office; or
 - (f) he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.
- (2) The Minister may, by written notice given to a member, terminate the appointment of the member —
- (a) if, in the opinion of the Minister, the member is unable to perform the functions of office because of —
 - (i) illness; or
 - (ii) mental or physical incapacity impairing the performance of his or her duties; or
 - (iii) absence from the State;or
 - (b) if, in the opinion of the Minister, the member misbehaves, neglects his or her duties or is incompetent; or
 - (c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Committee of which the member had notice.
- (3) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.

- (4) However, a member cannot continue in office under subsection (3) for longer than 3 months.

60. Section 340AG amended

- (1) Delete section 340AG(1) and (2) and insert:

- (1) When a vacancy occurs in the office of a member of the Committee, the Minister is to appoint a person to fill the vacancy.
- (2) If, under section 340AB(3), a specified body has the right to nominate that member, the Minister is not to appoint a person unless he or she is nominated by the appropriate body mentioned in that section, or unless section 340AD(3) applies to the office.

- (2) In section 340AG(3) after “he” insert:

or she

61. Section 340AH replaced

Delete section 340AH and insert:

340AH. Meetings and procedure of Committee

- (1) The Committee is to hold the meetings that are necessary for the performance of its functions.
- (2) At any meeting of the Committee, 6 members of the Committee or their respective deputies, of whom one is to be the Chairperson or his or her deputy, constitute a quorum.

- (3) A meeting of the Committee may be held —
- (a) by a quorum of the members assembled together at the time and place appointed for the meeting; or
 - (b) by telephone or audio-visual or other electronic means, as long as —
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (4) Subject to this section, the Committee may regulate its own procedure in whatever manner it thinks fit.
- (5) Nothing done by the Committee is invalid or defective on the ground only that, when done, there was —
- (a) a vacancy in the office of any member; or
 - (b) a defect in the appointment of any member or any deputy of a member.

62. Section 340AI amended

In section 340AI delete “Chairman” and insert:

Chairperson

63. Section 340AJ amended

- (1) Delete section 340AJ(2) and insert:
 - (2) The following provisions apply to the appointment of investigators under subsection (1) —
 - (a) if one investigator is appointed, he or she must be a specialist in obstetrics or neonatal paediatrics;
 - (b) if 2 investigators are appointed, both of them must be specialists in obstetrics or neonatal paediatrics;
 - (c) if 3 or 4 investigators are appointed, 2 of them must be specialists in obstetrics or neonatal paediatrics.
- (2) In section 340AJ(3) after “his” insert:

or her

64. Section 340AK replaced

Delete section 340AK and insert:

340AK. Functions of Committee

- (1) Whenever an investigator presents to the Chairperson of the Committee a report under section 336A, the Chairperson —
 - (a) must consider the report; and
 - (b) having regard to the circumstances disclosed by the report and the nature of the medical case history of the stillborn or deceased child, may

notify the Chief Health Officer of the receipt of the report.

- (2) On receiving a notification under subsection (1), the Chief Health Officer must convene a meeting of the Committee to be held within whatever period after the receipt by the Chief Health Officer of the notification the Chairperson of the Committee considers appropriate.
- (3) The Committee must consider the report of the investigator, and for the purpose of assisting it in its consideration may co-opt any medical practitioners, nurses, midwives or other persons with specialised knowledge the Committee thinks necessary.
- (4) On its consideration of the report, the Committee must determine whether in the opinion of the Committee the stillbirth or death the subject of the report might have been avoided, and may add to its determination any constructive comments the Committee considers advisable for the future assistance and guidance of medical practitioners, nurses and midwives.
- (5) The determination of the Committee, including the comments referred to in subsection (4) —
 - (a) must be notified in writing by the Chairperson to —
 - (i) the medical practitioner (if any) who was attending the child concerned at the time of the occurrence of the stillbirth or death investigated under section 336A; and
 - (ii) the nurse or midwife (if any) who was attending the child concerned at that time;and

- (b) may be notified in writing by the Chairperson to any other medical practitioner, nurse or midwife who attended the child concerned or his or her mother or both before the occurrence of the stillbirth or death if the Committee considers that that medical practitioner, nurse or midwife should be informed of that determination and those comments.

340ALA. Further provisions relating to proceedings of Committee

- (1) As soon as practicable after the Committee has made a determination under section 340AK, the Chairperson must forward to the Chief Health Officer all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination.
- (2) The Chief Health Officer is to have the care and control of those records, reports, statements, memoranda and other documents, and is to keep them, or cause them to be kept, in safe custody.
- (3) Except as provided by this Part and with the Chief Health Officer's permission in writing, the Chief Health Officer must not permit any of those records, reports, statements, memoranda or other documents to be inspected.
- (4) The Chairperson must forward to the Chief Health Officer a summary of the cases investigated by the investigators and considered by the Committee during each year.

340ALB. Contents of notification confidential

- (1) The contents of a notification made under section 340AK(5) are not admissible in any court or

before any tribunal, board or person in any action, cause or inquiry of any kind whatever.

- (2) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under section 340AK(5) to any person except for the purposes of, and in accordance with, this Part commits an offence.

65. Section 340AL amended

- (1) In section 340AL(1) delete “the Medical School of The University of Western Australia for use in the teaching of medical” and insert:

any educational institution for use in the teaching of

- (2) In section 340AL(1a) delete “Executive Director, Public Health,” and insert:

Chief Health Officer

- (3) In section 340AL(1b):

- (a) delete “Executive Director, Public Health, may, if he” and insert:

Chief Health Officer may, if he or she

- (b) after “him” insert:

or her

(c) after “his” insert:

or her

(4) In section 340AL(1c) after “him” insert:

or her

(5) In section 340AL(2) delete “medical students, nurses and trainee nurses” and insert:

nurses, midwives and students of any educational institution

66. Section 340AM amended

(1) In section 340AM(1) after “him” insert:

or her

(2) In section 340AM(2):

(a) after “his” insert:

or her

(b) delete “practitioner” and insert:

practitioner, nurse or midwife

67. Section 340AN deleted

Delete section 340AN.

Subdivision 3 — Part XIII C amended

68. Section 340BA amended

- (1) In section 340BA delete the definition of *metropolitan area* and insert:

metropolitan area has the meaning given in the *Local Government Act 1995* section 1.4.

- (2) In section 340BA in the definition of *member* delete “Chairman” and insert:

Chairperson

69. Section 340BB amended

Delete section 340BB(2) to (4) and insert:

- (2) The Committee is to consist of 12 members appointed by the Minister.
- (3) Of the persons appointed as members of the Committee —
- (a) one is to be nominated by the State Branch of the Australian and New Zealand College of Anaesthetists, and that person is the Chairperson of the Committee; and
 - (b) one is to be the Professor of Anaesthesia at the University of Western Australia; and

- (c) one is to be a medical practitioner specialising in anaesthetics, nominated by the State Branch of the Australian and New Zealand College of Anaesthetists; and
- (d) one is to be a medical practitioner specialising in anaesthetics, nominated by the Australian Medical Association (WA) Incorporated; and
- (e) one is to be a medical practitioner specialising in obstetrics and gynaecology, nominated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (W.A. Branch); and
- (f) 2 are to be general medical practitioners with at least 5 years' experience and special interest in anaesthesia, nominated by the State Branch of the Royal Australian College of General Practitioners, of whom one practices within the metropolitan area and one outside that area; and
- (g) one is to be a medical practitioner specialising in surgery, nominated by the State Branch of the Royal Australasian College of Surgeons; and
- (h) one is to be a medical practitioner, nominated by the Chief Health Officer; and
- (i) one is to be a midwife having not less than 5 years' experience in, and currently practising, midwifery, nominated by the Chief Health Officer; and
- (j) one is to be a dental practitioner, nominated by the State Branch of the Australian Dental Association; and
- (k) one is to be the Professor of Clinical Pharmacology at the University of Western Australia.

70. Section 340BC amended

- (1) In section 340BC(1) delete “Chairman” and insert:

Chairperson

- (2) In section 340BC(2) after “he” (each occurrence) insert:

or she

71. Section 340BD amended

- (1) Delete section 340BD(1) and insert:

- (1) The bodies mentioned in section 340BB(3) must nominate to the Minister, when he or she so requests, or when a vacancy occurs in accordance with section 340BF, one or more appropriately qualified persons to become members of the Committee.

- (2) In section 340BD(2):

- (a) delete “section 340BB(3) or (4)” and insert:

section 340BB(3)

- (b) delete “permanent or provisional”;

- (c) after “he” insert:

or she

- (3) In section 340BD(3) after “he” (each occurrence) insert:

or she

72. Section 340BE amended

- (1) In section 340BE(1):

- (a) delete “permanent or provisional”;
- (b) delete “Chairman” (each occurrence) and insert:

Chairperson

- (2) Delete section 340BE(2).

73. Section 340BF replaced

Delete section 340BF and insert:

340BF. When office of member becomes vacant

- (1) The office of a member of the Committee becomes vacant if —
- (a) he or she dies; or
 - (b) he or she resigns by written notice given to the Minister; or
 - (c) his or her term of office expires by effluxion of time, unless he or she —
 - (i) continues to hold office under subsection (3); or
 - (ii) is reappointed;

or

- (d) the member's appointment is terminated under subsection (2); or
 - (e) in the case of the member referred to in section 340BB(3)(a), the Minister terminates the term of tenure of his or her office; or
 - (f) he or she is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws.
- (2) The Minister may, by written notice given to a member, terminate the appointment of the member —
- (a) if, in the opinion of the Minister, the member is unable to perform the functions of office because of —
 - (i) illness; or
 - (ii) mental or physical incapacity impairing the performance of his or her duties; or
 - (iii) absence from the State;or
 - (b) if, in the opinion of the Minister, the member misbehaves, neglects his or her duties or is incompetent; or
 - (c) if the member is absent, without leave and without reasonable excuse, from 3 consecutive meetings of the Committee of which the member had notice.
- (3) Even though the term for which a member was appointed has expired, the member continues in office until he or she is reappointed or his or her successor comes into office, unless he or she resigns or is removed from office.
- (4) However, a member cannot continue in office under subsection (3) for longer than 3 months.

74. Section 340BG amended

(1) Delete section 340BG(1) and (2) and insert:

- (1) When a vacancy occurs in the office of a member of the Committee, the Minister is to appoint a person to fill the vacancy.
- (2) If, under section 340BB(3), a specified body has the right to nominate that member, the Minister is not to appoint a person unless he or she is nominated by the appropriate body mentioned in that section, or unless section 340BD(3) applies to the office.

(2) In section 340BG(3) after “he” insert:

or she

75. Section 340BH replaced

Delete section 340BH and insert:

340BH. Meetings and procedure of Committee

- (1) The Committee is to hold the meetings that are necessary for the performance of its functions.
- (2) At any meeting of the Committee, 6 members of the Committee or their respective deputies, of whom one is to be the Chairperson or his or her deputy, constitute a quorum.
- (3) A meeting of the Committee may be held —

- (a) by a quorum of the members assembled together at the time and place appointed for the meeting; or
 - (b) by telephone or audio-visual or other electronic means, as long as —
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (4) Subject to this section, the Committee may regulate its own procedure in whatever manner it thinks fit.
- (5) Nothing done by the Committee is invalid or defective on the ground only that, when done, there was —
- (a) a vacancy in the office of any member; or
 - (b) a defect in the appointment of any member or any deputy of a member.

76. Section 340BI amended

In section 340BI delete “Chairman” and insert:

Chairperson

77. Section 340BJ amended

In section 340BJ(3) after “his” insert:

or her

78. Section 340BK replaced

Delete section 340BK and insert:

340BK. Functions of Committee

- (1) Whenever an investigator presents to the Chairperson of the Committee a report under section 336B, the Chairperson —
 - (a) must consider the report; and
 - (b) having regard to the circumstances disclosed by the report and the nature of the medical case history of the deceased, may notify the Chief Health Officer of the receipt of the report.
- (2) On receiving a notification under subsection (1), the Chief Health Officer must convene a meeting of the Committee to be held within whatever period after the receipt by the Chief Health Officer of the notification the Chairperson of the Committee considers appropriate.
- (3) The Committee must consider the report of the investigator, and for the purpose of assisting it in its consideration may co-opt any medical practitioners, dental practitioners, nurses, midwives or other persons with specialised knowledge the Committee thinks necessary.
- (4) On its consideration of the report, the Committee must determine whether in the opinion of the Committee the death the subject of the report might have been avoided, and may add to its determination any constructive comments the Committee considers advisable for the future assistance and guidance of medical practitioners, dental practitioners, nurses and midwives.

- (5) The determination of the Committee, including the comments referred to in subsection (4) —
- (a) must be notified in writing by the Chairperson to —
 - (i) the medical practitioner or dental practitioner, or each medical practitioner or dental practitioner, (if any) who was attending the deceased at the time of the occurrence of the death; and
 - (ii) the nurse or midwife (if any) who was attending the deceased at that time;
- and
- (b) may be notified in writing by the Chairperson to any other medical practitioner, dental practitioner, nurse or midwife who attended the deceased before the occurrence of the death if the Committee considers that that medical practitioner, dental practitioner, nurse or midwife should be informed of that determination and those comments.

340BLA. Further provisions relating to proceedings of Committee

- (1) As soon as practicable after the Committee has made a determination under section 340BK, the Chairperson must forward to the Chief Health Officer all records, reports, statements, memoranda and other documents submitted to and considered by the Committee in making that determination.
- (2) The Chief Health Officer is to have the care and control of those records, reports, statements, memoranda and other documents, and is to keep them, or cause them to be kept, in safe custody.

- (3) Except as provided by this Part and with the Chief Health Officer's permission in writing, the Chief Health Officer must not permit any of those records, reports, statements, memoranda or other documents to be inspected.
- (4) The Chairperson must forward to the Chief Health Officer a summary of the cases investigated by the investigator and considered by the Committee during each year.

340BLB. Contents of notification confidential

- (1) The contents of a notification made under section 340BK(5) are not admissible in any court or before any tribunal, board or person in any action, cause or inquiry of any kind whatever.
- (2) A person who exhibits, communicates or divulges in whole or in part the contents of a notification made under section 340BK(5) to any person except for the purposes of, and in accordance with, this Part commits an offence.

79. Section 340BL amended

- (1) In section 340BL(1) delete "the Medical School or the School of Dental Science of The University of Western Australia for use in the teaching of medical or dental" and insert:

any educational institution for use in the teaching of

- (2) In section 340BL(2) delete “medical students, dental practitioners, dental students, nurses, trainee nurses and others” and insert:

dental practitioners, nurses, midwives and students of any educational institution

80. Section 340BM amended

- (1) In section 340BM(1) after “him” insert:

or her

- (2) In section 340BM(2):

- (a) after “his” insert:

or her

- (b) delete “practitioner or dental practitioner, or both,” and insert:

practitioner, dental practitioner, nurse or midwife, or any of them,

81. Section 340BN deleted

Delete section 340BN.

Division 10 — Parts XIV and XV and Schedules amended

82. Section 341 amended

In section 341(2):

- (a) after “The CEO” insert:

or the Chief Health Officer

- (b) delete “CEO.” and insert:

CEO or the Chief Health Officer.

83. Section 342 amended

- (1) In section 342(1):

- (a) in paragraph (a) delete “Executive Director, Public Health” and insert:

Chief Health Officer

- (b) in paragraph (b) delete “CEO or the Executive Director, Public Health” and insert:

Chief Health Officer

- (2) In section 342(2) delete “CEO or the Executive Director, Public Health.” and insert:

Chief Health Officer.

- (3) In section 342(4) delete “CEO or the Executive Director, Public Health” and insert:

Chief Health Officer

84. Section 344 amended

In section 344(1)(b) delete “Executive Director, Public Health” and insert:

Chief Health Officer

85. Section 344A amended

- (1) In section 344A(2) delete “The Executive Director, Public Health, the Executive Director, Personal Health, or the CEO” and insert:

The CEO or the Chief Health Officer

- (2) Delete section 344A(3) and insert:

- (3) If any standard, rule, code or other provision is adopted under subsection (1), the relevant local government (in the case of adoption by a local law) or the Chief Health Officer (in the case of adoption by any regulations) must ensure that a copy of the standard, rule, code or other provision (as amended, if applicable) is available for public inspection, without charge, during normal office hours at a place prescribed by regulation.

86. Section 344B amended

In section 344B:

- (a) delete “CEO of Health” (first occurrence) and insert:

CEO or the Chief Health Officer

- (b) delete “CEO of Health,” and insert:

CEO or the Chief Health Officer,

87. Section 349 amended

In section 349(1) delete “The CEO, the Executive Director, Personal Health, the Executive Director, Public Health and all public health officials, and the local government and its officers,” and insert:

Authorised officers

88. Section 351 amended

- (1) In section 351(1) delete “CEO, the Executive Director, Personal Health, the Executive Director, Public Health or any member of any local government,” and insert:

CEO, the Chief Health Officer, any authorised officer,

- (2) In section 351(2) and (5) delete “Executive Director, Personal Health, the Executive Director, Public Health” and insert:

Chief Health Officer, an authorised officer

89. Section 357 amended

In section 357 delete “Executive Director, Personal Health, the Executive Director, Public Health or the local government, as the case requires,” and insert:

Chief Health Officer or the local government

90. Section 360 amended

Delete section 360(2) to (5) and insert:

- (2) Local laws and regulations made under this Act may create offences with —
 - (a) a maximum penalty of not more than \$10 000; and
 - (b) if the offence is a continuing offence, a daily penalty of not more than \$1 000.
- (3) For the purposes of subsection (2) —
 - (a) local laws and regulations may provide for the imposition of a minimum penalty for an offence; and
 - (b) the level of the penalty for an offence (whether the maximum penalty or a minimum penalty) may be related to either or both of the following —
 - (i) the circumstances or extent of the offence;
 - (ii) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.

91. Section 362 amended

In section 362(2):

- (a) delete “Executive Director, Personal Health, Executive Director, Public Health” and insert:

the Chief Health Officer

- (b) delete “a public health official or”.

92. Section 365 amended

In section 365(1) delete “Executive Director, Personal Health, the Executive Director, Public Health” (each occurrence) and insert:

Chief Health Officer

93. Section 366 amended

(1) In section 366(1):

- (a) delete “No CEO, Executive Director, Personal Health, Executive Director, Public Health or public health official,” and insert:

No CEO or Chief Health Officer,

- (b) delete “he,” and insert:

he or she,

(2) In section 366(2):

- (a) delete “any such CEO, Executive Director, Personal Health, Executive Director, Public Health, official,

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 10 Parts XIV and XV and Schedules amended

s. 94

member, or person, is so concerned or interested, or if any such CEO, Executive Director, Personal Health, Executive Director, Public Health, official, member,” and insert:

the CEO, the Chief Health Officer or any member or person is concerned or interested in the circumstances referred to in subsection (1), or if the CEO, the Chief Health Officer or any member

(b) after “his” (each occurrence) insert:

or her

(c) after “he” insert:

or she

94. Section 376 amended

In section 376:

(a) delete “Executive Officer, Personal Health or the Executive Officer, Public Health” and insert:

Chief Health Officer

(b) delete “CEO,” and insert:

CEO or the Chief Health Officer,

95. Section 377 amended

- (1) In section 377(1) delete “Executive Director, Personal Health, the Executive Director, Public Health,” and insert:

Chief Health Officer,

- (2) In section 377(2) delete “Executive Director, Personal Health, the Executive Director, Public Health,” and insert:

Chief Health Officer

- (3) In section 377(4) delete “public health official” and insert:

authorised officer

96. Section 379 inserted

At the end of Part XV insert:

379. Transitional provisions for *Public Health (Consequential Provisions) Act 2016*

Schedule 6 sets out transitional provisions.

97. Schedule 5 amended

In Schedule 5 Part IV delete “340M(1) and (2), 340AK(5b), 340AM(1) and (2),” and insert:

340LB(2), 340M(1) and (2), 340ALB(2), 340AM(1) and (2), 340BLB(2),

98. Schedule 6 inserted

After Schedule 5 insert:

Schedule 6 — Transitional provisions for *Public Health (Consequential Provisions) Act 2016*

[s. 379]

1. References to *Health Act 1911* may be taken to be references to *Health (Miscellaneous Provisions) Act 1911*

- (1) A reference in a document (other than a written law) to the *Health Act 1911* may be taken to be a reference to the *Health (Miscellaneous Provisions) Act 1911* if it would be appropriate in the context to do so.
- (2) This clause does not prejudice or affect the application of the *Interpretation Act 1984* section 16(1).

2. Continuing effect of things done by Executive Director, Public Health and Executive Director, Personal Health

A thing done or omitted to be done by, to or in relation to the Executive Director, Public Health or the Executive Director, Personal Health before the day on which the *Public Health (Consequential Provisions) Act 2016* section 96 comes into operation (the **commencement day**), whether under this Act or any other written law, has the same effect on and from the commencement day, to the extent that it has any force or significance on or after the commencement day, as if it had been done or omitted by, to or in relation to the Chief Health Officer.

3. References to former titles

- (1) A reference in a written law or document to the Executive Director, Public Health or the Executive Director, Personal Health may, if the context permits, be taken to be a reference to the Chief Health Officer.

- (2) A reference in a written law or document to an environmental health officer, medical officer or public health official may, if the context permits, be taken to be a reference to an authorised officer.

4. Transitional provisions for Local Health Authorities Analytical Committee

Despite sections 247A(3) and 247BA(1), the members of the Local Health Authorities Analytical Committee who held office immediately before the day on which the *Public Health (Consequential Provisions) Act 2016* section 32 comes into operation (the *commencement day*) continue in office, under and subject to Part VIIIA, as members of that Committee —

- (a) in the case of the members appointed under section 247A(3)(a) (as that subsection was in force immediately before the commencement day) —

- (i) as if they had been appointed by the Minister on the nomination of WALGA; and
- (ii) each with a term of office of 3 years beginning on the commencement day;

and

- (b) in the case of the members appointed under section 247A(3)(b) or (c) (as that subsection was in force immediately before the commencement day) —

- (i) as if they had been appointed by the Minister on the nomination of WALGA; and
- (ii) each with a term of office beginning on the commencement day that is the balance of the member's term of office remaining immediately before the commencement day.

5. Transitional provisions for Maternal Mortality Committee, Perinatal and Infant Mortality Committee and Anaesthetic Mortality Committee

- (1) The persons who held office under Part XIII A as permanent or provisional members of the Maternal Mortality Committee, or as deputies of members of that Committee, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 42 —
 - (a) continue in office, under and subject to Part XIII A, as members or, as the case requires, deputies of members of that Committee until the expiry of their respective terms (if any); and
 - (b) in the case of those persons who held office as permanent or provisional members, continue in office without distinction as to whether they were appointed as permanent or provisional members.
- (2) The persons who held office under Part XIII B as permanent or provisional members of the Perinatal and Infant Mortality Committee, or as deputies of members of that Committee, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 55 —
 - (a) continue in office, under and subject to Part XIII B, as members or, as the case requires, deputies of members of that Committee until the expiry of their respective terms (if any); and
 - (b) in the case of those persons who held office as permanent or provisional members, continue in office without distinction as to whether they were appointed as permanent or provisional members.
- (3) The persons who held office under Part XIII C as permanent or provisional members of the Anaesthetic Mortality Committee, or as deputies of members of that Committee, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 69 —
 - (a) continue in office, under and subject to Part XIII C, as members or, as the case requires, deputies of

members of that Committee until the expiry of their respective terms (if any); and

- (b) in the case of those persons who held office as permanent or provisional members, continue in office without distinction as to whether they were appointed as permanent or provisional members.

Division 11 — General amendments

99. Other provisions amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
Pt. II Div. 1 heading	Minister, CEO and officers of Public Health	Minister, CEO and Chief Health Officer
s. 13	public health official	authorised officer
s. 15(2)	may, if there is no medical officer, be signed by any legally qualified medical practitioner, and shall for all such purposes be as effectual as if signed by a medical officer	may be signed by any medical practitioner
s. 131(1)	any medical officer of health or of any 2 legally qualified medical practitioners	the Chief Health Officer

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 11 General amendments

s. 99

Provision	Delete	Insert
s. 145(1)	medical officer of health environmental health officer	authorised officer authorised officer
s. 145(2)	its medical officer of health	an authorised officer
s. 152	medical officer of health	Chief Health Officer
s. 156	medical officer	Chief Health Officer
s. 157(2)	environmental health officer	authorised officer
s. 181	environmental health officer	authorised officer
s. 183	environmental health officer	authorised officer
s. 184(1)	environmental health officer	authorised officer
s. 199(18)	environmental health officer	authorised officer
s. 246B(3)	officer	practitioner
s. 251	public health official	authorised officer
s. 251(5)	medical officer (each occurrence)	medical practitioner

Provision	Delete	Insert
s. 252	environmental health	authorised
s. 253	public health official environmental health	authorised officer authorised
s. 257	medical officer of health or environmental health	authorised
s. 257(2) and (3)	medical officer of health	authorised officer
s. 258	medical officer of health, or any environmental health	authorised
s. 262(3)	the medical officer of health or an environmental health	an authorised
s. 263	a medical officer of health	the Chief Health Officer
s. 263(1) and (2)	medical officer of health	Chief Health Officer
s. 265(1)	environmental health	authorised
s. 267(1)(c)	a medical officer of health or an environmental health	an authorised
s. 268(a)	a medical	an authorised

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 11 General amendments

s. 99

Provision	Delete	Insert
s. 273(2)	officer or any 2 legally qualified medical practitioners	practitioner
s. 277(1)(b)	an environmental health the environmental health	an authorised the authorised
s. 277(3)	environmental health (each occurrence)	authorised
s. 280(2)	the medical officer of health	an authorised officer
s. 280(3)	a medical officer of health	the Chief Health Officer
s. 283	officer of health	authorised officer
s. 285(1)	some legally qualified	a
s. 285(2)	any medical officer the medical officer	any medical practitioner a medical practitioner
s. 289C(d)	medical officer,	
s. 290 def. of <i>approved medical officer</i>	medical officer	medical practitioner

Provision	Delete	Insert
s. 294(1)(a)	or an approved medical officer or the approved medical officer	
s. 294(2)	or an approved medical officer,	
s. 294(6)(a)	or an approved medical officer	
s. 307(1)	medical officer of health or any 2 medical practitioners said officer or practitioners shall have or their and the examination is to be by 2 medical practitioners, one of such practitioners	medical practitioner medical practitioner so authorised has or her the practitioner
s. 309(2), (3) and (4)	medical officer (each occurrence)	medical practitioner
s. 316	officer of public health	authorised officer

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 11 General amendments

s. 99

Provision	Delete	Insert
s. 335(1)	and to the medical officer of health of the district in which she practises	
s. 335(2)	and to the medical officer of health	
s. 335(4)	medical officer of health	Chief Health Officer
s. 337(1) and (3)	medical officer (each occurrence)	medical practitioner
s. 337(4)	medical officer (1 st occurrence) such officer officer or nurse or of the medical officer of health of the local government	medical practitioner the medical practitioner medical practitioner or nurse
s. 352(1) and (2)	environmental health	authorised
s. 358(2)	environmental health	authorised
s. 375	public health official or officer of the local government	authorised officer

Notes:

1. The heading to amended section 145 is to read:
Authorised officer may order house or things to be cleansed
2. The heading to amended section 352 is to read:
Duty of police officers and authorised officers

100. Various references to “Executive Director, Public Health” and “Executive Director, Personal Health” amended

In the provisions listed in the Table:

- (a) delete “Executive Director, Public Health” (each occurrence) and insert:

Chief Health Officer

- (b) delete “Executive Director, Personal Health” (each occurrence) and insert:

Chief Health Officer

Table

s. 13	s. 14
s. 15(1)	s. 16
s. 17	s. 22(1)
s. 35(1), (2), (3) and (4)	s. 38
s. 49(2)	s. 55(1), (5) and (6)
s. 57(1)	s. 59
s. 70	s. 87

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 11 General amendments

s. 100

s. 90	s. 96
s. 97(1) and (2)	s. 106(7)
s. 107(2)(b)	s. 112(1) and (3)
s. 116(a)	s. 119
s. 120(1), (3) and (4)	s. 121(1) and (2)
s. 122(1), (3), (5) and (6)	s. 123
s. 131(1) and (3)	s. 135(1)
s. 173 def. of <i>authorised person</i> par. (c)	
s. 184(1)	s. 194
s. 196(3) and (4)	s. 246B(3)
s. 247D(3)	s. 250
s. 251	s. 252
s. 253	s. 254
s. 255	s. 256(1) and (2)
s. 258	s. 259
s. 261	s. 272
s. 273(2), (3) and (4)	s. 276(1), (2) and (3)
s. 276A(4)	s. 277(1)(c) and (3)
s. 278(1)	s. 280(1)

s. 282(1) and (2)	s. 284
s. 286	s. 287(1) and (2)
s. 288	s. 289
s. 289C(d)	s. 290 def. of <i>approved medical officer</i>
s. 292	s. 293
s. 293A(1), (2) and (3)	s. 294(1)(a), (2), (6)(a) and (8)(a)
s. 295	s. 300(1), (2) and (3)
s. 300A(1)(b) and (2)	s. 306(2)
s. 307(1), (2), (3), (4) and (5)	s. 309(2), (3) and (4)
s. 311(2)	s. 313(6)
s. 314(2)	s. 335(1), (2), (5)(a), (b), (c) and (d) and (6)(d) and (e)
s. 336(1)	s. 336A(1)
s. 336B(1) and (4)	s. 337(1), (2) and (3)
s. 340(2)	s. 367(1)
s. 369(1)(c)	

Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

Public Health (Consequential Provisions) Act 2016

Part 2 Health Act 1911 amended

Division 11 General amendments

s. 100

Table

Amended section	Section heading
s. 15	Power of Chief Health Officer to act in emergencies
s. 16	Chief Health Officer may act where no local government
s. 254	Chief Health Officer may delegate certain powers
s. 272	Work to be done to satisfaction of Chief Health Officer
s. 282	Local governments to give effect to order of Chief Health Officer
s. 286	Local government to report epidemic disease and other matters to Chief Health Officer
s. 295	Chief Health Officer may order discharge of declared patient
s. 336	Death of woman as result of pregnancy or childbirth to be reported to Chief Health Officer
s. 336A	Certain deaths of children to be reported to Chief Health Officer
s. 336B	Death of persons under anaesthetic to be reported to Chief Health Officer

Part 3 — Amendments to other Acts and repeals

Division 1 — Amendments resulting from renaming of *Health Act 1911*

101. Various references to “*Health Act 1911*” amended

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “*Health Act 1911*” (each occurrence) and insert:

Health (Miscellaneous Provisions) Act 1911

Table

<i>Children’s Court of Western Australia Act 1988</i>	s. 20(1)(d) and 36AA(2) def. of <i>health department officer</i>
<i>Country Areas Water Supply Act 1947</i>	s. 12
<i>Equal Opportunity Act 1984</i>	s. 66U(3)
<i>Gaming and Wagering Commission Act 1987</i>	s. 55(3)(a)
<i>Health Services (Quality Improvement) Act 1994</i>	s. 14(1)(c), (3)(a) and (4)
<i>Housing Act 1980</i>	s. 5(1) def. of <i>local government</i>
<i>Liquor Control Act 1988</i>	s. 39(2)(a)(i), 69(8)(a) and (9A)(b) and 95(4)(f)(iii)

Public Health (Consequential Provisions) Act 2016

Part 3 Amendments to other Acts and repeals

Division 1 Amendments resulting from renaming of Health Act 1911

s. 101

<i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i>	s. 17(2)
<i>Misuse of Drugs Act 1981</i>	s. 3(1) def. of analyst
<i>Rates and Charges (Rebates and Deferments) Act 1992</i>	s. 3(1) def. of prescribed charge par. (b)(iii)
<i>Road Safety Council Act 2002</i>	s. 6(1)(h)
<i>Road Traffic Act 1974</i>	s. 70(7) def. of technologist par. (a)
<i>Sentencing Act 1995</i>	Sch. 1
<i>Swan and Canning Rivers Management Act 2006</i>	Sch. 5 it. 1(i)
<i>Veterinary Chemical Control and Animal Feeding Stuffs Act 1976</i>	s. 9
<i>Water Services Act 2012</i>	s. 33(2), 214(1) def. of information sharing agency par. (e) and 216(2)
<i>Waterways Conservation Act 1976</i>	s. 5(2)(b)

Note: In the *Water Services Act 2012* the heading to amended section 216 is to read:

Relationship of this Act to *Rights in Water and Irrigation Act 1914* and *Health (Miscellaneous Provisions) Act 1911*

**Division 2 — Amendments resulting from abolition of
 Executive Director, Public Health**

102. Various references to “Executive Director” amended

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete the definition of *Executive Director*.

Table

<i>Fluoridation of Public Water Supplies Act 1966</i>	s. 4
<i>Human Tissue and Transplant Act 1982</i>	s. 3(1)
<i>Radiation Safety Act 1975</i>	s. 4

- (3) In the provisions listed in the Table insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

Table

<i>Fluoridation of Public Water Supplies Act 1966</i>	s. 4
<i>Human Tissue and Transplant Act 1982</i>	s. 3(1)
<i>Radiation Safety Act 1975</i>	s. 4

Public Health (Consequential Provisions) Act 2016

Part 3 Amendments to other Acts and repeals

Division 3 Anatomy Act 1930 amended

s. 103

- (4) In the provisions listed in the Table delete “Executive Director” (each occurrence) and insert:

Chief Health Officer

Table

<i>Fluoridation of Public Water Supplies Act 1966</i>	s. 5(2)(a) and (4)
<i>Human Tissue and Transplant Act 1982</i>	s. 3(4), 4(2), (4), (4a) and (5), 5(4) and (5), 24(2), 32A(1), 32B(1), (2), (4)(a), (5) and (6)
<i>Radiation Safety Act 1975</i>	s. 4 def. of authorised officer , 7(1), 13(2)(a) and (3), 16(7) and (8), 42(3) and (4), 55(1), (2) and (3)

Division 3 — Anatomy Act 1930 amended

103. Act amended

This Division amends the *Anatomy Act 1930*.

104. Section 2 amended

- (1) In section 2 delete the definition of **Executive Director**.
- (2) In section 2 insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

105. Various references to “Executive Director” amended

In the provisions listed in the Table delete “Executive Director” (each occurrence) and insert:

Chief Health Officer

Table

s. 2 def. of <i>inspector</i>	s. 3
s. 5(1)	s. 6
s. 7	s. 10A(1), (2) and (3)
s. 12	s. 14
s. 16	s. 17
s. 18 proviso par. (b)	s. 22(3)(a) and (c)

Notes:

1. The heading to amended section 6 is to read:
Chief Health Officer to make returns
2. The heading to amended section 14 is to read:
Documents to be sent to Chief Health Officer

Division 4 — *Biosecurity and Agriculture Management Act 2007* amended

106. Act amended

This Division amends the *Biosecurity and Agriculture Management Act 2007*.

107. Section 4 amended

Delete section 4(2)(f) and insert:

- (f) the *Health (Miscellaneous Provisions) Act 1911*;
- (ga) the *Food Act 2008*;

108. Section 184 amended

In section 184(1) in the definition of *information sharing agency*:

- (a) in paragraph (b) delete “*Health Act 1911*,” and insert:

Health (Miscellaneous Provisions) Act 1911;

- (b) after paragraph (e) insert:

- (fa) the department principally assisting in the administration of the *Food Act 2008*;

Division 5 — Blood Donation (Limitation of Liability) Act 1985 amended

109. Act amended

This Division amends the *Blood Donation (Limitation of Liability) Act 1985*.

110. Section 3 amended

- (1) In section 3 delete the definitions of:
Executive Director, Public Health
Transmissible Diseases Regulations

- (2) In section 3 insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

Transmissible Diseases Regulations means regulations that —

- (a) are made under the *Health (Miscellaneous Provisions) Act 1911*; and
 - (b) consist of or include provisions that provide for or require a person donating blood to make a declaration.
- (3) In section 3 in the definition of **approved** delete “Executive Director, Public Health,” and insert:

Chief Health Officer

Division 6 — Botanic Gardens and Parks Authority Act 1998 amended

111. Act amended

This Division amends the *Botanic Gardens and Parks Authority Act 1998*.

112. Section 44A amended

Delete section 44A(1) and insert:

- (1) In this section —

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

public health has the meaning given in the *Public Health Act 2016* section 4(1).

Note: The heading to amended section 44A is to read:
Chief Health Officer responsible for public health matters

113. Various references to Executive Director amended

In the provisions listed in the Table delete “Executive Director, Public Health” (each occurrence) and insert:

Chief Health Officer

Table

s. 44A(2)	s. 44A(3)
s. 44A(4)(a) and (b)	s. 44A(5)
s. 53A(2)	

Division 7 — *Cat Act 2011* amended

114. Act amended

This Division amends the *Cat Act 2011*.

115. Section 3 amended

In section 3(1) in the definition of *authorised person* after paragraph (a) insert:

- (ba) a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) for the purposes of this Act; or

116. Section 43 amended

In section 43(2) after “appointed” (each occurrence) insert:

or designated

117. Section 48 amended

Delete section 48(6) and insert:

- (6) An authorised person (other than a police officer) must —
- (a) at all times when performing functions as an authorised officer carry —
 - (i) the certificate issued under subsection (5); or
 - (ii) the certificate of authority issued under the *Public Health Act 2016* section 30;
 - and
 - (b) produce for inspection the certificate or certificate of authority at the reasonable request of any person; and
 - (c) in the case of an authorised person appointed under subsection (1), if he or she ceases to be an authorised person, return the certificate issued under subsection (5) to the local government as soon as is practicable.
- Penalty for an offence under this subsection: a fine of \$5 000.

118. Section 49 amended

In section 49(2) after “appointed” insert:

or designated

Division 8 — *Constitution Acts Amendment Act 1899* amended

119. Act amended

This Division amends the *Constitution Acts Amendment Act 1899*.

120. Schedule V amended

- (1) In Schedule V Part 3 delete the item “The Advisory Committee constituted under section 216 of the *Health Act 1911*.”.
- (2) In Schedule V Part 3 after the item relating to the Local Government Advisory Board insert:

The Local Health Authorities Analytical Committee established by the *Health (Miscellaneous Provisions) Act 1911* section 247A.

- (3) In Schedule V Part 3 in the items relating to the Anaesthetic Mortality Committee, the Maternal Mortality Committee and the Perinatal and Infant Mortality Committee delete “*Health Act 1911*.” and insert:

Health (Miscellaneous Provisions) Act 1911.

Division 9 — Cremation Act 1929 amended

121. Act amended

This Division amends the *Cremation Act 1929*.

122. Section 2 amended

- (1) In section 2 delete the definition of *Executive Director*.
- (2) In section 2 insert in alphabetical order:

Chief Health Officer has the meaning given in the
Public Health Act 2016 section 4(1);

123. Section 8A amended

In section 8A(b) delete “by the *Health Act 1911*;” and insert:

under the *Health (Miscellaneous Provisions) Act 1911*;

124. Section 8B amended

In section 8B:

- (a) in paragraph (a)(ii) delete “*Health Act 1911*;” and insert:

Health (Miscellaneous Provisions) Act 1911;

- (b) in paragraph (b)(ii) delete “*Health Act 1911*.” and insert:

Health (Miscellaneous Provisions) Act 1911.

125. Various references to “Executive Director” amended

In the provisions listed in the Table:

- (a) delete “Executive Director” (each occurrence) and insert:

Chief Health Officer

- (b) delete “Executive Director’s” and insert:

Chief Health Officer’s

Table

s. 4(1)(b)	s. 4(2)
s. 4(3)	s. 8A(b)
s. 16(1)(b)	s. 16(2)
s. 17(1)(a)	

Division 10 — *The Criminal Code* amended

126. Act amended

This Division amends *The Criminal Code*.

127. Section 199 amended

- (1) In section 199(1)(b) delete “*Health Act 1911*.” and insert:

Health (Miscellaneous Provisions) Act 1911.

(2) Delete section 199(4) and insert:

(4) In this section —

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

128. Section 306 amended

In section 306(1) in the definition of ***female genital mutilation*** paragraph (d) delete “within the meaning of the *Health Act 1911*; or” and insert:

as defined in section 3 of that Act; or

Division 11 — Dog Act 1976 amended

129. Act amended

This Division amends the *Dog Act 1976*.

130. Section 3 amended

In section 3(1) delete the definition of ***authorised person*** and insert:

authorised person means —

- (a) a person who is appointed by a local government, to exercise powers on behalf of the local government, under section 29(1); or
- (b) a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) for the purposes of this Act;

131. Section 11 amended

After section 11(3) insert:

- (4) Subsection (3) is subject to the *Public Health Act 2016* section 31.

132. Section 29 amended

In section 29(12) delete “medical practitioner or environmental health officer.” and insert:

or a medical practitioner.

133. Section 47 amended

In section 47(1) in the definition of *representative* delete paragraph (a) and insert:

- (a) a person who is an authorised person by virtue of an appointment or designation made by that local government; or

134. Section 52 amended

In section 52(1) delete “*Health Act 1911*,” and insert:

Health (Miscellaneous Provisions) Act 1911,

Division 12 — Fair Trading Act 2010 amended

135. Act amended

This Division amends the *Fair Trading Act 2010*.

136. Section 15 amended

Delete section 15(3).

137. Section 34 deleted

Delete section 34.

138. Schedule 1 amended

In Schedule 1 delete the item relating to the *Health Act 1911* and insert:

Food Act 2008

Health (Miscellaneous Provisions) Act 1911

Division 13 — Fire Brigades Act 1942 amended

139. Act amended

This Division amends the *Fire Brigades Act 1942*.

140. Section 33 amended

In section 33(1)(f) delete “public concourse,” and insert:

public assembly

141. Section 33A amended

In section 33A(15) delete the definition of *public building* and insert:

public building —

- (a) means a building or place or part of a building or place where persons may assemble for —

- (i) civic, theatrical, social, political or religious purposes; or
 - (ii) educational purposes; or
 - (iii) entertainment, recreational or sporting purposes; or
 - (iv) business purposes;
- and
- (b) includes any building, structure, tent, gallery, enclosure, platform or other place or any part of a building, structure, tent, gallery, enclosure, platform or other place in or on which numbers of persons are usually or occasionally assembled; but
 - (c) does not include a hospital.

142. Section 48 replaced

Delete section 48 and insert:

48. FES Commissioner to provide information to Chief Health Officer

- (1) In this section —
Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1).
- (2) The FES Commissioner must from time to time provide the Chief Health Officer with information and recommendations as to the requirements for the prevention of, and escape from, fire in premises used or intended for purposes of public entertainment or of public assembly.

Division 14 — *Food Act 2008* amended

143. Act amended

This Division amends the *Food Act 2008*.

144. Section 8 amended

In section 8 delete the definition of *authorised officer* and insert:

authorised officer means —

- (a) a person appointed under Part 10 Division 3; or
- (b) a person designated by a local government as an authorised officer under the *Public Health Act 2016* section 24(1) for the purposes of this Act;

145. Section 56 amended

In section 56(1) and (2) after “appointed” insert:

or designated

146. Section 57 amended

In section 57(2) after “appointed” insert:

or designated

147. Section 122 amended

Delete section 122(1) and insert:

- (1) An enforcement agency may appoint a person to be an authorised officer for the purposes of this Act if the enforcement agency, having regard to any guidelines issued by the CEO under subsection (2), considers the person has appropriate qualifications and experience to perform the functions of an authorised officer.

148. Section 123 amended

After section 123(3) insert:

- (4) This section is subject to the *Public Health Act 2016* section 31.

149. Section 126 amended

In section 126(13) after “Part 10 Division 3” insert:

or designated by the agency under the *Public Health Act 2016* section 24(1)

Division 15 — *Health Legislation Administration Act 1984* amended

150. Act amended

This Division amends the *Health Legislation Administration Act 1984*.

151. Section 3 amended

- (1) In section 3 delete the definition of *prescribed officer*.
- (2) In section 3 insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

prescribed officer means —

- (a) the Chief Health Officer; or
- (b) any officer or officer of a class of officers prescribed by the regulations;

152. Section 6 amended

- (1) Delete section 6(1) and insert:
 - (1) The officers that are necessary for the purposes of carrying out the provisions of the Acts to which this Act applies are to be appointed in the Department under and subject to the *Public Sector Management Act 1994* Part 3.

- (2) Delete section 6(4).

153. Section 7 deleted

Delete section 7.

154. Section 8 amended

In section 8:

- (a) delete “or designated as an officer, medical officer of health, environmental health officer, inspector or public health officer under section 6 or 7, as the case requires,” and insert:

under section 6

- (b) delete “or having such a designation”;
- (c) delete “or designated”.

Note: The heading to amended section 8 is to read:

Effect of appointment under s. 6

155. Section 9 amended

After section 9(6) insert:

- (7) Subsection (1) does not authorise —
 - (a) the Minister to delegate any of the Minister’s powers or duties under the *Health (Miscellaneous Provisions) Act 1911* or the *Public Health Act 2016*; or
 - (b) the CEO or the Chief Health Officer to delegate any of their powers or duties under the *Health (Miscellaneous Provisions) Act 1911*.

Division 16 — *Human Reproductive Technology Act 1991* amended

156. Act amended

This Division amends the *Human Reproductive Technology Act 1991*.

157. Section 3 amended

In section 3(1) delete the definition of *Public Health Official* and insert:

Public Health Official means a person designated by the CEO under section 60A(1);

158. Section 8 amended

In section 8(3)(a) delete “the *Health Act 1911*; and” and insert:

this Act; and

159. Section 39 amended

In section 39(2)(d)(ii) delete “*Health Act 1911*” and insert:

Health (Miscellaneous Provisions) Act 1911

160. Section 60A inserted

At the end of Part 6 Division 1 insert:

60A. Public Health Officials

- (1) The CEO may designate a person as a Public Health Official for the purposes of this Act if the CEO considers that the person has appropriate qualifications and experience to perform the functions of a Public Health Official, and may revoke a designation under this subsection at any time.

- (2) For the purposes of subsection (1), the CEO may engage, under a contract for services, any person whom the CEO considers has appropriate qualifications and experience to perform the functions of a Public Health Official.
- (3) A person engaged under subsection (2) is not a person appointed under the *Public Sector Management Act 1994* Part 3.
- (4) Subsection (2) does not limit section 58 or 59(1) or the *Public Sector Management Act 1994* section 100.
- (5) If, immediately before the *Public Health (Consequential Provisions) Act 2016* section 156 (the **relevant section**) comes into operation, a person holds a designation as a Public Health Official under the *Health Legislation Administration Act 1984* section 7, then, on the coming into operation of the relevant section, the person is to be taken to hold a designation as a Public Health Official under subsection (1).

Division 17 — *Liquor Control Act 1988* amended

161. Act amended

This Division amends the *Liquor Control Act 1988*.

162. Section 3 amended

- (1) In section 3(1) delete the definition of ***Executive Director, Public Health***.
- (2) In section 3(1) insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

163. Section 64 amended

Delete section 64(1C)(c) and insert:

- (c) the Chief Health Officer;

164. Section 69 amended

- (1) In section 69(8a) delete “Executive Director, Public Health —” and insert:

Chief Health Officer —

- (2) In section 69(9A) delete “Executive Director, Public Health” and insert:

Chief Health Officer

Division 18 — *Local Government Act 1995* amended

165. Act amended

This Division amends the *Local Government Act 1995*.

166. Section 3.5 amended

After section 3.5(4A) insert:

- (4B) Nothing in the *Health (Miscellaneous Provisions) Act 1911* or the *Public Health Act 2016* prevents a local government from making local laws under this Act about matters relating to public health (as defined in the *Public Health Act 2016* section 4(1)).

Division 19 — Marketing of Potatoes Act 1946 amended

167. Act amended

This Division amends the *Marketing of Potatoes Act 1946*.

168. Section 22B amended

(1) In section 22B(5):

(a) delete “CEO (Health)” and insert:

Chief Health Officer

(b) delete “*Health Act 1911*” and insert:

Health (Miscellaneous Provisions) Act 1911 or the *Food Act 2008*

(2) After section 22B(5) insert:

(6A) In subsection (5) —

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1).

(3) Delete section 22B(10).

Division 20 — Medicines and Poisons Act 2014 amended

169. Act amended

This Division amends the *Medicines and Poisons Act 2014*.

170. Long title amended

In the long title delete “*Health Act 1911*,” and insert:

Health (Miscellaneous Provisions) Act 1911,

171. Section 16 amended

In section 16(2)(b) delete “*Health Act 1911*” (each occurrence) and insert:

Health (Miscellaneous Provisions) Act 1911

172. Part 11 Division 1 heading replaced

Delete the heading to Part 11 Division 1 and insert:

**Division 1 — *Health (Miscellaneous Provisions)*
Act 1911 amended**

173. Section 148 amended

In section 148 delete “*Health Act 1911.*” and insert:

Health (Miscellaneous Provisions) Act 1911.

174. Section 157 deleted

Delete section 157.

Division 21 — *Poisons Act 1964* amended

175. Act amended

This Division amends the *Poisons Act 1964*.

176. Section 5 amended

- (1) In section 5(1) delete the definition of *environmental health officer*.
- (2) In section 5(1) in the definition of *authorised officer* delete paragraph (a).

177. Section 6 amended

In section 6(1) delete “*Health Act 1911*,” and insert:

Health (Miscellaneous Provisions) Act 1911,

178. Section 60 amended

In section 60(2) delete “*Health Act 1911*.” and insert:

Health (Miscellaneous Provisions) Act 1911.

179. Section 64 amended

In section 64(3):

- (a) delete “*Health Act 1911*,” and insert:

Health (Miscellaneous Provisions) Act 1911,

- (b) delete “*Health Act 1911*” and insert:

Health (Miscellaneous Provisions) Act 1911

Division 22 — Prisons Act 1981 amended

180. Act amended

This Division amends the *Prisons Act 1981*.

181. Section 95C amended

(1) Delete section 95C(1) and insert:

(1) In this section —

Chief Health Officer has the meaning given in the
Public Health Act 2016 section 4(1).

(2) In section 95C(2) delete “ED, PH” and insert:

Chief Health Officer

(3) In section 95C(3):

(a) delete “ED, PH” and insert:

Chief Health Officer

(b) delete “ED, PH,” and insert:

Chief Health Officer,

**Division 23 — *Private Hospitals and Health Services Act 1927*
amended**

182. Act amended

This Division amends the *Private Hospitals and Health Services Act 1927*.

183. Section 2 amended

In section 2(1) delete the definition of *infectious disease*.

Division 24 — *Rottnest Island Authority Act 1987* amended

184. Act amended

This Division amends the *Rottnest Island Authority Act 1987*.

185. Section 3 amended

In section 3 insert in alphabetical order:

Chief Health Officer has the meaning given in the
Public Health Act 2016 section 4(1);

186. Section 45 amended

- (1) In section 45(1) delete “*Health Act 1911*” and insert:

Health (Miscellaneous Provisions) Act 1911

- (2) In section 45(2):

- (a) delete “Executive Director, Public Health” and insert:

Chief Health Officer

(b) delete “*Health Act 1911.*” and insert:

Health (Miscellaneous Provisions) Act 1911.

(3) In section 45(3):

(a) delete “Executive Director, Public Health” and insert:

Chief Health Officer

(b) delete “*Health Act 1911.*” and insert:

Health (Miscellaneous Provisions) Act 1911.

(4) In section 45(4)(a) delete “*Health Act 1911*” and insert:

Health (Miscellaneous Provisions) Act 1911

(5) Delete section 45(5).

Note: The heading to amended section 45 is to read:

**Application of *Health (Miscellaneous Provisions)*
*Act 1911***

Division 25 — *School Education Act 1999* amended

187. Act amended

This Division amends the *School Education Act 1999*.

188. Section 27 amended

(1) In section 27(2) delete “Executive Director of Public Health” and insert:

Chief Health Officer

(2) After section 27(2) insert:

(3A) In subsection (2) —

Chief Health Officer has the meaning given in the
Public Health Act 2016 section 4(1).

Division 26 — Spent Convictions Act 1988 amended

189. Act amended

This Division amends the *Spent Convictions Act 1988*.

190. Schedule 3 amended

In Schedule 3 clause 1(7) in the Table delete item 1(a) and insert:

(a) the *Health (Miscellaneous Provisions) Act 1911*;

Division 27 — Tobacco Products Control Act 2006 amended

191. Act amended

This Division amends the *Tobacco Products Control Act 2006*.

192. Section 78 amended

In section 78(4) delete “environmental health officer” and insert:

authorised officer

193. Section 82 amended

In section 82(2) delete “environmental health officer” (each occurrence) and insert:

authorised officer

194. Section 113 amended

In section 113(2)(a) delete “environmental health officer; or” and insert:

authorised officer; or

195. Section 125 amended

In section 125(2)(b) delete “environmental health officers” and insert:

authorised officers

196. Glossary amended

- (1) In the Glossary clause 1 delete the definition of *environmental health officer*.
- (2) In the Glossary insert in alphabetical order:

authorised officer means a person designated as an authorised officer under the *Public Health Act 2016* section 24(1) whose designation has effect for the purposes of this Act;

Public Health (Consequential Provisions) Act 2016

Part 3 Amendments to other Acts and repeals

Division 28 University Medical School, Teaching Hospitals, Act 1955 amended

s. 197

Division 28 — *University Medical School, Teaching Hospitals, Act 1955* amended

197. Act amended

This Division amends the *University Medical School, Teaching Hospitals, Act 1955*.

198. Section 2 amended

In section 2 in the definition of **public hospital** paragraph (a) delete “Part X of the *Health Act 1911*; and” and insert:

the *Health (Miscellaneous Provisions) Act 1911* Part XII; and

Division 29 — *Waste Avoidance and Resource Recovery Act 2007* amended

199. Act amended

This Division amends the *Waste Avoidance and Resource Recovery Act 2007*.

200. Section 3 amended

- (1) In section 3(1) delete the definition of **Executive Director, Public Health**.
- (2) In section 3(1) insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

201. Section 7 amended

- (1) In section 7(1) delete “Executive Director, Public Health under the *Health Act 1911*.” and insert:

Chief Health Officer under the *Health (Miscellaneous Provisions) Act 1911*.

- (2) In section 7(2) delete “Executive Director, Public Health” and insert:

Chief Health Officer

Note: The heading to amended section 7 is to read:

Chief Health Officer to be consulted on public health issues

202. Section 58 amended

Delete section 58(b) and insert:

- (b) the Chief Health Officer; and

203. Section 71 amended

In section 71(4)(c) and (5)(c) delete “Executive Director, Public Health,” and insert:

Chief Health Officer,

Division 30 — Repeals

204. Certain provisions repealed if not commenced: *Medicines and Poisons Act 2014*

- (1) If the *Medicines and Poisons Act 2014* section 153 comes into operation on or before the day on which section 100 of this Act comes into operation, section 14 of this Act —
 - (a) does not come into operation; and
 - (b) is repealed when section 100 of this Act comes into operation.
- (2) If the *Medicines and Poisons Act 2014* section 154 comes into operation on or before the day on which section 100 of this Act comes into operation, Part 2 Division 6 Subdivision 2 of this Act —
 - (a) does not come into operation; and
 - (b) is repealed when section 100 of this Act comes into operation.
- (3) If the *Medicines and Poisons Act 2014* section 156 comes into operation on or before the day on which section 100 of this Act comes into operation, Part 2 Division 6 Subdivision 4 of this Act —
 - (a) does not come into operation; and
 - (b) is repealed when section 100 of this Act comes into operation.
- (4) If any of the provisions of the *Medicines and Poisons Act 2014* Part 11 Division 1 come into operation on or before the day on which section 5 of this Act comes into operation, sections 170, 172, 173 and 174 of this Act —
 - (a) do not come into operation; and
 - (b) are repealed when section 5 of this Act comes into operation.

- (5) If the *Poisons Act 1964* is repealed on or before the day on which section 5 of this Act comes into operation, Part 3 Division 21 of this Act —
- (a) does not come into operation; and
 - (b) is repealed when section 5 of this Act comes into operation.

205. Subsidiary legislation repealed

This subsidiary legislation is repealed:

- (a) the *Annual Report Form (Local Authorities) Regulations*;
- (b) the *Form for Result of Sample Analysis Regulations*;
- (c) the *Health Act (Local Authorities Sewerage Undertakings) Model By-laws*;
- (d) the *Local Health Boards (Annual Statement of Accounts) Regulations 1961*;
- (e) the *Model By-laws - Handling Dead Bodies*;
- (f) the *Model By-laws Series "A"*.

**Part 4 — *Health (Miscellaneous Provisions)*
Act 1911 amended**

Division 1 — Act amended

206. Act amended

This Part amends the *Health (Miscellaneous Provisions) Act 1911*.

Division 2 — Part I amended

207. Section 3 amended

- (1) In section 3(1) delete the definition of *AIDS*.
- (2) In section 3(1) delete the definition of *responsible pathologist*.

208. Section 5 deleted

Delete section 5.

209. Section 6 deleted

Delete section 6.

Division 3 — Part II amended

210. Section 7 deleted

Delete section 7.

211. Section 12 deleted

Delete section 12.

212. Sections 13 and 14 deleted

Delete sections 13 and 14.

- 213. Section 15 deleted**
Delete section 15.
- 214. Section 16 deleted**
Delete section 16.
- 215. Section 17 deleted**
Delete section 17.
- 216. Part II Division 2 heading deleted**
Delete the heading to Part II Division 2.
- 217. Sections 22 and 25 deleted**
Delete sections 22 and 25.
- 218. Section 26 deleted**
Delete section 26.
- 219. Section 35 deleted**
Delete section 35.
- 220. Section 36 deleted**
Delete section 36.
- 221. Section 38 deleted**
Delete section 38.
- 222. Part II Division 3 deleted**
Delete Part II Division 3.

Division 4 — Part III deleted

223. Part III deleted

Delete Part III.

Division 5 — Part IV amended

224. Sections 53 to 63A deleted

Delete sections 53 to 63A.

225. Section 64 amended

After section 64(9) insert:

- (10) This section does not apply on or after the date on which the *Public Health (Consequential Provisions) Act 2016* section 225 comes into operation, other than to and in relation to any agreement made under this section and having effect immediately before that section comes into operation.

226. Sections 65 to 71 deleted

Delete sections 65 to 71.

227. Sections 72 and 73 deleted

Delete sections 72 and 73.

228. Section 74 amended

After section 74(3) insert:

- (4) This section does not apply on or after the date on which the *Public Health (Consequential Provisions) Act 2016* section 228 comes into operation, other than

to and in relation to any agreement made under this section and having effect immediately before that section comes into operation.

229. Sections 75 to 94 deleted

Delete sections 75 to 94.

230. Part IV Divisions 3 to 5 and 7 to 9 deleted

Delete Part IV Divisions 3 to 5 and 7 to 9.

Division 6 — Part V deleted

231. Part V deleted

Delete Part V.

Division 7 — Part VI deleted

232. Part VI deleted

Delete Part VI.

Division 8 — Part VII deleted

233. Part VII deleted

Delete Part VII.

Division 9 — Part VIIA amended

Subdivision 1 — Amendments to Part VIIA heading

234. Part VIIA heading amended

In the heading to Part VIIA delete “**disinfectants, therapeutic substances and pesticides**” and insert:

disinfectants and therapeutic substances

235. Part VIIA heading replaced

Delete the heading to Part VIIA and insert:

Part VIIA — Analysts

Subdivision 2 — Part VIIA Division 1 amended

236. Section 203 deleted

Delete section 203.

237. Part VIIA Division 1 deleted

Delete Part VIIA Division 1.

Subdivision 3 — Part VIIA Division 8 deleted

238. Part VIIA Division 8 deleted

Delete Part VIIA Division 8.

Division 10 — Part IX amended

239. Part IX heading and Part IX Division 1 heading deleted

Delete the headings to Part IX and Part IX Division 1.

240. Section 248 deleted

Delete section 248.

241. Section 249 deleted

Delete section 249.

242. Sections 250 to 275 deleted

Delete sections 250 to 275.

243. Part IX Division 2 deleted

Delete Part IX Division 2.

Division 11 — Part IXA deleted

244. Part IXA deleted

Delete Part IXA.

Division 12 — Part X deleted

245. Part X deleted

Delete Part X.

Division 13 — Part XI deleted

246. Part XI deleted

Delete Part XI.

Division 14 — Part XIII amended

247. Section 340 deleted

Delete section 340.

Division 15 — Part XIII B amended

248. Section 340AB amended

In section 340AB(3)(d) delete “Princess Margaret Hospital for Children,” and insert:

Perth Children's Hospital,

Division 16 — Parts XIV and XV and Schedules amended

249. Part XIV heading amended

In the heading to Part XIV delete “**and local laws**”.

250. Section 341 amended

Delete section 341(2).

251. Section 342 deleted

Delete section 342.

252. Section 344C amended

- (1) In section 344C in the Table delete “133(1), 134(6), (11), (12), (29), (44), (45) and (46),”.
- (2) In section 344C in the Table delete “146(3), 158(3),”.
- (3) In section 344C in the Table delete “199(10)”.

253. Sections 343 to 348A deleted

Delete sections 343 to 348A.

254. Sections 349 to 352 deleted

Delete sections 349 to 352.

255. Section 353 deleted

Delete section 353.

256. Sections 354 and 355 deleted

Delete sections 354 and 355.

257. Section 356 deleted

Delete section 356.

258. Section 357 deleted

Delete section 357.

259. Sections 358 and 359 deleted

Delete sections 358 and 359.

260. Section 360 amended

(1) Delete section 360(1)(a).

(2) Delete section 360(1)(c).

(3) Delete section 360(1)(e).

(4) In section 360(1):

(a) in paragraph (g)(ii) delete “\$500;” and insert:

\$500.

(b) delete paragraph (h).

(5) In section 360(2) delete “Local laws and regulations” and insert:

Regulations

(6) In section 360(3)(a) delete “local laws and”.

(7) In section 360 after each of subsection (1)(b) and (d) insert:

or

261. Section 361 amended

In section 361 delete “local law,”.

262. Section 362 amended

In section 362(2):

- (a) delete “or local law”;
- (b) delete “or the local government of the district in which the offence is committed, or an officer of the local government,”.

263. Section 366 deleted

Delete section 366.

264. Section 367 deleted

Delete section 367.

265. Section 368 deleted

Delete section 368.

266. Sections 369 to 371 deleted

Delete sections 369 to 371.

267. Sections 373 and 374 deleted

Delete sections 373 and 374.

268. Section 376 deleted

Delete section 376.

269. Section 377 amended

In section 377:

- (a) delete paragraphs (1) to (9);
- (b) in paragraph (10) delete “analysed;” and insert:

analysed.

(c) delete paragraph (11).

270. Section 377 deleted

Delete section 377.

271. Section 378 deleted

Delete section 378.

272. Schedule 1 deleted

Delete Schedule 1.

273. Schedule 2 deleted

Delete Schedule 2.

274. Schedule 4 deleted

Delete Schedule 4.

275. Schedule 5 amended

(1) Delete Schedule 5 Part I and insert:

Part I

Sections 203(2), 225(1) and 238(3) and (5)

(2) Delete Schedule 5 Part I.

(3) Delete Schedule 5 Part II and insert:

Part II

Sections 224(2), 227(13), 335(3) and 337(6)

Public Health (Consequential Provisions) Act 2016

Part 4 Health (Miscellaneous Provisions) Act 1911 amended

Division 16 Parts XIV and XV and Schedules amended

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- (4) Delete Schedule 5 Part II and insert:

Part II

Sections 335(3) and 337(6)

- (5) Delete Schedule 5 Part III.
(6) Delete Schedule 5 Part IV and insert:

Part IV

Sections 223(1), 225(2), 227(2), 231(2), 234(1), 240(1), 336(5a),
336A(5a), 336B(7a), 340LB(2), 340M(1) and (2), 340ALB(2),
340AM(1) and (2), 340BLB(2) and 340BM(1) and (2)

- (7) Delete Schedule 5 Part IV and insert:

Part IV

Sections 336(5a), 336A(5a), 336B(7a), 340LB(2), 340M(1) and (2),
340ALB(2), 340AM(1) and (2), 340BLB(2) and 340BM(1) and (2)

- (8) Delete Schedule 5 Part V.
(9) Delete Schedule 5 Part VI and insert:

Part VI

Sections 221(1), 222, 236(1), 241(1) and 340AL(1c)

- (10) Delete Schedule 5 Part VI and insert:

Part VI

Section 340AL(1c)

- (11) Delete Schedule 5 Part VII.
(12) Delete Schedule 5 Part VIII.

276. Schedule 6 amended

After Schedule 6 clause 5(2) insert:

- (2A) The persons who held office under section 340AB(3)(d) as members of the Perinatal and Infant Mortality Committee, or as deputies of those members, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2016* section 248 continue in office, under and subject to Part XIIB, as members or, as the case requires, deputies of members of the Committee until the expiry of their respective terms as if they had been appointed by the Minister on the nomination of the chief executive of the health service provider for Perth Children's Hospital under the *Health Services Act 2016*.

Part 5 — Other Acts amended

Division 1 — *Biosecurity and Agriculture Management Act 2007* amended

277. Act amended

This Division amends the *Biosecurity and Agriculture Management Act 2007*.

278. Section 4 amended

- (1) After section 4(2)(f) insert:

(gaa) the *Public Health Act 2016*;

- (2) Delete section 4(2)(f).

279. Section 184 amended

- (1) In section 184(1) in the definition of *information sharing agency* before paragraph (f) insert:

(fb) the department principally assisting in the administration of the *Public Health Act 2016*;

- (2) In section 184(1) in the definition of *information sharing agency* delete paragraph (b).

Division 2 — *Blood Donation (Limitation of Liability) Act 1985* amended

280. Act amended

This Division amends the *Blood Donation (Limitation of Liability) Act 1985*.

281. Section 3 amended

In section 3 in the definition of *Transmissible Diseases Regulations* paragraph (a) delete “1911; and” and insert:

1911 or the Public Health Act 2016; and

Division 3 — Country Areas Water Supply Act 1947 amended

282. Act amended

This Division amends the *Country Areas Water Supply Act 1947*.

283. Section 12 replaced

Delete section 12 and insert:

12. Pollution of water

A person must not —

- (a) pollute any water within or under a water reserve or catchment area; or
- (b) allow or permit any water within or under a water reserve or catchment area to become polluted.

Penalty: a fine of \$10 000 and imprisonment for one year.

Division 4 — Cremation Act 1929 amended

284. Act amended

This Division amends the *Cremation Act 1929*.

285. Section 8A amended

- (1) In section 8A(b) delete “*Act 1911;*” and insert:

Act 1911 or the Public Health Act 2016;

- (2) In section 8A(b) delete “*Health (Miscellaneous Provisions) Act 1911 or the*”.

Division 5 — Dog Act 1976 amended

286. Act amended

This Division amends the *Dog Act 1976*.

287. Section 52 amended

In section 52(1) delete “the *Health (Miscellaneous Provisions) Act 1911,*”.

Division 6 — Equal Opportunity Act 1984 amended

288. Act amended

This Division amends the *Equal Opportunity Act 1984*.

289. Section 66U amended

- (1) In section 66U(1) delete “an infectious” and insert:

a notifiable infectious

- (2) Delete section 66U(3) and insert:

- (3) In this section —

notifiable infectious disease has the meaning given in the *Public Health Act 2016* section 4(1).

Division 7 — *Fair Trading Act 2010* amended

290. Act amended

This Division amends the *Fair Trading Act 2010*.

291. Schedule 1 amended

- (1) In Schedule 1 delete “*Health (Miscellaneous Provisions) Act 1911*”.
- (2) In Schedule 1 insert in alphabetical order:

Public Health Act 2016

Division 8 — *Gaming and Wagering Commission Act 1987* amended

292. Act amended

This Division amends the *Gaming and Wagering Commission Act 1987*.

293. Section 55 amended

In section 55(3)(a) delete “*Health (Miscellaneous Provisions) Act 1911*,” and insert:

Public Health Act 2016,

Division 9 — *Housing Act 1980* amended

294. Act amended

This Division amends the *Housing Act 1980*.

295. Section 5 amended

In section 5(1) delete the definition of *local government*.

Division 10 — Human Reproductive Technology Act 1991 amended

296. Act amended

This Division amends the *Human Reproductive Technology Act 1991*.

297. Section 39 amended

In section 39(2)(d)(ii) after “*Health (Miscellaneous Provisions) Act 1911*” insert:

or the *Public Health Act 2016*

Division 11 — Land Administration Act 1997 amended

298. Act amended

This Division amends the *Land Administration Act 1997*.

299. Section 53A inserted

At the end of Part 4 insert:

53A. Chief Health Officer responsible for public health matters in class A reserves

(1) In this section —

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

public health has the meaning given in the *Public Health Act 2016* section 4(1).

- (2) For the purposes of protecting, promoting and improving public health in relation to any class A reserve, the Chief Health Officer has all the powers and authority of a local government under the *Local Government Act 1995* as if —
- (a) the class A reserve were a district for the purposes of that Act; and
 - (b) the Chief Health Officer were the local government for that district.
- (3) The power and authority conferred on the Chief Health Officer by subsection (2) includes the power to make and enforce local laws under the *Local Government Act 1995*.
- (4) However —
- (a) nothing in the *Local Government Act 1995* Part 3 Division 2 Subdivision 2 (other than sections 3.12(5) and (8), 3.14(1) and 3.15) applies to or in respect of the making of local laws by the Chief Health Officer; and
 - (b) before making local laws in relation to a class A reserve, the Chief Health Officer must —
 - (i) consult with the management body of the reserve or, if there is no management body, the Minister; and
 - (ii) consider any advice provided by the management body or, as the case requires, the Minister.
- (5) If there is a conflict or inconsistency between a local law made by the Chief Health Officer under subsection (2) and a local law made by a local government under the *Local Government Act 1995* or any other Act, the local law made by the Chief Health

Officer prevails to the extent of the conflict or inconsistency.

Division 12 — *Liquor Control Act 1988* amended

300. Act amended

This Division amends the *Liquor Control Act 1988*.

301. Section 39 amended

In section 39(2)(a)(i) delete “*Health (Miscellaneous Provisions) Act 1911*; and” and insert:

Public Health Act 2016; and

302. Section 69 amended

- (1) In section 69(8)(a) delete “*Health (Miscellaneous Provisions) Act 1911*; or” and insert:

Public Health Act 2016; or

- (2) In section 69(9A)(b) delete “*Health (Miscellaneous Provisions) Act 1911*.” and insert:

Public Health Act 2016.

303. Section 95 amended

In section 95(4)(f)(iii) after “*Health (Miscellaneous Provisions) Act 1911*” insert:

or the *Public Health Act 2016*

Division 13 — *Marketing of Potatoes Act 1946* amended

304. Act amended

This Division amends the *Marketing of Potatoes Act 1946*.

305. Section 22B amended

In section 22B(5) after “*Health (Miscellaneous Provisions) Act 1911*” insert:

or the *Public Health Act 2016*

Division 14 — *Medicines and Poisons Act 2014* amended

306. Act amended

This Division amends the *Medicines and Poisons Act 2014*.

307. Section 16 amended

(1) Before section 16(1) insert:

(1A) In this section —

Agvet Code of Western Australia has the meaning given in the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995* section 3;

pesticide means an agricultural chemical product as defined in the Agvet Code of Western Australia.

(2) Delete section 16(2)(b) and insert:

- (b) the Schedule 7 poison is a pesticide and —
 - (i) the person is authorised under the *Public Health Act 2016* to use or possess the poison; and
 - (ii) the use or possession by the person is in accordance with that authorisation;
- or

308. Section 155 deleted

Delete section 155.

Division 15 — *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* amended

309. Act amended

This Division amends the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

310. Section 17 replaced

Delete section 17 and insert:

17. Pollution of water

A person must not —

- (a) pollute any water within or under a water reserve or catchment area; or
- (b) allow or permit any water within or under a water reserve or catchment area to become polluted.

Penalty: a fine of \$10 000 and imprisonment for one year.

Division 16 — *Misuse of Drugs Act 1981* amended

311. Act amended

This Division amends the *Misuse of Drugs Act 1981*.

312. Section 3 amended

In section 3(1) delete the definition of *analyst* and insert:

analyst means a person who —

- (a) holds a science degree in, or to a major extent in, chemistry awarded by —
 - (i) a university in Australia; or
 - (ii) a prescribed university;
- and
- (b) has had not less than 2 years' practical experience in the chemical analysis of drugs;

313. Section 38D amended

(1) Delete section 38D(1) and insert:

(1) In this section —

CEO (Health) has the meaning given to CEO by the *Health Legislation Administration Act 1984* section 3;

Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);

needle and syringe programme means a needle and syringe programme (as defined in the *Public Health Act 2016* section 4(1)) approved under that Act.

- (2) After section 38D(2) insert:
- (3) In any proceedings under this Act, production of a certificate purporting to be signed by the Chief Health Officer and stating that on any date or during any period a specified needle and syringe programme was approved under the *Public Health Act 2016* is, without proof of the signature of the Chief Health Officer, sufficient evidence of the facts stated in the certificate.

Note: The heading to amended section 38D is to read:

Evidence of contents of standard and approval

314. Part VII Division 3 inserted

After Part VII Division 2 insert:

**Division 3 — Provisions for *Public Health*
(*Consequential Provisions*) Act 2016**

49. Transitional provision for registered analysts

- (1) Despite the replacement, by the *Public Health (Consequential Provisions) Act 2016* section 312 (**section 312**), of the definition of **analyst** in section 3(1), any person who, immediately before section 312 comes into operation, is an approved analyst under a declaration made under section 3A continues to be an approved analyst under and subject to section 3A.
- (2) A thing done or omitted to be done under this Act by, to or in relation to an analyst (as defined in section 3(1) as in force immediately before section 312 comes into operation) has the same effect on and after the day on which section 312 comes into operation, to the extent that it has any force or significance on or after that day,

as if the thing had been done or omitted by, to or in relation to an analyst as defined in section 3(1) after section 312 comes into operation.

Division 17 — *Poisons Act 1964* amended

315. Act amended

This Division amends the *Poisons Act 1964*.

316. Section 6 amended

- (1) In section 6(1) after “*Health (Miscellaneous Provisions) Act 1911*,” insert:

and of the *Public Health Act 2016*,

- (2) In section 6(1) delete “of the *Health (Miscellaneous Provisions) Act 1911*, and”.

317. Section 60 amended

Delete section 60(2) and insert:

- (2) In this section —
analyst has the meaning given in the *Misuse of Drugs Act 1981* section 3(1).

318. Section 64 amended

- (1) Delete section 64(3) and insert:

- (3) Regulations made under this section are in addition to, and not in derogation of, the following —
- (a) regulations made under the *Health (Miscellaneous Provisions) Act 1911* or the *Misuse of Drugs Act 1981*;
 - (b) regulations made under the *Public Health Act 2016*.
- (4) If and to the extent that there is an inconsistency between regulations made under this section and any regulations referred to in subsection (3)(a) or (b), the regulations made under this section prevail.
- (2) In section 64(3)(a) delete “the *Health (Miscellaneous Provisions) Act 1911* or”.

Division 18 — Public Health Act 2016 amended

319. Act amended

This Division amends the *Public Health Act 2016*.

320. Section 302 amended

In section 302(2) after “this Act” insert:

or the *Health (Miscellaneous Provisions) Act 1911* Part XI

**Division 19 — Rates and Charges (Rebates and Deferments)
Act 1992 amended**

321. Act amended

This Division amends the *Rates and Charges (Rebates and Deferments) Act 1992*.

322. Section 3 amended

- (1) In section 3(1) in the definition of *prescribed charge* after paragraph (b)(iii) insert:

(iva) the *Public Health Act 2016*; or

- (2) In section 3(1) in the definition of *prescribed charge* delete paragraph (b)(iii).

Division 20 — Road Safety Council Act 2002 amended

323. Act amended

This Division amends the *Road Safety Council Act 2002*.

324. Section 6 amended

In section 6(1)(h) delete “*Health (Miscellaneous Provisions) Act 1911*;” and insert:

Public Health Act 2016;

Division 21 — Road Traffic Act 1974 amended

325. Act amended

This Division amends the *Road Traffic Act 1974*.

326. Section 70 amended

In section 70(7) delete the definition of *technologist* and insert:

technologist means a person approved, or belonging to a class of persons approved, by the Minister to prepare sampling equipment.

Division 22 — Rottnest Island Authority Act 1987 amended

327. Act amended

This Division amends the *Rottnest Island Authority Act 1987*.

328. Section 45 replaced

Delete section 45 and insert:

45. Chief Health Officer responsible for public health matters

(1) In this section —

public health has the meaning given in the *Public Health Act 2016* section 4(1).

(2) For the purposes of protecting, promoting and improving public health in relation to the Island, the Chief Health Officer has all the powers and authority of a local government under the *Local Government Act 1995* as if —

- (a) the Island were a district for the purposes of that Act; and
- (b) the Chief Health Officer were the local government for that district.

(3) The power and authority conferred on the Chief Health Officer by subsection (2) includes the power to make

and enforce local laws under the *Local Government Act 1995*.

- (4) However —
- (a) nothing in the *Local Government Act 1995* Part 3 Division 2 Subdivision 2 (other than sections 3.12(5) and (8), 3.14(1) and 3.15) applies to or in respect of the making of local laws by the Chief Health Officer; and
 - (b) before making local laws, the Chief Health Officer must consult with the Authority, and consider any advice provided by the Authority.
- (5) If there is a conflict or inconsistency between a local law made by the Chief Health Officer under subsection (2) and a local law made by a local government under the *Local Government Act 1995* or any other Act, the local law made by the Chief Health Officer prevails to the extent of the conflict or inconsistency.

Division 23 — Sentencing Act 1995 amended

329. Act amended

This Division amends the *Sentencing Act 1995*.

330. Schedule 1 amended

In Schedule 1 delete the item relating to the *Health (Miscellaneous Provisions) Act 1911*.

Division 24 — *Swan and Canning Rivers Management Act 2006* amended

331. Act amended

This Division amends the *Swan and Canning Rivers Management Act 2006*.

332. Schedule 5 amended

Delete Schedule 5 item 1(i) and insert:

- (i) the *Public Health Act 2016*;

Division 25 — *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976* amended

333. Act amended

This Division amends the *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976*.

334. Section 9 amended

In section 9 after “*Health (Miscellaneous Provisions) Act 1911*,” (each occurrence) insert:

the *Food Act 2008*, the *Public Health Act 2016*

335. Section 9 replaced

Delete section 9 and insert:

9. Act to be construed subject to certain laws

- (1) This Act is in addition to, and not in derogation of, the following —

- (a) the *Health (Miscellaneous Provisions) Act 1911*;
 - (b) the *Food Act 2008*;
 - (c) the *Medicines and Poisons Act 2014*;
 - (d) the *Public Health Act 2016*.
- (2) If and to the extent that there is an inconsistency between this Act, or any regulations made under this Act, and any of the Acts referred to in subsection (1) or any regulations made under any of those Acts, those Acts and regulations prevail.

Division 26 — *Waste Avoidance and Resource Recovery Act 2007* amended

336. Act amended

This Division amends the *Waste Avoidance and Resource Recovery Act 2007*.

337. Section 7 amended

In section 7(1) delete “1911.” and insert:

1911 or the *Public Health Act 2016*.

Division 27 — *Water Services Act 2012* amended

338. Act amended

This Division amends the *Water Services Act 2012*.

339. Section 33 amended

In section 33(2) delete “*Health (Miscellaneous Provisions) Act 1911*” and insert:

Public Health Act 2016

340. Section 214 amended

In section 214(1) in the definition of **information sharing agency** paragraph (e) delete “*Health (Miscellaneous Provisions) Act 1911;*” and insert:

Public Health Act 2016;

341. Section 216 amended

In section 216(2) delete “*Health (Miscellaneous Provisions) Act 1911 Part IV*” and insert:

Public Health Act 2016

Note: The heading to amended section 216 is to read:

Relationship of this Act to *Rights in Water and Irrigation Act 1914* and *Public Health Act 2016*

Division 28 — *Waterways Conservation Act 1976* amended

342. Act amended

This Division amends the *Waterways Conservation Act 1976*.

343. Section 5 amended

(1) In section 5(2) after paragraph (b) insert:

(ca) the *Public Health Act 2016*; or

- (2) Delete section 5(2)(b).

Part 6 — Repeals

344. Provision repealed if not commenced

If the *Medicines and Poisons Act 2014* section 158 comes into operation on or before the day on which section 270 of this Act comes into operation, section 269 of this Act —

- (a) does not come into operation; and
- (b) is repealed when section 270 of this Act comes into operation.

=====