



Western Australia

Public Health Amendment (COVID-19 Response) Act 2020

As at 21 Aug 2020

No. 33 of 2020
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Public Health Amendment (COVID-19 Response) Act 2020

No. 33 of 2020

**An Act to amend the *Public Health Act 2016* in response to the
COVID-19 pandemic.**

[Assented to 21 August 2020]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Public Health Amendment (COVID-19 Response) Act 2020*.

2. Commencement

- (1) This Act comes into operation as follows —
 - (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
 - (b) the rest of the Act — on a day fixed by proclamation.
- (2) However, if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends.

3. Act amended

This Act amends the *Public Health Act 2016*.

4. Section 4 amended

- (1) In section 4(1) delete the definition of *emergency officer*.
- (2) In section 4(1) insert in alphabetical order:

emergency officer means —

- (a) the Chief Health Officer; or
- (b) an authorised officer or other person who is authorised by the Chief Health Officer under section 174(2);

IDEC declaration has the meaning given in section 202A(1);

quarantine direction, in relation to a person, means a direction under Part 11 Division 2 or Part 12 Division 5, or under the *Emergency Management*

Act 2005 Part 6 Division 1, the effect of which is that the person must remain —

- (a) at premises for quarantine-related purposes; or
- (b) in an area for quarantine-related purposes; or
- (c) quarantined from other persons;

(3) After section 4(2)(a) insert:

- (ab) includes a reference to the Chief Health Officer; and

(4) In section 4(2)(b) after “includes” insert:

a reference to

5. Section 9 amended

After section 9(5) insert:

- (6) Without limiting subsection (1), the Chief Health Officer may, under this section, delegate any function of the Chief Health Officer under Part 12B to a public service officer employed in a department of the Public Service.

6. Section 157 amended

(1) In section 157(1)(a) after “any” insert:

premises, or direct any person to close any

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- (2) After section 157(3) insert:
- (4) A direction under subsection (1)(a), (b), (c), (i), (j) or (k) may be given to a class of person or in respect of a class of premises.
- (5) A direction under subsection (1)(a), (b), (c), (i) or (k) that is given to a class of person or in respect of a class of premises —
- (a) need not be given directly to the persons to whom it applies; and
 - (b) despite the *Interpretation Act 1984* section 41 (to the extent to which it applies), need not be published in the *Gazette*; and
 - (c) must be published in the manner that the Minister considers suitable in the circumstances of the serious public health incident.

7. Section 159 amended

After section 159(4) insert:

- (5) Despite subsection (1), if a direction under section 157(1)(c) or (i) is given to a class of person, the explanation required by subsection (1) may be set out in the direction.

8. Section 160 amended

After section 160(2) insert:

- (3) This section does not apply to a direction under section 157(1)(c) or (i) given to an IDEC-directed person.

- (4) In subsection (3) —

IDEC-directed person means a person who is subject to a quarantine direction in respect of an urgently notifiable infectious disease specified in an IDEC declaration at the time the person became subject to the direction.

9. Section 180 amended

- (1) In section 180(c) delete “area.” and insert:

area; or

- (2) After section 180(c) insert:

- (d) direct that any road, access route or area of water in or leading to the emergency area be closed.

10. Section 184 amended

After section 184(2) insert:

- (3) A direction under subsection (1) may be given to a class of person.

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11. Section 186 amended

After section 186(4) insert:

- (5) Despite subsection (1), if a direction under section 184(1)(a) or (b) is given to a class of person, the explanation required by subsection (1) may be set out in the direction.

12. Section 187 amended

After section 187(2) insert:

- (3) This section does not apply to a direction under section 184(1)(a) or (b) given to an IDEC-directed person.
- (4) In subsection (3) —
IDEC-directed person means a person who is subject to a quarantine direction in respect of an urgently notifiable infectious disease specified in an IDEC declaration at the time the person became subject to the direction.

13. Section 200 amended

After section 200(2) insert:

- (2A) A direction under section 180 or 184(1)(a) or (b) that is given to a class of person —
 - (a) need not be given directly to the persons to whom it applies; and

- (b) despite the *Interpretation Act 1984* section 41 (to the extent to which it applies), need not be published in the *Gazette*; and
- (c) must be published in the manner that the Minister considers suitable in the circumstances of the public health emergency.

14. Parts 12A and 12B inserted

After section 202 insert:

**Part 12A — Infectious disease extreme
circumstance declarations**

202A. Minister may make IDEC declaration

- (1) In this section —
IDEC declaration means an infectious disease extreme circumstance declaration under subsection (2).
- (2) The Minister may, in writing, make a declaration that an infectious disease extreme circumstance exists in the whole of the State or in any area or areas of the State.
- (3) The Minister cannot make an IDEC declaration unless the Minister —
 - (a) has considered the advice of the Chief Health Officer; and
 - (b) is satisfied that an urgently notifiable infectious disease is posing a severe and immediate threat, or is causing harm, to human health on a significant scale; and
 - (c) is satisfied that the quarantine of persons for periods of more than 24 hours is reasonably

necessary as part of preventing or controlling —

- (i) the entry of the disease into the State; or
 - (ii) the emergence, establishment or spread of the disease in the State.
- (4) An IDEC declaration must —
- (a) specify the urgently notifiable infectious disease to which it relates; and
 - (b) include —
 - (i) details of the infectious disease extreme circumstance that is the basis of the declaration; and
 - (ii) the time when, and date on which, the declaration is made.
- (5) The making of an IDEC declaration does not prevent the making of further IDEC declarations in relation to the same or a different infectious disease extreme circumstance.

202B. Duration of IDEC declaration

An IDEC declaration —

- (a) has effect on and from the time it is made, or any later time specified in the declaration; and
- (b) if it is not extended under section 202C or sooner revoked under section 202D, remains in force until the end of the period of 3 months commencing on the day on which it first has effect.

202C. Extension of IDEC declaration

- (1) The Minister may by written declaration extend, or from time to time further extend, the duration of an IDEC declaration.

- (2) Section 202A(3) applies in relation to a declaration extending, or further extending, the duration of an IDEC declaration in the same way that it applies to the original IDEC declaration.
- (3) A declaration extending, or further extending, the duration of an IDEC declaration —
 - (a) must state the period by which the duration of the IDEC declaration is extended; and
 - (b) must include the time when, and date on which, it is made; and
 - (c) remains in force until the end of the period stated under paragraph (a) unless the IDEC declaration is sooner revoked under section 202D.
- (4) Each extension, or further extension, of the duration of an IDEC declaration cannot exceed 3 months, but there is no limit on the number of extensions as long as subsection (2) is complied with.
- (5) A declaration extending, or further extending, the duration of an IDEC declaration has effect on and from the time it is made.

202D. Revocation of IDEC declaration

- (1) The Minister may, by written declaration, revoke an IDEC declaration at any time.
- (2) The revocation must include the time when, and date on which, it is made.
- (3) A declaration under this section has effect at the time it is made, or any later time specified in the declaration.

- (4) Despite any other written law, the revocation of an IDEC declaration does not affect —
 - (a) any penalty or punishment incurred or imposed, or liable to be incurred or imposed, before the revocation; or
 - (b) any investigation or legal proceedings in respect of a penalty or punishment of that kind.

202E. Notice of declaration

- (1) The Minister must publish notice of a declaration made under section 202A, 202C or 202D.
- (2) The notice must be —
 - (a) published for general information as soon as is practicable after the declaration is made in any manner that the Minister considers to be appropriate having regard to the circumstances and what is practicable; and
 - (b) published in the *Gazette* as soon as is practicable after the declaration is made.
- (3) A failure to publish notice of the declaration does not affect the validity of the declaration.

202F. Limitation of stay of operation of IDEC declaration

- (1) In any proceedings for judicial review or in any other proceedings, a court or tribunal is not authorised to make an interlocutory order that has the effect of staying the operation of an IDEC declaration.
- (2) This section does not limit judicial review for jurisdictional error.

**Part 12B — Recovery of certain costs relating to
exercise of powers**

**Division 1 — Fees payable by hotel-quarantined
persons**

202G. Terms used

In this Division —

child means a person who is under 18 years of age;

guardian, in relation to a child, means a person who is a guardian (as defined in the *Guardianship and Administration Act 1990* section 3(1)) of the child;

hotel includes any of the following —

- (a) a motel;
- (b) a hostel;
- (c) a lodging house;
- (d) a boarding house;
- (e) a serviced apartment;
- (f) any other premises prescribed by the regulations;

hotel-quarantined person means a person who entered the State from a place outside the State on or after 17 July 2020 and who —

- (a) is or was subject to a quarantine direction in relation to that entry that requires or required the person to remain in a hotel for a specified period; or
- (b) while subject to the quarantine direction referred to in paragraph (a) — is or was given a subsequent quarantine direction that requires or required the person to remain in a hotel for a specified period;

parent, in relation to a child, includes any person who has parental responsibility (as defined in the *Family Court Act 1997* section 68) for the child.

202H. Fee payable by hotel-quarantined person in relation to cost of quarantine

- (1) A hotel-quarantined person is liable to pay the fee prescribed by the regulations.
- (2) For the purposes of subsection (1), the Chief Health Officer may issue to the person an invoice stating —
 - (a) the date of the invoice; and
 - (b) the name of the hotel-quarantined person to whom the invoice relates; and
 - (c) the amount of the fee payable by the hotel-quarantined person to whom the invoice relates.
- (3) If the hotel-quarantined person is a child —
 - (a) the Chief Health Officer may issue the invoice to the child's parent or guardian; and
 - (b) the child's parent or guardian is liable to pay the fee.
- (4) The regulations may provide for a combined fee for 2 or more hotel-quarantined persons who are required or permitted to comply with a quarantine direction in shared accommodation, in which case —
 - (a) the Chief Health Officer may issue a single invoice; and
 - (b) each person (other than a child) is jointly and severally liable for the combined fee.

202I. Period for payment of fee

- (1) A person liable to pay a fee under section 202H must, subject to section 202L, pay the fee within 30 days after receiving the invoice for the fee.
- (2) The Chief Health Officer may extend and further extend the time for payment of the fee.

202J. Fee may be waived

The Chief Health Officer may waive the whole or part of the fee payable by a hotel-quarantined person under this Division if the Chief Health Officer —

- (a) considers that payment of the whole or part of the fee would cause financial hardship to the person; or
- (b) otherwise considers that it is appropriate in the circumstances to do so.

202K. Recovery of fees

An amount not paid by a person in accordance with this Division is recoverable in a court of competent jurisdiction as a debt due to the State from the person.

202L. Regulations

For the purposes of this Division, the regulations may provide for —

- (a) the payment of fees by instalments; and
- (b) the recovery of fees; and
- (c) the payment of interest for the late payment or non-payment of fees or instalments.

Division 2 — Recovery of certain costs and expenses

202M. Recovery of costs and expenses of requiring premises to be cleaned

- (1) The Chief Health Officer may recover the reasonable costs and expenses incurred by the State as a consequence of premises having been cleaned or disinfected under a requirement under Part 11 or 12 or under the *Emergency Management Act 2005* Part 6 Division 1.
- (2) The costs and expenses are recoverable jointly and severally from —
 - (a) in relation to premises that are not a vehicle — the owner, occupier or person in possession of the premises at the time that the premises were required to be cleaned or disinfected; and
 - (b) in relation to a vehicle — the owner, operator, lessee or charterer (as is relevant) of the vehicle at the time that the vehicle was required to be cleaned or disinfected.
- (3) The costs and expenses are recoverable in a court of competent jurisdiction.

15. Section 203 amended

Delete section 203(1) and insert:

- (1) Subject to this Division, a person who suffers loss or damage because of the exercise, or purported exercise, of a power under section 157(1)(h), 182 or 190(1)(f) or (g) is entitled to be paid just and reasonable compensation for the loss or damage.

16. Section 297A inserted

At the beginning of Part 19 Division 3 insert:

297A. Offence of giving false or misleading information

A person must not give information that the person knows to be false or misleading in a material particular to —

- (a) an authorised officer, emergency officer or police officer exercising a power under this Act; or
- (b) a person assisting an authorised officer, emergency officer or police officer to exercise a power under this Act.

Penalty: a fine of \$50 000.



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