Western Australia

Health Practitioner Regulation National Law Application Act 2024

Health Practitioner Regulation National Law Regulation (Western Australia)

Note:

The *Health Practitioner Regulation National Law Regulation 2018* (the national regulation as made under section 245 of the *Health Practitioner Regulation National Law*) applies as subsidiary legislation of Western Australia under the *Health Practitioner Regulation National Law Application Act 2024* (the ***WA Application Act***) s. 12.

Amendments to the national regulation are made by the Ministerial Council (currently known as the Health Ministers' Meeting), and published by the Victorian Government Printer. Amendments made in this way also amend the national regulation as it applies in Western Australia, subject to the WA Application Act sections 13, 14 and 16.

This version is the national regulation as it applies in Western Australian as at the date specified below. The regulation may be cited as the *Health Practitioner Regulation National Law Regulation (Western Australia)*.

Western Australia

Health Practitioner Regulation National Law Regulation (Western Australia)

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Health Practitioner Regulation National Law Regulation (Western Australia)

Part 1 — Preliminary

1. Short title

This Regulation may be cited as the *Health Practitioner Regulation National Law Regulation (Western Australia)*.

[Editorial note:

This regulation applies as subsidiary legislation in Western Australia under the *Health Practitioner Regulation National Law Application Act 2024* section 12.]

2. Commencement

(1) This Regulation, other than section 41, commences on 1 December 2018.

(2) Section 41 commences —

(a) for Western Australia — on the day this Regulation is published in the Gazette; and

(b) for all other participating jurisdictions — on the day this Regulation is published by the Victorian Government Printer.

3. Definitions

In this Regulation —

AIC Act means the *Australian Information Commissioner Act 2010* of the Commonwealth, as in force from time to time.

FOI Act means the *Freedom of Information Act 1982* of the Commonwealth, as in force from time to time.

Gazette, for Western Australia, see section 5 of the *Interpretation Act 1984* of Western Australia.

National Health Practitioner Ombudsman means the person appointed by the Ministerial Council under the Law as the National Health Practitioner Ombudsman.

National Health Practitioner Privacy Commissioner means the person appointed by the Ministerial Council under the Law as the National Health Practitioner Privacy Commissioner.

Ombudsman Act means the *Ombudsman Act 1976* of the Commonwealth, as in force from time to time.

Privacy Act means the *Privacy Act 1988* of the Commonwealth, as in force from time to time.

relevant Parliament means any of the following—

(a) the Parliament of the Commonwealth of Australia;

(b) the Australian Capital Territory Legislative Assembly;

(c) the Parliament of New South Wales;

(d) the Parliament of South Australia;

(e) the Northern Territory Legislative Assembly;

(f) the Parliament of Tasmania;

(g) the Parliament of Queensland;

(h) the Parliament of Western Australia;

(i) the Parliament of Victoria.

relevant tribunal means any of the following —

(a) the ACT Civil and Administrative Tribunal established under the *ACT Civil and Administrative Tribunal Act 2008* of the ACT;

(b) the Civil and Administrative Tribunal of New South Wales established under the *Civil and Administrative Tribunal Act 2013* of New South Wales;

(c) the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013* of South Australia;

(d) the Northern Territory Civil and Administrative Tribunal established under the *Northern Territory Civil and Administrative Tribunal Act* of the Northern Territory;

(e) the Magistrates Court (Administrative Appeals Division) established under the *Magistrates Court (Administrative Appeals Division) Act 2001* of Tasmania or a tribunal that replaces the court and performs the same or similar functions to the court;

(f) the Queensland Civil and Administrative Tribunal established under the *Queensland Civil and Administrative Tribunal Act 2009* of Queensland;

(g) the State Administrative Tribunal established under the *State Administrative Tribunal Act 2004* of Western Australia;

(h) the Victorian Civil and Administrative Tribunal established under the *Victorian Civil and Administrative Tribunal Act 1998* of Victoria.

[Section 3 amended: Gazette 2 Feb 2023 p. 116.]

Part 2 — National Boards and registers

4. National Boards for health professions

Each of the following National Health Practitioner Boards is continued for the health profession or professions listed beside that Board in the following table —

Table — National Boards

Name of Board	Health profession
Aboriginal and Torres Strait Islander Health Practice Board of Australia	Aboriginal and Torres Strait Islander health practice
Chinese Medicine Board of Australia	Chinese Medicine
Chiropractic Board of Australia	chiropractic
Dental Board of Australia	dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist or oral health therapist)
Medical Board of Australia	medical
Medical Radiation Practice Board of Australia	medical radiation practice
Nursing and Midwifery Board of Australia	nursing midwifery
Occupational Therapy Board of Australia	occupational therapy
Optometry Board of Australia	optometry
Osteopathy Board of Australia	osteopathy
Paramedicine Board of Australia	paramedicine

Pharmacy Board of Australia	pharmacy
Physiotherapy Board of Australia	physiotherapy
Podiatry Board of Australia	podiatry
Psychology Board of Australia	psychology

5. National Boards required to keep public national registers

For the purposes of section 222(5) of the Law, each of the following National Boards is required to keep the register or registers listed beside that Board in the following table —

Table — Public national registers

Name of Board	Name of public national register
Aboriginal and Torres Strait Islander Health Practice Board of Australia	Register of Aboriginal and Torres Strait Islander Health Practitioners
Chinese Medicine Board of Australia	Register of Chinese Medicine Practitioners
Chiropractic Board of Australia	Register of Chiropractors
Dental Board of Australia	Register of Dental Practitioners
Medical Board of Australia	Register of Medical Practitioners
Medical Radiation Practice Board of Australia	Register of Medical Radiation Practitioners
Nursing and Midwifery Board of Australia	Register of Nurses
	Register of Midwives
Occupational Therapy Board of Australia	Register of Occupational Therapists
Optometry Board of Australia	Register of Optometrists
Osteopathy Board of Australia	Register of Osteopaths
Paramedicine Board of Australia	Register of Paramedics

Name of Board	Name of public national register
Pharmacy Board of Australia	Register of Pharmacists
Physiotherapy Board of Australia	Register of Physiotherapists
Podiatry Board of Australia	Register of Podiatrists
Psychology Board of Australia	Register of Psychologists

Part 3 — Application of AIC Act

6. Application of AIC Act

For the purposes of section 212A(2)(c) of the Law, this Part sets out modifications of the AIC Act as it applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.

7. References in AIC Act to particular terms

The AIC Act applies as if —

(a) a reference to any of the following were a reference to the National Health Practitioner Privacy Commissioner —

(i) the Freedom of Information Commissioner;

(ii) the Privacy Commissioner;

(iii) an information officer; and

(b) a reference to the Minister were a reference to a member of the Ministerial Council nominated by that Council; and

(c) a reference to the Governor-General were a reference to the Ministerial Council; and

(d) a reference to an annual report were a reference to the annual report mentioned in section 10.

8. Modifications relating to appointment of National Health Practitioner Privacy Commissioner and staff

The AIC Act applies as if it were modified —

(a) so that the following provisions of the Act do not apply —

(i) the provisions about the appointment, and the general terms and conditions of service, of information officers (other than the provisions

providing for the appointment of an acting information officer); and

(ii) the provisions about the remuneration, and the leave of absence, of information officers; and

(b) to provide that the National Health Practitioner Privacy Commissioner is appointed with the remuneration, and on the terms and conditions, decided by the Ministerial Council; and

(c) to provide that a person may be appointed to act as an information officer despite the person not holding a degree from a university, or an educational qualification of a similar standing, after studies in the field of law; and

(d) to provide that the National Health Practitioner Privacy Commissioner may, for the purposes of performing the Commissioner's functions or powers —

(i) employ staff in a way the Commissioner considers appropriate; and

(ii) engage contractors or consultants in a way the Commissioner considers appropriate; and

(iii) enter into arrangements with another entity relating to the provision of staff or other resources by that entity to the Commissioner; and

(iv) delegate all or any of the functions or powers to any person the Commissioner considers appropriate.

9. Modifications about financial matters

The AIC Act applies as if it were modified to provide that the National Health Practitioner Privacy Commissioner must —

(a) ensure the Commissioner's operations are carried out efficiently, effectively and economically; and

(b) keep proper books and records in relation to the funds held by the Commissioner; and

(c) ensure expenditure is made from the funds held by the Commissioner only for lawful purposes and, as far as possible, reasonable value is obtained for amounts expended from the funds; and

(d) ensure the Commissioner's procedures, including internal control procedures, afford adequate safeguards with respect to —

(i) the correctness, regularity and propriety of payments made from the funds held by the Commissioner; and

(ii) receiving and accounting for payments made to the Commissioner; and

(iii) prevention of fraud or mistake; and

(e) take any action necessary to ensure the preparation of accurate financial statements in accordance with Australian Accounting Standards for inclusion in the annual report mentioned in section 10; and

(f) take any action necessary to facilitate the audit of the financial statements; and

(g) arrange for any further audit by a qualified person of records kept by the Commissioner in relation to the funds held by the Commissioner, if directed to do so by the Ministerial Council.

10. Modifications about annual report

The AIC Act applies as if it were modified to provide that —

(a) the National Health Practitioner Privacy Commissioner must, within 3 months after the end of each financial year, submit an annual report for the financial year to the Ministerial Council; and

(b) the annual report must include —

(i) a financial statement for the period to which the report relates that —

(A) has been prepared in accordance with Australian Accounting Standards; and

(B) has been audited by the Auditor-General (however described) of a State or Territory, or an auditor employed, appointed or otherwise engaged by an Auditor-General; and

(ii) a report about the performance of the Commissioner's functions under the Act during the period to which the report relates; and

(c) each member of the Ministerial Council must lay a copy of the annual report before each House of the Parliament of the jurisdiction the member represents.

11. Miscellaneous modifications

(1) The AIC Act applies —

(a) as if it were modified so that the National Health Practitioner Privacy Commissioner has only the privacy functions conferred under the Privacy Act; and

(b) as if it were modified so that the National Health Practitioner Privacy Commissioner must disclose to the Ministerial Council any material personal interest the Commissioner has in a matter relating to the discharge of the Commissioner's responsibilities under the Act; and

(c) as if it were modified so that the provisions of the Act relating to any of the following do not apply —

(i) the establishment of the Office of the Australian Information Commissioner;

(ii) a review of the operations of the Act;

(iii) disclosures of interests;

Note. See paragraph (b) for the requirement to disclose a material personal interest.

(iv) the Information Advisory Committee;

(v) promoting awareness and understanding of, and the objects of, the FOI Act;

(vi) providing information, advice, assistance and training on matters relevant to the operation of the FOI Act;

(vii) reporting on matters relating to a Commonwealth Government policy or practice about managing information held by the Commonwealth Government;

(viii) reports and recommendations about legislative change;

(ix) the functions and powers mentioned in sections 11 and 12 of the Act; and

(d) with any other modifications that are necessary.

(2) For subsection (1)(b), the Commissioner has a material personal interest in the matter if any of the following stand to gain a benefit or suffer a loss (either directly or indirectly) because of the discharge of the Commissioner's responsibilities —

(a) the Commissioner;

(b) a spouse of the Commissioner;

(c) a parent of the Commissioner or the Commissioner's spouse;

(d) a grandparent of the Commissioner or the Commissioner's spouse;

(e) a brother, sister, nephew or niece of the Commissioner or the Commissioner's spouse;

(f) a child of the Commissioner or the Commissioner's spouse;

(g) a grandchild of the Commissioner or the Commissioner's spouse;

(h) the spouse of any person mentioned in paragraphs (c) to (g).

(3) In this section —

spouse includes de facto partner and civil partner.

12. Regulations

The Regulations made under the AIC Act do not apply.

Part 4 — Application of FOI Act

13. Application of FOI Act

For the purposes of section 215(2)(c) of the Law, this Part sets out modifications of the FOI Act as it applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.

14. References in FOI Act to particular terms

The FOI Act applies as if —

(a) a reference to the Ombudsman were a reference to the National Health Practitioner Ombudsman; and

(b) a reference to the Commonwealth or the Government of the Commonwealth (other than a reference relating to a matter affecting the security of the Commonwealth, defence, international relations or the national economy) were a reference to a participating jurisdiction or the Government of a participating jurisdiction; and

(c) a reference to the Parliament were a reference to a relevant Parliament; and

(d) a reference to the Federal Court were a reference to the Supreme Court, or another court of competent jurisdiction, of a participating jurisdiction; and

(e) a reference to the Minister responsible for administering the Act or the responsible Minister for an agency were a reference to a member of the Ministerial Council nominated by the Ministerial Council; and

(f) a reference to relations, arrangements or communications between the Commonwealth and a State included a reference to relations, arrangements or communications between States; and

(g) a reference to any other office holder or body of the Commonwealth (other than a reference to the Inspector-General of Intelligence and Security) were a

reference to the equivalent office holder or body of a participating jurisdiction; and

(h) a reference to a security clearance at an appropriate level were a reference to a security clearance at a level the National Health Practitioner Privacy Commissioner considers appropriate.

15. Modifications relating to National Agency and National Boards

The FOI Act applies as if it were modified to provide that —

(a) it applies only in relation to agencies; and

(b) the agencies are —

[(i) omitted]

(ii) the National Agency; and

(iii) the Agency Board; and

(iv) each of the National Boards; and

(c) a reference in the Act to the principal officer of an agency is a reference to —

[(i) omitted]

(ii) for the National Agency, the chief executive officer of the National Agency; and

(iii) for the Agency Board, the Chairperson of the Agency Board; and

(iv) for a National Board, the Chairperson of the National Board; and

(d) the requirement for an agency to publish the information mentioned in section 8(2) of the Act is a requirement for the agency to publish the information by 1 June 2019; and

(e) the requirement for an agency to publish details of the appointment of officers of the agency does not apply; and

(f) the requirement to first complete a review of the operation in an agency of the information publication scheme is a requirement for the review to be complete by 1 June 2024.

[Section 15 amended: Gazette 2 Feb 2023 p. 116.]

16. Modifications relating to reports prepared by National Health Practitioner Privacy Commissioner

The FOI Act applies as if it were modified to provide that —

(a) a reference in the Act to a report mentioned in the AIC Act, section 30 were a reference to the annual report mentioned in section 10; and

(b) the National Health Practitioner Privacy Commissioner may, for the purposes of preparing the annual report, require an agency to provide information to the Commissioner that the Commissioner reasonably requires to prepare the annual report.

17. Modifications relating to Administrative Appeals Tribunal

The FOI Act applies as if it were modified to provide that —

(a) a reference to the Administrative Appeals Tribunal were a reference to a relevant tribunal; and

(b) a provision of the *Administrative Appeals Tribunal Act 1975* does not apply.

18. Modifications relating to Part VII of the FOI Act

The FOI Act applies as if it were modified to provide that Part VII of the Act commences on 1 February 2019.

19. Miscellaneous modifications

The FOI Act applies —

(a) as if the requirement for a payment to be made by the Commonwealth were a requirement for a payment to be

made by the National Agency from the Agency Fund; and

(b) as if it were modified to provide that —

(i) the provisions of the Act relating to the constitution of a tribunal do not apply to the extent that the provisions relate to the Tasmanian Magistrates Court (Administrative Appeals Division); and

(ii) the Tasmanian Magistrates Court (Administrative Appeals Division) must include a member who is a magistrate for the purposes of a hearing of a proceeding referred to in section 58B(1) of the Act; and

(c) as if it were modified so that Part VIIB, Division 3 of the Act does not apply; and

(d) as if it were modified so that the provisions of the Act relating to any of the following do not apply —

(i) the *Federal Court of Australia Act 1976*;

(ii) a review of the operations of the Act;

(iii) determinations by the Federal Circuit Court of Australia; and

(e) with any other modifications that are necessary.

20. Regulations

The Regulations made under the FOI Act, other than the provisions providing for fees and charges, do not apply.

21. Transitional provision for existing right of review by Administrative Appeals Tribunal

(1) This section applies if, immediately before the commencement —

(a) a person had a right to have a decision reviewed by the Administrative Appeals Tribunal under the FOI Act; and

(b) the person had not yet applied for a review of the decision.

(2) Despite section 57A of the FOI Act —

(a) the person may apply to a relevant tribunal under Part VIIA of the FOI Act to review the decision; and

(b) the application is taken to be an application to the relevant tribunal under section 57A of the FOI Act.

(3) In applying Part VIIA, Part VIIA must be read with any necessary changes to give practical effect to the review of the decision.

(4) This section expires on 1 February 2019.

(5) In this section —

commencement means the commencement of this section.

22. Transitional provision for current obligation to publish information

(1) If, immediately before the commencement of this section, an agency was required to publish information mentioned in section 15(e) of a repealed Regulation, the requirement continues until the end of 31 May 2019.

(2) In this section —

repealed Regulation means —

(a) the *Health Practitioner Regulation National Law Regulation*; or

(b) the *Health Practitioner Regulation National Law Regulation* as applied by the *Health Practitioner Regulation National Law (WA) Regulations 2010*.

[Section 22 amended: Gazette 17 Dec 2019 p. 4364.]

Part 5 — Application of Ombudsman Act

23. Who is an agency service provider

(1) A person is an ***agency service provider*** if the person enters into a contract with the National Agency to provide goods or services for or on behalf of the National Agency to another person who is not a department of a participating jurisdiction, prescribed authority or the government of a participating jurisdiction.

(2) A person is also an ***agency service provider*** if —

(a) the person enters into a contract (the ***subcontract***) with an agency service provider mentioned in subsection (1) (the ***head contractor***); and

(b) under the subcontract, the person provides, for or on behalf of the head contractor, the goods or services the head contractor is to provide under a contract mentioned in subsection (1).

24. Application of Ombudsman Act

For the purposes of section 235(2)(b) of the Law, this Part sets out modifications of the Ombudsman Act as it applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.

25. References in Ombudsman Act to particular terms

The Ombudsman Act applies as if —

(a) a reference to the Minister or the responsible Minister were a reference to a member of the Ministerial Council nominated by that Council; and

(b) a reference to the Governor-General were a reference to the Ministerial Council; and

(c) a reference to the Information Commissioner were a reference to the National Health Practitioner Privacy Commissioner; and

(d) a reference to the Commonwealth or the Government of the Commonwealth were a reference to a participating jurisdiction or the Government of a participating jurisdiction; and

(e) a reference to the Prime Minister were a reference to a member of the Ministerial Council nominated by that Council; and

(f) a reference to the Parliament were a reference to a relevant Parliament; and

(g) a reference to the Administrative Appeals Tribunal were a reference to a relevant tribunal; and

(h) a reference to the Federal Court were a reference to the Supreme Court, or another court of competent jurisdiction, of a participating jurisdiction; and

(i) a reference to any other office holder or body of the Commonwealth were a reference to the equivalent office holder or body of a participating jurisdiction; and

(j) a reference to a Commonwealth service provider were a reference to an agency service provider; and

(k) a reference to an arrangement or communication between a Commonwealth Minister and a Minister of a State or Territory included a reference to an arrangement or communication between Ministers of States and Territories.

26. Modifications relating to National Agency and National Boards

The Ombudsman Act applies as if it were modified to provide that —

(a) it applies only in relation to —

(i) prescribed authorities; and

(ii) agency service providers; and

(b) the prescribed authorities are —

[(i) omitted]

(ii) the National Agency; and

(iii) the Agency Board; and

(iv) each of the National Boards; and

(v) each accreditation authority; and

(vi) if the National Board appoints a person to conduct an examination or assessment of an individual under sections 54 or 59 of the Law — the person; and

(vii) if the National Board appoints a person to conduct an examination or assessment of an applicant for registration under section 80(3)(a) of the Law — the person; and

(viii) a specialist medical college in relation to an approved program of study provided by the college; and

(c) the following are not listed entities for the purposes of the *Public Governance, Performance and Accountability Act 2013* —

(i) the National Health Practitioner Ombudsman;

(ii) a prescribed authority; and

(d) a reference in the Act to the principal officer of a prescribed authority is a reference to —

[(i) omitted]

(ii) for the National Agency, the chief executive officer of the National Agency; and

(iii) for the Agency Board, the Chairperson of the Agency Board; and

(iv) for a National Board, the Chairperson of the National Board; and

(v) for an accreditation committee — the Chairperson of the committee; and

(vi) for an external accreditation entity — the chief executive officer of the entity; and

(vii) for a prescribed authority specified in paragraph (b)(vi) or (vii) — the chief executive officer of the authority; and

(viii) for a specialist medical college specified in paragraph (b)(viii) —

(A) the chief executive officer of the college; or

(B) if there is no chief executive officer — the president of the college.

Note. As the Act applies only in relation to agencies (that is, the National Agency, the Agency Board, National Boards, accreditation authorities, entities appointed to conduct certain examinations or assessments and specialist medical colleges in certain circumstances, certain provisions of the Act, including, for example, provisions providing for the Defence Force Ombudsman and Postal Industry Ombudsman do not apply.

[Section 26 amended: Gazette 2 Feb 2023 p. 116 and 117.]

27. Modifications relating to appointment of National Health Practitioner Ombudsman and staff

The Ombudsman Act applies as if it were modified —

(a) so that the provisions of the Act providing for the appointment of the Ombudsman and the conditions of service of the Ombudsman (other than the provisions providing for the appointment of an acting Ombudsman) do not apply; and

(b) so that the provisions of the Act providing for the appointment of a deputy Ombudsman do not apply; and

(c) so that the provisions of the Act relating to the removal and retirement of the Ombudsman on the grounds of invalidity do not apply; and

(d) to provide that the National Health Practitioner Ombudsman is appointed with the remuneration, and on the terms and conditions, decided by the Ministerial Council; and

(e) so that the National Health Practitioner Ombudsman may —

(i) be suspended from office by the Ministerial Council without the need for a statement of the grounds of the suspension to be laid before a relevant Parliament; and

(ii) be removed from office by the Ministerial Council on the ground of misbehaviour or physical or mental incapacity without the need for an address being presented to a relevant Parliament; and

(f) to provide that the National Health Practitioner Ombudsman may, for the purposes of performing the Ombudsman's functions or powers —

(i) employ staff in a way the Ombudsman considers appropriate; and

(ii) engage contractors or consultants in a way the Ombudsman considers appropriate; and

(iii) enter into arrangements with another entity relating to the provision of staff or other resources by that entity to the Ombudsman; and

(iv) delegate all or any of the functions or powers to any person the Ombudsman considers appropriate.

28. Modifications about financial matters

The Ombudsman Act applies as if it were modified to provide that the National Health Practitioner Ombudsman must —

(a) ensure the Ombudsman's operations are carried out efficiently, effectively and economically; and

(b) keep proper books and records in relation to the funds held by the Ombudsman; and

(c) ensure expenditure is made from the funds held by the Ombudsman only for lawful purposes and, as far as possible, reasonable value is obtained for amounts expended from the funds; and

(d) ensure the Ombudsman's procedures, including internal control procedures, afford adequate safeguards with respect to —

(i) the correctness, regularity and propriety of payments made from the funds held by the Ombudsman; and

(ii) receiving and accounting for payments made to the Ombudsman; and

(iii) prevention of fraud or mistake; and

(e) take any action necessary to ensure the preparation of accurate financial statements in accordance with Australian Accounting Standards for inclusion in the annual report mentioned in section 29; and

(f) take any action necessary to facilitate the audit of the financial statements; and

(g) arrange for any further audit by a qualified person of records kept by the Ombudsman in relation to the funds held by the Ombudsman, if directed to do so by the Ministerial Council.

29. Modifications about annual report

The Ombudsman Act applies as if it were modified to provide that —

(a) the National Health Practitioner Ombudsman must, within 3 months after the end of each financial year, submit an annual report for the financial year to the Ministerial Council; and

(b) the annual report must include —

(i) a financial statement for the period to which the report relates that —

(A) has been prepared in accordance with Australian Accounting Standards; and

(B) has been audited by the Auditor-General (however described) of a State or Territory, or an auditor employed, appointed or otherwise engaged by an Auditor-General; and

(ii) a report about the performance of the Ombudsman's functions under the Act during the period to which the report relates; and

(c) each member of the Ministerial Council must lay a copy of the annual report before each House of the Parliament of the jurisdiction the member represents.

30. Miscellaneous modifications

The Ombudsman Act applies —

(a) as if it were modified so that provisions of the Act relating to the Integrity Commissioner do not apply; and

(b) as if the requirement to give a report under the *Public Governance, Performance and Accountability Act 2013*, section 46 does not apply; and

(c) as if the requirement to observe confidentiality under the Act —

(i) applies to any person performing functions under the Act; but

(ii) does not prevent a member of the Ministerial Council making a record of, or divulging or communicating to another member of the Ministerial Council, information acquired by the member in performing functions under the Act; and

(d) with any other modifications that are necessary.

31. Regulations

The Regulations made under the Ombudsman Act, other than provisions providing for witness expenses, do not apply.

Part 6 — Application of Privacy Act

32. Who is a contracted service provider

(1) A person is a ***contracted service provider*** if the person enters into a contract with the National Agency to provide services to the National Agency.

(2) A person is also a ***contracted service provider*** if —

(a) the person enters into a contract (the ***subcontract***) with a contracted service provider mentioned in subsection (1) (the ***head contractor***); and

(b) under the subcontract, the person provides, for or on behalf of the head contractor, the services the head contractor is to provide under a contract mentioned in subsection (1).

33. Application of Privacy Act

For the purposes of section 213(2)(b) of the Law, this Part sets out modifications of the Privacy Act as it applies as a law of a participating jurisdiction for the purposes of the national registration and accreditation scheme.

34. References in Privacy Act to particular terms

The Privacy Act applies as if —

(a) a reference to the Ombudsman were a reference to the National Health Practitioner Ombudsman; and

(b) a reference to the Minister or the Minister responsible for the agency were a reference to a member of the Ministerial Council nominated by that Council; and

(c) a reference to the Commonwealth or the Government of the Commonwealth were a reference to a participating jurisdiction or the Government of a participating jurisdiction; and

(d) a reference to the Parliament were a reference to a relevant Parliament; and

(e) a reference to the Administrative Appeals Tribunal were a reference to a relevant tribunal; and

(f) a reference to the Federal Court were a reference to the Supreme Court, or another court of competent jurisdiction, of a participating jurisdiction; and

(g) a reference to the Federal Circuit Court were a reference to the Magistrates Court or the Local Court of a participating jurisdiction; and

(h) a reference to any other office holder or body of the Commonwealth were a reference to the equivalent office holder or body of a participating jurisdiction; and

(i) a reference to a Commonwealth enactment included a reference to a law of a participating jurisdiction; and

(j) references to arrangements or communications between a Minister of the Commonwealth and a Minister of a State included references to arrangements or communications between Ministers of States.

35. Modifications relating to National Agency and National Boards

The Privacy Act applies as if it were modified so that —

(a) it applies only in relation to —

(i) agencies; and

(ii) contracted service providers; and

(b) the agencies are —

(i) the Advisory Council; and

(ii) the National Agency; and

(iii) the Agency Board; and

(iv) each of the National Boards; and

(v) each accreditation authority; and

(vi) if the National Board appoints a person to conduct an examination or assessment of an individual under sections 54 or 59 of the Law — the person; and

(vii) if the National Board appoints a person to conduct an examination or assessment of an applicant for registration under section 80(3)(a) of the Law — the person; and

(viii) a specialist medical college in relation to an approved program of study provided by the college; and

(c) a reference in the Act to the principal executive of an agency is a reference to —

(i) for the Advisory Council, the Chairperson of the Advisory Council; and

(ii) for the National Agency, the chief executive officer of the National Agency; and

(iii) for the Agency Board, the Chairperson of the Agency Management Committee; and

(iv) for a National Board, the Chairperson of the National Board; and

(v) for an accreditation committee — the Chairperson of the committee; and

(vi) for an external accreditation entity — the chief executive officer of the entity; and

(vii) for an agency specified in paragraph (b)(vi) or (vii) — the chief executive officer of the agency; and

(viii) for a specialist medical college specified in paragraph (b)(viii) —

(A) the chief executive officer of the college; or

(B) if there is no chief executive officer — the president of the college.

Note. As the Act applies only in relation to agencies (that is, the National Agency, the Agency Board, National Boards, accreditation authorities, entities appointed to conduct certain examinations or assessments and specialist medical colleges in certain circumstances) and contracted service providers, provisions of the Act dealing with organisations (other than to the extent the provisions relate to contracted service providers) do not apply.

[Section 35 amended: Gazette 2 Feb 2023 p. 117.]

36. Modifications about financial matters

The Privacy Act applies as if it were modified to provide that the National Health Practitioner Privacy Commissioner must —

(a) ensure the Commissioner's operations are carried out efficiently, effectively and economically; and

(b) keep proper books and records in relation to the funds held by the Commissioner; and

(c) ensure expenditure is made from the funds held by the Commissioner only for lawful purposes and, as far as possible, reasonable value is obtained for amounts expended from the funds; and

(d) ensure the Commissioner's procedures, including internal control procedures, afford adequate safeguards with respect to —

(i) the correctness, regularity and propriety of payments made from the funds held by the Commissioner; and

(ii) receiving and accounting for payments made to the Commissioner; and

(iii) prevention of fraud or mistake; and

(e) take any action necessary to ensure the preparation of accurate financial statements in accordance with Australian Accounting Standards for inclusion in the Commissioner's annual report; and

(f) take any action necessary to facilitate the audit of the financial statements; and

(g) arrange for any further audit by a qualified person of records kept by the Commissioner in relation to the funds held by the Commissioner, if directed to do so by the Ministerial Council.

37. Modifications about public interest determinations

The Privacy Act applies as if it was modified to provide that —

(a) the requirement for the National Health Practitioner Privacy Commissioner to make a public interest determination by legislative instrument does not apply; and

(b) if the National Health Practitioner Privacy Commissioner makes a public interest determination, the Commissioner must, as soon as practicable after making the determination, notify the Ministerial Council in writing of the determination; and

(c) a public interest determination commences on —

(i) the day stated in the determination (being not earlier than the day the determination is registered); or

(ii) if no day is stated in the determination, the day that is 1 day after the day the determination is registered; and

(d) the National Health Practitioner Privacy Commissioner must make the register of determinations available on the Commissioner's website; and

(e) the provisions of the Act providing for charging fees for making the register available to the public do not apply; and

(f) unless a contrary intention appears in a public interest determination, an expression used in the determination

that is also used in the Act has the same meaning in the determination as the expression has in the Act; and

(g) sections 246 and 247 of the Law apply to a public interest determination as if it were a regulation (other than to the extent the determination is in force in Western Australia); and

(h) to the extent a public interest determination is in force in Western Australia, section 42 of the *Interpretation Act 1984* of Western Australia applies to the determination as if —

(i) the determination were a regulation; and

(ii) the requirement in section 42(1) to lay the determination before each House of Parliament were a requirement to lay the determination before each House of Parliament within 18 sitting days of that House after the day the determination is registered.

38. Miscellaneous modifications

The Privacy Act applies —

(a) as if the requirement for a payment to be made by the Commonwealth were a requirement for a payment to be made by the National Agency from the Agency Fund; and

(b) as if it were modified so that the National Health Practitioner Privacy Commissioner's power to authorise persons to enter premises occupied by an agency and inspect documents extends to a power to authorise any person the Commissioner considers appropriate; and

(c) as if it were modified so that the provisions of the Act relating to the any of the following do not apply —

(i) the establishment of the Privacy Advisory Committee;

(ii) emergencies and disasters, tax file numbers, credit reporting and credit providers;

(iii) making guidelines about medical research, health information and genetic information;

(iv) privacy codes;

(v) monitoring related functions;

(vi) guidance related functions (other than the functions relating to promoting an understanding and acceptance of the Australian Privacy Principles and the objects of those principles);

(vii) the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*, the *Data-matching Program (Assistance and Tax) Act 1990*, the *Healthcare Identifiers Act 2010* and the *National Health Act 1953*; and

(d) with any other modifications that are necessary.

39. Regulations

The Regulations made under the Privacy Act do not apply.

Part 7 — Miscellaneous

40. Transition period in relation to professional indemnity insurance arrangements for midwives practising private midwifery

For the purposes of section 284(3)(b) of the Law, the transition period ends on 31 December 2026.

[Section 40 amended: Gazette 17 Dec 2019 p. 4364; 13 Dec 2021 p. 5490; SL 2023/189 r. 4; SL 2025/73.]

41. Prescribed participation day for registration in paramedicine

For the purposes of section 306 of the Law, definition participation day, the prescribed participation day is 1 December 2018.

41A. Prescribed qualification for general registration in paramedicine

For the purposes of section 312(5)(d)(i) of the Law, the Diploma of Emergency Health Care is prescribed.

[Section 41A inserted: Gazette 2 Feb 2023 p. 123.]

Part 8 — Transitional and repeal

Division 1 — Repeal

42. Regulations repealed

The following Regulations are repealed —

(a) the *Health Practitioner Regulation National Law Regulation*;

(b) the *Health Practitioner Regulation National Law (WA) Regulations 2010*.

Division 2 — Transitional provisions

43. Definitions for Division

In this Division —

applied FOI Act means the FOI Act as it applies as a law of a participating jurisdiction under Part 4.

commencement means the commencement of this Division.

previously applied FOI Act means the FOI Act as it applied as a law of a participating jurisdiction under a repealed Regulation.

repealed Regulation means —

(a) the *Health Practitioner Regulation National Law Regulation*; or

(b) the *Health Practitioner Regulation National Law Regulation* as applied by the *Health Practitioner Regulation National Law (WA) Regulations 2010*.

[Section 43 amended: Gazette 17 Dec 2019 p. 4364.]

44. Transitional provision for continued Boards

To remove any doubt, it is declared that —

(a) anything started by a National Board before commencement may be completed by the Board as continued in existence under section 4;

(b) a decision of a National Board before commencement is a decision of the Board as continued in existence under section 4;

(c) anything else done by a National Board before commencement is taken to have been done by the Board as continued in existence under section 4

45. Continuation of existing appointment and employment of National Health Practitioner Privacy Commissioner

(1) The existing appointment of the National Health Practitioners Privacy Commissioner under section 5(b) of the repealed Regulations continues as the appointment of the National Health Practitioner Privacy Commissioner under this Regulation —

(a) for the remainder of the term of appointment to which the National Health Practitioners Privacy Commissioner was subject under the repealed Regulations; and

(b) with the conditions imposed under the repealed Regulations.

(2) This section does not prevent the Ministerial Council from varying a condition imposed on the appointment of the National Health Practitioner Privacy Commissioner during the term of the appointment.

46. Continuation of existing appointment and employment of National Health Practitioner Ombudsman

(1) The existing appointment of the National Health Practitioners Ombudsman under section 22(b) of the repealed Regulations continues as the appointment of the National Health Practitioner Ombudsman under this Regulation —

(a) for the remainder of the term of appointment to which the National Health Practitioners Ombudsman was subject under the repealed Regulations; and

(b) with the conditions imposed under the repealed Regulations.

(2) This section does not prevent the Ministerial Council from varying a condition imposed on the appointment of the National Health Practitioner Ombudsman during the term of the appointment.

47. Acting Commissioner under the Privacy Act

(1) Subsection (2) applies to a person who, immediately before the commencement, held an appointment as acting Commissioner under the Privacy Act.

(2) The person continues as the acting National Health Practitioner Privacy Commissioner under the AIC Act.

48. Applications for access to a document

(1) This section applies if —

(a) before the commencement, an application was made for access to a document under the previously applied FOI Act; and

(b) the application was not decided or withdrawn before the commencement.

(2) The application must be decided under Part III of the applied FOI Act.

49. Applications for internal review of access refusal decision

(1) This section applies if —

(a) before the commencement, an application was made for internal review of an access refusal decision under the previously applied FOI Act; and

(b) the application was not decided or withdrawn before the commencement.

(2) The application must be decided under Part VI of the applied FOI Act.

Notes

This is a compilation of the *Health Practitioner Regulation National Law Regulation (Western Australia)* and includes amendments made by other written laws. The *Health Practitioner Regulation National Regulation 2018* (the national regulation) are made under section 245 of the *Health Practitioner Regulation National Law*) and apply as subsidiary legislation of Western Australia under section 12 of the *Health Practitioner Regulation National Law (Western Australia)* (the ***WA Application Act***).

This is a version of the national regulation as it applies in Western Australia. This version also includes amendments to the national regulation made by the Ministerial Council (currently known as the Health Ministers' Meeting) under section 245 of the *Health Practitioner Regulation National Law*), subject to the WA Application Act, sections 13, 14 and 16. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
Health Practitioner Regulation National Law Regulation (Western Australia) [1]		15 May 2024 (see *Health Practitioner Regulation National Law Application Act 2024* s. 43)
Health Practitioner Regulation National Law Amendment (Professional Indemnity Insurance) Regulation 2025	SL 2025/73 13 May 2025	13 May 2025 (see r. 2)

Other notes

1 As at 15 May 2024, when the *Health Practitioner Regulation National Regulation 2018* (the national regulation) began to apply as subsidiary legislation of Western Australia, the version of the national regulation that was applied under the WA Application Act section 12 was the national regulation as in force on 8 December 2023.

2 The *Health Practitioner Regulation National Law Regulation (Western Australia)* has been formatted in accordance with WA drafting style. Editorial notes have been inserted as part of producing this compliation.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
AIC Act	3
applied FOI Act	43
commencement	21(5), 43
FOI Act	3
Gazette	3
National Health Practitioner Ombudsman	3
National Health Practitioner Privacy Commissioner	3
Ombudsman Act	3
previously applied FOI Act	43
Privacy Act	3
relevant Parliament	3
relevant tribunal	3
repealed Regulation	22(2), 43
spouse	11(3)

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