



Western Australia

## **Health Professionals (Special Events Exemption) Act 2000**

Compare between:

[17 Sep 2010, 01-g0-01] and [01 Oct 2010, 01-h0-01]



Western Australia

## **Health Professionals (Special Events Exemption) Act 2000**

**An Act to allow visiting health professionals to provide health care services to visitors to the State in connection with special events, and for related purposes.**

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Health Professionals (Special Events Exemption) Act 2000*<sup>1</sup>.

### **2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent<sup>1</sup>.

### **3. Terms used in this Act**

- (1) In this Act, unless the contrary intention appears —

**drug of addiction** means a substance included in Schedule 8 in Appendix A to the *Poisons Act 1964*;

**exemption period**, in relation to a special event, means the period or periods specified in an order under section 6 that applies to the event;

**health care services** means —

- (a) services ordinarily provided by chiropractors, dental hygienists, dental therapists, dental prosthetists, dentists, medical practitioners, nurses, occupational therapists, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists; and
- (b) any other prescribed health care service;

**Health Registration Act** means any of the following Acts —

- (a) *Chiropractors Act 2005*;
- (b) *Dental Act 1939*;
- (c) *Dental Prosthetists Act 1985*;
- (d) *Medical Practitioners Act 2008*;
- (e) *Medical Radiation Technologists Act 2006*;
- (f) *Nurses and Midwives Act 2006*;
- (g) *Occupational Therapists Act 2005*;

- (h) *Optometrists Act 2005*;
- (i) *Osteopaths Act 2005*;
- (j) *Pharmacy Act 1964*;
- (k) *Physiotherapists Act 2005*;
- (l) *Podiatrists Act 2005*;
- (m) *Psychologists Act 2005*;

**prepare** includes train, practise, rehearse and acclimatize;

**registered** means registered, licensed or enrolled under a Health Registration Act, or deemed to be so registered, licensed or enrolled;

**restricted substance** means a substance included in Schedule 4 in Appendix A to the *Poisons Act 1964*;

**special event** means an event, or class of event, that is declared to be a special event by order under section 6;

**substance** has the meaning given by the *Poisons Act 1964*;

**visiting health professional** has the meaning given by section 5;

**visitor** has the meaning given by section 4.

- (2) An order made under this Act is subsidiary legislation within the meaning of the *Interpretation Act 1984*.

[Section 3 amended by No. 28 of 2005 s. 108; No. 29 of 2005 s. 109; No. 30 of 2005 s. 109; No. 31 of 2005 s. 109; No. 32 of 2005 s. 109; No. 33 of 2005 s. 108; No. 42 of 2005 s. 109; No. 11 of 2006 s. 4; No. 21 of 2006 s. 105; No. 50 of 2006 s. 114; No. 22 of 2008 s. 162; No. 19 of 2010 s. 51.]

#### 4. Meaning of “visitor”

A person is a **visitor** for the purposes of this Act if —

- (a) the person is a resident of another country who is in the State for the purpose of —
  - (i) officially participating in a special event; or

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- (ii) preparing for official participation in a special event;
- (b) the person is a resident of another country who is appointed, employed, contracted or otherwise engaged to manage, train or otherwise assist a person referred to in paragraph (a) and is in the State for that purpose; or
- (c) the person is a resident of Australia who is in the State for a purpose referred to in paragraph (a) or (b) and is a member of a group the majority of members of which are persons referred to in paragraph (a) or (b) who are in the State for the same purpose.

**5. Meaning of “visiting health professional”**

A person is a *visiting health professional* for the purposes of this Act if —

- (a) the person is an individual who is a resident of another country;
- (b) the person is appointed, employed, contracted or otherwise engaged to provide health care services to a visitor;
- (c) the person is not registered; and
- (d) notice is given of the person’s intention to provide health care services in the State to a visitor in accordance with the procedure specified in the order under section 6 declaring the special event.

## Part 2 — Special events exemptions

### 6. Special events

- (1) The Minister may, by order published in the *Gazette*, declare an event, or class of events, specified in the order to be a special event for the purposes of this Act.
- (2) An order may be made in relation to —
  - (a) any sporting, cultural or other event that is to take place or is taking place in the State and that, in the opinion of the Minister, will attract a significant number of participants from other countries; or
  - (b) any sporting, cultural or other event that —
    - (i) is declared to be a special event under a law of another State or Territory that corresponds to this Act; and
    - (ii) in the opinion of the Minister, will attract visitors to the State.
- (3) The order is to specify —
  - (a) the period or periods in which the exemptions under this Act have effect in respect of the special event; and
  - (b) the procedure by which notice is to be given of a person's intention to provide health care services in the State to a visitor.
- (4) The exemption period for a special event may include any period or periods before or after the special event takes place.

### 7. Provision of health care services by visiting health professionals authorised

A visiting health professional is authorised to provide health care services to a visitor for whom the health professional has been appointed, employed, contracted or otherwise engaged to provide those services.

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**8. Conditions on practice by visiting health professionals**

- (1) It is a condition on the provision of health care services by each visiting health professional that the visiting health professional is not to provide health care services other than health care services that may be lawfully provided in this State by a registered health professional of the like profession.
- (2) It is a condition on the provision of health care services by each visiting health professional that the visiting health professional is not to possess, use or supply a substance in the course of providing health care services authorised under this Act other than a substance that may be lawfully possessed, used or supplied in this State by a registered health professional of the like profession.
- (3) The Minister may, by an order under section 6, do one or more of the following:
  - (a) impose further conditions on the provision of health care services by a visiting health professional;
  - (b) exempt a visiting health professional from the condition referred to in subsection (1);
  - (c) exempt a visiting health professional from the condition referred to in subsection (2).
- (4) A condition or exemption may apply generally or apply to a particular special event or to a particular person or class of persons specified in the order.
- (5) The regulations may make provision for or with respect to conditions to be imposed on the provision of health care services by a visiting health professional.
- (6) If there is conflict or inconsistency between a regulation referred to in subsection (5) and a condition imposed under subsection (3), the regulation, to the extent of the conflict or inconsistency, prevails.



**9. Issue of prescriptions and supply of certain substances authorised**

- (1) A visiting health professional may issue a written prescription for a restricted substance or a drug of addiction only if authorised to do so by an order under section 6.
- (2) The Minister may, by an order under section 6 —
  - (a) authorise a visiting health professional or a class of visiting health professionals to issue written prescriptions for a restricted substance or drug of addiction, or restricted substances or drugs of addiction of a class specified in the order, in the course of providing health care services in accordance with this Act;
  - (b) authorise any person or class of persons to sell or supply a restricted substance or drug of addiction on such a prescription, but only if the person or class of persons is licensed or otherwise authorised under the *Poisons Act 1964* to sell or supply the substance on prescription;
  - (c) authorise a visiting health professional, all visiting health professionals or a class of visiting health professionals to be sold any substance by wholesale; and
  - (d) authorise any person or class of persons to sell any substance by wholesale to any visiting health professional authorised as referred to in paragraph (c), but only if the person or class of persons is licensed or otherwise authorised under the *Poisons Act 1964* to sell the substance by wholesale to a medical practitioner.
- (3) The Minister is not to make an order containing an authorisation referred to in subsection (2) unless the Minister is satisfied that adequate arrangements are in place to ensure that the substances concerned will only be prescribed for, sold or supplied to, and used by, persons to whom visiting health professionals are authorised to provide health care services under this Act.

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- (4) The Minister is not to make an order containing an authorisation referred to in subsection (2)(a) in respect of a visiting health professional or class of visiting health professionals unless registered health professionals of the like profession in this State may lawfully issue written prescriptions for the restricted substance or drug of addiction of the type or class specified in the order.
- (5) An order under section 6 may impose conditions on any authorisation referred to in this section that is conferred by the order.

**10. Request for use of irradiating apparatus etc. authorised**

- (1) A visiting health professional may request the holder of a licence under section 26(1)(a) of the *Radiation Safety Act 1975* to undertake diagnosis or therapy referred to in that section only if the visiting health professional is authorised to do so by an order under section 6.
- (2) The Minister may, by an order under section 6 authorise a visiting health professional or a class of visiting health professionals, in the course of providing health care services in accordance with this Act, to request the holder of a licence under section 26(1)(a) of the *Radiation Safety Act 1975* to undertake diagnosis or therapy referred to in that section.
- (3) An order under section 6 may impose conditions on any authorisation referred to in this section that is conferred by the order.

**11. Exemptions**

- (1) A visiting health professional does not commit an offence under a Health Registration Act, the *Poisons Act 1964*, the *Radiation Safety Act 1975* or the *Misuse of Drugs Act 1981* for —
  - (a) providing health care services as authorised under this Act;

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- (b) possessing, using or supplying a substance in the course of providing those authorised health care services where the substance is —
    - (i) lawfully imported or lawfully obtained in Australia by the visiting health professional; and
    - (ii) a substance that may be lawfully possessed, used or supplied by a registered health professional of the like profession;
  - (c) prescribing a substance in the course of providing those authorised health care services;
  - (d) requesting the holder of a licence under the *Radiation Safety Act 1975* to undertake diagnosis or therapy in the course of providing those authorised health care services;
  - (e) holding himself or herself out as being able to provide those authorised health care services; or
  - (f) using any name, initials, description, word, symbol, addition or title that the visiting health professional ordinarily uses.
- (2) A visitor does not commit an offence under the *Poisons Act 1964* or the *Misuse of Drugs Act 1981* for using or possessing any substance as a result of being provided with health care services in accordance with this Act.
  - (3) A person does not commit an offence under the *Poisons Act 1964* or the *Misuse of Drugs Act 1981* for —
    - (a) selling or supplying a restricted substance or drug of addiction in accordance with a written prescription issued by a visiting health professional if —
      - (i) the visiting health professional is authorised under this Act to issue the prescription;
      - (ii) the person is authorised under this Act to sell or supply the substance on such a prescription; and

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- (iii) the person is complying with any conditions to which the person's authorisation under the *Poisons Act 1964* is subject;
- or
- (b) selling any substance by wholesale to a visiting health professional if —
  - (i) the person is authorised under this Act to supply the substance by wholesale;
  - (ii) the visiting health professional is authorised under this Act to be sold the substance by wholesale; and
  - (iii) the person is complying with any conditions to which the person's authorisation under the *Poisons Act 1964* is subject.
- (4) The regulations may prescribe other offences to which subsection (1), (2) or (3) applies.

**12. Operation of authorisations**

- (1) Section 7 and any authorisation referred to in section 9 or 10 operate in relation to a visiting health professional during the exemption period for the special event in respect of which notice is given by or on behalf of that visiting health professional under section 5(d) and at no other time.
- (2) Section 7 and any authorisation referred to in section 9 or 10 do not operate in relation to a visiting health professional if the visiting health professional fails to comply with the provisions of this Act, the regulations or any relevant conditions imposed by or under this Act.

## Part 3 — Miscellaneous

### 13. Complaints about visiting health professionals

- (1) A complaint may not be made about a visiting health professional under the *Health Services (Conciliation and Review) Act 1995* or a Health Registration Act and no disciplinary action may be taken against a visiting health professional under those Acts.
- (2) This section does not prevent the bringing of proceedings for an offence under an Act referred to in subsection (1).

### 14. Application of Act to particular persons

The Minister may at any time, by order published in the *Gazette*, declare that this Act, or a specified provision of this Act, does not apply to or in respect of a specified person or class of persons, and that order has effect according to its terms.

### 15. Act does not limit the practice of registered health professionals

This Act does not prejudice or affect the lawful occupation, trade or business of any person who is registered.

### 16. Regulations

- (1) The Governor may make regulations prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding \$1 000.

### 17. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from its commencement.

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- (2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, (and in any event not more than 12 months after the expiration of the 5 year period referred to in subsection (1)) is to cause the report to be laid before each House of Parliament.

### Notes

- <sup>1</sup> This is a compilation of the *Health Professionals (Special Events Exemption) Act 2000* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Health Professionals (Special Events Exemption) Act 2000</i>	7 of 2000	14 Apr 2000	14 Apr 2000 (see s. 2)
<i>Psychologists Act 2005</i> s. 108	28 of 2005	12 Dec 2005	4 May 2007 (see s. 2 and <i>Gazette</i> 4 May 2007 p. 1963)
<i>Optometrists Act 2005</i> s. 109	29 of 2005	12 Dec 2005	20 Apr 2007 (see s. 2 and <i>Gazette</i> 30 Mar 2007 p. 1451)
<i>Podiatrists Act 2005</i> s. 109	30 of 2005	12 Dec 2005	30 May 2007 (see s. 2 and <i>Gazette</i> 29 May 2007 p. 2486)
<i>Chiropractors Act 2005</i> s. 109	31 of 2005	12 Dec 2005	1 Aug 2007 (see s. 2 and <i>Gazette</i> 31 Jul 2007 p. 3789)
<i>Physiotherapists Act 2005</i> s. 109	32 of 2005	12 Dec 2005	23 Feb 2007 (see s. 2 and <i>Gazette</i> 20 Feb 2007 p. 505)
<i>Osteopaths Act 2005</i> s. 108	33 of 2005	12 Dec 2005	30 May 2007 (see s. 2 and <i>Gazette</i> 29 May 2007 p. 2486)
<i>Occupational Therapists Act 2005</i> s. 109	42 of 2005	19 Dec 2005	1 Aug 2007 (see s. 2 and <i>Gazette</i> 31 Jul 2007 p. 3789)
<i>Optical Dispensers Repeal Act 2006</i> s. 4	11 of 2006	11 May 2006	11 May 2006 (see s. 2)
<i>Medical Radiation Technologists Act 2006</i> s. 105	21 of 2006	9 Jun 2006	1 Jul 2007 (see s. 2 and <i>Gazette</i> 26 Jun 2007 p. 3013)
<i>Nurses and Midwives Act 2006</i> s. 114	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and <i>Gazette</i> 18 Sep 2007 p. 4711)
<b>Reprint 1: The <i>Health Professionals (Special Events Exemption) Act 2000</i> as at 12 Oct 2007</b> (includes amendments listed above)			
<i>Medical Practitioners Act 2008</i> s. 162	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
<i>Standardisation of Formatting Act 2010</i> s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Health and Disability Services Legislation Amendment Act 2010</i> s. 58 <sup>2</sup>	33 of 2010	30 Aug 2010	30 Nov 2010 (see s. 2(b) and <i>Gazette</i> 17 Sep 2010 p. 4757)
<i>Health Practitioner Regulation National Law (WA) Act 2010</i> Pt. 5 Div. 24 <sup>3</sup>	35 of 2010	30 Aug 2010	<del>Res. 77 and 78(1): 18 Oct 2010</del> (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075); <a href="#">s. 78(2): to be proclaimed</a> (see s. 2(b))

<sup>2</sup> On the date as at which this compilation was prepared, the *Health and Disability Services Legislation Amendment Act 2010* s. 58 had not come into operation. It reads as follows:

**58. *Health Professionals (Special Events Exemption) Act 2000* amended**

- (1) This section amends the *Health Professionals (Special Events Exemption) Act 2000*.
- (2) In section 13(1) delete “*Health Services (Conciliation and Review) Act 1995*” and insert:

*Health and Disability Services (Complaints) Act 1995*

<sup>3</sup> On the date as at which this compilation was prepared, the *Health Practitioner Regulation National Law (WA) Act 2010* Pt. 5 Div. 24 had not come into operation. It reads as follows:



**Division 24 — *Health Professionals (Special Events Exemption) Act 2000* amended**

**77. Act amended**

This Division amends the *Health Professionals (Special Events Exemption) Act 2000*.

**78. Section 3 amended**

- (1) In section 3(1) delete the definition of ***Health Registration Act*** and insert:

***Health Registration Act*** means any of the following Acts —

- (a) *Medical Radiation Technologists Act 2006*;
- (b) *National Health Practitioner Regulation National Law (Western Australia)*;
- (c) *Occupational Therapists Act 2005*;

- (2) In section 3(1) delete the definition of ***Health Registration Act*** and insert:

***Health Registration Act*** means the *National Health Practitioner Regulation National Law (Western Australia)*;