



Western Australia

Health Legislation Administration Act 1984

Compare between:

[01 Oct 2010, 01-g0-03] and [18 Oct 2010, 01-h0-02]

Health Legislation Administration Act 1984

An Act relating to the administration of certain Acts and to facilitate the provision of health services to the people of the State.

1. Short title

This Act may be cited as the *Health Legislation Administration Act 1984*¹.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

3. Interpretation

In this Act, unless the contrary intention appears —

CEO means the chief executive officer of the Department;

Department means the department of the Public Service of the State principally assisting the Minister in the administration of the Acts to which this Act applies;

prescribed officer means an officer referred to in section 6(1)(b), (c) or (d) and any officer or officer of a class of officers prescribed by the regulations;

section means a section of this Act;

subsection means a subsection of the section wherein the term is used.

[Section 3 amended by No. 28 of 2006 s. 253.]

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4. Application

This Act applies to the Acts the administration of which is committed by the Governor to the Minister.

5. Objects

The objects of this Act are to facilitate —

- (a) the co-ordination of the administration of the Acts to which this Act applies; and
- (b) the effective and efficient provision of health and related services to the people of the State.

6. Officers and employees

- (1) Subject to this section, there shall be appointed in the Department, under and subject to Part 3 of the *Public Sector Management Act 1994*, the following officers, namely —

[(a) deleted]

- (b) an Executive Director, Personal Health Services;
- (c) an Executive Director, Public Health and Scientific Support Services;
- (d) a Chief Psychiatrist,

and such other officers as are necessary for the purposes of carrying out the provisions of the Acts to which this Act applies.

- (2) Subject to Part III of the *Hospitals and Health Services Act 1927*, the Minister may for the purposes of the Acts to which this Act applies —

- (a) appoint persons, other than officers, as employees on a full time, part time or casual basis or for a specified period;
- (b) engage persons, other than officers, under contract for services.

- (3) Subject to the *Industrial Relations Act 1979*² and the *Public Service Arbitration Act 1966*³, the terms and conditions subject to which a person or a member of a class of persons is —
- (a) appointed as an employee under subsection (2)(a); or
 - (b) engaged under contract for services under subsection (2)(b),

shall be as determined by the Minister after consultation with the Minister for Public Sector Management⁴.

- (4) A person shall not be appointed to hold or act in —
- (a) an office referred to in subsection (1)(b) or ~~(1)(c)~~ unless ~~he~~the person is registered ~~as a medical practitioner~~ under the ~~*Medical Practitioners Act 2008*~~*Health Practitioner Regulation National Law (Western Australia) in the medical profession*;
 - (b) the office referred to in subsection (1)(d) unless he is a psychiatrist as defined in section 3 of the *Mental Health Act 1996*.

[Section 6 amended by No. 32 of 1994 s. 3(2); No. 103 of 1994 s. 18; No. 69 of 1996 s. 38; No. 28 of 2006 s. 254; No. 22 of 2008 s. 162; No. 35 of 2010 s. 76.]

7. Power to designate officers and other persons

The Minister may designate any officer or other person who holds the relevant qualifications for that position as a medical officer of health, environmental health officer, inspector or public health official, as the case requires, for the purposes of any Act to which this Act applies or for any provision thereof and may cancel any such designation.

[Section 7 amended by No. 57 of 1997 s. 69.]

8. Effect of appointment or designation

Where a person is appointed 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, for the purposes of an Act to which this Act applies or for any provision of such an Act all the powers and duties conferred or imposed on holding such an appointment or having such a designation by this Act or by an Act to which this Act applies or by a provision of such an Act may be exercised and shall be carried out by the person so appointed or designated and any order or direction given by such a person acting in pursuance of any such power or duty shall have effect accordingly.

[Section 8 amended by No. 57 of 1997 s. 69.]

9. Power to delegate

- (1) Subject to this section, the Minister, the CEO or a prescribed officer (hereinafter referred to as **“the delegator”**) on whom a power is conferred or duty is imposed by any Act to which this Act applies (hereinafter referred to as **“a relevant Act”**) may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person (hereinafter referred to as **“the delegate”**) any of his powers or duties under that Act, other than this power of delegation.
- (2) For the purposes of a relevant Act, the exercise of a power or the performance of a duty by a delegate under this section shall be deemed to be the exercise of the power or the performance of the duty by the delegator.
- (3) A delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.
- (4) A delegation under this section may —
 - (a) be made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation;
 - (b) be revoked or varied by instrument in writing signed by the delegator.

- (5) The delegator may exercise a power or perform a duty notwithstanding that he has delegated its exercise or performance under this section.
- (6) This section is in addition to, and not in derogation of, any power to delegate conferred on a delegator by a relevant Act.
[Section 9 amended by No. 28 of 2006 s. 255.]

10. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and its operations.

[Section 10 inserted by No. 98 of 1985 s. 3; No. 77 of 2006 s. 17.]

11. Advisory groups, committees, councils and panels

- (1) The Minister may establish such groups, committees, councils and panels as he thinks are necessary for the purposes of advising him on the administration of this Act and any Act to which this Act applies or any provision thereof, and on the provision of health and related services in this State.
- (2) The Minister may appoint such persons as he thinks fit to any group, committee, council or panel established under subsection (1).
- (3) A member of a group, committee, council or panel appointed under this section is entitled to such remuneration and allowances as are determined by the Minister after consultation with the Minister for Public Sector Management⁴.
- (4) The terms and conditions, other than those referred to in subsection (3), applicable in relation to a person appointed under this section shall be as determined by the Minister from

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time to time either generally or with respect to a particular appointment.

- (5) A person appointed under this section is not by that reason alone an officer of the Public Service of the State.

12. Regulations

The Governor may make such regulations as are contemplated by this Act or as he considers necessary or expedient for the purposes of this Act.

Notes

- ¹ This is a compilation of the *Health Legislation Administration Act 1984* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Health Legislation Administration Act 1984</i>	27 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Hospitals Amendment Act 1994 s. 18</i>	103 of 1994	11 Jan 1995	3 Feb 1995 (see s. 2 and <i>Gazette</i> 3 Feb 1995 p. 333)
<i>Mental Health (Consequential Provisions) Act 1996 Pt. 9⁵</i>	69 of 1996	13 Nov 1996	13 Nov 1997 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 69</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Reprint of the <i>Health Legislation Administration Act 1984</i> as at 11 Jan 2002 (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 9 Div. 3^{6,7}</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 17</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Medical Practitioners Act 2008 s. 162</i>	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
<i>Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 23</i>	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)

^{1a} 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
Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 23⁸	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and Gazette 1 Oct 2010 p. 5075-6)
Public Sector Reform Act 2010 s. 89 ⁹	39 of 2010	1 Oct 2010	To be proclaimed (see s. 2(b))

² Under the *Interpretation Act 1984* s. 16, a reference to the *Industrial Arbitration Act 1979* may be read as a reference to the *Industrial Relations Act 1979*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).

³ Repealed by the *Acts Amendment and Repeal (Industrial Relations) Act (No. 2) 1984*.

⁴ Under the *Public Sector Management Act 1994* s. 112(2), a reference in a written law to the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management (as defined in the *Interpretation Act 1984*). This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

⁵ The *Mental Health (Consequential Provisions) Act 1996* s. 38(2) reads as follows:

“

- (2) The person who immediately before the commencement of this provision held office as the Director, Psychiatric Services under the section amended by subsection (1) is to be taken after the commencement to hold the office of Chief Psychiatrist under that section.

”.

⁶ The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9 Div. 13 reads as follows:

“

Division 13 — Transitional provisions

289. Commissioner of Health

- (1) A thing done or omitted to be done by, to or in relation to, the Commissioner of Health before commencement under, or for the purposes of, an enactment has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the CEO.
- (2) In this section —
CEO has the meaning given by section 3 of the *Health Legislation Administration Act 1984* as in force after commencement;
commencement means the time at which this Division comes into operation;
Commissioner of Health means the Commissioner of Health referred to in section 6(1)(a) of the *Health Legislation Administration Act 1984* as in force before commencement.

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⁷ The requirement to appoint a Commissioner of Health was removed from the Act and references to the Commissioner of Health were replaced by references to the CEO, see the *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9. Section 454 of that Act is a general transitional provision that applies to references to the Commissioner in written laws.

⁸ On the date as at which this compilation was prepared, the *Health Practitioner Regulation National Law (WA) Act 2010* Pt. 5 Div. 23 had not come into operation. It reads as follows:

Division 23 — Health Legislation Administration Act 1984 amended

75. Act amended

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

76. Section 6 amended

Delete section 6(4)(a) and insert:

- (a) an office referred to in subsection (1)(b) or (c) unless the person is registered under the *Health Practitioner*

Regulation National Law (Western Australia) in the medical profession;

- ⁹ On the date as at which this compilation was prepared, the *Public Sector Reform Act 2010* s. 89 had not come into operation. It reads as follows:

89. Various references to “Minister for Public Sector Management” amended

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “Minister for Public Sector Management” and insert:

Public Sector Commissioner

Table

<i>Health Legislation Administration Act 1984</i>	s. 6(3), 11(3)
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