



Western Australia

Health (Western Australian Register of Developmental Anomalies) Regulations 2010

Compare between:

[10 Jan 2017, 00-c0-00] and [24 Jan 2017, 00-d0-01]

Health (Western Australian Register of Developmental Anomalies) Regulations 2010

Part 1 — Preliminary

1. Citation

These regulations are the *Health (Western Australian Register of Developmental Anomalies) Regulations 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Terms used

In these regulations, unless the contrary intention appears —

Australian Institute of Health and Welfare means the Australian Institute of Health and Welfare established under the *Australian Institute of Health and Welfare Act 1987* (Commonwealth) section 4;

chief executive officer, in relation to a hospital, means the person who, subject to the control of the health service provider for the hospital or the licence holder of the hospital, is responsible for the day-to-day operations of the hospital;

child includes a human fetus;

corresponding officer, in relation to another State or a Territory, means a person who under the law of that State or Territory has functions that correspond or substantially correspond to the functions of the ~~EDPH~~[Chief Health Officer](#) under these regulations;

developmental anomaly has the meaning given in regulation 4;

~~EDPH means the Executive Director, Public Health;~~

health service provider has the meaning given in the *Health Services Act 2016* section 6;

hospital has the meaning given in the *Health Services Act 2016* section 8(4);

identifying information means information from which the identity of the person to whom the information relates is apparent or can reasonably be ascertained;

notified information means information notified under Part 2;

register means the Western Australian Register of Developmental Anomalies referred to in regulation 8.

[Regulation 3 amended ~~in~~ [Gazette 24 Jun 2016 p. 2314](#); [10 Jan 2017 p. 296](#).]

4. Term used: developmental anomaly

- (1) Subject to subregulations (2) and (3), **developmental anomaly** means —
- (a) cerebral palsy; or
 - (b) a structural or functional anomaly which —
 - (i) is present at conception or occurs before the end of pregnancy; and
 - (ii) is diagnosed —
 - (I) during pregnancy; or
 - (II) after stillbirth or termination of pregnancy; or
 - (III) after live birth but before 6 years of age.

- (2) Structural and functional anomalies include —
 - (a) congenital malformations; and
 - (b) congenital deformations; and
 - (c) chromosomal anomalies; and
 - (d) inborn errors of metabolism; and
 - (e) inherited conditions.
- (3) Minor structural, chromosomal, metabolic and functional anomalies are not developmental anomalies unless they are disfiguring or require treatment.

5. Developmental anomaly a prescribed condition of health

Developmental anomaly is prescribed as a condition of health to which Part IXA of the Act applies.

Part 2 — Notification of developmental anomalies

6. Notification of diagnosis of developmental anomaly

(1) In this regulation —

responsible person means, in relation to a diagnosis of a developmental anomaly —

- (a) where the diagnosis is made in a hospital, the chief executive officer of the hospital; and
- (b) in any other case, the medical practitioner who makes the diagnosis or who is responsible for the care of the patient diagnosed.

(2) If a developmental anomaly is diagnosed the responsible person must, within 6 months of the diagnosis, cause the **EDPHChief Health Officer** to be notified of the diagnosis, and to be provided with information relating to the diagnosis, in such form as the **EDPHChief Health Officer** may from time to time require.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
 - (b) for a second offence, \$200;
 - (c) for a third or subsequent offence, \$500.
- (3) A responsible person is to cause a notification to be made under subregulation (2) notwithstanding that the developmental anomaly has previously been diagnosed in another State or a Territory.

[Regulation 6 amended: Gazette 10 Jan 2017 p. 296.]

7. **EDPHChief Health Officer** may require information

- (1) If the **EDPHChief Health Officer** is aware of a child with a developmental anomaly, the **EDPHChief Health Officer** may request a medical practitioner or a chief executive officer of a hospital to notify the **EDPHChief Health Officer** in writing of any information specified by the **EDPHChief Health Officer**

relating to the child that is known to the medical practitioner or chief executive officer.

- (2) A person who receives a request under subregulation (1) must comply with the request within 30 days after receiving it.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

[Regulation 7 amended: Gazette 10 Jan 2017 p. 296.]

Part 3 — Western Australian Register of Developmental Anomalies

8. Western Australian Register of Developmental Anomalies

- (1) The ~~EDPH~~[Chief Health Officer](#) is to keep a register to be known as the Western Australian Register of Developmental Anomalies.
- (2) The register is to contain all notified information, other than identifying information removed under regulation 12.
- (3) The register may contain —
 - (a) information given to the ~~EDPH~~[Chief Health Officer](#) by a corresponding officer; and
 - (b) any other information that the ~~EDPH~~[Chief Health Officer](#) considers appropriate, having regard to the purposes mentioned in subregulation (4).
- (4) The register is to be kept for the following purposes —
 - (a) to monitor the number of cases of developmental anomaly in Western Australia;
 - (b) to plan, monitor and evaluate services for the prevention and alleviation of developmental anomalies and the care of persons with a developmental anomaly in Western Australia;
 - (c) to compile and publish general or statistical information relating to developmental anomalies;
 - (d) to carry out research into the causes of developmental anomalies and the effectiveness of prevention, screening and treatment services.
- (5) The register is to be kept in a manner and form determined by the ~~EDPH~~[Chief Health Officer](#).

[\[Regulation 8 amended: Gazette 10 Jan 2017 p. 296.\]](#)

9. Offence to disclose information without authority

A person who has access to the register in the course of the person's duty must not disclose information on the register other than in accordance with —

- (a) the written consent of the person to whom the information relates; or
- (b) an authorisation under regulation 10.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

10. ~~EDPH~~Chief Health Officer may authorise disclosure of information

- (1) The ~~EDPH~~Chief Health Officer may authorise the disclosure of information on the register —
 - (a) for the purposes of research approved in accordance with guidelines for the conduct of medical research involving humans issued in compliance with the *National Health and Medical Research Council Act 1992* (Commonwealth) section 10; or
 - (b) to the Australian Institute of Health and Welfare if the ~~EDPH~~Chief Health Officer is satisfied that the information is to be used solely for a purpose mentioned in regulation 8(4); or
 - (c) in any case of urgency, to assist in the diagnosis or treatment of the person to whom it relates, if it is not reasonably practicable to obtain the written consent of that person to the disclosure; or
 - (d) to a corresponding officer in another State or a Territory, if the ~~EDPH~~Chief Health Officer is satisfied that the usual place of residence of the person to whom the information relates is or was in that State or Territory.

r. 11

- (2) The ~~EDPH~~Chief Health Officer may authorise the disclosure of information on the register, other than identifying information, for a purpose mentioned in regulation 8(4).
- (3) An authorisation under this regulation must be in writing and may apply generally or to a specific case or class of cases.

[Regulation 10 amended: Gazette 10 Jan 2017 p. 296.]

11. Right to know of information on the register

On the written request of any person, the ~~EDPH~~Chief Health Officer is to —

- (a) search the register for information relating to that person; and
- (b) as soon as reasonably practicable, either —
 - (i) tell the person that there is no information relating to them on the register; or
 - (ii) give to the person a copy of any information relating to them on the register.

[Regulation 11 amended: Gazette 10 Jan 2017 p. 296.]

12. Identifying information may be removed from register

- (1) A person may request in writing to the ~~EDPH~~Chief Health Officer that any identifying information relating to the person which, at the time of the request, has been kept on the register for a period of 6 years or more be removed.
- (2) The ~~EDPH~~Chief Health Officer is to ensure that a request made under subregulation (1) is complied with as soon as is practicable.
- (3) Information about a person which is not identifying information may be retained on the register.

[Regulation 12 amended: Gazette 10 Jan 2017 p. 296.]

13. Persons under a legal disability

A parent or guardian of a person who is under a legal disability may, on behalf of the person —

- (a) give written consent for the purposes of regulations 9 and 10(1)(c); and
- (b) make written requests for the purposes of regulations 11 and 12(1).

Notes

- ¹ This is a compilation of the *Health (Western Australian Register of Developmental Anomalies) Regulations 2010* and includes the amendments made by the other written laws referred to in the following table-^{1a}.

Compilation table

Citation	Gazettal	Commencement
<i>Health (Western Australian Register of Developmental Anomalies) Regulations 2010</i>	7 Jan 2011 p. 29-41	r. 1 and 2: 7 Jan 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 8 Jan 2011 (see r. 2(b))
<i>Health Services (Consequential Amendments) Regulations 2016</i> Pt. 5	24 Jun 2016 p. 2311-15	1 Jul 2016 (see r. 2 and <i>Gazette</i> 24 Jun 2016 p. 2291)

^{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~~

Citation	Gazettal	Commencement
<i>Health Regulations Amendment (Public Health) Regulations 2016</i> Pt. 27- ²	10 Jan 2017 p. 237-308	24 Jan 2017 (see r. 2(b) and <i>Gazette</i> 10 Jan 2017 p. 165)

² ~~On the date as at which this compilation was prepared, the *Health Regulations Amendment (Public Health) Regulations 2016* Pt. 27 had not come into operation. It reads as follows:~~

~~Part 27—Health (Western Australian Register of Developmental Anomalies) Regulations 2010 amended~~

~~102.—Regulations amended~~

~~—This Part amends the *Health (Western Australian Register of Developmental Anomalies) Regulations 2010*.~~

~~103.—Regulation 3 amended~~

~~—In regulation 3 delete the definition of **EDPH**.~~

104. Various references to “EDPH” amended

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

Chief Health Officer

Table

r. 3 def. of <i>corresponding officer</i>	r. 6(2)
r. 7(1)	r. 8(1), (3)(a) and (b) and (5)
r. 10(1) and (2)	r. 11
r. 12(1) and (2)	

Notes:

1. The heading to amended regulation 7 is to read:

Chief Health Officer may require information

2. The heading to amended regulation 10 is to read:

Chief Health Officer may authorise disclosure of information