



Western Australia

Blood and Tissue (Transmissible Diseases) Regulations 1985

Compare between:

[11 Sep 2016, 02-c0-01] and [20 Sep 2017, 02-d0-01]

Blood and Tissue (Transmissible Diseases) Regulations 1985

1. Citation

These regulations may be cited as the *Blood and Tissue (Transmissible Diseases) Regulations 1985*¹.

[2A. ~~Regulations operate as local laws~~

~~Under section 343A of the Act, these regulations apply as if they were local laws made by each local government.~~

~~[Regulation 2A inserted Deleted in Gazette 22 May 2012 19 Sep 2017 p. 2164.] 4883.]~~

2. ~~Term~~ Terms used: ~~blood~~

(1) In these regulations —

blood includes any substance derived from blood;

therapeutic use means a use for the purpose of —

(a) *preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons;*

(b) *influencing, inhibiting or modifying a physiological process in persons;*

(c) *testing susceptibility to a disease or ailment in persons.*

(2) A reference in these regulations to the donating of blood shall be read as including a reference to the donating of any substance obtained from the blood, or of any ovum or semen.

[Regulation 2 inserted in Gazette 17 May 1991 p. ~~2480~~²⁴⁸⁰; amended in Gazette 19 Sep 2017 p. 4883-4.]

3. Taking of blood without declaration

- (1) Subject to this regulation, a person shall not —
- (a) take any blood intended for therapeutic use; or
 - (b) knowingly accept for therapeutic use any blood donated, unless the person donating the blood made a declaration in the form prescribed by these regulations within the 12 hours preceding the donation of the blood.
- (2) Where the donor of any blood is by reason of injury or illness incapable of making a declaration in the form prescribed by these regulations, a person who takes, or accepts a donation of, blood from that donor for therapeutic use where the circumstances are such as to be, in the opinion of a person who is a designated officer, or the delegate of a designated officer, for the purposes of the *Human Tissue and Transplant Act 1982*, medically justifiable shall not be taken to have contravened subregulation (1).
- (3) The taking or accepting of blood that is intended —
- (a) for the use of the donor; or
 - (b) for a use other than a therapeutic use,
- shall be taken not to contravene subregulation (1) notwithstanding that no declaration is made in respect of that blood.

[Regulation 3 amended in Gazette 13 May 1988 p. 1596.]

4. Declaration to be required from donor

A person who intends to donate blood for therapeutic use is required to furnish in writing to the person taking the blood at the time of donating that blood a declaration made in the form prescribed by these regulations before a witness who is

authorised by these regulations to permit such a declaration to be made in their presence, that declaration having been made within the preceding 12 hours, and shall not donate blood unless such a declaration is furnished.

[Regulation 4 amended in Gazette 13 May 1988 p. 1596.]

5. Person authorised to permit declarations to be made

For the purpose of taking declarations required by these regulations, a person who is within one of the following categories of authorised persons may permit such a declaration to be made before them —

- (a) a person who is an authorised witness for a statutory declaration in accordance with the *Oaths, Affidavits and Statutory Declarations Act 2005* section 12(6);
- (b) a person who is a designated officer, or the delegate of a designated officer, for the purposes of the *Human Tissue and Transplant Act 1982*;
- [(c) deleted]*
- (d) a staff member of the Red Cross Blood Transfusion Service,

and shall state his or her full name on and sign the declaration, date it and endorse on it the time at which it was made and the category of authorisation to which he or she belongs.

[Regulation 5 amended in Gazette 13 May 1988 p. 1596; 1 Apr 2011 p. 1177.]

6. Form of declaration

For the purposes of these regulations, the form of declaration to be furnished shall comply with the form set out in Schedule 1.

[Regulation 6 inserted in Gazette 13 May 1988 p. 1596; amended in Gazette 12 Feb 1999 p. 474.]

7. Offences

A person who contravenes regulation 3(1) or 4 commits an offence and is liable to a penalty of ~~not more than~~ a fine of \$1 000 ~~and not less than~~ —.

- ~~— (a) in the case of a first offence, \$100; and~~
- ~~— (b) in the case of a second offence, \$200; and~~
- ~~— (c) in the case of a third or subsequent offence, \$500.~~

*[Regulation 7 inserted in Gazette 13 May 1988 p. 1596;
amended in Gazette 19 Sep 2017 p. 4884.]*

Schedule 1 — Blood donor declaration

[r. 6]

[Heading inserted in Gazette 22 May 2012 p. 2164.]

There are some people who **MUST NOT** give blood as it may transmit infections to those who receive it. To determine if your blood will be safe to be given to people in need, we would like you to answer some questions. These questions are a vital part of our efforts to eliminate diseases from the blood supply.

All of the questions are important to answer. Answer each question on the form as honestly as you can and to the best of your knowledge. **THERE ARE PENALTIES INCLUDING FINES AND IMPRISONMENT FOR ANYONE PROVIDING FALSE OR MISLEADING INFORMATION.**

Donations of blood are tested for hepatitis B, hepatitis C and HIV (AIDS virus). Donations are also tested for HTLV (human T-lymphotropic virus) and syphilis, unless the donation is allocated solely to making externally manufactured plasma products. If your blood tests positive for any of these conditions, or shows a significantly abnormal result, we will notify you.

Please respond by placing a cross or a tick in the relevant box. Do not circle.

To the best of your knowledge, have you ever:

1. Thought you could be infected with HIV or have AIDS? Yes No
2. “Used drugs” by injection or been injected, even once, with drugs not prescribed by a doctor or dentist? Yes No
3. Had treatment with clotting factors such as Factor VIII or Factor IX? Yes No
4. Had a test which showed you had hepatitis B, hepatitis C, HIV or HTLV? Yes No

In the last 12 months have you:

5. Had an illness with both a rash AND swollen glands, with or without a fever? Yes No

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6. Engaged in sexual activity with someone you might think would answer “yes” to any of questions 1-5? Yes No
7. Had sexual activity with a new partner who currently lives or who has previously lived overseas? Yes No
8. Had sex (with or without a condom) with a man who you think may have had oral or anal sex with another man? Yes No
9. Had male to male sex (that is, oral or anal sex) with or without a condom?
(Females please tick “I am female”) Yes No
I am female
10. Been a male or female sex worker (e.g. received payment for sex in money, gifts or drugs)? Yes No
11. Engaged in sexual activity with a male or female sex worker? Yes No
12. Been imprisoned in a prison or been held in a lock-up or detention centre? Yes No
13. Had a blood transfusion? Yes No
14. Had (yellow) jaundice or hepatitis or been in contact with someone who has? Yes No

In the last 4 months have you:

15. Been injured with a used needle (needlestick)? Yes No
16. Had a blood/body fluid splash to eyes, mouth, nose or to broken skin? Yes No
17. Had a tattoo (including cosmetic tattooing), body and/or ear piercing, electrolysis or acupuncture (including dry-needling)? Yes No

Thank you for answering these questions. If you are uncertain about any of your answers, please discuss them with your interviewer.

We would like you to initial and sign this declaration as indicated in the presence of your interviewer to show that you have understood the information

on this form and have answered the questions in the declaration to the best of your knowledge.

Your donation is a gift to be used to treat patients. In some circumstances, your donation may be used for the purposes of research, teaching, quality assurance or the making of essential diagnostic reagents (including commercial reagents). A part of your donation will also be stored for possible future testing and research; samples that are no longer required will be destroyed. Approval from an appropriate Human Research Ethics Committee is required before any research is undertaken on your donation or any part of it.

You may be asked to undergo further testing, which you have the option to decline.

Should you become aware of any reason why your blood should not be used for transfusion after your donation, please call us. In particular, if you develop a cough, cold, diarrhoea or other infection within a week after donating, or you are diagnosed or hospitalised with a serious infection within 2 months after donating, please report it immediately.

I agree to have blood taken from me under the conditions above and —	
<ul style="list-style-type: none">I have been provided with “Information about the risk of donating blood”. I have read and understood this information and have had the opportunity to ask questions. I accept the risks associated with donation and agree to follow the instructions of the staff to minimise these risks. Please initial: <input type="text"/>I declare that I have understood the information on this form and answered the questions in the declaration honestly and to the best of my knowledge. I understand that there are penalties, including fines and imprisonment, for providing false or misleading information. Please initial: <input type="text"/>	
Donor	Witness
Surname/ Family name: _____	Surname/ Family name: _____
Given name: _____	Given name: _____
Date of birth: _____	Signature: _____
Signature: _____	Date: _____
Date: _____	Time: _____

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Donation number: _____

[Schedule 1 inserted in Gazette 22 May 2012 p. 2164-6; amended in Gazette 6 Jun 2014 p. 1789; 11 Mar 2016 p. 681-2; 9 Sep 2016 p. 3885.]

Notes

¹ This is a compilation of the *Blood and Tissue (Transmissible Diseases) Regulations 1985* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Blood and Tissue (Transmissible Diseases) Regulations 1985</i>	8 Feb 1985 p. 517-19	8 Feb 1985
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 1986</i>	12 Sep 1986 p. 3350	12 Sep 1986
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 1988</i>	13 May 1988 p. 1596-7	13 May 1988
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 1991</i>	17 May 1991 p. 2480-1	17 May 1991
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 1999</i>	12 Feb 1999 p. 474-7	12 Feb 1999
Reprint of the <i>Blood and Tissue (Transmissible Diseases) Regulations 1985</i> as at 11 Oct 2002 (includes amendments listed above)		
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 2010</i>	22 Jun 2010 p. 2769-71	r. 1 and 2: 22 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 4 Jul 2010 (see r. 2(b))
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 2011</i>	1 Apr 2011 p. 1177	r. 1 and 2: 1 Apr 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Apr 2011 (see r. 2(b))
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 2012</i>	22 May 2012 p. 2163-6	r. 1 and 2: 22 May 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2012 (see r. 2(b))
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 2014</i>	6 Jun 2014 p. 1788-9	r. 1 and 2: 6 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Jul 2014 (see r. 2(b))
Reprint 2: The <i>Blood and Tissue (Transmissible Diseases) Regulations 1985</i> as at 14 Nov 2014 (includes amendments listed above)		

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Citation	Gazettal	Commencement
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations 2016</i>	11 Mar 2016 p. 681-2	r. 1 and 2: 11 Mar 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Mar 2016 (see r. 2(b))
<i>Blood and Tissue (Transmissible Diseases) Amendment Regulations (No. 2) 2016</i>	9 Sep 2016 p. 3885	r. 1 and 2: 9 Sep 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Sep 2016 (see r. 2(b))
<u><i>Health Regulations Amendment (Public Health Consequential Amendments) Regulations 2017 Pt. 2</i></u>	<u>19 Sep 2017</u> <u>p. 4883-5</u>	<u>20 Sep 2017 (see r. 2(b) and Gazette 19 Sep 2017 p. 4880)</u>

² [Made under the *Health \(Miscellaneous Provisions\) Act 1911*; these regulations continue in force, after the *Public Health Act 2016* s. 321 came into operation, as if these regulations were made under the *Public Health Act 2016* s. 304.](#)