



Western Australia

## **Health (Skin Penetration Procedure) Regulations 1998**

Compare between:

[24 Jan 2017, 01-d0-00] and [13 Nov 2018, 01-e0-00]



## **Health (Skin Penetration Procedure) Regulations 1998**

### **1. Citation**

These regulations may be cited as the *Health (Skin Penetration Procedure) Regulations 1998*<sup>1</sup>.

### **2. Commencement**

These regulations come into operation on 1 June 1998.

### **3. Interpretation**

In these regulations, unless the context otherwise requires —

***client*** means a person on whom a skin penetration procedure is being, or is to be carried out, whether or not for fee, gain or reward;

***dentist*** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law;

***establishment*** means a premises or place or a portion of a premises or place where a skin penetration procedure is, or is intended to be, carried out in the ordinary course of a practice;

***medical practitioner*** means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

**nurse** means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession;

**operator** means a person who carries out or intends to carry out a skin penetration procedure;

**owner**, in relation to an establishment, means —

- (a) the owner of the establishment; or
- (b) if the owner is not the occupier of the establishment — the occupier;

**podiatrist** means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the podiatry profession;

**skin penetration procedure** means a procedure in which —

- (a) the skin is cut, punctured, torn or shaved; or
- (b) mucous membrane is cut, punctured or torn.

[Regulation 3 amended in Gazette 1 Apr 2011 p. 1179.]

#### **4. Application**

- (1) These regulations do not apply to a skin penetration procedure carried out by —
  - (a) a medical practitioner or a dentist, where the procedure is carried out in the practice of medicine or dentistry, respectively;
  - (b) a person acting under the direction or supervision of a medical practitioner or dentist, where the procedure is carried out for the purpose of the practice of medicine or dentistry, respectively;
  - (c) a podiatrist or nurse where the procedure is carried out in the practice of podiatry or nursing, respectively.
- (2) These regulations do not apply to a place that is, or is intended to be, used solely as a surgery by a medical practitioner or a dentist.

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[Regulation 4 amended in Gazette 1 Apr 2011 p. 1180.]

**5. Regulations to operate as local laws**

These regulations apply to all districts as if they were local laws made under the Act.

**6. Owner of an establishment to notify local government**

The owner of an establishment must notify the local government of the area in which the establishment is, or is to be, situated of the name and address of the establishment or the intended name and address of any proposed establishment.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

**7. Adoption of Code**

- (1) Under the *Health (Miscellaneous Provisions) Act 1911* section 344A(1), the Code of Practice for Skin Penetration Procedures published by the Chief Health Officer, and amended from time to time, under the *Health (Miscellaneous Provisions) Act 1911* section 344A(2) (referred to in these regulations as ***the Code***) is adopted in whole.
- (2) Under the *Health (Miscellaneous Provisions) Act 1911* section 344A(3), the office of the Environmental Health Services of the Health Department of Western Australia, Grace Vaughan House, 227 Stubbs Terrace, Shenton Park, Perth is prescribed as the place at which the Code is available for public inspection, without charge, during normal office hours.

[Regulation 7 amended in Gazette 10 Jan 2017 p. 282.]

**8. Compliance with the Code**

- (1) An owner of an establishment who does not ensure that the establishment complies with the Code commits an offence under these regulations.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000;
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000; and
- (d) in the case of a continuing offence — a daily penalty which is not more than \$100 and not less than \$50.

- (2) The owner of an establishment who does not ensure that a skin penetration procedure carried out on the establishment is carried out in accordance with the Code commits an offence under these regulations.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

- (3) An operator who does not carry out a skin penetration procedure in accordance with the Code commits an offence under these regulations.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;

- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

**9. Infectious diseases**

A person who knows or could reasonably have been expected to know that he or she is or may be suffering from an infectious disease must not permit an operator to carry out a skin penetration procedure on the person unless the person has told the operator that the person has or may have the disease.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

[10. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

## Notes

- <sup>1</sup> This is a compilation of the *Health (Skin Penetration Procedure) Regulations 1998* 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

Citation	Gazettal	Commencement
<i>Health (Skin Penetration Procedure) Regulations 1998</i>	17 Mar 1998 p. 1415-16	1 Jun 1998 (see r. 2)
<b>Reprint 1: The Health (Skin Penetration Procedure) Regulations 1998 as at 14 May 2004</b>		
<i>Health (Skin Penetration Procedure) Amendment Regulations 2011</i>	1 Apr 2011 p. 1179-80	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>Health Regulations Amendment (Public Health) Regulations 2016 Pt. 22</i>	10 Jan 2017 p. 237-308	24 Jan 2017 (see r. 2(b) and <i>Gazette</i> 10 Jan 2017 p. 165)

- <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

<u>Citation</u>	<u>Gazettal</u>	<u>Commencement</u>
<a href="#">Health Regulations Amendment Regulations 2018 Pt. 2</a> <sup>2</sup>	<a href="#">13 Nov 2018</a> <a href="#">p. 4428-9</a>	<a href="#">1 Dec 2018 (see r. 2(b))</a>

- <sup>2</sup> [On the date as at which this compilation was prepared, the Health Regulations Amendment Regulations 2018 Pt. 2 had not come into operation. It reads as follows:](#)

### Part 2 — Health (Skin Penetration Procedure) Regulations 1998 amended

#### 3. Regulations amended

[This Part amends the Health \(Skin Penetration Procedure\) Regulations 1998.](#)



**4. Regulation 3 amended**

In regulation 3 in the definition of *nurse* delete “and midwifery”.