

# Western Australian Future Health Research and Innovation Fund Act 2012

Compare between:

[27 May 2020, 00-b0-00] and [24 Jun 2020, 00-c0-00]

## Western Australia

# Western Australian Future Health Research and Innovation Fund Act 2012

An Act to establish the Western Australian Future <u>Health Research</u> and <u>Innovation Account and the Western Australian Future Health</u> <u>Research and Innovation</u> Fund and for related purposes.

Long	title	<u>inserted</u>	<i>: No.</i>	<u>22 c</u>	of 2020	s. 4.]
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# Part 1 — Preliminary provisions

[Heading inserted: No. 22 of 2020 s. 5.1]

#### 1. Short title

This is the Western Australian Future Health Research and Innovation Fund Act 2012.

[Section 1 amended: No. 22 of 2020 s. 6.]

#### 2. Commencement

This Act comes into operation as follows —

- sections 1 and 2 on the day on which this Act receives the Royal Assent;
- the rest of the Act on the day after that day.

#### 3. Terms used

In this Act —

advisory group means the advisory group established and maintained under section 4G(1);

amendment day means the day on which the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Act 2020 section 3 comes into operation;

### arrangement means —

- (a) a contract, programme or scheme; or
- (b) any other type of arrangement;

**CEO** means the chief executive officer of the FHRI Account Department;

department means a department of the Public Service;

FHRI Account means the account called the Western Australian Future Health Research and Innovation Account established under section 4A;

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FHRI Account Department means the department principally		
assisting the Minister for Health in the administration of the		
FHRI Account;		
FHRI Fund means the account called the Western Australian		
Future Health Research and Innovation Fund established under		
section 5;		
FHRI Fund Department means the department principally		
assisting the Treasurer in the administration of the FHRI Fund;		
<b>forecast investment income</b> , for a financial year, means the		
estimate that —		
(a) is of the income that will be derived during the financial		
year from the investment of money standing to the credit		
of the FHRI Fund; and		
(b) is set out in —		
(i) the part of the budget papers for the financial		
year, tabled in the Legislative Assembly, that is		
titled "Economic and Fiscal Outlook"; or		
(ii) if the regulations prescribe another part of those		
budget papers — that other part; or		
(iii) if the budget papers for the financial year have		
not been tabled in the Legislative Assembly		

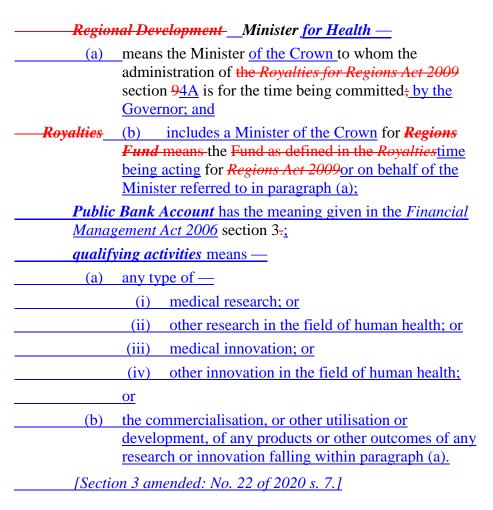
*forecast royalty income*, for a financial year, means the estimate of royalty income for that financial year set out in —

<u>before the commencement of the financial</u> year — the statement tabled under section 9B;

- (a) the part of the budget papers for the financial year, tabled in the Legislative Assembly, that is titled "General Government Operating Statement"; or Economic and Fiscal Outlook"; or
- (b) if the regulations prescribe another part of those budget papers that other part;

Future Fund means the account called the Western Australian Future Fund established under section 5;

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#### 4. **Purpose**Object of Act

The purpose object of this Act is to provide for the accumulation of a portion of the revenue from the State's mineral resources and other money for the benefit of future generations through the establishment a secure source of funding to support qualifying activities that contribute (directly or indirectly) to 1 or more of the following —

improving the financial sustainability of Western (a) Australia's health system;

s. 5



# Part 2 — Western Australian Future Fund Health **Research and Innovation Account**

[Heading inserted: No. 22 of 2020 s. 9.]

## **Establishment of Western Australian Future Health Research and Innovation Account**

- The Western Australian Future FundHealth Research and (1) Innovation Account is established for the purpose mentioned in section 4. of supporting qualifying activities that contribute (directly or indirectly) to 1 or more of the things listed in section 4(a) to (d).
- The Future (2) The FHRI Account is an agency special purpose account under the Financial Management *Act* 2006 section 16.
- The FHRI Account is to be administered by the Minister for Health.
  - Money standing to the credit of the FHRI Account is to be held in the Public Bank Account, subject to any investment of that money under the Financial Management Act 2006 section 37(1).

[Section 4A inserted: No. 22 of 2020 s. 9.]

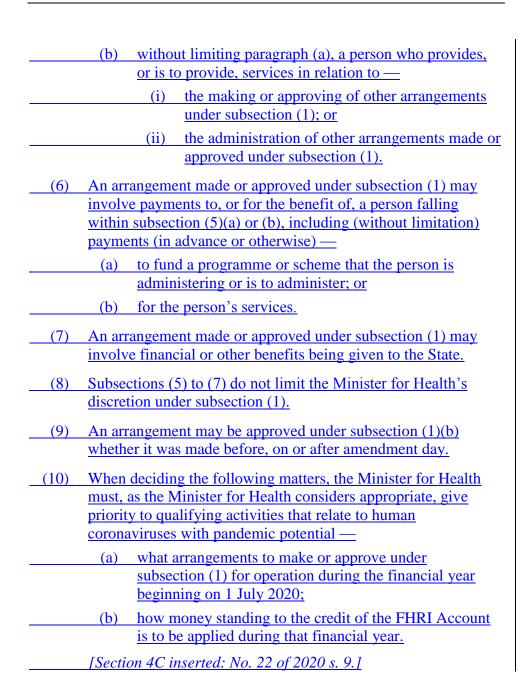
#### **4B.** Amounts to be credited to FHRI Account

- The FHRI Account is to be credited under section 9(1). (1)
- (2) The FHRI Account is also to be credited with the following
  - any income derived from the investment of money (a) standing to the credit of the FHRI Account;
  - any other money lawfully made available to the FHRI (b) Account.

[Section 4B inserted: No. 22 of 2020 s. 9.]

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<u>4C.</u>	Application (	of FHRI Account
(1)	The Minister	for Health may do the following —
		arrangements that the Minister for Health
		lers will further, or facilitate the furthering of, the
		se referred to in section 4A(1);
		ve arrangements —
	<u>(i)</u>	that have already been made (whether by the Minister for Health or otherwise); and
	(ii)	that the Minister for Health considers will
		further, or facilitate the furthering of, the purpose
		referred to in section 4A(1).
(2)		for Health may apply money standing to the credit
		Account for the purposes of, or in relation to, an made or approved under subsection (1).
(3)		ns may prescribe other cases in which the Minister y apply money standing to the credit of the FHRI
		e Minister for Health considers that the application
		will further, or facilitate the furthering of, the
	purpose referi	red to in section 4A(1).
(4)	Subsections (	1) to (3) are subject to section 4D.
(5)	An arrangeme	ent made or approved under subsection (1) may
	involve the fo	<u>llowing —</u>
		on considered by the Minister for Health to be a
	-	<u>n who —</u>
	(i)	carries out or supports, or is to carry out or
		support, qualifying activities; or
	(ii)	facilitates, or is to facilitate, the carrying out of, or support for, qualifying activities; or
	Ziii	
	(iii)	without limiting subparagraphs (i) and (ii), administers, or is to administer, a programme or
		scheme for supporting qualifying activities;



<u>4D.</u>	Requiremen	ts to be met before FHRI Account applied		
(1)		ng or approving arrangements under section 4C(1) rate during a financial year, or applying during a		
	-	r money standing to the credit of the FHRI Account		
		4C, the Minister for Health must —		
	(a) direct	the advisory group to make a recommendation on		
		money standing to the credit of the FHRI Account		
		d be applied during the financial year under		
		on 4C; and		
	(b) consi	der the advisory group's recommendation.		
(2)	A direction u	nder subsection (1)(a) may —		
		de proposals for how money standing to the credit		
		FHRI Account is to be applied during the		
	•	cial year under section 4C; and		
		re the advisory group's recommendation to state 1 e following —		
-	<u>(i)</u>	that money standing to the credit of the FHRI Account should be applied during the financial		
		year in accordance with the proposals;		
	(ii)	that money standing to the credit of the FHRI		
		Account should not be applied during the		
		financial year in accordance with the proposals;		
	(iii)	that money standing to the credit of the FHRI		
		Account should be applied during the financial		
		year in accordance with the proposals as the		
		proposals are modified as specified in the recommendation.		
		recommendation.		

- Within 14 days after the day on which the Minister for Health receives a recommendation for the purposes of subsection (1)(a), the Minister for Health must cause the following documents to be laid before each House of Parliament — (a) a copy of the Minister for Health's direction to the advisory group to make the recommendation;
  - (b) a copy of the recommendation.
  - (4) Subsection (5) applies if
    - at the beginning of the 14-day period referred to in subsection (3), a House of Parliament is not sitting; and
    - in the Minister for Health's opinion, the House will not (b) sit before the end of the period.
  - (5) If this subsection applies
    - the Minister for Health must, before the end of the (a) period, send the documents to the Clerk of the House; and
    - when a document is sent to the Clerk it is taken to have (b) been laid before the House; and
    - the laying of a document that is taken to have occurred under paragraph (b) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the document.

[Section 4D inserted: No. 22 of 2020 s. 9.]

#### 4E. Other provisions relating to FHRI Account

- (1) The Treasurer and the Minister for Health may, in writing, jointly direct that money standing to the credit of the FHRI Account be transferred to the credit of the FHRI Fund.
- The Treasurer cannot give a direction in relation to the FHRI Account under the Financial Management Act 2006 section 20(1).

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- The provisions of the *Financial Management Act 2006* and the Auditor General Act 2006 regulating the financial administration, audit and reporting requirements of departments apply to, and in relation to, the FHRI Account.
- The administration of the FHRI Account is for the purposes of the Financial Management Act 2006 section 52 to be regarded as a service of the FHRI Account Department.
- Without limiting the *Financial Management Act* 2006 section 61, the annual report for a financial year prepared under that section by the accountable authority of the FHRI Account Department is to contain information about the operation of the FHRI Account during the financial year.
- The annual report is to include details of how money standing to (6) the credit of the FHRI Account was applied during the financial year (if at all).

[Section 4E inserted: No. 22 of 2020 s. 9.]

#### <u>4F.</u> **Delegation by Minister for Health and CEO**

- The Minister for Health may delegate to the CEO any function (1) of the Minister for Health under section 4A or under section 4C (including any regulations made for the purposes of section 4C(3)).
- The CEO may delegate to a public service officer in the FHRI Account Department any function that is delegated to the CEO under subsection (1).
- A public service officer to whom a function is delegated under subsection (2) cannot delegate that function.
- A delegation under this section must be in writing signed by the (4) Minister for Health or the CEO (as the case requires).
- A person exercising or performing a function that has been delegated to the person under this section is taken to do so in

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- accordance with the terms of the delegation unless the contrary is shown.
- The Health Legislation Administration Act 1984 section 9 does not apply to, or in relation to, any function under this Part (if it would otherwise do so).
- This section does not limit the ability of the Minister for Health to exercise or perform a function through an officer or agent.

[Section 4F inserted: No. 22 of 2020 s. 9.1

- 4G. Advisory group to be established and maintained
- The Minister for Health must establish and maintain an advisory group (to be given a name determined by the Minister for Health).
  - The function of the advisory group is as follows
    - as and when directed by the Minister for Health, to make a recommendation for a financial year for the purposes of section 4D(1)(a);
    - as and when directed by the Minister for Health or the FHRI Account Department, to provide other advice or assistance in relation to 1 or both of the following
      - furthering, or facilitating the furthering of, the purpose referred to in section 4A(1);
      - other matters relating to any function of the (ii) Minister for Health under section 4A or section 4C (including any regulations made for the purposes of section 4C(3)).
- (3) The advisory group's members are to be as follows
  - (a) the CEO, or a nominee of the CEO;
  - the chief executive officer of the department that the (b) Minister for Health considers is, apart from the FHRI Account Department, the department most closely

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	involved with qualifying activities, or a nominee of that chief executive officer;
	(c) 1 individual to be appointed by the Minister for Health
	as a community representative;
	(d) 1 individual to be appointed by the Minister for Health
	whom the Minister for Health considers is an expert in
	qualifying activities that are research;
-	(e) 1 individual to be appointed by the Minister for Health
	whom the Minister for Health considers is an expert in qualifying activities that are innovation;
	· ·
-	(i) each of whom is to be appointed by the Minister for Health; and
	· · · · · · · · · · · · · · · · · · ·
	(ii) whom, taken together, the Minister for Health considers have a suitable variety and level of
	relevant expertise and experience.
(4)	At least 1 of the members must be considered by the Minister
(+)	for Health to have experience in dealing with issues relating to
	the health of Aboriginal people living in Western Australia.
(5)	At least 1 of the members must be considered by the Minister
	for Health to have experience in dealing with issues relating to
	the health of people living in regional Western Australia.
(6)	A nominee under subsection (3)(a) or (b), or a member under
	subsection (3)(c) to (f), may be a public service officer or any
	other individual.
	[Section 4G inserted: No. 22 of 2020 s. 9.]
4H.	Other provisions relating to advisory group
(1)	A member of the advisory group under section 4G(3)(c) to (f) —
	(a) holds office for the period, not exceeding 5 years,
	specified in their instrument of appointment (subject to
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		any condition specified in that instrument under which
		the appointment may be ended before that period expires or under which the member may be suspended); and
	(b)	is eligible for reappointment; and
	(c)	unless, or except to the extent that, their instrument of appointment specifies otherwise, is entitled to
		remuneration and allowances, and may be reimbursed
		expenses, as determined by the Minister for Health on
		the recommendation of the Public Sector Commissioner;
		and
	(d)	otherwise holds office on the conditions specified in
		their instrument of appointment.
(2)	The M	Minister for Health may do the following —
	(a)	determine, as the Minister for Health considers
		appropriate, any matters relating to the operation or
		procedure of the advisory group (including (without
		limitation) its quorum and matters relating to voting);
	(b)	without limiting paragraph (a), designate a member of
		the advisory group as its chairperson.
(3)	Subjec	ct to subsection (2), the advisory group —
	(a)	may determine its own procedure; and
	(b)	without limiting paragraph (a), may perform its function
		through sub-groups of its members; and
	(c)	may perform its function despite any vacancy in its
		membership.
(4)	Despi	te subsections (2) and (3), a member of the advisory group
	under	section 4G(3)(a) or (b) is a non-voting member and
	canno	t be the chairperson.
(5)	If a m	ember of the advisory group under section 4G(3)(c) to (f)
	is una	ble or unavailable to act because of suspension, illness,
		ce or other cause, the Minister for Health may appoint
	anothe	er individual (subject to the requirements of the relevant

provision of section 4G(3)(c) to (f)) as an alternate member to
act temporarily in the member's place.

- While acting in accordance with the appointment, the alternate member is, and has any entitlement of, a member of the advisory group under section 4G(3)(c) to (f).
- An act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.
- Subsection (9) applies to an individual who is, or has been, a (8)member of the advisory group.
- No civil liability attaches to the individual for anything that the individual has done, or omitted to do, in good faith
  - in the performance, or purported performance, of the advisory group's function; or
  - (b) otherwise as a member of the advisory group.

[Section 4H inserted: No. 22 of 2020 s. 9.]

#### **4I. Conflicts of interest**

- For each member of the advisory group under section 4G(3)(c)to (f), the conditions referred to in section 4H(1)(d) must include a condition that does the following
  - requires the member to disclose any actual, or potential, material conflict of interest that the member has arising out of the advisory group's function;
  - specifies when, how and to whom the disclosure must be (b) made;
  - specifies any other steps that the member must take in (c) relation to the conflict of interest.
- The Minister for Health must ensure that a condition of the kind described in subsection (1) applies to any alternate member appointed under section 4H(5).

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s. 4I

- make a summary of the record available, on request, for inspection.
- (5) The regulations may prescribe how a summary of the record is to be made available under subsection (4)(b).
  - [Section 4I inserted: No. 22 of 2020 s. 9.1

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# <u>Part 3 — Western Australian Future Health Research</u> and Innovation Fund

[Heading inserted: No. 22 of 2020 s. 10.]

- 5. Establishment of Western Australian Future Health Research and Innovation Fund
- (1) The Western Australian Future Fund that was established under this section on 30 November 2012 is discontinued.
- (1A) The Western Australian Future Health Research and Innovation

  Fund is established for the purpose of funding the FHRI

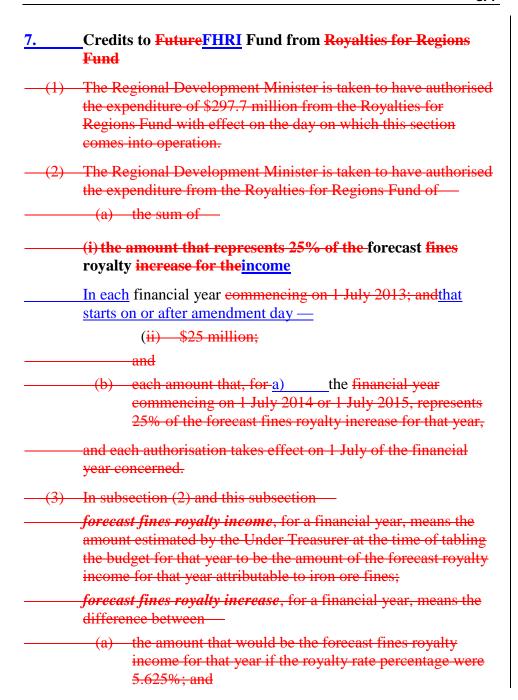
  Account under section 9(1).
- (2) The FHRI Fund is taken to have been determined by the Treasurer to be a Treasurer's special purpose account under the *Financial Management Act 2006* section 10(e).
  - (3) The Future FHRI Fund is to be administered by the Treasurer.
- (3A) Money standing to the credit of the Western Australian Future

  Fund immediately before amendment day stands to the credit of the FHRI Fund.
  - (4) Money standing to the credit of the Future FHRI Fund is to be held in the Public Bank Account as defined in, subject to any investment of that money under the Financial Management Act 2006 section 3 and is not to be invested other than in the manner prescribed by regulations made for the purposes of section 37 of that Act.(1).
  - (5) Despite subsection (4), money standing to the credit of the Future Fund referred to in subsection (4) FHRI Fund may be invested in gold.

[Section 5 amended: No. 22 of 2020 s. 11.]

[6. Deleted: No. 22 of 2020 s. 12.]

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the amount that would be the forecast fines royalty income for that year if the royalty rate percentage were 7.5%;

iron ore fines means iron ore that is, for the purpose of the payment of mining royalties, regarded as fine ore.

- Upon the authorisation of expenditure of money taking effect under subsection (1) or (2), the money is to be charged to the Royalties for Regions Fund and credited to the Future Fund.
- Money charged to the Royalties for Regions Fund under subsection (4) is taken to be expenditure authorised under the Royalties for Regions Act 2009 section 9.
- Credits to Future Fund from forecast royalty income

In the financial year commencing 1 July 2016, and in each subsequent financial year —

- the Future FHRI Fund is to be credited with an amount equal to 1% of the forecast royalty income for the financial year; and
- that amount is to be charged to the Consolidated (b) Account, which is to the extent necessary appropriated accordingly.

[Section 7 amended: No. 22 of 2020 s. 13.]

- 8. Additional money eredited to Future Fund
  - In any year the Treasurer may cause to be credited to the Future Fund any amount in addition to an amount credited under section 6 or 7.FHRI Fund
  - In addition to the amounts credited to the FutureFHRI Fund under sections 6(4) and section 7 and subsection (1) of this section, the Treasurer is to cause, the following amounts are to be credited to the Future FHRI Fund —

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- (a) <u>any</u> income derived from the investment of money standing to the credit of the <u>FutureFHRI</u> Fund; and
- (b) any amount that is the subject of a joint direction of the Treasurer and the Minister for Health under section 4E(1);
- (c) any other money lawfully made available to the Future FHRI Fund.

[Section 8 inserted: No. 22 of 2020 s. 14.]

## 9. Application of Future FHRI Fund

- (1) In each financial year that starts on or after amendment day, an amount equal to the forecast investment income for the financial year is to be charged to the FHRI Fund and credited to the FHRI Account.
- (2) Otherwise, money standing to the credit of the FHRI Fund
  - (a) is to be held in perpetuity to the credit of the FHRI Fund; and
  - (b) cannot be applied for any purpose.
- (3) The Treasurer cannot give a direction in relation to the FHRI Fund under the *Financial Management Act 2006* section 20(1).
- (4) The *Financial Management Act 2006* section 12 does not apply to money standing to the credit of the FHRI Fund.

[Section 9 inserted: No. 22 of 2020 s. 14.]

## 9A. Annual reporting on FHRI Fund

- (1) Without limiting the *Financial Management Act 2006*section 61, the annual report for a financial year prepared under that section by the accountable authority of the FHRI Fund
  Department is to contain information about the operation of the FHRI Fund during the financial year.
- (2) The annual report is to include details of the amount charged to the FHRI Fund during the financial year under section 9(1).

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[Section 9A inserted: No. 22 of 2020 s. 14.]

#### 9B. Estimate of income to be laid before each House of Parliament in certain circumstances

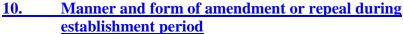
- If the budget papers for a financial year will not be tabled in the (1)Legislative Assembly before the commencement of the financial year, the Treasurer must, before the commencement of the financial year, cause a statement setting out an estimate of the income that will be derived during the financial year from the investment of money standing to the credit of the FHRI Fund to be laid before each House of Parliament.
- If subsection (1) requires the Treasurer to cause a document to be laid before a House of Parliament and the House is not sitting, the Treasurer may give the document to the Clerk of the House.
- (3) A document given to the Clerk of a House under subsection (2) is taken to have been laid before the House.
- (4) The laving of a document before a House that is taken to have occurred under subsection (3) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the document.

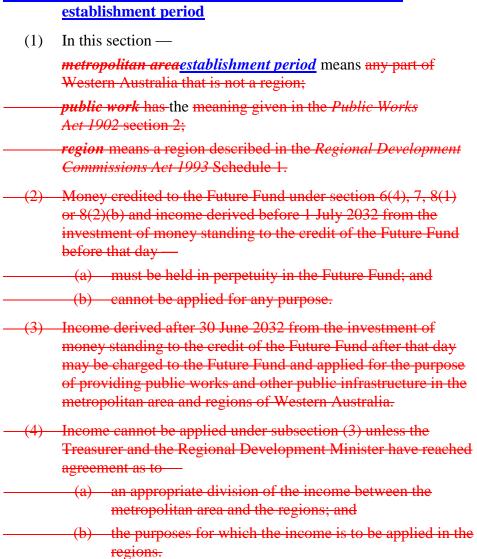
[Section 9B inserted: No. 22 of 2020 s. 14.]

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## Part 4 — Final provisions

[Heading inserted: No. 22 of 2020 s. 15.]





Final provisions

- (5) The Regional Development Minister may, for the purpose of performing any function under subsection (4), consult with the Western Australian Regional Development Trust established under the *Royalties for Regions Act 2009* section 11.
- (6) The Treasurer cannot give a direction in relation to the Future Fund under the *Financial Management Act 2006* section 20.
- (7) The *Financial Management Act* 2006 section 12 does not apply to money credited to the Future Fund.
- 10. Manner and form of amendment or repeal during accumulation period
- (1) In this section —

*accumulation* period means the period commencing starting on the day on which section 6 comes into operation amendment day and ending on 30 June 2032.

- (2) A Bill to repeal or amend section 6, 7, 8 or 9 or this section must not be presented for assent by or in the name of the Queen during the accumulation establishment period unless the second and third readings of the Bill have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and Legislative Assembly respectively.
- (3) A Bill assented to consequent upon its presentation in contravention of subsection (2) is of no effect as an Act.

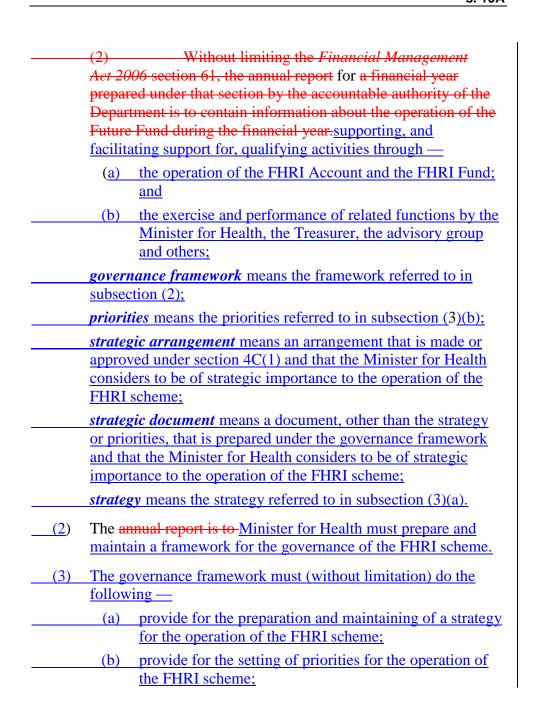
## 11. Annual reporting

[Section 10 amended: No. 22 of 2020 s. 16.]

## 10A. Governance framework

(1) In this section —

**Department** FHRI scheme means the department of the Public Service principally assisting in the administration of scheme of this Act-



	(c) include a framework for the making and approving of arrangements under section 4C(1) and the administration of arrangements made or approved.
(4)	The Minister for Health must cause the following to be laid before each House of Parliament —
	(a) a copy of each of the following —
	(i) the governance framework;
	(ii) the strategy;
	(iii) the priorities;
	(iv) if a document listed in subparagraphs (i) to (iii) is modified or replaced — the modified or new document;
	(b) a copy of each strategic document and, if a strategic
	document is modified, a copy of the modified document;
	(c) details of the expenditure, if any, from the Future Fund
	in the metropolitan area and regions of Western  Australia during the financial yeareach strategic
	arrangement and, if a strategic arrangement is modified,
	details of the modified arrangement.
(5)	The CEO must ensure that the current version of each of the following is publicly available on a website maintained by, or on behalf of, the FHRI Account Department —
	(a) the governance framework;
	(b) the strategy;
	(c) the priorities;
	(d) each strategic document;
	(e) the details of each strategic arrangement.
	[Section 10A inserted: No. 22 of 2020 s. 17.]
<i>[11</i> .	Deleted: No. 22 of 2020 s. 18.]

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#### **12. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

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## Compilation table

## **Notes**

This is a compilation of the *Western Australian Future* <u>Health Research and Innovation</u> Fund Act-2012 and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

## **Compilation table**

Short title	Number and year	Assent	Commencement
Western Australian Future Fund Act-2012	50 of 2012	29 Nov 2012	s. 1 and 2: 29 Nov 2012 (see s. 2(a)); Act other than s. 1 and 2: 30 Nov 2012 (see s. 2(b))
Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Act 2020	22 of 2020	27 May 2020	s. 1 and 2: 27 May 2020 (see s. 2(a)); Act other than s. 1 and 2: 24 Jun 2020 (see s. 2(b))

## **Uncommenced provisions table**

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Act 2020 s. 3-18	<del>22 of 2020</del>	<del>27 May 2020</del>	24 Jun 2020 (see s. 2(b))

## **Other notes**

Now known as the *Western Australian Future Health Research and Innovation Fund Act* 2012; short title changed (see note under s. 1).