

Western Australia

Health Act 1911

**Blood and Tissue (Transmissible Diseases)
Regulations 1985**

Blood and Tissue (Transmissible Diseases) Regulations 1985

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Blood and Tissue (Transmissible Diseases) Regulations 1985

1. Citation

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

2. Interpretation

- (1) In these regulations —
blood includes any substance derived from blood.
- (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.]

3. The taking of blood without a 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

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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,

[(e) deleted]

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. The 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 \$1 000 and not less than —

- (a) in the case of a first offence, \$100;
- (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.]

Schedule 1 — Blood donor declaration

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[Heading inserted in Gazette 22 Jun 2010 p. 2769.]

There are some people in the community who **MUST NOT** give blood as it may transmit infections to people who receive it. So before you give blood we need you to answer some questions to ensure that it will be safe for people to be given your blood or blood products. The following questions are a vital part of our effort to eliminate these diseases from the blood supply.

Even though there are a lot of questions they are all important and you need to answer every question on the form honestly and to the best of your ability. Answering these questions honestly is important because **THERE ARE PENALTIES INCLUDING FINES AND/OR IMPRISONMENT FOR GIVING FALSE OR MISLEADING ANSWERS TO ANY OF THE QUESTIONS.**

All donations of blood are tested for the presence of Hepatitis B and C, HIV 1 and 2 (AIDS virus), syphilis and HTLV I and II. Should your blood test be positive for any of these diseases or show a significantly abnormal result you will be notified.

DECLARATION

Thank you for answering the following questions.

If you are uncertain about how you should answer any of the questions please discuss your concerns with the interviewer.

You will be asked to sign this declaration in the presence of the interviewer once you have answered all the questions.

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

To the best of your knowledge have you:

- | | | | |
|----|---|-----|----|
| 1. | In the last 12 months had an illness with swollen glands and a rash, with or without a fever? | Yes | No |
| 2. | Ever thought you could be infected with HIV or have AIDS? | Yes | No |

-
- | | | | |
|----|---|-----|----|
| 3. | Ever “used drugs” by injection or been injected, even once, with drugs not prescribed by your doctor or dentist? | Yes | No |
| 4. | Ever had treatment with clotting factors such as Factor VIII or Factor IX? | Yes | No |
| 5. | Ever had a test which showed you had Hepatitis B, Hepatitis C, HIV or HTLV? | Yes | No |
| 6. | In the last 12 months have you engaged in sexual activity with someone you might think would answer “yes” to any of questions 1-5? | Yes | No |
| 7. | Since your last donation or in the last 12 months have you had sexual activity with a new partner who currently lives or who has previously lived overseas? | Yes | No |

Within the last 6 months have you:

-
- | | | | |
|----|---|-----|----|
| 8. | Had a tattoo (including cosmetic tattooing), body and/or ear piercing, electrolysis or acupuncture? | Yes | No |
|----|---|-----|----|

Within the last 12 months have you:

-
- | | | | |
|-----|---|-----|----|
| 9. | Had male to male sex (that is, oral or anal sex) with or without a condom? | Yes | No |
| 10. | 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 |
| 11. | Been a male or female sex worker (e.g. received payment for sex in money, gifts or drugs)? | Yes | No |
| 12. | Engaged in sexual activity with a male or female sex worker? | Yes | No |
| 13. | Been injured with a used needle (needlestick)? | Yes | No |
| 14. | Had a blood/body fluid splash to eyes, mouth, nose or to broken skin? | Yes | No |
| 15. | Been imprisoned in a prison or lock-up? | Yes | No |
| 16. | Had a blood transfusion? | Yes | No |

In making this declaration I understand that —

- I have also been advised by the interviewer that —

- I hereby declare that I have answered the above questions honestly and to the best of my knowledge.**

Donor's signature: _____	Witness' signature: _____
Print full name: _____	Print full name: _____
Donation number: _____	Category of authorisation: _____
	Date and time of declaration: _____

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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))