

Western Australia

Fluoridation of Public Water Supplies Act 1966

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Fluoridation of Public Water Supplies Act 1966

An Act relating to the Fluoridation of Public Water Supplies.

1. Short title

This Act may be cited as the *Fluoridation of Public Water Supplies Act 1966*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

3. Application of Act to Crown

This Act binds the Crown.

4. Interpretation

In this Act, unless the contrary intention appears —

Committee means the Fluoridation of Public Water Supplies Advisory Committee established under this Act;

Executive Director means the Executive Director, Public Health and Scientific Support Services of the department of the Public Service of the State principally assisting the Minister in the administration of this Act;

fluorine includes any compound of fluorine;

member means member of the Committee and includes a duly appointed acting member of the Committee;

public water supply means a water supply used for supplying water to the public;

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water supply authority means any party who or which supplies water to the public.

[Section 4 amended by No. 63 of 1981 s. 4; No. 28 of 1984 s. 21.]

5. Establishment of Committee

- (1) For the purposes of this Act there shall be established a committee to be called the Fluoridation of Public Water Supplies Advisory Committee.
- (2) The Committee shall consist of 6 members of whom —
 - (a) one shall be the Executive Director;
 - (b) one shall be a member of staff of the Water Corporation established by the *Water Corporation Act 1995* nominated by the chief executive officer of that corporation;
 - [(c) deleted]*
 - (d) one shall be the chief executive officer of the Chemistry Centre (WA) or an analyst from the Chemistry Centre (WA) nominated by the chief executive officer;
 - (e) 3 shall be persons appointed as provided in subsection (3) and in this section are called the appointed members.
- (3) The appointed members shall consist of —
 - (a) a person appointed by the Minister from a panel of the names of 3 persons willing to act as a member, submitted to the Minister for the purpose, by the body known as the Australian Medical Association (Western Australian Branch); and
 - (b) a person so appointed from a panel of the names of 3 persons willing to act as a member, submitted to the Minister for the purpose, by the body known as the Australian Dental Association (Western Australian Branch); and

- (c) a person so appointed from a panel of the names of 3 persons willing to act as a member, submitted to the Minister for the purpose, by the body known as the Western Australian Local Government Association.
- (4) The member of the Committee referred to in subsection (2)(a) shall be Chairman of the Committee but, if that person is unable for any reason to attend a meeting of the Committee, a person designated by the Executive Director may act as Chairman at that meeting and, while so acting, has all the powers of the Chairman and of a member.
- (5) When a body referred to in subsection (3) fails to submit to the Minister a panel of names in accordance with that subsection, within 30 days after the receipt by that body of a written request from the Minister so to do, the Minister may appoint a person to the office of member in respect of which the panel of names has not been submitted to him.
- (6) Subject to this Act, the appointed members shall be appointed to hold office for a period of 3 years and are eligible for re-appointment.
- (7) When an appointed member ceases to hold office before the termination of the period of his appointment, a person eligible to be appointed to that office under the relevant provisions of this Act shall, in accordance with those provisions, be appointed a member by the Minister for the remainder of the term of office of the member in whose place he is appointed.
- (8)
 - (a) Where the Minister is satisfied that a member is incapacitated by illness, absence, or other sufficient cause, from performing the duties of his office, the Minister may appoint a person to be an acting member to act for that member during his incapacity and that person, while he so acts, shall be deemed to be a member.
 - (b) The Minister may at any time terminate the appointment of an acting member.

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- (c) No appointment of an acting member, and no acts done by him as such, shall, in any proceedings, be questioned on the ground that the occasion for his appointment had not arisen or had ceased.
- (9) Each appointed member and each acting member while acting in the place of an appointed member, shall be paid such remuneration for attending meetings of the Committee, travelling and other allowances, as the Governor from time to time determines.
- (10) The Minister may terminate the appointment of any member or acting member for inability, inefficiency or misbehaviour.

[Section 5 amended by No. 63 of 1981 s. 4; No. 28 of 1984 s. 22; No. 25 of 1985 s. 365; No. 19 of 1990 s. 4; No. 73 of 1994 s. 4; No. 73 of 1995 s. 188; No. 49 of 2004 s. 13; No. 10 of 2007 s. 43.]

6. Meetings of Committee

- (1) The Committee shall hold such meetings as are necessary for the performance of its functions.
- (2) The Minister or the Chairman may at any time convene a meeting of the Committee.
- (3) The Chairman shall convene the first meeting of the Committee as soon as practicable after the passing of this Act, and shall preside at all meetings of the Committee at which he is present.
- (4) When the Chairman or his deputy is absent from a meeting of the Committee the members present at that meeting shall appoint one of their number to preside thereat.
- (5) At a meeting of the Committee —
 - (a) 4 members form a quorum;
 - (b) a question arising at the meeting shall be determined by a majority of the valid votes of the members present at the meeting.

- (6) Subject to this Act, the Committee may regulate its procedure in such manner as it thinks fit.

7. Functions of Committee

- (1) The Committee shall consider, advise and make written recommendations to the Minister relating to —
- (a) any proposal with respect to the addition of fluorine to any public water supply;
 - (b) any proposal for making, amending or revoking any regulation; and
 - (c) such other matters, being matters that are conducive to the achievement of the objects and effectual administration of this Act,

that is or are in writing referred to it for its consideration, advice and recommendation by the Minister.

- (2) The Committee may initiate and make written recommendations to the Minister on all or any of the matters referred to in subsection (1).
- (3) Before making a recommendation with respect to the addition of fluorine to any public water supply the Committee —
- (a) shall ascertain the amount of fluorine, if any, already contained in the water in respect of which it proposes to make the recommendation; and
 - (b) shall ensure that the amount of fluorine so ascertained together with the amount of fluorine that the Committee proposes to recommend should be added to the water, will not result in a concentration in excess of one part by weight of fluorine per million parts of water.

8. Exemption from personal liability

A person who is or has been a member or acting member is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any

power conferred, or the carrying out of any duty imposed, on the Committee by this Act.

9. Fluoridation of public water supplies

- (1) Where the Committee makes a written recommendation to the Minister that fluorine be added to any public water supply, if the Minister approves the recommendation, the Minister shall —
 - (a) send the water supply authority having control of the public water supply a copy of the recommendation; and
 - (b) direct in writing the water supply authority to give effect to such matters contained in the recommendation, as are specified in the direction, within a time so specified.
- (2)
 - (a) Notwithstanding anything contained in any other Act, a water supply authority to whom a direction has been given by the Minister under subsection (1) shall, subject to this Act, add fluorine to any public water supply under its control and to which the direction relates, within such period as the Minister specifies in the direction.
 - (b) The Minister may, from time to time, by subsequent direction extend the period so specified.
- (3) Subject to section 13, the cost of and incidental to the fluoridation of the public water supply pursuant to the direction of the Minister shall be borne by the water supply authority.
- (4) A water supply authority shall not add fluorine to any public water supply except —
 - (a) pursuant to and in accordance with a direction of the Minister given under this section; and
 - (b) in accordance with this Act.
- (5) A person, not being a water supply authority who is directed to do so under this Act, shall not add fluorine to any public water supply.

Penalty: \$1 000 and, in the case of a continuing offence, an additional sum not exceeding \$40 for each day on which the offence continues after conviction.

10. Power of Committee to add fluorine to public water supply if water supply authority defaults

- (1) When a water supply authority fails to add fluorine to a public water supply under its control, as directed by the Minister under section 9, the Minister may —
 - (a) cause the fluorine to be added as so directed; and
 - (b) send to the water supply authority a statement of account showing the cost of and incidental to the fluoridation of the public water supply under this subsection.
- (2) If the water supply authority fails to pay to the Minister the cost referred to in that statement of account within 30 days of the receipt by it of the statement, the cost may be recovered from the water supply authority by the Minister in a court of competent jurisdiction, as a debt due by the water supply authority to the Crown in right of the State.

11. Power of Committee to require information and enter land

- (1) For the purposes of enabling the Committee to effectually carry out its functions under this Act the Committee, or any person authorised by the Committee to act under this section —
 - (a) may require any water supply authority to furnish to it or him such information in relation to any public water supply under its control as the Committee or the person so authorised may from time to time require;
 - (b) may, at all reasonable times, enter upon any land of, or under the control of, a water supply authority in or on which land any public water supply or apparatus or equipment used in connection therewith is situate, for the purpose of inspecting, testing or obtaining information from the public water supply or any

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- apparatus or equipment used or proposed to be used for adding fluorine to that public water supply;
- (c) may require any person to furnish the Committee with such information in his possession as it or he from time to time requires in relation to any public water supply;
 - (d) with the consent of the Minister administering any department of the Public Service of, the State, co-opt the services of any person employed in that department upon such terms as may be agreed between that Minister and the Minister.
- (2) A person shall not, without reasonable excuse, —
- (a) obstruct a person acting in accordance with subsection (1)(b); or
 - (b) refuse or fail to furnish any information when so required under subsection (1).

Penalty: \$100.

12. Maximum and minimum concentration of fluorine in water

- (1) A water supply authority that adds fluorine to any public water supply under its control pursuant to a direction of the Minister given under this Act shall —
- (a) maintain the content of fluorine in that public water supply at a concentration of not more than the maximum nor less than the minimum concentration, calculated as parts per million, as is specified in the direction;
 - (b) not add to that public water supply fluorine in a form other than that specified in the direction; and
 - (c) not fail to comply with any conditions, as may in any case be determined by the Committee and specified in the direction.
- (2) Where a water supply authority fails to comply with any requirement of subsection (1), the Minister may —

- (a) take, or cause to be taken, such action as he deems necessary to ensure that the water supply authority complies with that requirement;
- (b) send to the water supply authority a statement of account showing the cost of and incidental to the taking of any such action; and
- (c) where the water supply authority fails to pay to the Minister the cost referred to in that statement of account within 30 days of the receipt by it of the statement, recover the cost from the water supply authority in a court of competent jurisdiction, as a debt due by the water supply authority to the Crown in right of the State.

13. Power of Committee to rescind or vary any recommendation

- (1) The Committee may at any time after making —
 - (a) a recommendation that fluorine be added to any public water supply —
 - (i) rescind the recommendation;
 - (ii) revoke or vary any condition specified in the recommendation; or
 - (iii) attach new conditions to the recommendation;
 - (b) any other recommendation, rescind or vary it.
- (2) (a) Where the Minister approves of any action taken by the Committee pursuant to paragraph (a) of subsection (1), he shall in writing advise the water supply authority to whom the recommendation relates of the action so taken by the Committee and shall direct in writing the water supply authority to comply with the recommendation as altered by the Committee under that paragraph within the time specified in such direction.
- (b) Where a water supply authority fails to comply with a direction given to it under this subsection, the Minister may take, or cause to be taken, such action as he deems necessary to ensure that the water supply authority

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complies with the direction and the provisions of section 12(2)(b) and (c) apply to any costs incurred by the Minister in so doing.

- (3) Where a water supply authority has provided equipment or apparatus to be used for the purposes of adding fluorine to any public water supply under its control pursuant to a direction made under this Act, if —
- (a) the Committee rescinds any recommendation made by it under section 13 pursuant to which the direction was made; and
 - (b) the water supply authority is no longer required by or under this Act to add fluorine to the water supply,

the Minister shall pay, to the water supply authority for the purpose of defraying the costs incurred by it in providing the equipment or apparatus, such amount as may be agreed upon between the Minister and the water supply authority and in default of agreement such amount as may be determined by arbitration under and in accordance with the *Commercial Arbitration Act 2012*, unless the Minister and the water supply authority agree on some other method of determination.

[Section 13 amended by No. 23 of 2012 s. 45.]

14. Certificate to be evidence

A certificate that purports to be signed by the Minister certifying that —

- (a) any water supply authority has or has not been directed in writing by him to add fluorine to a public water supply specified in the certificate
- (b) any such direction has or has not been revoked; or
- (c) the direction contained the conditions specified in the certificate,

is, without proof of the signature or of the official character of the person appearing to have signed the certificate, evidence of the matters certified in and by the certificate.

15. Proof of certificate of analyst

- (1) An analyst analysing any substance submitted to him for the purpose of assisting the determination of any matter arising under or in connection with this Act may give a certificate of the result of the analysis.
- (2) In any legal proceedings instituted under this Act the production of such certificate purporting to be signed by the analyst is evidence of the identity of the substance analysed and of the result of such analysis without proof of the signature, employment, appointment or registration of the person appearing to have signed the certificate.
- (3) In this section *analyst* means the chief executive officer of the Chemistry Centre (WA) or a person certified by the Committee as having the qualifications necessary to carry out any analysis required by or permitted under this Act, and appointed by the Minister.

[Section 15 amended by No. 19 of 1990 s. 5; No. 10 of 2007 s. 43.]

16. Regulations

- (1) The Governor on the recommendation of the Committee may make regulations not inconsistent with this Act for or with respect to —
 - (a) the protection of persons employed in adding fluorine to any public water supply from inhaling fumes or dust containing fluorine;
 - (b) the qualifications of persons, other than persons employed in the Public Service of the State, employed in operating plant, equipment or apparatus used for adding fluorine to any public water supply;

- (c) the disposal or destruction of containers from which fluorine has been removed for addition to any public water supply;
 - (d) requiring a water supply authority to cause to be made analyses and prescribed tests of samples of water taken for such purposes as the Committee determines from such public water supply under its control as the Committee directs and to forward to the Committee the result of those analyses and tests and to forward to the Committee such samples of water so taken from that public water supply as are prescribed;
 - (e) prescribing the method of making the analyses and tests referred to in paragraph (d) and the times or intervals at which those analyses and tests shall be made;
 - (f) the records to be kept for the purposes of this Act by a water supply authority that has been directed by the Minister to add fluorine to any public water supply under its control;
 - (g) all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may —
- (a) relate to one or more water supply authorities and different regulations may be made in relation to different water supply authorities; and
 - (b) impose a penalty not exceeding \$400 for a breach of any regulation and, in the case of a continuing breach, a daily penalty not exceeding \$40.

Notes

¹ This is a compilation of the *Fluoridation of Public Water Supplies Act 1966* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Fluoridation of Public Water Supplies Act 1966</i>	47 of 1966	18 Nov 1966	17 Mar 1967 (see s. 2 and <i>Gazette</i> 17 Mar 1967 p. 735)
<i>Acts Amendment (Statutory Designations) and Validation Act 1981 s. 4</i>	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Health Legislation Amendment Act 1984 Pt. VII</i>	28 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
<i>Acts Amendment and Repeal (Water Authorities) Act 1985 Pt. XII</i>	25 of 1985	6 May 1985	1 Jul 1985 (see s. 2 and <i>Gazette</i> 7 Jun 1985 p. 1931)
<i>Acts Amendment (Chemistry Centre (WA)) Act 1990 Pt. 2³</i>	19 of 1990	24 Jul 1990	9 Aug 1991 (see s. 2 and <i>Gazette</i> 9 Aug 1991 p. 4101)
<i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 s. 188</i>	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2 and <i>Gazette</i> 29 Dec 1995 p. 6291)
Reprint of the <i>Fluoridation of Public Water Supplies Act 1966</i> as at 3 Aug 2001 (includes amendments listed above)			
<i>Local Government Amendment Act 2004 s. 13</i>	49 of 2004	12 Nov 2004	1 Apr 2005 (see s. 2 and <i>Gazette</i> 31 Mar 2005 p. 1029)
<i>Chemistry Centre (WA) Act 2007 s. 43</i>	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2 and <i>Gazette</i> 27 Jul 2007 p. 3735)
<i>Commercial Arbitration Act 2012 s. 45 it. 8</i>	23 of 2012	29 Aug 2012	7 Aug 2013 (see s. 1B(b) and <i>Gazette</i> 6 Aug 2013 p. 3677)

^{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

Short title	Number and year	Assent	Commencement
<i>Water Services Legislation Amendment and Repeal Act 2012</i> s. 214 ⁵	25 of 2012	3 Sep 2012	To be proclaimed (see s. 2(b))

² Footnote no longer applicable.

³ The *Acts Amendment (Chemistry Centre (WA)) Act 1990* s. 6 reads as follows:

“

6. Saving of certificates

A certificate given under section 15 of the principal Act that purports to have been signed by the Director (Government Mineralogist, Analyst) of the Government Chemical Laboratories before the commencement of this Act shall continue to have effect as if this Act had not come into operation.

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⁴ Footnote no longer applicable.

⁵ On the date as at which this compilation was prepared, the *Water Services Legislation Amendment and Repeal Act 2012* s. 214 had not come into operation. It reads as follows:

214. Fluoridation of Public Water Supplies Act 1966 amended

- (1) This section amends the *Fluoridation of Public Water Supplies Act 1966*.
- (2) In section 5(2)(b) delete “*Water Corporation Act 1995*” and insert:

Water Corporations Act 1995 section 4(1)