



Western Australia

## **Health Legislation Administration Act 1984**



# Health Legislation Administration Act 1984

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## Defined terms



## Health Legislation Administration Act 1984

**An Act relating to the administration of certain Acts and to facilitate the provision of health services to the people of the State.**

**1. Short title**

This Act may be cited as the *Health Legislation Administration Act 1984*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

**3. Terms used**

In this Act, unless the contrary intention appears —

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

**Department** means the department of the Public Service of the State principally assisting the Minister in the administration of the Acts to which this Act applies;

**prescribed officer** means an officer referred to in section 6(1)(b) or (c) and any officer or officer of a class of officers prescribed by the regulations;

**section** means a section of this Act;

**subsection** means a subsection of the section wherein the term is used.

*[Section 3 amended by No. 28 of 2006 s. 253; No. 25 of 2014 s. 66.]*

**s. 4**

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**4. Application**

This Act applies to the Acts the administration of which is committed by the Governor to the Minister.

**5. Objects**

The objects of this Act are to facilitate —

- (a) the co-ordination of the administration of the Acts to which this Act applies; and
- (b) the effective and efficient provision of health and related services to the people of the State.

**6. Officers and employees, appointment of etc.**

- (1) Subject to this section, there shall be appointed in the Department, under and subject to Part 3 of the *Public Sector Management Act 1994*, the following officers, namely —

*[(a) deleted]*

- (b) an Executive Director, Personal Health Services;
- (c) an Executive Director, Public Health and Scientific Support Services,

*[(d) deleted]*

and such other officers as are necessary for the purposes of carrying out the provisions of the Acts to which this Act applies.

- (2) The Minister may for the purposes of the Acts to which this Act applies, other than the *Health Services Act 2016* —

- (a) appoint persons, other than public service officers, as employees on a full-time, part-time or casual basis or for a specified period; and
- (b) engage persons, other than public service officers, under contract for services.

- (3) Subject to the *Industrial Relations Act 1979*<sup>2</sup> and the *Public Service Arbitration Act 1966*<sup>3</sup>, the terms and conditions subject to which a person or a member of a class of persons is —

- (a) appointed as an employee under subsection (2)(a); or
- (b) engaged under contract for services under subsection (2)(b),

shall be as determined by the Minister after consultation with the Public Sector Commissioner.

- (4) A person cannot be appointed to hold or act in an office referred to in subsection (1)(b) or (c) unless the person is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

*[Section 6 amended by No. 32 of 1994 s. 3(2); No. 103 of 1994 s. 18; No. 69 of 1996 s. 38; No. 28 of 2006 s. 254; No. 22 of 2008 Sch. 3 cl. 24; No. 35 of 2010 s. 76; No. 39 of 2010 s. 89; No. 25 of 2014 s. 67; No. 11 of 2016 s. 293.]*

**7. Certain officers, designating persons as**

The Minister may designate any officer or other person who holds the relevant qualifications for that position as a medical officer of health, environmental health officer, inspector or public health official, as the case requires, for the purposes of any Act to which this Act applies or for any provision thereof and may cancel any such designation.

*[Section 7 amended by No. 57 of 1997 s. 69.]*

**8. Appointment or designation under s. 6 or 7, effect of**

Where a person is appointed or designated as an officer, medical officer of health, environmental health officer, inspector or public health officer under section 6 or 7, as the case requires, for the purposes of an Act to which this Act applies or for any provision of such an Act all the powers and duties conferred or imposed on holding such an appointment or having such a designation by this Act or by an Act to which this Act applies or by a provision of such an Act may be exercised and shall be carried out by the person so appointed or designated and any

order or direction given by such a person acting in pursuance of any such power or duty shall have effect accordingly.

*[Section 8 amended by No. 57 of 1997 s. 69.]*

**9. Delegation by Minister, CEO etc.**

- (1) Subject to this section, the Minister, the CEO or a prescribed officer (hereinafter referred to as the **delegator**) on whom a power is conferred or duty is imposed by any Act to which this Act applies (hereinafter referred to as a **relevant Act**) may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person (hereinafter referred to as the **delegate**) any of his powers or duties under that Act, other than this power of delegation.
- (2) For the purposes of a relevant Act, the exercise of a power or the performance of a duty by a delegate under this section shall be deemed to be the exercise of the power or the performance of the duty by the delegator.
- (3) A delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.
- (4) A delegation under this section may —
  - (a) be made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation;
  - (b) be revoked or varied by instrument in writing signed by the delegator.
- (5) The delegator may exercise a power or perform a duty notwithstanding that he has delegated its exercise or performance under this section.
- (6) This section is in addition to, and not in derogation of, any power to delegate conferred on a delegator by a relevant Act.

*[Section 9 amended by No. 28 of 2006 s. 255.]*



**10. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and its operations.

*[Section 10 inserted by No. 98 of 1985 s. 3; amended by No. 77 of 2006 Sch. 1 cl. 81.]*

**11. Advisory groups, committees, councils and panels, establishment of**

- (1) The Minister may establish such groups, committees, councils and panels as he thinks are necessary for the purposes of advising him on the administration of this Act and any Act to which this Act applies or any provision thereof, and on the provision of health and related services in this State.
- (2) The Minister may appoint such persons as he thinks fit to any group, committee, council or panel established under subsection (1).
- (3) A member of a group, committee, council or panel appointed under this section is entitled to such remuneration and allowances as are determined by the Minister after consultation with the Public Sector Commissioner.
- (4) The terms and conditions, other than those referred to in subsection (3), applicable in relation to a person appointed under this section shall be as determined by the Minister from time to time either generally or with respect to a particular appointment.
- (5) A person appointed under this section is not by that reason alone an officer of the Public Service of the State.

*[Section 11 amended by No. 39 of 2010 s. 89.]*

**s. 12**

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**12. Regulations**

The Governor may make such regulations as are contemplated by this Act or as he considers necessary or expedient for the purposes of this Act.

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## Notes

- <sup>1</sup> This is a compilation of the *Health Legislation Administration Act 1984* 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**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Health Legislation Administration Act 1984</i>	27 of 1984	31 May 1984	1 Jul 1984 (see s. 2 and <i>Gazette</i> 15 Jun 1984 p. 1629)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Hospitals Amendment Act 1994 s. 18</i>	103 of 1994	11 Jan 1995	3 Feb 1995 (see s. 2 and <i>Gazette</i> 3 Feb 1995 p. 333)
<i>Mental Health (Consequential Provisions) Act 1996 Pt. 9</i> <sup>4</sup>	69 of 1996	13 Nov 1996	13 Nov 1997 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 69</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<b>Reprint of the <i>Health Legislation Administration Act 1984</i> as at 11 Jan 2002</b> (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 9 Div. 3</i> <sup>5,6</sup>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006 Sch. 1 cl. 81</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Medical Practitioners Act 2008 Sch. 3 cl. 24</i>	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
<i>Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 23</i>	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)

Short title	Number and year	Assent	Commencement
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<b>Reprint 2: The Health Legislation Administration Act 1984 as at 18 Mar 2011</b> (includes amendments listed above)			
<i>Mental Health Legislation Amendment Act 2014</i> Pt. 4 Div. 4 Subdiv. 14	25 of 2014	3 Nov 2014	30 Nov 2015 (see s. 2(b) and <i>Gazette</i> 13 Nov 2015 p. 4632)
<i>Health Services Act 2016</i> s. 293	11 of 2016	26 May 2016	1 Jul 2016 (see s. 2(b) and <i>Gazette</i> 24 Jun 2016 p. 2291)

- <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

Short title	Number and year	Assent	Commencement
<i>Public Health (Consequential Provisions) Act 2016</i> Pt. 3 Div. 15 <sup>7</sup>	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and <i>Gazette</i> 10 Jan 2017 p. 165)

- <sup>2</sup> Formerly referred to the *Industrial Arbitration Act 1979*, the short title of which was changed to the *Industrial Relations Act 1979* by the *Acts Amendment and Repeal (Industrial Relations) Act (No. 2) 1984*. The reference was amended under the *Reprints Act 1984* s. 7(3)(gb).
- <sup>3</sup> Repealed by the *Acts Amendment and Repeal (Industrial Relations) Act (No. 2) 1984*.
- <sup>4</sup> The *Mental Health (Consequential Provisions) Act 1996* s. 38(2) is a transitional provision of no further effect.
- <sup>5</sup> The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9 Div. 13 reads as follows:

### Division 13 — Transitional provisions

#### 289. Commissioner of Health

- (1) A thing done or omitted to be done by, to or in relation to, the Commissioner of Health before commencement under, or for the purposes of, an enactment has the same effect after

commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the CEO.

(2) In this section —

**CEO** has the meaning given by section 3 of the *Health Legislation Administration Act 1984* as in force after commencement;

**commencement** means the time at which this Division comes into operation;

**Commissioner of Health** means the Commissioner of Health referred to in section 6(1)(a) of the *Health Legislation Administration Act 1984* as in force before commencement.

<sup>6</sup> The requirement to appoint a Commissioner of Health was removed from the Act and references to the Commissioner of Health were replaced by references to the CEO, see the *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 9. Section 454 of that Act is a general transitional provision that applies to references to the Commissioner in written laws.

<sup>7</sup> On the date as at which this compilation was prepared, the *Public Health (Consequential Provisions) Act 2016* Pt. 3 Div. 15 had not come into operation. It reads as follows:

### Part 3 — Amendments to other Acts and repeals

#### Division 15 — *Health Legislation Administration Act 1984* amended

##### 150. Act amended

This Division amends the *Health Legislation Administration Act 1984*.

##### 151. Section 3 amended

- (1) In section 3 delete the definition of **prescribed officer**.
- (2) In section 3 insert in alphabetical order:

**Chief Health Officer** has the meaning given in the *Public Health Act 2016* section 4(1);

**prescribed officer** means —

- (a) the Chief Health Officer; or
- (b) any officer or officer of a class of officers prescribed by the regulations;

**152. Section 6 amended**

- (1) Delete section 6(1) and insert:
  - (1) The officers that are necessary for the purposes of carrying out the provisions of the Acts to which this Act applies are to be appointed in the Department under and subject to the *Public Sector Management Act 1994* Part 3.
- (2) Delete section 6(4).

**153. Section 7 deleted**

Delete section 7.

**154. Section 8 amended**

In section 8:

- (a) delete “or designated as an officer, medical officer of health, environmental health officer, inspector or public health officer under section 6 or 7, as the case requires,” and insert:

under section 6

- (b) delete “or having such a designation”;
- (c) delete “or designated”.

Note: The heading to amended section 8 is to read:

**Effect of appointment under s. 6**

**155. Section 9 amended**

After section 9(6) insert:

- (7) Subsection (1) does not authorise —
  - (a) the Minister to delegate any of the Minister’s powers or duties under the *Health (Miscellaneous Provisions) Act 1911* or the *Public Health Act 2016*; or
  - (b) the CEO or the Chief Health Officer to delegate any of their powers or duties under the *Health (Miscellaneous Provisions) Act 1911*.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

Defined term	Provision(s)
CEO .....	3
delegate .....	9(1)
delegator .....	9(1)
Department .....	3
prescribed officer .....	3
relevant Act.....	9(1)
section .....	3
subsection .....	3