

Western Australia

Health Legislation Amendment Act 2004

As at 24 Nov 2004

No. 61 of 2004

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Health Legislation Amendment Act 2004

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Western Australia

Health Legislation Amendment Act 2004

No. 61 of 2004

An Act to amend the —

- *Health Act 1911*;
- *Health Services (Quality Improvement) Act 1994*;
- *Hospitals and Health Services Act 1927*; and
- *Queen Elizabeth II Medical Centre Act 1966*,

to make provision in relation to the management of certain hospitals under the *Queen Elizabeth II Medical Centre Act 1966*, and for related purposes.

[Assented to 24 November 2004]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Health Legislation Amendment Act 2004*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

Part 2 — *Health Act 1911*

3. The Act amended

The amendments in this Part are to the *Health Act 1911**.

[* *Reprinted as at 31 March 2000.*

For subsequent amendments see 2003 Index to Legislation of Western Australia, Table 1, p. 172.]

4. Section 182 amended

Section 182(11) is amended by deleting “(not being the chimney of a private dwelling-house)”.

5. Section 289F amended

Section 289F(4) is repealed.

6. Section 289I amended

- (1) Section 289I(1) is amended by deleting “after the expiry of 3 years from the commencement of the *Health Amendment Act 1998*.” and inserting instead —

“

after —

- (a) 1 January 2005; and
- (b) every fourth anniversary of that date.

”.

- (2) Section 289I(2) is amended by deleting “4 years after the commencement referred to in subsection (1).” and inserting instead —

“ 12 months after the requirement for the review arose. ”.

**Part 3 — *Health Services (Quality Improvement)*
Act 1994**

7. The Act amended

The amendments in this Part are to the *Health Services (Quality Improvement) Act 1994**.

[* *Reprint 1 as at 12 December 2003.*]

8. Section 9 amended

- (1) Section 9(1) is amended by deleting “that person’s membership of, employment by, or association with, a Committee” and inserting instead —

“ the performance of the Committee’s functions ”.

- (2) After section 9(1) the following subsection is inserted —

“

- (1a) Subsection (1) applies to a person who acquires information, whether the person did so directly or indirectly.

”.

9. Section 10 amended

- (1) Section 10(1) is repealed and the following subsections are inserted instead —

“

- (1) A person who acquires information solely as a result of a Committee performing its functions is neither competent nor compellable in civil proceedings to divulge or communicate that information to any court, tribunal, board or person.

- (1a) A document that was created by or at the request of a Committee, or solely for the performance of a Committee’s functions, is not subject to discovery and

is not to be used in evidence in civil proceedings before any court, tribunal, board or person unless the document has been made available to the public or given to the Minister or to the governing body of the Committee.

”.

- (2) Section 10(2) is amended by deleting “Subsection (1) does” and inserting instead —

“ Subsections (1) and (1a) do ”.

- (3) After section 10(2) the following subsection is inserted —

“

- (3) This section does not limit section 9.

”.

10. Section 12 amended

- (1) Section 12(1) is amended by deleting “person acting under the direction of a Committee” and inserting instead —

“ other person ”.

- (2) Section 12(3) is amended as follows:

- (a) by deleting “The members of a Committee are, and are” and inserting instead —

“ A person referred to in subsection (1) is, and is ”;

- (b) by deleting “they are” and inserting instead —

“ the person is ”.

Part 4 — *Hospitals and Health Services Act 1927*

11. The Act amended

The amendments in this Part are to the *Hospitals and Health Services Act 1927**.

[* *Reprinted as at 15 October 1999.*

For subsequent amendments see 2003 Index to Legislation of Western Australia, Table 1, p. 178.]

12. Section 2 amended

Section 2(1) is amended by inserting the following definition in the appropriate alphabetical position —

“

“hospital service provider” means —

- (a) the board of a public hospital;
- (b) the holder of a licence granted under this Act to conduct a private hospital or a private psychiatric hostel;

”.

13. Section 18A repealed

Section 18A is repealed.

14. Part IIIC inserted

After Part IIIB the following Part is inserted —

“

Part IIIC — Collection of information about health services

26R. Purpose for collecting information

The purpose for which the Commissioner may collect information under this Part is to assist in —

- (a) the management of public hospitals;
- (b) the regulation of private hospitals and private psychiatric hostels;
- (c) the planning for and evaluation of hospital and health services; and
- (d) the conduct of epidemiological analysis and health research.

26S. Commissioner may require certain information

- (1) The Commissioner may direct a hospital service provider to give to the Commissioner the information specified in the direction.
- (2) The information specified may include personal information.
- (3) The Commissioner may not specify information in a direction unless —
 - (a) the information relates to hospital, health or psychiatric services provided to individuals by the hospital service provider; and
 - (b) the Commissioner is satisfied that collecting the information is consistent with the purpose for which information may be collected under this Part.
- (4) The direction may specify the information by reference to a class of information and may specify the form in which it is to be given.
- (5) The hospital service provider must comply with the direction.
- (6) A direction may be given in relation to information obtained by the hospital service provider before the commencement of this Part.

- (7) A particular direction may be given to one or more named hospital service providers, one or more classes of hospital service providers, or all hospital service providers.
- (8) In this section —
“**personal information**” means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

26T. No liability for notification etc. or disclosure

A hospital services provider that complies with a direction given under section 26S incurs no civil or criminal liability as a result, and is not to be regarded for any purpose as being in breach of any duty of confidentiality.

”.

15. Section 36 amended

Section 36 is amended by deleting “\$100” and inserting instead —

“ \$1 000 ”.

Part 5 — *Queen Elizabeth II Medical Centre Act 1966*

16. The Act amended

The amendments in this Part are to the *Queen Elizabeth II Medical Centre Act 1966**.

[* *Reprinted as at 3 August 2001.*]

17. Section 16 amended

- (1) Section 16(3) is amended by deleting “hospital on the reserve that is, or is so declared, a”.

- (2) After section 16(7) the following subsection is inserted —

“

- (7a) Subsections (2) to (7) do not apply to a teaching hospital if —

- (a) the managing body of the hospital has the management and control of another hospital; or
- (b) the Minister is the managing body of the hospital.

”.

- (3) Section 16(8) is repealed and the following subsection is inserted instead —

“

- (8) In this section —

“**managing body**”, in relation to a teaching hospital, means —

- (a) the hospital board constituted under Part III of the *Hospitals and Health Services Act 1927* in relation to the hospital; or
- (b) the Minister in whom the management and control of the hospital is vested under section 7 of that Act;

“teaching hospital” means a hospital to which subsection (1) applies.

”.

18. Validation

- (1) The formation of the MHSB by the *Hospitals and Health Services (Re-organisation of Hospital Boards) Notice 1997* is declared to be, and always to have been, as valid as it would have been if section 16(7a) of the principal Act (as inserted by section 17 of this Act) had been in force at the time when that Notice came into operation.
- (2) Anything done or omitted, or purported to have been done or omitted, by the MHSB or the Minister in respect of a teaching hospital before the commencement of this section is declared to be, and always to have been, as valid as it would have been if it had been done or omitted by a managing body or an appointments committee constituted in accordance with section 16 of the principal Act.
- (3) In this section —
 - “MHSB”** means the Metropolitan Health Service Board formed by the *Hospitals and Health Services (Re-organisation of Hospital Boards) Notice 1997*, published in the *Gazette* on 16 July 1997 at pages 3695-6;
 - “Minister”** means the Minister in whom the management of a teaching hospital is vested under section 7 of the *Hospitals and Health Services Act 1927*;
 - “principal Act”** means the *Queen Elizabeth II Medical Centre Act 1966*;
 - “teaching hospital”** means a hospital to which section 16(1) of the principal Act applies.

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