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HEALTH SERVICES ACT 2016

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**HEALTH SERVICES (GENERAL)  
REGULATIONS 2019**



Western Australia

## Health Services (General) Regulations 2019

### Contents

#### **Part 1 — Preliminary**

1. Citation
2. Commencement

#### **Part 2 — General matters**

3. Prescribed amount: Act s. 38(2)
4. Prescribed date: Act s. 47(1)

#### **Part 3 — Employment matters**

5. Prescribed amount in lieu of notice of termination:  
Act s. 125(2)
6. Prescribed amounts in lieu of reappointment: Act  
s. 131
7. Prescribed period in relation to refund of  
compensation: Act s. 134(1)

#### **Part 4 — Disciplinary matters**

##### **Division 1 — Former employees**

8. Purpose of Division
9. Terms used
10. Disciplining former employees currently employed  
by the State: Act s. 155
11. Disciplining former employees currently not  
employed by the State: Act s. 155

##### **Division 2 — Miscellaneous**

12. Prescribed period for termination: Act s. 168(2)
13. Prescribed period for referral: Act s. 172(5)

***Health Services (General) Regulations 2019*****Contents**

---

**Part 5 — *Public Sector Management  
(Redeployment and Redundancy)  
Regulations 2014 modifications***

14. Term used: applied regulations
15. Modification of applied regulations: Act s. 174(3)
16. Regulation 3 modified
17. Regulation 5 modified
18. Regulation 43 modified

**Defined terms**

Health Services Act 2016

## **Health Services (General) Regulations 2019**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Health Services (General) Regulations 2019*.

**2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

**Health Services (General) Regulations 2019****Part 2** General matters**r. 3**

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**Part 2 — General matters****3. Prescribed amount: Act s. 38(2)**

The amount prescribed for the purposes of paragraph (b) of the definition of *transaction* in section 38(1) of the Act is —

- (a) \$50 000 000 in the case of a transaction in relation to —
  - (i) acquiring property, plant or equipment; and
  - (ii) commissioning and delivering capital works or maintenance works for property, plant or equipment; and
  - (iii) acquiring or developing intellectual property or other intangible assets;

and

- (b) \$100 000 000 in the case of a transaction in which a health service provider is procuring goods or services in relation to the provider's operating activities.

**4. Prescribed date: Act s. 47(1)**

For the purposes of section 47(1)(a) of the Act the prescribed date is 1 month after the day on which the health service provider is established.

**Health Services (General) Regulations 2019**  
Employment matters **Part 3**

r. 5

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**Part 3 — Employment matters**

**5. Prescribed amount in lieu of notice of termination:  
Act s. 125(2)**

For the purposes of section 125(2) of the Act the prescribed amount is an amount equal to the amount of remuneration payable to the health executive concerned for the period of 12 weeks immediately preceding the day on which remuneration ceased to be payable to that health executive.

**6. Prescribed amounts in lieu of reappointment: Act s. 131**

- (1) For the purposes of section 131(b)(i) of the Act, the prescribed maximum amount is an amount equal to the amount of remuneration payable to the health executive concerned for the period of 12 weeks immediately preceding the day on which remuneration ceased to be payable to that health executive.
- (2) For the purposes of section 131(b)(ii) of the Act, the prescribed minimum amount is an amount equal to the amount of remuneration payable to the health executive concerned for the last day on which remuneration is payable to that health executive.

**7. Prescribed period in relation to refund of compensation:  
Act s. 134(1)**

For the purposes of the definition of *prescribed period* in section 134(1) of the Act, the period prescribed is a period equal to the period by reference to which the amount of compensation paid to the person concerned under section 133 of the Act was calculated.

**Health Services (General) Regulations 2019****Part 4** Disciplinary matters**Division 1** Former employees**r. 8**

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**Part 4 — Disciplinary matters****Division 1 — Former employees****8. Purpose of Division**

This Division prescribes —

- (a) for the purposes of section 155(1) and (4) of the Act, the circumstances when —
  - (i) a former employee is taken to be an employee for the purposes of Part 11 of the Act; and
  - (ii) a former employee's former employing authority is taken to be a reference to the employing authority of a former employee;
- and
- (b) for the purposes of section 155(2) of the Act, the disciplinary actions prescribed for former employees.

**9. Terms used**

In this Division —

**current State employee** means a former employee who is employed by —

- (a) another health service provider; or
- (b) a public authority (other than a local government, regional local government or regional subsidiary);

**former employee** has the meaning given in section 155(1) of the Act;

**former employing authority**, in relation to a former employee, means the former employee's employing authority at the time the former employee may have committed a suspected breach of discipline;



**Health Services (General) Regulations 2019**

Disciplinary matters

**Part 4**

Former employees

**Division 1****r. 10**

***public interest consideration***, in relation to a suspected breach of discipline by an employee, includes the following —

- (a) the seriousness of the suspected breach;
- (b) whether the suspected breach was an isolated incident;
- (c) the status and position of the employee;
- (d) whether the person is employed, or is likely to be re-employed in the future, by a health service provider or a public authority;
- (e) the length of time that has elapsed since the suspected breach occurred;
- (f) the likely impact on public confidence in the WA health system if the suspected breach is not dealt with as a disciplinary matter;
- (g) any mitigating factors relating to the personal circumstances of the employee;
- (h) the likely cost and administrative burden involved in dealing with the suspected breach as a disciplinary matter.

**10. Disciplining former employees currently employed by the State: Act s. 155**

- (1) If a former employee is a current State employee, the prescribed circumstances under section 155(1) and (4) for the current State employee are —
  - (a) the suspected breach of discipline occurred when the former employing authority was the employing authority of the employee; and
  - (b) before commencing dealing with the disciplinary matter —
    - (i) the former employing authority consulted with the employee's current employing authority; and

**Health Services (General) Regulations 2019****Part 4** Disciplinary matters**Division 1** Former employees**r. 11**

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(ii) the current employing authority of the employee decided not to treat the matter as a disciplinary matter under a written law;

and

(c) having regard to public interest considerations, the former employing authority considers it appropriate to commence or continue dealing with the matter as a disciplinary matter under a written law.

(2) For the purposes of section 155(2) of the Act, the prescribed disciplinary actions for a current State employee are paragraphs (a) to (h) of the definition of *disciplinary action* in section 6 of the Act.

(3) If the former employing authority finds the current State employee has committed a breach of discipline and decides to take disciplinary action, the former employing authority must consult with the employee's current employing authority before taking the action.

**11. Disciplining former employees currently not employed by the State: Act s. 155**

(1) If a former employee is not a current State employee, the prescribed circumstances under section 155(1) and (4) for the former employee are —

(a) the suspected breach of discipline occurred when the former employing authority was the employing authority of the former employee; and

(b) having regard to public interest considerations, the former employing authority considers it appropriate to commence or continue dealing with the matter as a disciplinary matter.

**Health Services (General) Regulations 2019**

Disciplinary matters

**Part 4**

Miscellaneous

**Division 2****r. 12**

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- (2) For the purposes of section 155(2) of the Act, the prescribed disciplinary actions for a former employee who is not a current State employee are paragraphs (a) and (b) of the definition of *disciplinary action* in section 6 of the Act.

**Division 2 — Miscellaneous****12. Prescribed period for termination: Act s. 168(2)**

For the purposes of section 168(2)(a) of the Act, the prescribed period is 30 days.

**13. Prescribed period for referral: Act s. 172(5)**

For the purposes of section 172(5) of the Act, the prescribed period is 28 days.

**Health Services (General) Regulations 2019**

**Part 5** Public Sector Management (Redeployment and Redundancy)  
Regulations 2014 modifications

r. 14

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**Part 5 — Public Sector Management (Redeployment and Redundancy) Regulations 2014 modifications****14. Term used: applied regulations**

In this Part —

*applied regulations* means the *Public Sector Management (Redeployment and Redundancy) Regulations 2014* as applied under section 174 of the Act.

**15. Modification of applied regulations: Act s. 174(3)**

For the purposes of Part 12 of the Act, the applied regulations are to be read as set out in this Part.

**16. Regulation 3 modified**

Regulation 3(1) of the applied regulations is to be read as if the following were inserted:

*Department* has the meaning given in the *Health Services Act 2016* section 6;

*Department CEO* has the meaning given in the *Health Services Act 2016* section 6;

*employee* has the meaning given in the *Health Services Act 2016* section 6;

*employing authority* has the meaning given in the *Health Services Act 2016* section 6;

**17. Regulation 5 modified**

(1) In regulation 5(2) of the applied regulations —

(a) paragraph (a) is to be read as if “an executive officer” were deleted and the following inserted:

a chief executive or a health executive

**Health Services (General) Regulations 2019**  
Public Sector Management (Redeployment and Redundancy) **Part 5**  
Regulations 2014 modifications

**r. 18**

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- (b) paragraph (b) is to be read as if “section 59 of the Act” were deleted and the following inserted:

the *Health Services Act 2016* section 133

- (c) paragraph (g) is to be read as if “Part 5 Division 3 of the Act.” were deleted and the following inserted:

the *Health Services Act 2016* Part 11 Division 3.

- (2) Regulation 5(3) of the applied regulations is to be read as if “section 58(5) of the Act.” were deleted and the following inserted:

the *Health Services Act 2016* section 132(7).

**18. Regulation 43 modified**

Regulation 43 of the applied regulations is to be read as if “section 82A(3)(a), 88(a) or 89(1) of the Act” were deleted and the following inserted:

the *Health Services Act 2016* section 150, 163(3) or 166

M. INGLIS, Clerk of the Executive Council.

**Health Services (General) Regulations 2019****Defined terms**

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**Defined terms***[This is a list of terms defined and the provisions where they are defined.**The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
applied regulations .....	14
current State employee.....	9
Department.....	16
Department CEO.....	16
employee.....	16
employing authority .....	16
former employee .....	9
former employing authority .....	9
public interest consideration .....	9