



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

29



PERTH, FRIDAY, 7 JANUARY 2011 No. 2

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.00 PM

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HEALTH ACT 1911

HEALTH (WESTERN AUSTRALIAN REGISTER OF DEVELOPMENTAL ANOMALIES) REGULATIONS 2010

Western Australia

Health (Western Australian Register of Developmental Anomalies) Regulations 2010

CONTENTS

Part 1 — Preliminary

1. Citation
2. Commencement
3. Terms used
4. Term used: developmental anomaly
5. Developmental anomaly a prescribed condition of health

Part 2 — Notification of developmental anomalies

6. Notification of diagnosis of developmental anomaly
7. EDPH may require information

Part 3 — Western Australian Register of Developmental Anomalies

8. Western Australian Register of Developmental Anomalies
9. Offence to disclose information without authority
10. EDPH may authorise disclosure of information
11. Right to know of information on the register
12. Identifying information may be removed from register
13. Persons under a legal disability

Health Act 1911

Health (Western Australian Register of Developmental Anomalies) Regulations 2010

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Health (Western Australian Register of Developmental Anomalies) Regulations 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Terms used

In these regulations, unless the contrary intention appears —

Australian Institute of Health and Welfare means the Australian Institute of Health and Welfare established under the *Australian Institute of Health and Welfare Act 1987* (Commonwealth) section 4;

**Health (Western Australian Register of Developmental Anomalies)
Regulations 2010**

Part 1 Preliminary

r. 4

chief executive officer, in relation to a hospital, means the person who, subject to the control of the board or licence holder of the hospital, is responsible for the day-to-day operations of the hospital;

child includes a human fetus;

corresponding officer, in relation to another State or a Territory, means a person who under the law of that State or Territory has functions that correspond or substantially correspond to the functions of the EDPH under these regulations;

developmental anomaly has the meaning given in regulation 4;

EDPH means the Executive Director, Public Health;

hospital has the meaning given in the *Hospitals and Health Services Act 1927* section 2(1);

identifying information means information from which the identity of the person to whom the information relates is apparent or can reasonably be ascertained;

notified information means information notified under Part 2;

register means the Western Australian Register of Developmental Anomalies referred to in regulation 8.

4. Term used: developmental anomaly

- (1) Subject to subregulations (2) and (3), **developmental anomaly** means —
- (a) cerebral palsy; or
 - (b) a structural or functional anomaly which —
 - (i) is present at conception or occurs before the end of pregnancy; and
 - (ii) is diagnosed —
 - (I) during pregnancy; or

**Health (Western Australian Register of Developmental Anomalies)
Regulations 2010**

Preliminary

Part 1

r. 5

- (II) after stillbirth or termination of pregnancy; or
 - (III) after live birth but before 6 years of age.
- (2) Structural and functional anomalies include —
- (a) congenital malformations; and
 - (b) congenital deformations; and
 - (c) chromosomal anomalies; and
 - (d) inborn errors of metabolism; and
 - (e) inherited conditions.
- (3) Minor structural, chromosomal, metabolic and functional anomalies are not developmental anomalies unless they are disfiguring or require treatment.

5. Developmental anomaly a prescribed condition of health

Developmental anomaly is prescribed as a condition of health to which Part IXA of the Act applies.

**Health (Western Australian Register of Developmental Anomalies)
Regulations 2010**

Part 2 Notification of developmental anomalies

r. 6

Part 2 — Notification of developmental anomalies

6. Notification of diagnosis of developmental anomaly

(1) In this regulation —

responsible person means, in relation to a diagnosis of a developmental anomaly —

- (a) where the diagnosis is made in a hospital, the chief executive officer of the hospital; and
- (b) in any other case, the medical practitioner who makes the diagnosis or who is responsible for the care of the patient diagnosed.

(2) If a developmental anomaly is diagnosed the responsible person must, within 6 months of the diagnosis, cause the EDPH to be notified of the diagnosis, and to be provided with information relating to the diagnosis, in such form as the EDPH may from time to time require.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

(3) A responsible person is to cause a notification to be made under subregulation (2) notwithstanding that the developmental anomaly has previously been diagnosed in another State or a Territory.

7. EDPH may require information

(1) If the EDPH is aware of a child with a developmental anomaly, the EDPH may request a medical practitioner or a chief executive officer of a hospital to notify the EDPH in writing of any information specified by the EDPH relating to the child that is known to the medical practitioner or chief executive officer.

***Health (Western Australian Register of Developmental Anomalies)
Regulations 2010***

Notification of developmental anomalies

Part 2

r. 7

- (2) A person who receives a request under subregulation (1) must comply with the request within 30 days after receiving it.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

**Health (Western Australian Register of Developmental Anomalies)
Regulations 2010**

Part 3 Western Australian Register of Developmental Anomalies

r. 8

**Part 3 — Western Australian Register of
Developmental Anomalies**

8. Western Australian Register of Developmental Anomalies

- (1) The EDPH is to keep a register to be known as the Western Australian Register of Developmental Anomalies.
- (2) The register is to contain all notified information, other than identifying information removed under regulation 12.
- (3) The register may contain —
 - (a) information given to the EDPH by a corresponding officer; and
 - (b) any other information that the EDPH considers appropriate, having regard to the purposes mentioned in subregulation (4).
- (4) The register is to be kept for the following purposes —
 - (a) to monitor the number of cases of developmental anomaly in Western Australia;
 - (b) to plan, monitor and evaluate services for the prevention and alleviation of developmental anomalies and the care of persons with a developmental anomaly in Western Australia;
 - (c) to compile and publish general or statistical information relating to developmental anomalies;
 - (d) to carry out research into the causes of developmental anomalies and the effectiveness of prevention, screening and treatment services.
- (5) The register is to be kept in a manner and form determined by the EDPH.

**Health (Western Australian Register of Developmental Anomalies)
Regulations 2010**

Western Australian Register of Developmental Anomalies

Part 3

r. 9

9. Offence to disclose information without authority

A person who has access to the register in the course of the person's duty must not disclose information on the register other than in accordance with —

- (a) the written consent of the person to whom the information relates; or
- (b) an authorisation under regulation 10.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

10. EDPH may authorise disclosure of information

- (1) The EDPH may authorise the disclosure of information on the register —

- (a) for the purposes of research approved in accordance with guidelines for the conduct of medical research involving humans issued in compliance with the *National Health and Medical Research Council Act 1992* (Commonwealth) section 10; or
- (b) to the Australian Institute of Health and Welfare if the EDPH is satisfied that the information is to be used solely for a purpose mentioned in regulation 8(4); or
- (c) in any case of urgency, to assist in the diagnosis or treatment of the person to whom it relates, if it is not reasonably practicable to obtain the written consent of that person to the disclosure; or
- (d) to a corresponding officer in another State or a Territory, if the EDPH is satisfied that the usual place of residence of the person to whom the information relates is or was in that State or Territory.

**Health (Western Australian Register of Developmental Anomalies)
Regulations 2010**

Part 3 Western Australian Register of Developmental Anomalies

r. 11

- (2) The EDPH may authorise the disclosure of information on the register, other than identifying information, for a purpose mentioned in regulation 8(4).
- (3) An authorisation under this regulation must be in writing and may apply generally or to a specific case or class of cases.

11. Right to know of information on the register

On the written request of any person, the EDPH is to —

- (a) search the register for information relating to that person; and
- (b) as soon as reasonably practicable, either —
 - (i) tell the person that there is no information relating to them on the register; or
 - (ii) give to the person a copy of any information relating to them on the register.

12. Identifying information may be removed from register

- (1) A person may request in writing to the EDPH that any identifying information relating to the person which, at the time of the request, has been kept on the register for a period of 6 years or more be removed.
- (2) The EDPH is to ensure that a request made under subregulation (1) is complied with as soon as is practicable.
- (3) Information about a person which is not identifying information may be retained on the register.

13. Persons under a legal disability

A parent or guardian of a person who is under a legal disability may, on behalf of the person —

- (a) give written consent for the purposes of regulations 9 and 10(1)(c); and

***Health (Western Australian Register of Developmental Anomalies)
Regulations 2010***

Western Australian Register of Developmental Anomalies

Part 3

r. 13

- (b) make written requests for the purposes of regulations 11 and 12(1).

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.
