



Government of Western Australia
Department of Health

***Health Professionals
(Special Events Exemption)
Act 2000***

A Guide to the Act

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**Legal & Legislative Services
Director General's Division**

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DISCLAIMER

The Guide should be read and used in conjunction with the *Health Professionals (Special Events Exemption) Act 2000*.

It does not substitute for, nor affect the interpretation of, any provisions of the Act itself.

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) ACT 2000

A GUIDE TO THE ACT

1. Introduction

This Guide to the *Health Professionals (Special Events Exemption) Act 2000* (Act) replaces the previous version published in May 2002 and has been prepared to assist:

- the organisers of special events; and
- overseas visitors who come to Western Australia to participate in special events,

to understand the purpose and main provisions of the Act.

2. Regulation of Health Professions in Western Australia

The purpose of the Act is to allow visiting health professionals to provide health care services to visitors to Western Australia in connection with special events.

In Western Australia, as in other States and Territories of Australia, the provision of health services by certain health professionals is regulated by statutory law.

The health professions in question and the Acts under which they are regulated, are shown in the table at Annexure A.

These professions collectively are referred to in this Guide as “regulated health professions” and the Acts which regulate them are referred to as “health professional registration Acts”.

2.1 Protecting the Public

The reason why certain health professions are regulated is to ensure that the health and safety of Western Australians is protected against adverse effects that may result from the provision of health care services by persons who do not have the qualifications, knowledge or practical experience to provide such services safely and competently.

This protection is provided by requiring persons who wish to practise a regulated health profession to become authorised under the relevant health professional registration Act before they may do so.

This authorisation takes the form of registration, licensing or enrolment (referred to in this Guide as “registration”).

The health professional registration Acts establish standards that have to be met by persons who wish to become registered.

Registration requirements generally take the form of:

- educational standards (e.g. qualifications that must be held or attained by persons seeking registration);
- good character requirements;

- assessment of competence to practise (e.g. assessment of skill, physical capacity); and
- assessment of English language ability.

2.2 How the Public of Western Australia are Protected

Health professional registration Acts provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered.

The *Health Practitioner Regulation National Law (Western Australia) 2010* (National Law) establishes the National Registration and Accreditation Scheme (National Scheme). Pursuant to the National Law, registration standards are developed by the National Board of each of the following professions:

- chiropractic;
- dental;
- medical;
- nursing and midwifery;
- optometry
- osteopathy;
- pharmacy;
- physiotherapy;
- podiatry; and
- psychology.

The registration standards for these professions are published on the relevant National Board's website which can be accessed via the Australian Health Practitioner Regulation Agency website: <http://www.ahpra.gov.au/>. Practitioners registered under the National Scheme are registered nationally, not just in Western Australia.

The registration of medical radiation technologists and occupational therapists is currently governed by the *Medical Radiation Technologists Act 2006 (WA)* and the *Occupational Therapists Act 2005 (WA)*, respectively. The Acts provide for registration in Western Australia only. Medical radiation practitioners and occupational therapists, together with Aboriginal and Torres Strait Islander health practitioners and Chinese medicine practitioners will be included in the National Scheme and represented by new National Boards on 1 July 2012.

Health professional registration Acts incorporate title protection, i.e., they make it an offence for persons who are not registered under the relevant Act to use a protected title or titles. The intent is to protect members of the public by ensuring they are not misled, i.e. if a person uses a title that suggests the person is registered in a health profession, a member of the public may be confident that the person is in fact registered under the law and therefore appropriately qualified and competent to practise the profession.

Annexure A identifies the titles that are protected under each health professional registration Act.

In addition, health professional registration Acts make it an offence for unregistered persons to advertise or hold themselves out as being qualified or entitled to practise a regulated health profession.

These measures enable Western Australians to have a high degree of confidence in the standard of health care services available to them.

In practice, the involvement of visiting health professionals in providing health care services to persons participating in special events poses no direct threat to the health and well-being of Western Australians for whose protection health professional registration Acts exist.

While there is no suggestion that the standards for registration or licensing of visiting health professionals in their home countries are less than those which operate in Western Australia, the fact is that certain Western Australian registration requirements may be difficult for visiting health professionals to satisfy.

For example, the qualifications held by a visiting health professional may not be recognised in Western Australia, nor may the visiting health professional be able to demonstrate English language ability to the required standard.

The Act was passed by the Parliament of Western Australia to address this situation.

In effect, the Act exempts visiting health professionals from the requirement to be registered under the health professional registration Acts.

This is achieved by the Act:

- Authorising the provision of health care services by visiting health professionals to persons participating in special events.

It is important to note that this authorisation does not extend to the provision of health care services by visiting health professionals to persons who are not visitors as defined by the Act.

- Exempting visiting health professionals who provide health care services as authorised under the Act from committing offences pursuant to a health professional registration Act and certain other Western Australian Acts.

3. How the Act Works

3.1 Declaration of Special Events

The Act empowers the Western Australian Minister for Health (Minister) to declare special events.

Special events can be:

- any sporting, cultural, or other event that takes place in Western Australia; or
- any such events which are declared to be special events in another State or Territory of Australia.

The Minister is required by the Act to be satisfied that any events declared to be special events will attract a significant number of participants from overseas or – in the case of special events declared in other jurisdictions – that they will attract visitors to Western Australia.

Annexure B provides an example of a special events order (Order) made by the Minister.

It is a requirement of the Act that the Order must specify:

- The exemption period during which the provisions of the Act apply in relation to each declared special event; and
- The procedure to be followed by overseas health professionals who must give notice of their intention to provide health care services as visiting health professionals under the Act. This will usually involve providing written notification to a person nominated in the Order.

3.2 Authorisation to Provide Health Care Services to Visitors

The Act authorises the provision of health care services to visitors by visiting health professionals upon notification being given of a person's intention to provide health care services as a visiting health professional but only during the exemption period specified in the Order.

However, the Minister is able under the Act to declare that certain persons or classes of persons may not be authorised to provide health care services as visiting health professionals.

A "visiting health professional" is defined by the Act to be a person:

- who is a resident of another country;
- who is appointed, employed, contracted or otherwise engaged to provide health care services to a visitor;
- who is not registered under one of the health professional registration Acts; and
- in respect of whom notice of their intention to provide health care services to visitors in Western Australia is provided in accordance with the procedure identified in the Order.

A "visitor" is defined by the Act to be a person who is a resident of another country who is in Western Australia:

- to participate in a special event or to prepare for participation in a special event; or
- who is appointed, employed, contracted or otherwise engaged to manage, train or assist overseas participants in special events.

Residents of Australia who:

- are participants in a special event; or
- have been engaged to manage, train or assist participants in a special event,

may also receive health care services from a visiting health professional, but only if the group to which they are attached comprises a majority of persons who are participants or managers/trainers who are normally resident overseas.

3.3 Conditions on Practice

The Act places two general conditions on the provision of health care services by visiting health professionals.

In addition, other conditions can be applied by the Order or by regulations made under the Act.

The two general conditions imposed by the Act are as follows:

- visiting health professionals may only provide health care services of a kind that may lawfully be provided by registered health professionals of the like profession in Western Australia; and
- visiting health professionals may only possess, use or supply substances that may be possessed, used or supplied by registered health professionals of the like profession in Western Australia.

The Act incorporates some flexibility to deal with exceptional situations by allowing the Minister to exempt a visiting health professional from complying with either or both of the general conditions if the Minister thinks it appropriate to do so.

3.4 Access to, and Use of, Medicines by Visiting Health Professionals

The possession, use, supply, sale and prescription of medicines in Western Australia is governed by the *Poisons Act 1964* and the *Poisons Regulations 1965* (Poisons Legislation).

Pursuant to the National Law, National Boards can endorse the registration of suitably qualified practitioners to use (e.g. supply or prescribe) certain scheduled medicines. The endorsement indicates that the practitioner is qualified to administer, obtain, possess, prescribe, sell, supply or use the scheduled medicine, however, the authorisation to do so is provided by the relevant Western Australian legislation, i.e. the Poisons Legislation.

Health practitioners registered in certain health professions, e.g. medical practitioners and dentists, are authorised to use scheduled medicines without the need for an endorsement.

The Act places a similar limitation on the categories of visiting health professionals who are permitted to possess, use and supply scheduled medicines.

If visitors attending special events require access to such substances, arrangements could be made with a Western Australian medical practitioner to provide the appropriate access, particularly to substances that may only be accessed on prescription.

It is important to note that the possession, use and supply of medicines by visiting health professionals is only authorised by the Act to the extent that the substances that are possessed, used or supplied are:

- lawfully imported into Australia or lawfully obtained whilst in Australia; and
- substances of a kind that may be lawfully possessed, used and supplied in Western Australia by a registered health professional of the like profession.

Further guidance on the operation of these limitations follow:

- **Lawful Importation of Medicines**

The importation of medicines and other drugs into Australia is regulated and controlled by Federal (i.e. national) Customs and Therapeutic Goods legislation.

Certain substances are prohibited imports and cannot be lawfully brought into the country except as authorised under Federal law.

Persons visiting Australia to participate in special events are advised to contact the Australian Customs and Border Protection Service (ACBPS) for advice on the importation of medicines.

ACBPS contact details in Western Australia are:

Customs Information and Support Centre
Customs House
2 Henry Street
FREMANTLE WA 6160

Tel: 1300 558 287
Fax: (08) 9430 1391

▪ **Lawful Access to Medicines in Australia**

Many medicines may be purchased over the counter at pharmacies. Such substances may be lawfully accessed by visiting health professionals and administered to visitors.

Tighter controls exist in relation to certain medicines. For example, antibiotics, anti-hypertensive drugs and drugs of addiction (e.g. pethidine) for therapeutic use in humans can only be accessed on a prescription issued by an authorised registered health professional (e.g. a medical practitioner or dentist).

Such substances generally cannot be imported into Australia and if visiting health professionals require access to supplies of them whilst in Western Australia, special arrangements would need to be made under the Act (see sections on prescription and wholesale supply below).

▪ **Substances That May Not be Possessed, Used and Supplied by Registered Health Professionals in Western Australia**

Some drugs (e.g. heroin) are not permitted to be used for therapeutic purposes in Western Australia and they cannot be lawfully possessed, used or supplied by registered health professionals in the course of providing medical services.

This prohibition applies equally to visiting health professionals irrespective of whether the laws of a visiting health professional's home country allow such drugs to be used in that country for therapeutic purposes.

▪ **Prescription of Medicines**

Certain substances (referred to in the Act as restricted substances and drugs of addiction) can only be accessed by a member of the public in Western Australia on a prescription issued by an authorised registered health professional (e.g. a medical practitioner or dentist).

The Act does not grant visiting health professionals the same right to issue prescriptions for such substances.

However, it does acknowledge that there may be circumstances where the granting of prescribing rights to visiting doctors may be appropriate.

The Act therefore provides that the Minister can authorise an individual visiting health professional, or a group or class of visiting health professionals, to issue prescriptions for restricted substances and drugs of addiction.

The Act requires the Minister to be satisfied that adequate arrangements are in place in relation to the supply and use of prescribed substances before such an authorisation can be made.

▪ **Wholesale Supply of Medicines**

The Act provides that supplies of medicines held by visiting health professionals can be replenished by wholesale supply in Western Australia.

Like the ability to prescribe, access to medicines by wholesale supply is not automatically available to visiting doctors, but must be authorised by the Minister under the Act.

An application would need to be made for such authorisation in relation to each special event.

The Minister cannot authorise wholesale supply of medicines to visiting health professionals unless satisfied that adequate arrangements are in place in relation to the supply and use of medicines which are sold wholesale to visiting health professionals under the authorisation.

▪ **Further Advice**

Further advice on access to, and use of, medicines by visiting health professionals under the Act can be obtained from:

Pharmaceutical Services Branch
Disaster Management, Planning and Regulation Directorate
Public Health Division
Department of Health
189 Royal Street
EAST PERTH WA 6004

Tel: (08) 9222 6883
Fax: (08) 9222 2463
Email: poisons@health.wa.gov.au

3.5 Referral of Visitors for Diagnosis or Treatment Involving Irradiating Equipment

Medical practitioners, physiotherapists and certain other health professionals who are registered in Western Australia are able to refer patients for diagnosis and treatment by persons who are licensed to operate irradiating equipment.

Visiting health professionals do not have the equivalent referral rights unless they are authorised by an Order made by the Minister under the Act.

4. Contact for Further Information

General advice about the Act and its application to special events being held in Western Australia can be obtained from:

Office of the Chief Medical Officer
Department of Health
189 Royal Street
EAST PERTH WA 6004

Tel: (08) 9222 0200

“ANNEXURE A”

REGULATED HEALTH PROFESSIONS IN WESTERN AUSTRALIA

| PROFESSION | RELEVANT ACT | PROTECTED TITLES |
|------------------------------|--|--|
| Chiropractic | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | chiropractor |
| Dental | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | dentist, dental therapist, dental hygienist, dental prosthetist, oral health therapist |
| Medical | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | medical practitioner |
| Medical Radiation Technology | <i>Medical Radiation Technologists Act 2006</i> | medical radiation technologist, restricted titles as defined in section 3 |
| Nursing and Midwifery | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | nurse, registered nurse, nurse practitioner, enrolled nurse, midwife, midwife practitioner |
| Occupational Therapy | <i>Occupational Therapists Act 2005</i> | occupational therapist |
| Optometry | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | optometrist, optician |
| Osteopathy | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | osteopath |
| Pharmacy | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | pharmacist, pharmaceutical chemist |
| Physiotherapy | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | physiotherapist, physical therapist |
| Podiatry | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | podiatrist, chiropodist |
| Psychology | <i>Health Practitioner Regulation National Law (WA) Act 2010</i> | psychologist |

“ANNEXURE B”

EXAMPLE OF A SPECIAL EVENTS ORDER

HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) ACT 2000 HEALTH PROFESSIONALS (SPECIAL EVENTS EXEMPTION) ORDER (NO. 1) 2010

Made by the Minister for Health pursuant to section 6 of the *Health Professionals (Special Events Exemption) Act 2000*.

Citation

1. The order is cited as the *Health Professionals (Special Events Exemption Order (No. 1) 2010*.

Declaration of Special Event

2. The event specified in the Schedule is declared to be a special event for the purposes of the Act.

Exemption Period

3. The period in which the exemptions under the Act have effect in respect of the special event specified in the Schedule commences on 1 April 2010 and ends on 24 April 2010.

Procedure for Notification

4. For the purposes of section 6(3)(b) of the Act persons intending to provide health care services to visitors in Western Australia as visiting health professionals are required to provide written notice to:

Dr Tarun Weeramanthri
Department of Health
189 Royal Street
EAST PERTH WA 6004
Western Australia

SCHEDULE

Red Bull Air Race World Series, Perth, Western Australia.

Dated this day of January 2010.

Dr Kim Hames
DEPUTY PREMIER
MINISTER FOR HEALTH