

# Hospitals and Health Services Amendment Bill 2013

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Western Australia

LEGISLATIVE ASSEMBLY

**Hospitals and Health Services Amendment  
Bill 2013**

**A Bill for**

**An Act to amend the *Hospitals and Health Services Act 1927*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1    **1.       Short title**

2           This is the *Hospitals and Health Services Amendment Act 2013*.

3    **2.       Commencement**

4           This Act comes into operation as follows —

- 5           (a) sections 1 and 2 — on the day on which this Act  
6               receives the Royal Assent;
- 7           (b) the rest of the Act — on a day fixed by proclamation,  
8               and different days may be fixed for different provisions.

9    **3.       Act amended**

10           This Act amends the *Hospitals and Health Services Act 1927*.

11   **4.       Section 7A amended**

12           After section 7A(2) insert:

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14           (3) In subsection (2)(b) —

15               *provision of services* includes —

- 16               (a) the provision of staff to provide services in, or  
17                   in connection with, public hospitals; and
- 18               (b) the employment or engagement of staff for that  
19                   purpose.  
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21   **5.       Section 7C amended**

22           In section 7C(1)(b) delete “persons, being not less than 3,” and  
23           insert:

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25           persons  
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1   **6.       Sections 20A and 20B inserted**

2           After section 19 insert:

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**20A.   Hospital board may perform employment-related functions on behalf of agency**

- (1) In this section and section 20B —  
*board*, in relation to a public hospital, means —
  - (a) the hospital board constituted under this Act in relation to that hospital; or
  - (b) if the hospital is controlled by the Minister under section 7, the Minister;*employing agency*, in relation to a health service staff member, means the agency that employs or engages the health service staff member;  
*employment-related functions* includes recruitment, selection, appointment, transfer, secondment, classification, training and development, performance management, discipline, redeployment, redundancy and termination of employment or engagement;  
*health service staff member* means a person who —
  - (a) is employed or engaged by an agency; and
  - (b) pursuant to an arrangement between the agency and a board of a public hospital, works in or in connection with the public hospital.
- (2) A board of a public hospital, or a delegate of the board, may perform for and on behalf of an employing agency the employment-related functions of the employing agency in relation to —
  - (a) persons to be employed or engaged as health service staff members in or in connection with the public hospital; and

1 (b) health service staff members in or in connection  
2 with the public hospital.

3 (3) The board has power to do all things that are necessary  
4 or convenient to be done for or in connection with the  
5 performance of the employment-related functions.

6 **20B. Modifications for purposes of *Workers'***  
7 ***Compensation and Injury Management Act 1981***  
8 **Part IV Division 2**

9 (1) In this section —  
10 ***injury or hearing loss*** means an injury suffered by a  
11 health service staff member, or a noise induced hearing  
12 loss suffered by a health service staff member that is  
13 not an injury, in respect of which compensation has  
14 been paid or is payable under the WCIM Act by or on  
15 behalf of an employing agency, or would have been so  
16 payable but for section 22 of that Act;

17 ***WCIM Act*** means the *Workers' Compensation and*  
18 *Injury Management Act 1981*.

19 (2) For the purposes of the application of the WCIM Act  
20 Part IV Division 2 —

21 (a) the awarding of damages against a board of a  
22 public hospital independently of the WCIM Act  
23 in respect of an injury or hearing loss suffered  
24 by a health service staff member is to be taken  
25 to be the awarding of damages against the  
26 employing agency of the health service staff  
27 member; and

28 (b) any negligence or other tort by the board of the  
29 public hospital that caused the injury or hearing  
30 loss is to be taken to be the negligence or other  
31 tort of the employing agency; and

32 (c) any prohibition under that Division against the  
33 awarding of damages in respect of the injury or

- 1 hearing loss is to be taken to be a prohibition  
2 against the awarding of the damages against  
3 either or both of the employing agency and the  
4 board of the public hospital; and
- 5 (d) any conditions or limitations that apply under  
6 that Division in relation to the awarding of  
7 damages in respect of the injury or hearing loss,  
8 or to the amount of the damages, are to be taken  
9 to be conditions or limitations that apply to the  
10 awarding of the damages against either or both  
11 of the employing agency and the board of the  
12 public hospital or to the amount of the  
13 damages.  
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15 **7. Section 35D inserted**

16 After section 35C insert:  
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18 **35D. Delegation by board or agency**

- 19 (1) A board may, in writing, delegate to —  
20 (a) a public service officer who is employed in, or  
21 seconded to, the Department; or  
22 (b) a person who is employed or engaged by the  
23 board or an agency,  
24 any power or duty of the board under another provision  
25 of this Act.
- 26 (2) An agency may, in writing, delegate to —  
27 (a) a public service officer who is employed in, or  
28 seconded to, the Department; or

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- (b) a person who is employed or engaged by the agency or a board,  
any power or duty of the agency under another provision of this Act.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) This section does not limit the ability of a board or agency to perform a function through an officer or agent.

