

# **Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019**

## **Contents**

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Long title replaced	2
5.	Part 1 heading inserted	2
	<b>Part 1 — Preliminary provisions</b>	
6.	Short title amended	3
7.	Section 3 amended	3
8.	Section 4 replaced	5
	4. Object of Act	5
9.	Part 2 inserted	6
	<b>Part 2 — Western Australian Future Health Research and Innovation Account</b>	
	4A. Establishment of Western Australian Future Health Research and Innovation Account	6
	4B. Amounts to be credited to FHRI Account	7
	4C. Application of FHRI Account	7
	4D. Other provisions relating to FHRI Account	9
	4E. Delegation by Minister for Health and CEO	10
	4F. Advisory group to be established and maintained	10
	4G. Other provisions relating to advisory group	12
10.	Part 3 heading inserted	14
	<b>Part 3 — Western Australian Future Health Research and Innovation Fund</b>	
11.	Section 5 amended	14
12.	Section 6 deleted	15

**Contents**

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13.	Section 7 amended	16
14.	Sections 8 and 9 replaced	16
	8. Additional money to be credited to FHRI Fund	16
	9. Application of FHRI Fund	17
	9A. Annual reporting on FHRI Fund	17
15.	Part 4 heading inserted	18
	<b>Part 4 — Final provisions</b>	
16.	Section 10 amended	18
17.	Section 11 deleted	18

Western Australia

LEGISLATIVE ASSEMBLY

**Western Australian Future Fund Amendment  
(Future Health Research and Innovation Fund)  
Bill 2019**

**A Bill for**

**An Act to amend the *Western Australian Future Fund Act 2012*.**

The Parliament of Western Australia enacts as follows:

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1     **1.       Short title**

2             This is the *Western Australian Future Fund Amendment (Future*  
3             *Health Research and Innovation Fund) Act 2019*.

4     **2.       Commencement**

5             This Act comes into operation as follows —

- 6               (a)   sections 1 and 2 — on the day on which this Act  
7               receives the Royal Assent;  
8               (b)   the rest of the Act — on the 28<sup>th</sup> day after the day on  
9               which this Act receives the Royal Assent.

10    **3.       Act amended**

11            This Act amends the *Western Australian Future Fund Act 2012*.

12    **4.       Long title replaced**

13            Delete the long title and insert:

14  
15            **An Act to establish the Western Australian Future Health**  
16            **Research and Innovation Account and the Western**  
17            **Australian Future Health Research and Innovation Fund**  
18            **and for related purposes.**  
19

20    **5.       Part 1 heading inserted**

21            Before section 1 insert:  
22

23                           **Part 1 — Preliminary provisions**  
24

**6. Short title amended**

In section 1 after “*Future*” insert:

*Health Research and Innovation*

**7. Section 3 amended**

(1) In section 3 delete the definitions of:

*Future Fund*

*Regional Development Minister*

*Royalties for Regions Fund*

(2) In section 3 insert in alphabetical order:

***advisory group*** means the advisory group established  
and maintained under section 4F(1);

***amendment day*** means the day on which the *Western  
Australian Future Fund Amendment (Future Health  
Research and Innovation Fund) Act 2019* section 3  
comes into operation;

***arrangement*** means —

(a) a contract, programme or scheme; or

(b) any other type of arrangement;

***CEO*** means the chief executive officer of the FHRI  
Account Department;

***department*** means a department of the Public Service;

***FHRI Account*** means the account called the Western  
Australian Future Health Research and Innovation  
Account established under section 4A;

***FHRI Account Department*** means the department  
principally assisting the Minister for Health in the  
administration of the FHRI Account;

s. 7

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- 1                   ***FHRI Fund*** means the account called the Western  
2                   Australian Future Health Research and Innovation  
3                   Fund established under section 5;
- 4                   ***FHRI Fund Department*** means the department  
5                   principally assisting the Treasurer in the administration  
6                   of the FHRI Fund;
- 7                   ***forecast investment income***, for a financial year,  
8                   means the estimate that —
- 9                   (a) is of the income that will be derived during the  
10                  financial year from the investment of money  
11                  standing to the credit of the FHRI Fund; and
- 12                  (b) is set out in —
- 13                      (i) the part of the budget papers for the  
14                      financial year, tabled in the Legislative  
15                      Assembly, that is titled “Economic and  
16                      Fiscal Outlook”; or
- 17                      (ii) if the regulations prescribe another part  
18                      of those budget papers — that other  
19                      part;
- 20                  ***Minister for Health*** —
- 21                   (a) means the Minister of the Crown to whom the  
22                   administration of section 4A is for the time  
23                   being committed by the Governor; and
- 24                   (b) includes a Minister of the Crown for the time  
25                   being acting for or on behalf of the Minister  
26                   referred to in paragraph (a);
- 27                  ***Public Bank Account*** has the meaning given in the  
28                  *Financial Management Act 2006* section 3;
- 29                  ***qualifying activities*** means —
- 30                   (a) any type of —
- 31                      (i) medical research; or
- 32                      (ii) other research in the field of human  
33                      health; or

- 1 (iii) medical innovation; or  
2 (iv) other innovation in the field of human  
3 health;  
4 or  
5 (b) the commercialisation, or other utilisation or  
6 development, of any products or other  
7 outcomes of any research or innovation falling  
8 within paragraph (a).

9 (3) In section 3 in the definition of *forecast royalty income*  
10 paragraph (a) delete ““General Government Operating  
11 Statement”; or” and insert:

12  
13 “Economic and Fiscal Outlook”; or  
14

15 **8. Section 4 replaced**

16 Delete section 4 and insert:  
17

18 **4. Object of Act**

19 The object of this Act is to provide a secure source of  
20 funding to support qualifying activities that contribute  
21 (directly or indirectly) to 1 or more of the following —

- 22 (a) improving the financial sustainability of  
23 Western Australia’s health system;  
24 (b) improving the health and wellbeing of Western  
25 Australians;  
26 (c) improving Western Australia’s economic  
27 prosperity;

**s. 9**

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- 1                   (d)    advancing Western Australia to being, or  
2                                maintaining Western Australia's position as, a  
3                                national or international leader in any  
4                                qualifying activities.  
5

6   **9.       Part 2 inserted**

7       After section 4 insert:  
8

9                   **Part 2 — Western Australian Future Health**  
10                   **Research and Innovation Account**

11       **4A.     Establishment of Western Australian Future Health**  
12       **Research and Innovation Account**

- 13           (1)    The Western Australian Future Health Research and  
14                    Innovation Account is established for the purpose of  
15                    supporting qualifying activities that contribute (directly  
16                    or indirectly) to 1 or more of the things listed in  
17                    section 4(a) to (d).  
18           (2)    The FHRI Account is an agency special purpose  
19                    account under the *Financial Management Act 2006*  
20                    section 16.  
21           (3)    The FHRI Account is to be administered by the  
22                    Minister for Health.  
23           (4)    Money standing to the credit of the FHRI Account is to  
24                    be held in the Public Bank Account, subject to any  
25                    investment of that money under the *Financial*  
26                    *Management Act 2006* section 37(1).



**4B. Amounts to be credited to FHRI Account**

- (1) The FHRI Account is to be credited under section 9(1).
- (2) The FHRI Account is also to be credited with the following —
  - (a) any income derived from the investment of money standing to the credit of the FHRI Account;
  - (b) any other money lawfully made available to the FHRI Account.

**4C. Application of FHRI Account**

- (1) The Minister for Health may do the following —
  - (a) make arrangements that the Minister for Health considers will further, or facilitate the furthering of, the purpose referred to in section 4A(1);
  - (b) approve arrangements —
    - (i) that have already been made (whether by the Minister for Health or otherwise); and
    - (ii) that the Minister for Health considers will further, or facilitate the furthering of, the purpose referred to in section 4A(1).
- (2) The Minister for Health may apply money standing to the credit of the FHRI Account for the purposes of, or in relation to, an arrangement made or approved under subsection (1).
- (3) The regulations may prescribe other cases in which the Minister for Health may apply money standing to the credit of the FHRI Account if the Minister for Health considers that the application of the money will further,

**s. 9**

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- 1                   or facilitate the furthering of, the purpose referred to in  
2                   section 4A(1).
- 3           (4)   An arrangement made or approved under  
4                   subsection (1) may involve the following —
- 5                   (a)   a person considered by the Minister for Health  
6                           to be a person who —
- 7                           (i)   carries out or supports, or is to carry out  
8                                   or support, qualifying activities; or
- 9                           (ii)   facilitates, or is to facilitate, the carrying  
10                                   out of, or support for, qualifying  
11                                   activities; or
- 12                           (iii)   without limiting subparagraphs (i) and  
13                                   (ii), administers, or is to administer, a  
14                                   programme or scheme for supporting  
15                                   qualifying activities;
- 16                   (b)   without limiting paragraph (a), a person who  
17                           provides, or is to provide, services in relation  
18                           to —
- 19                           (i)   the making or approving of other  
20                                   arrangements under subsection (1); or
- 21                           (ii)   the administration of other arrangements  
22                                   made or approved under subsection (1).
- 23           (5)   An arrangement made or approved under  
24                   subsection (1) may involve payments to, or for the  
25                   benefit of, a person falling within subsection (4)(a) or  
26                   (b), including (without limitation) payments (in  
27                   advance or otherwise) —
- 28                           (a)   to fund a programme or scheme that the person  
29                                   is administering or is to administer; or
- 30                           (b)   for the person's services.
- 31           (6)   An arrangement made or approved under  
32                   subsection (1) may involve financial or other benefits  
33                   being given to the State.

- 1 (7) Subsections (4) to (6) do not limit the Minister for  
2 Health's discretion under subsection (1).
- 3 (8) An arrangement may be approved under  
4 subsection (1)(b) whether it was made before, on or  
5 after amendment day.

6 **4D. Other provisions relating to FHRI Account**

- 7 (1) The Treasurer and the Minister for Health may, in  
8 writing, jointly direct that money standing to the credit  
9 of the FHRI Account be transferred to the credit of the  
10 FHRI Fund.
- 11 (2) The Treasurer cannot give a direction in relation to the  
12 FHRI Account under the *Financial Management*  
13 *Act 2006* section 20(1).
- 14 (3) The provisions of the *Financial Management Act 2006*  
15 and the *Auditor General Act 2006* regulating the  
16 financial administration, audit and reporting  
17 requirements of departments apply to, and in relation  
18 to, the FHRI Account.
- 19 (4) The administration of the FHRI Account is for the  
20 purposes of the *Financial Management Act 2006*  
21 section 52 to be regarded as a service of the FHRI  
22 Account Department.
- 23 (5) Without limiting the *Financial Management Act 2006*  
24 section 61, the annual report for a financial year  
25 prepared under that section by the accountable  
26 authority of the FHRI Account Department is to  
27 contain information about the operation of the FHRI  
28 Account during the financial year.
- 29 (6) The annual report is to include details of how money  
30 standing to the credit of the FHRI Account was applied  
31 during the financial year (if at all).

**s. 9**

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**4E. Delegation by Minister for Health and CEO**

- (1) The Minister for Health may delegate to the CEO any function of the Minister for Health under section 4A or under section 4C (including any regulations made for the purposes of section 4C(3)).
- (2) The CEO may delegate to a public service officer in the FHRI Account Department any function that is delegated to the CEO under subsection (1).
- (3) A public service officer to whom a function is delegated under subsection (2) cannot delegate that function.
- (4) A delegation under this section must be in writing signed by the Minister for Health or the CEO (as the case requires).
- (5) A person exercising or performing a function 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.
- (6) The *Health Legislation Administration Act 1984* section 9 does not apply to, or in relation to, any function under this Part (if it would otherwise do so).
- (7) This section does not limit the ability of the Minister for Health to exercise or perform a function through an officer or agent.

**4F. Advisory group to be established and maintained**

- (1) The Minister for Health must establish and maintain an advisory group (to be given a name determined by the Minister for Health).
- (2) The function of the advisory group is to provide any advice or other assistance that the advisory group is requested to provide by the Minister for Health, or by

- 1                   the FHRI Account Department, from time to time in  
2                   relation to 1 or both of the following —
- 3                   (a)   furthering, or facilitating the furthering of, the  
4                   purpose referred to in section 4A(1);
- 5                   (b)   other matters relating to any function of the  
6                   Minister for Health under section 4A or under  
7                   section 4C (including any regulations made for  
8                   the purposes of section 4C(3)).
- 9                   (3)   The advisory group's members are to be as follows —
- 10                  (a)   the CEO, or a nominee of the CEO;
- 11                  (b)   the chief executive officer of the department  
12                  that the Minister for Health considers is, apart  
13                  from the FHRI Account Department, the  
14                  department most closely involved with  
15                  qualifying activities, or a nominee of that chief  
16                  executive officer;
- 17                  (c)   1 individual to be appointed by the Minister for  
18                  Health as a community representative;
- 19                  (d)   1 individual to be appointed by the Minister for  
20                  Health whom the Minister for Health considers  
21                  is an expert in qualifying activities that are  
22                  research;
- 23                  (e)   1 individual to be appointed by the Minister for  
24                  Health whom the Minister for Health considers  
25                  is an expert in qualifying activities that are  
26                  innovation;
- 27                  (f)   at least 3 other individuals —
- 28                      (i)   each of whom is to be appointed by the  
29                      Minister for Health; and
- 30                      (ii)  whom, taken together, the Minister for  
31                      Health considers have a suitable variety  
32                      and level of relevant expertise and  
33                      experience.

**s. 9**

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- 1           (4) At least 1 of the members must be considered by the  
2           Minister for Health to have experience in dealing with  
3           issues relating to the health of Aboriginal people living  
4           in Western Australia.
- 5           (5) At least 1 of the members must be considered by the  
6           Minister for Health to have experience in dealing with  
7           issues relating to the health of people living in regional  
8           Western Australia.
- 9           (6) A nominee under subsection (3)(a) or (b), or a member  
10          under subsection (3)(c) to (f), may be a public service  
11          officer or any other individual.

12           **4G. Other provisions relating to advisory group**

- 13           (1) A member of the advisory group under section 4F(3)(c)  
14           to (f) —
- 15               (a) holds office for the period, not exceeding  
16               5 years, specified in their instrument of  
17               appointment (subject to any condition specified  
18               in that instrument under which the appointment  
19               may be ended before that period expires or  
20               under which the member may be suspended);  
21               and
- 22               (b) is eligible for reappointment; and
- 23               (c) unless, or except to the extent that, their  
24               instrument of appointment specifies otherwise,  
25               is entitled to remuneration and allowances, and  
26               may be reimbursed expenses, as determined by  
27               the Minister for Health on the recommendation  
28               of the Public Sector Commissioner; and
- 29               (d) otherwise holds office on the conditions  
30               specified in their instrument of appointment.

- 1           (2) The conditions referred to in subsection (1)(d) must  
2           include the steps to be taken by the member if the  
3           member has any actual, or potential, material conflict  
4           of interest arising out of the advisory group's function.
- 5           (3) The Minister for Health may do the following —
- 6               (a) determine, as the Minister for Health considers  
7               appropriate, any matters relating to the  
8               operation or procedure of the advisory group  
9               (including (without limitation) its quorum and  
10              matters relating to voting);
- 11              (b) without limiting paragraph (a), designate a  
12              member of the advisory group as its  
13              chairperson.
- 14           (4) Subject to subsection (3), the advisory group —
- 15               (a) may determine its own procedure; and
- 16               (b) without limiting paragraph (a), may perform its  
17               function through sub-groups of its members;  
18               and
- 19               (c) may perform its function despite any vacancy  
20               in its membership.
- 21           (5) Despite subsections (3) and (4), a member of the  
22           advisory group under section 4F(3)(a) or (b) is a  
23           non-voting member and cannot be the chairperson.
- 24           (6) If a member of the advisory group under  
25           section 4F(3)(c) to (f) is unable or unavailable to act  
26           because of suspension, illness, absence or other cause,  
27           the Minister for Health may appoint another individual  
28           (subject to the requirements of the relevant provision of  
29           section 4F(3)(c) to (f)) as an alternate member to act  
30           temporarily in the member's place.

**s. 10**

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- 1           (7) While acting in accordance with the appointment, the  
2           alternate member is, and has any entitlement of, a  
3           member of the advisory group under section 4F(3)(c)  
4           to (f).
- 5           (8) An act or omission of an alternate member cannot be  
6           questioned on the ground that the occasion for the  
7           appointment or acting had not arisen or had ceased.
- 8           (9) Subsection (10) applies to an individual who is, or has  
9           been, a member of the advisory group.
- 10          (10) No civil liability attaches to the individual for anything  
11          that the individual has done, or omitted to do, in good  
12          faith —
- 13               (a) in the performance, or purported performance,  
14               of the advisory group's function; or
- 15               (b) otherwise as a member of the advisory group.  
16

17   **10.       Part 3 heading inserted**

18       Before section 5 insert:  
19

20                   **Part 3 — Western Australian Future Health**  
21                   **Research and Innovation Fund**  
22

23   **11.       Section 5 amended**

24       (1) Delete section 5(1) and insert:  
25

- 26               (1) The Western Australian Future Fund that was  
27               established under this section on 30 November 2012 is  
28               discontinued.



1           (1A) The Western Australian Future Health Research and  
2                   Innovation Fund is established for the purpose of  
3                   funding the FHRI Account under section 9(1).  
4

5           (2) In section 5(2) and (3) delete “Future” and insert:  
6

7                   FHRI  
8

9           (3) Delete section 5(4) and insert:  
10

11           (3A) Money standing to the credit of the Western Australian  
12                   Future Fund immediately before amendment day  
13                   stands to the credit of the FHRI Fund.

14           (4) Money standing to the credit of the FHRI Fund is to be  
15                   held in the Public Bank Account, subject to any  
16                   investment of that money under the *Financial*  
17                   *Management Act 2006* section 37(1).  
18

19           (4) In section 5(5) delete “Future Fund referred to in  
20                   subsection (4)” and insert:  
21

22                   FHRI Fund  
23

24           Note: The heading to amended section 5 is to read:

25                   **Establishment of Western Australian Future Health Research and**  
26                   **Innovation Fund**

27   **12. Section 6 deleted**

28           Delete section 6.

**s. 13**

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1     **13.     Section 7 amended**

2         (1)   In section 7 delete “In the financial year commencing  
3               1 July 2016, and in each subsequent financial year —” and  
4               insert:

5  
6               In each financial year that starts on or after amendment day —  
7

8         (2)   In section 7(a) delete “Future” and insert:

9  
10              FHRI  
11

12              Note: The heading to amended section 7 is to read:

13                      **Credits to FHRI Fund from forecast royalty income**

14     **14.     Sections 8 and 9 replaced**

15              Delete sections 8 and 9 and insert:

16  
17         **8.     Additional money to be credited to FHRI Fund**

18              In addition to the amounts credited to the FHRI Fund  
19              under section 7, the following amounts are to be  
20              credited to the FHRI Fund —

- 21                      (a)   any income derived from the investment of  
22                              money standing to the credit of the FHRI Fund;  
23                      (b)   any amount that is the subject of a joint  
24                              direction of the Treasurer and the Minister for  
25                              Health under section 4D(1);  
26                      (c)   any other money lawfully made available to the  
27                              FHRI Fund.

**9. Application of FHRI Fund**

- (1) In each financial year that starts on or after amendment day, an amount equal to the forecast investment income for the financial year is to be charged to the FHRI Fund and credited to the FHRI Account.
- (2) Otherwise, money standing to the credit of the FHRI Fund —
  - (a) is to be held in perpetuity to the credit of the FHRI Fund; and
  - (b) cannot be applied for any purpose.
- (3) The Treasurer cannot give a direction in relation to the FHRI Fund under the *Financial Management Act 2006* section 20(1).
- (4) The *Financial Management Act 2006* section 12 does not apply to money standing to the credit of the FHRI Fund.

**9A. Annual reporting on FHRI Fund**

- (1) Without limiting the *Financial Management Act 2006* section 61, the annual report for a financial year prepared under that section by the accountable authority of the FHRI Fund Department is to contain information about the operation of the FHRI Fund during the financial year.
- (2) The annual report is to include details of the amount charged to the FHRI Fund during the financial year under section 9(1).

s. 15

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1     **15.     Part 4 heading inserted**

2             Before section 10 insert:

3

4                             **Part 4 — Final provisions**

5

6     **16.     Section 10 amended**

7         (1) Delete section 10(1) and insert:

8

9             (1) In this section —

10                     *establishment period* means the period starting on  
11                     amendment day and ending on 30 June 2032.

12

13         (2) In section 10(2):

14             (a) delete “section 6, 7, 8 or 9” and insert:

15

16                     section 7, 8 or 9

17

18             (b) delete “accumulation” and insert:

19

20                     establishment

21

22             Note: The heading to amended section 10 is to read:

23                     **Manner and form of amendment or repeal during establishment**  
24                     **period**

25     **17.     Section 11 deleted**

26             Delete section 11.

27