

Western Australian Future Fund Act 2012

Incorporating the amendments proposed by the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 (Bill No. 144-1)

Western Australia

Western Australian Future Fund Act 2012

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Western Australia

Western Australian Future Fund Act 2012

An Act to establish the Western Australian Future Health Research and Innovation Account and the Western Australian Future Health Research and Innovation Fund and for related purposes.

An Act to establish the Western Australian Future Fund and for related purposes.

[Long title amended: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 4.]

Part 1 — Preliminary provisions

[Heading inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 5.]

1. Short title

This is the Western Australian Future <u>Health Research and</u> *Innovation Fund Act 2012*.

[Section 1 amended: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 6.]

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act on the day after that day.

3. Terms used

In this Act —

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 —

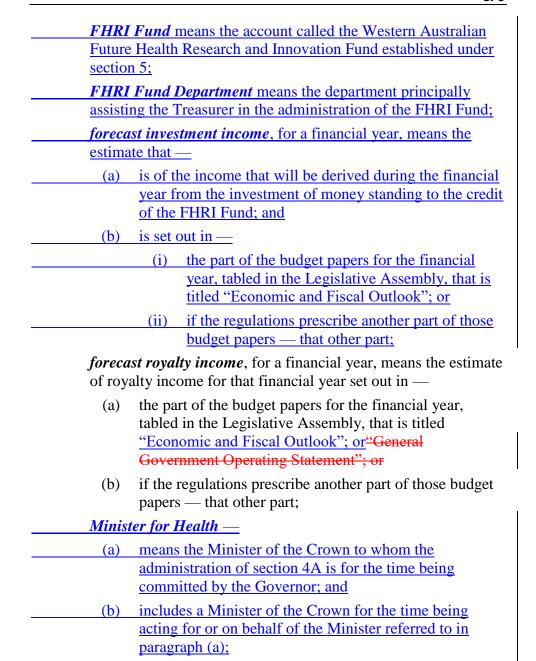
- (a) a contract, programme or scheme; or
- (b) any other type of arrangement;

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;



Management Act 2006 section 3; qualifying activities means —

- (a) any type of
 - (i) medical research; or
 - other research in the field of human health; or (ii)

Public Bank Account has the meaning given in the Financial

- medical innovation; or (iii)
- other innovation in the field of human health; (iv)

or

(b) the commercialisation, or other utilisation or development, of any products or other outcomes of any research or innovation falling within paragraph (a).

Future Fund means the account called the Western Australian Future Fund established under section 5:

Regional Development Minister means the Minister to whom the administration of the Royalties for Regions Act 2009 section 9 is for the time being committed;

Royalties for Regions Fund means the Fund as defined in the Royalties for Regions Act 2009 section 3.

[Section 3 amended: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 7.]

4. Object of Act

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

- (a) improving the financial sustainability of Western Australia's health system;
- (b) improving the health and wellbeing of Western Australians;
- (c) improving Western Australia's economic prosperity;
- (d) advancing Western Australia to being, or maintaining
 Western Australia's position as, a national or
 international leader in any qualifying activities.

[Section 4 inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 8.]

4. Purpose of Act

The purpose of this Act is to provide for the accumulation of a portion of the revenue from the State's mineral resources and other money for the benefit of future generations through the establishment of the Western Australian Future Fund.

s. 4A

<u>Part 2 — Western Australian Future Health Research</u> and Innovation Account

[Heading inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 9.]

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

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

[Section 4A inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill -2019 cl. 9.]

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.

[Section 4B inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 9.] s. 4C

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, or facilitate the furthering of, the purpose referred to in section 4A(1).
(4)	An arrangement made or approved under subsection (1) may involve the following —
	(a) a person considered by the Minister for Health to be a person who —
	(i) carries out or supports, or is to carry out or support, qualifying activities; or
	(ii) facilitates, or is to facilitate, the carrying out of, or support for, qualifying activities; or
	(iii) without limiting subparagraphs (i) and (ii), administers, or is to administer, a programme or scheme for supporting qualifying activities;
	(b) without limiting paragraph (a), a person who provides, or is to provide, services in relation to —
	(i) the making or approving of other arrangements under subsection (1); or
	(ii) the administration of other arrangements made or approved under subsection (1).

s. 4D

- (5) An arrangement made or approved under subsection (1) may involve payments to, or for the benefit of, a person falling within subsection (4)(a) or (b), including (without limitation) payments (in advance or otherwise)
 - (a) to fund a programme or scheme that the person is administering or is to administer; or
 - (b) for the person's services.
- (6) An arrangement made or approved under subsection (1) may involve financial or other benefits being given to the State.
- (7) Subsections (4) to (6) do not limit the Minister for Health's discretion under subsection (1).
- (8) An arrangement may be approved under subsection (1)(b) whether it was made before, on or after amendment day.
- [Section 4C inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill -2019 cl. 9.]

4D. Other provisions relating to FHRI Account

- (1) The Treasurer and the Minister for Health may, in writing, jointly direct that money standing to the credit of the FHRI Account be transferred to the credit of the FHRI Fund.
- (2) The Treasurer cannot give a direction in relation to the FHRI

 Account under the Financial Management Act 2006

 section 20(1).
- (3) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting requirements of departments apply to, and in relation to, the FHRI Account.
- (4) The administration of the FHRI Account is for the purposes of the *Financial Management Act 2006* section 52 to be regarded as a service of the FHRI Account Department.
- (5) 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 Account Department is to contain information about the operation of the FHRI Account during the financial year.

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Part 2 Western Australian Future Health Research and Innovation Account

s. 4E

(6) The annual report is to include details of how money standing to the credit of the FHRI Account was applied during the financial year (if at all).

[Section 4D inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 9.]

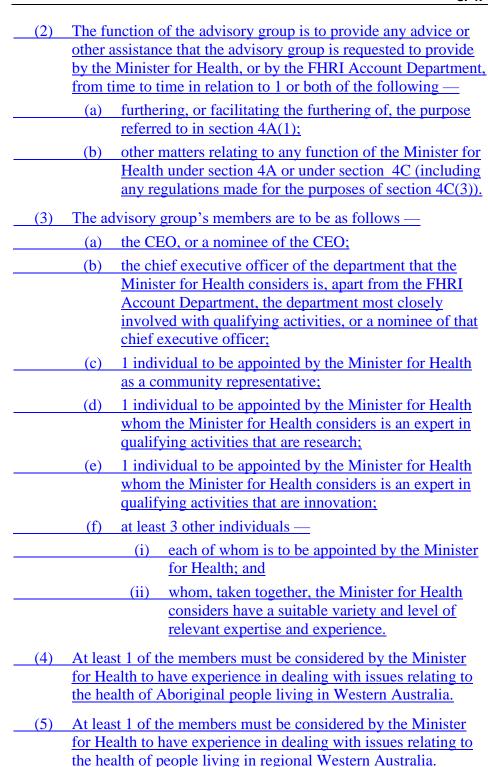
4E. Delegation by Minister for Health and CEO

- (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.
 - [Section 4E inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 9.]

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).

s. 4F



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s. 4G

(6) A nominee under subsection (3)(a) or (b), or a member under subsection (3)(c) to (f), may be a public service officer or any other individual.

[Section 4F inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 9.]

4G. Other provisions relating to advisory group

- (1) A member of the advisory group under section 4F(3)(c) to (f)
 - (a) holds office for the period, not exceeding 5 years,
 specified in their instrument of appointment (subject to
 any condition specified in that instrument under which
 the appointment may be ended before that period expires
 or under which the member may be suspended); and
 - (b) is eligible for reappointment; and
 - (c) unless, or except to the extent that, their instrument of appointment specifies otherwise, is entitled to remuneration and allowances, and may be reimbursed expenses, as determined by the Minister for Health on the recommendation of the Public Sector Commissioner; and
 - (d) otherwise holds office on the conditions specified in their instrument of appointment.
- (2) The conditions referred to in subsection (1)(d) must include the steps to be taken by the member if the member has any actual, or potential, material conflict of interest arising out of the advisory group's function.
- (3) The Minister for Health may do the following
 - (a) determine, as the Minister for Health considers
 appropriate, any matters relating to the operation or
 procedure of the advisory group (including (without
 limitation) its quorum and matters relating to voting);
 - (b) without limiting paragraph (a), designate a member of the advisory group as its chairperson.
- (4) Subject to subsection (3), the advisory group
 - (a) may determine its own procedure; and
 - (b) without limiting paragraph (a), may perform its function through sub-groups of its members; and

s. 4G

- (c) may perform its function despite any vacancy in its membership.
- (5) Despite subsections (3) and (4), a member of the advisory group under section 4F(3)(a) or (b) is a non-voting member and cannot be the chairperson.
- (6) If a member of the advisory group under section 4F(3)(c) to (f) is unable or unavailable to act because of suspension, illness, absence or other cause, the Minister for Health may appoint another individual (subject to the requirements of the relevant provision of section 4F(3)(c) to (f)) as an alternate member to act temporarily in the member's place.
- (7) While acting in accordance with the appointment, the alternate member is, and has any entitlement of, a member of the advisory group under section 4F(3)(c) to (f).
- (8) An act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.
- (9) Subsection (10) applies to an individual who is, or has been, a member of the advisory group.
- (10) No civil liability attaches to the individual for anything that the individual has done, or omitted to do, in good faith
 - (a) in the performance, or purported performance, of the advisory group's function; or
 - (b) otherwise as a member of the advisory group.

[Section 4G inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 9.]

<u>Part 3 — Western Australian Future Health Research</u> and Innovation Fund

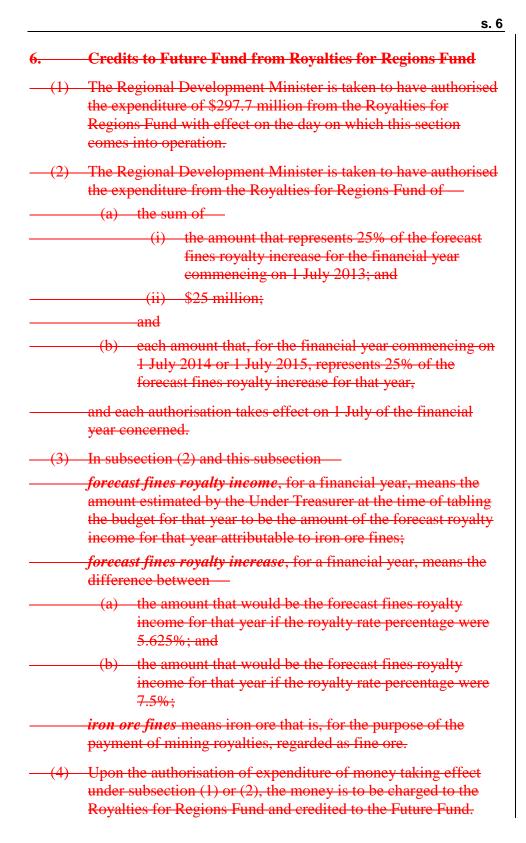
[Heading inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 10.]

- 5. <u>Establishment of Western Australian Future Health</u>
 <u>Research and Innovation Fund</u> <u>Western Australian Future</u>
 <u>Fund</u>
- (1) The Western Australian Future Fund that was established under this section on 30 November 2012 is discontinued.
- (1A) The Western Australian Future Health Research and Innovation

 Fund is established for the purpose of funding the FHRI

 Account under section 9(1).
- (1) The Western Australian Future Fund is established for the purpose mentioned in section 4.
 - (2) The <u>FHRI Future</u> Fund is taken to have been determined by the Treasurer to be a Treasurer's special purpose account under the *Financial Management Act 2006* section 10(e).
 - (3) The <u>FHRI Future</u> Fund is to be administered by the Treasurer.
- (3A) Money standing to the credit of the Western Australian Future
 Fund immediately before amendment day stands to the credit of the FHRI Fund.
- (4) Money standing to the credit of the FHRI Fund is to be held in the Public Bank Account, subject to any investment of that money under the *Financial Management Act 2006* section 37(1).
- (4) Money standing to the credit of the Future Fund is to be held in the Public Bank Account as defined in the *Financial*Management Act 2006 section 3 and is not to be invested other than in the manner prescribed by regulations made for the purposes of section 37 of that Act.
 - (5) Despite subsection (4), money standing to the credit of the <u>FHRI</u> <u>Fund</u> <u>Future Fund referred to in subsection (4)</u> may be invested in gold.

[Section 5 amended: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 11.]



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Part 3 Western Australian Future Health Research and Innovation Fund

s. 7

- (5) Money charged to the Royalties for Regions Fund under subsection (4) is taken to be expenditure authorised under the Royalties for Regions Act 2009 section 9.
- [6. Deleted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 12.]
- 7. <u>Credits to FHRI Fund from forecast royalty income</u> Credits to Future Fund from forecast royalty income

In each financial year that starts on or after amendment day — In the financial year commencing 1 July 2016, and in each subsequent financial year —

- (a) the <u>FHRI Future</u> Fund is to be credited with an amount equal to 1% of the forecast royalty income for the financial year; and
- (b) that amount is to be charged to the Consolidated Account, which is to the extent necessary appropriated accordingly.

[Section 7 amended: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 13.]

8. Additional money to be credited to FHRI Fund

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

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

[Section 8 inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 14.]

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.
 - [Section 9 inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 14.]

9A. Annual reporting on FHRI Fund

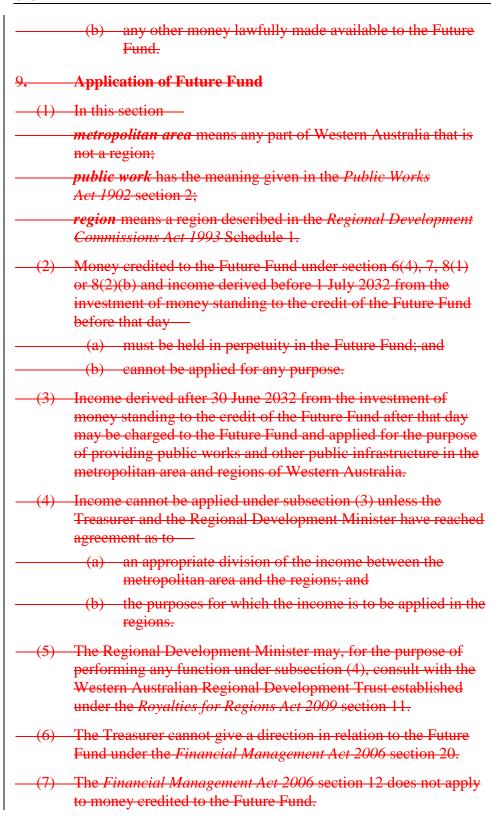
- (1) Without limiting the *Financial Management Act* 2006
 section 61, the annual report for a financial year prepared under that section by the accountable authority of the FHRI Fund
 Department is to contain information about the operation of the FHRI Fund during the financial year.
- (2) The annual report is to include details of the amount charged to the FHRI Fund during the financial year under section 9(1).
 - [Section 9A inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 14.]

8. Additional money credited to Future Fund

- (1) In any year the Treasurer may cause to be credited to the Future Fund any amount in addition to an amount credited under section 6 or 7.
- (2) In addition to the amounts credited to the Future Fund under sections 6(4) and 7 and subsection (1) of this section, the Treasurer is to cause to be credited to the Future Fund
 - (a) income derived from the investment of money standing to the credit of the Future Fund; and

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s. 9A



Part 4 — Final provisions

[Heading inserted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 15.]

- 10. Manner and form of amendment or repeal during establishment period Manner and form of amendment or repeal during accumulation period
- (1) In this section —

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

- (1) In this section
 - accumulation period means the period commencing on the day on which section 6 comes into operation and ending on 30 June 2032.
 - (2) A Bill to repeal or amend section 7, 8 or 9 section 6, 7, 8 or 9 or this section must not be presented for assent by or in the name of the Queen during the establishment accumulation period unless the second and third readings of the Bill have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and Legislative Assembly respectively.
 - (3) A Bill assented to consequent upon its presentation in contravention of subsection (2) is of no effect as an Act.

[Section 10 amended: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 16.]

11. Annual reporting

- (1) In this section
 - **Department** means the department of the Public Service principally assisting in the administration of this Act.
- (2) 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 Department is to contain information about the operation of the Future Fund during the financial year.
- (3) The annual report is to include details of the expenditure, if any, from the Future Fund in the metropolitan area and regions of Western Australia during the financial year.

[11. Deleted: Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019 cl. 17.]

12. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

Notes

This is a compilation of the *Western Australian Future Fund Act 2012*. The following table contains information about that Act.

Compilation table

Short title	Number and year	Assent	Commencement
Western Australian Future Fund Act 2012	50 of 2012	29 Nov 2012	s. 1 and 2: 29 Nov 2012 (see s. 2(a)); Act other than s. 1 and 2: 30 Nov 2012 (see s. 2(b))
Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019	Current Bill No. 144-1		