



Western Australia

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 Australian Future Fund Act 2012

Contents

Part 1 — Preliminary provisions

1.	Short title	2
2.	Commencement	2
3.	Terms used	2

Part 2 — Western Australian Future Health Research and Innovation Account

4A.	Establishment of Western Australian Future Health Research and Innovation Account	5
4B.	Amounts to be credited to FHRI Account	5
4C.	Application of FHRI Account	6
4D.	Other provisions relating to FHRI Account	7
4E.	Delegation by Minister for Health and CEO	8
4F.	Advisory group to be established and maintained	8
4G.	Other provisions relating to advisory group	10

Part 3 — Western Australian Future Health Research and Innovation Fund

5.	Establishment of Western Australian Future Health Research and Innovation Fund	12
7.	Credits to FHRI Fund from forecast royalty income	14
8.	Additional money to be credited to FHRI Fund	14
9.	Application of FHRI Fund	15
9A.	Annual reporting on FHRI Fund	15

Part 4 — Final provisions

10.	Manner and form of amendment or repeal during establishment period	17
12.	Regulations	18

Notes

	Compilation table	19
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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 Health Research and
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;

FHRI Fund means the account called the Western Australian Future Health Research and Innovation Fund established under section 5;

FHRI Fund Department means the department principally assisting the Treasurer in the administration of the FHRI Fund;

forecast investment income, for a financial year, means the estimate that —

(a) is of the income that will be derived during the financial year from the investment of money standing to the credit of the FHRI Fund; and

(b) is set out in —

(i) the part of the budget papers for the financial year, tabled in the Legislative Assembly, that is titled “Economic and Fiscal Outlook”; or

(ii) if the regulations prescribe another part of those budget papers — that other part;

forecast royalty income, for a financial year, means the estimate of royalty income for that financial year set out in —

(a) the part of the budget papers for the financial year, tabled in the Legislative Assembly, that is titled “Economic and Fiscal Outlook”; or ~~“General Government Operating Statement”~~; or

(b) if the regulations prescribe another part of those budget papers — that other part;

Minister for Health —

(a) means the Minister of the Crown to whom the administration of section 4A is for the time being committed by the Governor; and

(b) includes a Minister of the Crown for the time being acting for or on behalf of the Minister referred to in paragraph (a);

Public Bank Account has the meaning given in the *Financial Management Act 2006* section 3;

qualifying activities means —

(a) any type of —

(i) medical research; or

(ii) other research in the field of human health; or

(iii) medical innovation; or

(iv) other innovation in the field of human health;

s. 4

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.~~

Part 2 — Western Australian Future Health Research 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.]*

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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).

(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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- (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).

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(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 the FHRI Account Department, from time to time in relation to 1 or both of the following —

(a) furthering, or facilitating the furthering of, the purpose referred to in section 4A(1);

(b) other matters relating to 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)).

(3) The advisory group's members are to be as follows —

(a) the CEO, or a nominee of the CEO;

(b) the chief executive officer of the department that the Minister for Health considers is, apart from the FHRI Account Department, the department most closely involved with qualifying activities, or a nominee of that chief executive officer;

(c) 1 individual to be appointed by the Minister for Health as a community representative;

(d) 1 individual to be appointed by the Minister for Health whom the Minister for Health considers is an expert in qualifying activities that are research;

(e) 1 individual to be appointed by the Minister for Health whom the Minister for Health considers is an expert in qualifying activities that are innovation;

(f) at least 3 other individuals —

(i) each of whom is to be appointed by the Minister for Health; and

(ii) whom, taken together, the Minister for Health considers have a suitable variety and level of relevant expertise and experience.

(4) At least 1 of the members must be considered by the Minister for Health to have experience in dealing with issues relating to the health of Aboriginal people living in Western Australia.

(5) At least 1 of the members must be considered by the Minister for Health to have experience in dealing with issues relating to the health of people living in regional Western Australia.

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

(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.]

Part 3 — Western Australian Future Health Research and Innovation Fund

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

5. Establishment of Western Australian Future Health Research and Innovation Fund ~~Western Australian Future Fund~~

(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 FHRI ~~Future~~ 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 FHRI ~~Future~~ 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 FHRI Fund ~~Future Fund referred to in subsection (4)~~ may be invested in gold.

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

~~6. Credits to Future Fund from Royalties for Regions Fund~~

- ~~(1) The Regional Development Minister is taken to have authorised the expenditure of \$297.7 million from the Royalties for Regions Fund with effect on the day on which this section comes into operation.~~
- ~~(2) The Regional Development Minister is taken to have authorised the expenditure from the Royalties for Regions Fund of —~~
- ~~(a) the sum of —~~
- ~~(i) the amount that represents 25% of the forecast fines royalty increase for the financial year commencing on 1 July 2013; and~~
- ~~(ii) \$25 million;~~
- ~~and~~
- ~~(b) each amount that, for the financial year commencing on 1 July 2014 or 1 July 2015, represents 25% of the forecast fines royalty increase for that year,~~
- ~~and each authorisation takes effect on 1 July of the financial year concerned.~~
- ~~(3) In subsection (2) and this subsection —~~
- ~~*forecast fines royalty income*, for a financial year, means the amount estimated by the Under Treasurer at the time of tabling the budget for that year to be the amount of the forecast royalty income for that year attributable to iron ore fines;~~
- ~~*forecast fines royalty increase*, for a financial year, means the difference between —~~
- ~~(a) the amount that would be the forecast fines royalty income for that year if the royalty rate percentage were 5.625%; and~~
- ~~(b) the amount that would be the forecast fines royalty income for that year if the royalty rate percentage were 7.5%;~~
- ~~*iron ore fines* means iron ore that is, for the purpose of the payment of mining royalties, regarded as fine ore.~~
- ~~(4) Upon the authorisation of expenditure of money taking effect under subsection (1) or (2), the money is to be charged to the Royalties for Regions Fund and credited to the Future 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. Credits to FHRI Fund from forecast royalty income
~~**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 FHRI ~~Future~~ 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~~

s. 9A

~~— (b) any other money lawfully made available to the Future Fund.~~

9. Application of Future Fund

~~— (1) In this section —~~

~~— **metropolitan area** means any part of Western Australia that is not a region;~~

~~— **public work** has the meaning given in the *Public Works Act 1902* section 2;~~

~~— **region** means a region described in the *Regional Development Commissions Act 1993* Schedule 1.~~

~~— (2) Money credited to the Future Fund under section 6(4), 7, 8(1) or 8(2)(b) and income derived before 1 July 2032 from the investment of money standing to the credit of the Future Fund before that day —~~

~~— (a) must be held in perpetuity in the Future Fund; and~~

~~— (b) cannot be applied for any purpose.~~

~~— (3) Income derived after 30 June 2032 from the investment of money standing to the credit of the Future Fund after that day may be charged to the Future Fund and applied for the purpose of providing public works and other public infrastructure in the metropolitan area and regions of Western Australia.~~

~~— (4) Income cannot be applied under subsection (3) unless the Treasurer and the Regional Development Minister have reached agreement as to —~~

~~— (a) an appropriate division of the income between the metropolitan area and the regions; and~~

~~— (b) the purposes for which the income is to be applied in the regions.~~

~~— (5) The Regional Development Minister may, for the purpose of performing any function under subsection (4), consult with the Western Australian Regional Development Trust established under the *Royalties for Regions Act 2009* section 11.~~

~~— (6) The Treasurer cannot give a direction in relation to the Future Fund under the *Financial Management Act 2006* section 20.~~

~~— (7) The *Financial Management Act 2006* section 12 does not apply to money credited to the Future Fund.~~

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.~~

s. 12

[\[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

- ¹ 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
<i>Western Australian Future Fund Act 2012</i>	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))
<i>Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019</i>	Current Bill No. 144-1		