

# Health and Disability Services (Complaints) Amendment Bill 2021

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Western Australia

LEGISLATIVE ASSEMBLY

**Health and Disability Services (Complaints)  
Amendment Bill 2021**

**A Bill for**

**An Act to amend the *Health and Disability Services (Complaints)  
Act 1995*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.     Short title**

2           This is the *Health and Disability Services (Complaints)*  
3           *Amendment Act 2021*.

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 a day fixed by proclamation.

9   **3.     Act amended**

10           This Act amends the *Health and Disability Services*  
11           *(Complaints) Act 1995*.

12   **4.     Section 3 amended**

13           (1)   In section 3(1) insert in alphabetical order:

14  
15                   *code of conduct* means a code of conduct prescribed  
16                   under section 77A;

17                   *Director-initiated investigation* has the meaning given  
18                   in section 44A;

19                   *health care worker* means an individual who provides  
20                   a health service (whether or not the individual is a  
21                   registered provider);

22                   *interim prohibition order* has the meaning given in  
23                   section 52B(2);

24                   *Office's website* means a website maintained by or on  
25                   behalf of the Office;

26                   *prohibition order* has the meaning given in  
27                   section 52H(2);

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*public health warning statement* means a statement published under section 52R(1) or (2);

(2) In section 3(1) in the definition of *health service*:

(a) in paragraph (a) delete “suspected disorder; and” and insert:

injury, or suspected disorder or injury; and

(b) after paragraph (b) insert:

(ba) prescribing or dispensing a drug or medicinal preparation; and

(bb) prescribing or dispensing an aid for therapeutic use; and

(c) after paragraph (e) insert:

(ea) surgical or related service; and

(d) in paragraph (g) delete “(b)” and insert:

(b), (ba), (bb)

(e) after paragraph (g) insert:

(ga) service that —

(i) is ancillary to any other service to which this definition applies; and

**s. 5**

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1                                   (ii) affects or may affect persons who are  
2                                   receiving any other service to which this  
3                                   definition applies;

4                                   and

5

6       (3) Delete section 3(2).

7       (4) In section 3(3)(a) delete “subparagraph” and insert:

8

9                                   paragraph

10

11   **5. Section 4 amended**

12                               In section 4(2) delete “conduct” and insert:

13

14                               conduct, or other conduct,

15

16   **6. Section 10 amended**

17       (1) In section 10(1)(a) delete “Part 3;” and insert:

18

19                               this Act;

20

21       (2) After section 10(1)(a) insert:

22

23                               (aa) to conduct investigations under this Act;

24



1 **7. Section 17A inserted**

2 After section 17 insert:

3

4 **17A. Identity cards**

5 (1) The Director may give an identity card to a member of  
6 the staff of the Office.

7 (2) An identity card must —

8 (a) identify the person as a member of the staff of  
9 the Office; and

10 (b) contain a recent photograph of the person.

11 (3) A person must, within 14 days after ceasing to be a  
12 member of the staff of the Office, return the person's  
13 identity card to the Director.

14 Penalty for this subsection: a fine of \$2 500.

15 (4) Subsection (3) does not apply if the person has a  
16 reasonable excuse.

17

18 **8. Part 3 heading amended**

19 In the heading to Part 3 after “**Complaints**” insert:

20

21 **generally**

22

23 **9. Section 19 amended**

24 (1) In section 19(1) delete “section 25” and insert:

25

26 section 25(1)(a), (b), (c), (d), (e), (f), (g) or (h)

27

**s. 10**

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1       (2) After section 19(2) insert:

2

3               (3) A complaint alleging 1 or more of the matters set out in  
4                       section 25(1)(i), (j) or (k) may be made to the Director  
5                       by any person.

6

7       **10. Section 23 amended**

8               In section 23(1)(a) delete “section 25; and” and insert:

9

10               section 25(1)(a), (b), (c), (d), (e), (f), (g) or (h); and

11

12       **11. Section 25 amended**

13       (1) In section 25(1)(h) delete “section.” and insert:

14

15               section;

16

17       (2) After section 25(1)(h) insert:

18

19                       (i) a health care worker has failed to comply with a  
20                               code of conduct that applies to the health care  
21                               worker;

22                       (j) a health care worker has failed to comply with  
23                               an interim prohibition order;

24                       (k) a health care worker has failed to comply with a  
25                               prohibition order.

26

1   **12.   Section 29 amended**

2       (1)   In section 29 delete “A person” and insert:

3

4           (1)   A person

5

6       (2)   At the end of section 29 insert:

7

8           (2)   Despite subsection (1)(a), the Director may decide to  
9                proceed to deal with the complaint under this Act if the  
10               complaint alleges 1 or more of the matters set out in  
11               section 25(1)(i), (j) or (k).

12       (3)   If the Director decides under subsection (2) to proceed  
13           to deal with the complaint, the Director is not required  
14           to —

15           (a)   give notice of the withdrawal under  
16               subsection (1)(b); or

17           (b)   provide to the person who complained any  
18               further information under another provision of  
19               this Act that would otherwise require the  
20               provision of information to the person.

21

22   **13.   Section 31 amended**

23       In section 31 delete “Part.” and insert:

24

25       Act.

26

**s. 14**

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1    **14.    Section 32A amended**

2            In section 32A after “user” insert:

3

4            or the person who complained to the Director

5

6    **15.    Section 33 amended**

7            In section 33:

8            (a) after “complaint” insert:

9

10           to a person or body

11

12           (b) in paragraph (a) delete “user and provider” and insert:

13

14           user or the person who complained to the Director and  
15           the provider

16

17           (c) in paragraph (b) after “user” insert:

18

19           or the person who complained to the Director

20

21    **16.    Section 34 amended**

22           (1) In section 34(4):

23           (a) after “complaint” insert:

24

25           alleging 1 or more of the matters set out in  
26           section 25(1)(a), (b), (c), (d), (e), (f), (g) or (h)

27

- 1 (b) in paragraph (a) delete “Division 3A; or” and insert:  
2  
3 Part 3A Division 1; or  
4
- 5 (c) in paragraph (b) delete “Division 3” and insert:  
6  
7 Part 3A Division 2  
8
- 9 (d) in paragraph (c)(i) delete “Division 3A or 3; and” and  
10 insert:  
11  
12 Part 3A Division 1 or 2; and  
13
- 14 (2) After section 34(4) insert:  
15
- 16 (5) If the Director decides to accept a complaint alleging a  
17 matter referred to in section 25(1)(i) in whole or in  
18 part, the Director must then —  
19 (a) attempt to settle it in accordance with Part 3A  
20 Division 1; or  
21 (b) refer it for conciliation under Part 3A  
22 Division 2; or  
23 (c) investigate it.
- 24 (5A) If the Director decides to accept a complaint alleging a  
25 matter referred to in section 25(1)(j) or (k) in whole or  
26 in part, the Director must then investigate it.  
27
- 28 (3) In section 34(6)(b) delete “Division 3A or 3” and insert:  
29  
30 Part 3A Division 1 or 2  
31

s. 17

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1 **17. Section 36A amended**

2 In section 36A(5) delete “Part.” and insert:

3

4 Act.

5

6 **18. Part 3A heading inserted**

7 After section 36BA insert:

8

9 **Part 3A — Settlement and conciliation of**  
10 **certain complaints**

11

12 **19. Part 3 Division 3A heading replaced**

13 Delete the heading to Part 3 Division 3A and insert:

14

15 **Division 1 — Negotiated settlement**

16

17 **20. Section 36B amended**

18 (1) At the beginning of section 36B insert:

19

20 (1A) This section does not apply to a complaint alleging a  
21 matter referred to in section 25(1)(j) or (k).

22

23 (2) In section 36B(3):

24 (a) in paragraph (a) delete “Division 3” and insert:

25

26 Division 2

27

1 (b) in paragraph (b)(i) delete “Division 3; and” and insert:

2

3 Division 2; and

4

5 (3) In section 36B(5) delete “Division 3” and insert:

6

7 Division 2

8

9 **21. Part 3 Division 3 heading replaced**

10 Delete the heading to Part 3 Division 3 and insert:

11

12 **Division 2 — Conciliation**

13

14 **22. Section 40 amended**

15 In section 40(3)(a) after “user” insert:

16

17 or the person who made the complaint

18

19 **23. Part 3 Division 4 heading deleted**

20 Delete the heading to Part 3 Division 4.

21 **24. Part 3B heading inserted**

22 After section 43 insert:

23

24 **Part 3B — Investigations generally**

25

s. 25

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1   **25.    Section 44A inserted**

2            After section 44 insert:

3

4            **44A.    Director may conduct Director-initiated**  
5            **investigation**

6            The Director may, on the Director’s own initiative,  
7            conduct an investigation (a *Director-initiated*  
8            *investigation*) into whether or not —

- 9                   (a) a health care worker has failed to comply with a  
10                   code of conduct that applies to the health care  
11                   worker; or  
12                   (b) an offence under section 52G, 52N or 52Q(2)  
13                   has been committed.

14

15   **26.    Section 48 amended**

16           (1) In section 48(1) delete “conduct” and insert:

17

18                   conduct, or other conduct,

19

20           (2) In section 48(2) delete “complaint or” and insert:

21

22                   complaint, a Director-initiated investigation or an investigation

23

24   **27.    Part 3C heading inserted**

25            After section 48 insert:

26

27                                   **Part 3C — Remedial action**

28



1   **28.   Parts 3D and 3E inserted**

2           After section 52A insert:

3

4                           **Part 3D — Interim prohibition orders,**  
5                           **prohibition orders and interstate orders**

6                           **Division 1 — Interim prohibition orders**

7   **52B.   Director may make interim prohibition order**

8           (1) This section applies if the Director is, in an  
9           investigation under this Act, investigating whether or  
10          not a health care worker has failed to comply with a  
11          code of conduct applying to the health care worker.

12          (2) The Director may make an order (an *interim*  
13          *prohibition order*) in relation to the health care  
14          worker —

15                  (a) prohibiting the health care worker from  
16                  providing any health service, or a health service  
17                  specified in the order, for a period, of not more  
18                  than 12 weeks, specified in the order; or

19                  (b) imposing any conditions the Director considers  
20                  appropriate on the provision of any health  
21                  service, or a health service specified in the  
22                  order, by the health care worker for a period, of  
23                  not more than 12 weeks, specified in the order.

24          (3) The Director must not make an interim prohibition  
25          order in relation to a health care worker unless —

26                  (a) either —

27                          (i) the Director reasonably believes that the  
28                          health care worker has failed to comply  
29                          with a code of conduct applying to the  
30                          health care worker; or

- 1 (ii) the health care worker has been  
2 convicted of a prescribed offence;  
3 and  
4 (b) the Director is satisfied that it is necessary to  
5 make the interim prohibition order to avoid a  
6 serious risk to —  
7 (i) the life, health, safety or welfare of a  
8 person; or  
9 (ii) the health, safety or welfare of the  
10 public.
- 11 (4) The Director may, on the expiration of the period  
12 specified in the interim prohibition order under  
13 subsection (2)(a) or (b), make another interim  
14 prohibition order in relation to the health care worker.

15 **52C. Notice of interim prohibition order**

- 16 (1) As soon as possible after making an interim prohibition  
17 order in relation to a person, the Director must give  
18 written notice of the interim prohibition order to the  
19 person.
- 20 (2) The notice must contain a statement that the person  
21 may apply under section 52P for a review of the  
22 decision to make the interim prohibition order.

23 **52D. When interim prohibition order takes effect**

24 An interim prohibition order takes effect on the day on  
25 which notice of the interim prohibition order is given to  
26 the person to whom it relates.

27 **52E. Variation of interim prohibition order**

- 28 (1) The Director must, by order, vary an interim  
29 prohibition order if the Director is satisfied that the

1 restrictions contained in the interim prohibition order  
2 should be reduced.

- 3 (2) The order must specify the following —
- 4 (a) the name of the person to whom it relates;
  - 5 (b) when the variation of the interim prohibition  
6 order takes effect under subsection (4);
  - 7 (c) the nature of the variation.
- 8 (3) As soon as possible after making the order, the  
9 Director must give written notice of the order to the  
10 person to whom it relates.
- 11 (4) The order takes effect on the day on which notice of  
12 the order is given to the person to whom it relates.

13 **52F. Revocation of interim prohibition order**

- 14 (1) The Director must, by order, revoke an interim  
15 prohibition order if the Director is satisfied that the  
16 interim prohibition order is no longer required to avoid  
17 a serious risk to —
- 18 (a) the life, health, safety or welfare of a person; or
  - 19 (b) the health, safety or welfare of the public.
- 20 (2) The order must —
- 21 (a) specify the name of the person to whom it  
22 relates; and
  - 23 (b) specify the day on which it was made; and
  - 24 (c) specify when it takes effect under  
25 subsection (4); and
  - 26 (d) include a statement that the Director is satisfied  
27 that the interim prohibition order is no longer  
28 required to avoid a serious risk to —
    - 29 (i) the life, health, safety or welfare of a  
30 person; or

- 1 (ii) the health, safety or welfare of the  
2 public;  
3 and  
4 (e) include a statement of the reason why the  
5 interim prohibition order is revoked.
- 6 (3) As soon as possible after making the order, the  
7 Director must give written notice of the order to the  
8 person to whom it relates.
- 9 (4) The order takes effect on the day on which notice of  
10 the order is given to the person to whom it relates.

11 **52G. Offence for failure to comply with interim**  
12 **prohibition order**

13 A person who fails to comply with an interim  
14 prohibition order commits an offence.

15 Penalty: a fine of \$30 000.

16 **Division 2 — Prohibition orders**

17 **52H. Director may make prohibition order**

- 18 (1) This section applies if the Director has conducted an  
19 investigation under this Act into a possible  
20 contravention by a health care worker of a code of  
21 conduct applying to the health care worker.
- 22 (2) The Director may make an order (a *prohibition order*)  
23 in relation to the health care worker —
- 24 (a) prohibiting the health care worker from  
25 providing any health service, or a health service  
26 specified in the order, permanently or for the  
27 period specified in the order; or

- 1 (b) imposing any conditions the Director considers  
2 appropriate on the provision of any health  
3 service, or a health service specified in the  
4 order, by the health care worker permanently or  
5 for the period specified in the order.
- 6 (3) The Director must not make a prohibition order in  
7 relation to a health care worker unless —
- 8 (a) either —
- 9 (i) the Director is satisfied that the health  
10 care worker has failed to comply with a  
11 code of conduct applying to the health  
12 care worker; or
- 13 (ii) the health care worker has been  
14 convicted of a prescribed offence;
- 15 and
- 16 (b) the Director is satisfied that it is necessary to  
17 make the prohibition order to avoid a serious  
18 risk to —
- 19 (i) the life, health, safety or welfare of a  
20 person; or
- 21 (ii) the health, safety or welfare of the  
22 public.

23 **52I. Show cause process for prohibition orders**

- 24 (1) If the Director proposes to make a prohibition order in  
25 relation to a person, the Director must give the person  
26 written notice of the proposed prohibition order.
- 27 (2) The notice must invite the person to whom it is given  
28 to make a written or oral submission to the Director  
29 about the proposed prohibition order within a  
30 reasonable period specified in the notice.

- 1           (3) The Director must have regard to any submission made  
2           in accordance with the notice in deciding whether to  
3           make the proposed prohibition order.

4           **52J. Notice of prohibition order**

- 5           (1) As soon as possible after making a prohibition order in  
6           relation to a person, the Director must give written  
7           notice of the prohibition order to the person.
- 8           (2) The notice must contain a statement that the person  
9           may apply under section 52P for a review of the  
10          decision to make the prohibition order.

11          **52K. When prohibition order takes effect**

12                   A prohibition order takes effect on the day on which  
13                   notice of the prohibition order is given to the person to  
14                   whom it relates.

15          **52L. Variation of prohibition order**

- 16          (1) The Director must, by order, vary a prohibition order if  
17          the Director is satisfied that the restrictions contained  
18          in the prohibition order should be reduced.
- 19          (2) The order must specify the following —  
20                  (a) the name of the person to whom it relates;  
21                  (b) when the variation of the prohibition order  
22                  takes effect under subsection (4);  
23                  (c) the nature of the variation.
- 24          (3) As soon as possible after making the order, the  
25          Director must give written notice of the order to the  
26          person to whom it relates.
- 27          (4) The order takes effect on the day on which notice of  
28          the order is given to the person to whom it relates.

- 
- 1           **52M.    Revocation of prohibition order**
- 2           (1)    The Director must, by order, revoke a prohibition order
- 3           if the Director is satisfied that the prohibition order is
- 4           no longer required to avoid a serious risk to —
- 5                 (a)    the life, health, safety or welfare of a person; or
- 6                 (b)    the health, safety or welfare of the public.
- 7           (2)    The order must —
- 8                 (a)    specify the name of the person to whom it
- 9                 relates; and
- 10                (b)    specify the day on which it was made; and
- 11                (c)    specify when it takes effect under
- 12                subsection (4); and
- 13                (d)    include a statement that the Director is satisfied
- 14                that the prohibition order is no longer required
- 15                to avoid a serious risk to —
- 16                       (i)    the life, health, safety or welfare of a
- 17                       person; or
- 18                       (ii)   the health, safety or welfare of the
- 19                       public;
- 20                       and
- 21                (e)    include a statement of the reason why the
- 22                prohibition order is revoked.
- 23           (3)    As soon as possible after making the order, the
- 24           Director must give written notice of the order to the
- 25           person to whom it relates.
- 26           (4)    The order takes effect on the day on which notice of
- 27           the order is given to the person to whom it relates.

1           **52N.    Offence for failure to comply with prohibition order**

2                   A person who fails to comply with a prohibition order  
3                   commits an offence.

4                   Penalty: a fine of \$30 000.

5                   **Division 3 — Publication of information about orders**

6           **52O.    Publication of information about interim**  
7                   **prohibition orders and prohibition orders**

8                   (1) As soon practicable after making an interim prohibition  
9                   order or prohibition order, the Director must publish on  
10                   the Office’s website the following information about  
11                   the order —

- 12                           (a) the name of the person to whom the order  
13                           relates;
- 14                           (b) the details of the order mentioned in  
15                           section 52B(2)(a) or (b) or 52H(2)(a) or (b), as  
16                           is relevant, that apply to the person;
- 17                           (c) the day on which the order takes effect under  
18                           section 52D or 52K, as is relevant;
- 19                           (d) if the order expires on a day specified in the  
20                           order — the day on which the order expires.

21                   (2) As soon as practicable after making an order under  
22                   section 52E(1), 52F(1), 52L(1) or 52M(1), the Director  
23                   must publish the order on the Office’s website.

24                   **Division 4 — Review by State Administrative Tribunal**

25           **52P.    Review of decisions to make interim prohibition**  
26                   **orders and prohibition orders**

27                   If the Director makes an interim prohibition order or  
28                   prohibition order in relation to a person, the person  
29                   may apply to the State Administrative Tribunal for a  
30                   review of the Director’s decision to make the order.





1                   **Part 3E — Public health warning statements**  
2                                   **relating to health care workers**

3           **52R.    Public health warning statements**

- 4           (1) The Director may publish a statement setting out the  
5                name of a health care worker if the Director has  
6                commenced an investigation under this Act in relation  
7                to a health care worker and the Director reasonably  
8                believes that —
- 9                (a) the health care worker has failed to comply  
10                with a code of conduct that applies to the health  
11                care worker; and
  - 12               (b) it is necessary to publish the statement to avoid  
13                an imminent and serious risk to —
    - 14                (i) the life, health, safety or welfare of a  
15                person; or
    - 16                (ii) the health, safety or welfare of the  
17                public.
- 18           (2) The Director may publish a statement setting out the  
19                name of a health care worker if —
- 20               (a) either —
    - 21                (i) after completing an investigation under  
22                this Act, the Director is satisfied that the  
23                health care worker has failed to comply  
24                with a code of conduct applying to the  
25                health care worker; or
    - 26                (ii) the health care worker has been  
27                convicted of a prescribed offence;
- 28                and

- 
- 1 (b) the Director reasonably believes that it is  
2 necessary to publish the statement to avoid a  
3 serious risk to —
- 4 (i) the life, health, safety or welfare of a  
5 person; or
- 6 (ii) the health, safety or welfare of the  
7 public.
- 8 (3) The Director may set out in a public health warning  
9 statement any other details that are reasonably relevant  
10 to advise the public of the serious risk identified by the  
11 Director.
- 12 (4) A public health warning statement —
- 13 (a) must be published on the Office’s website; and  
14 (b) may be published in any other manner that the  
15 Director considers appropriate.

16 **52S. Revoking public health warning statements**

- 17 (1) The Director may revoke a public health warning  
18 statement by publishing a statement that —
- 19 (a) advises the public that the serious risk no  
20 longer exists; and
- 21 (b) sets out the reason for the revocation of the  
22 statement.
- 23 (2) The Director must revoke a public health warning  
24 statement published under section 52R(1) if, on the  
25 completion of the investigation concerned, the Director  
26 is satisfied that the health care worker did not  
27 contravene a code of conduct applying to the health  
28 care worker.

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1 (3) Revocation of a public health warning statement under  
2 subsection (2) must be by publication of a statement  
3 setting out the reason for the revocation of the  
4 statement.

5 (4) A statement under subsection (1) or (3) —  
6 (a) must be published on the Office’s website; and  
7 (b) may be published in any other manner that the  
8 Director considers appropriate.

9 **52T. Correcting public health warning statements**

10 (1) If the Director forms the opinion that a public health  
11 warning statement is incorrect, the Director must  
12 publish a correction statement setting out the reason for  
13 the correction.

14 (2) A statement under subsection (1) —  
15 (a) must be published on the Office’s website; and  
16 (b) may be published in any other manner that the  
17 Director considers appropriate.  
18

19 **29. Part 3 Division 5 heading deleted**

20 Delete the heading to Part 3 Division 5.

21 **30. Part 3F heading inserted**

22 After section 52T (as inserted by section 28 of this Act) insert:  
23

24 **Part 3F — Miscellaneous provisions relating to**  
25 **complaints, investigations and reports to**  
26 **Parliament**  
27

1   **31.   Section 52 amended**

2           At the beginning of section 52 insert:

3

4           (1A) This section does not apply to a complaint alleging 1 or  
5                   more of the matters set out in section 25(1)(i), (j)  
6                   or (k).

7

8   **32.   Section 59 amended**

9           In section 59 delete “complaint or” and insert:

10

11           complaint, a Director-initiated investigation or an investigation

12

13   **33.   Section 60 amended**

14           (1) In section 60(1)(b) delete “or record” and insert:

15

16           record or other thing

17

18           (2) After section 60(1) insert:

19

20           (1A) The Director may direct a person attending in response  
21                   to a notice under subsection (1) —

22                   (a) to give such information as is requested in  
23                   relation to any matter; or

24                   (b) to answer a question put to the person.

25

26           (3) In section 60(3) delete “or record” and insert:

27

28           record or other thing

29

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- 1       (4) In section 60(4) after “documents” insert:  
2  
3           or other things  
4
- 5       (5) After section 60(4) insert:  
6
- 7           (5) If the Director gives a notice to a person under  
8           subsection (1), the notice must state that —  
9               (a) under this Act, the person is required to comply  
10               with the notice; and  
11               (b) refusal or failure to do so may constitute an  
12               offence under section 62(1).
- 13       (6) If the Director gives a direction to a person under  
14       subsection (1A), the Director must inform the person  
15       that —  
16           (a) under this Act, the person is required to comply  
17           with the direction; and  
18           (b) refusal or failure to do so may constitute an  
19           offence under section 62(1).  
20

21           Note: The heading to amended section 60 is to read:

22                   **Power to summons and related powers**

23   **34. Section 61 amended**

- 24       (1) In section 61 delete “complaint or” and insert:  
25  
26           complaint, a Director-initiated investigation or an investigation  
27

1 (2) In section 61 in the Penalty delete “Penalty:” and insert:

2

3 Penalty: a fine of

4

5 **35. Section 62 amended**

6 (1) In section 62(1):

7 (a) in paragraph (b) delete “document, or record,” and

8 insert:

9 document, record or other thing; or

10

11 (b) after paragraph (b) insert:

12

13 (c) to give information or answer a question,

14

15 (c) after “notice” insert:

16

17 or a direction

18

19 (d) in the Penalty delete “Penalty:” and insert:

20

21 Penalty for this subsection: a fine of

22

23 (2) In section 62(2) in the Penalty delete “Penalty:” and insert:

24

25 Penalty for this subsection: a fine of

26

27 Note: The heading to amended section 62 is to read:

28

**Failure to comply with notice or direction given under s. 60**

29

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1   **36.     Section 64 amended**

2       (1)   In section 64(1) delete “complaint or” and insert:

3

4           complaint, a Director-initiated investigation or an investigation

5

6       (2)   In section 64(2):

7           (a)   after paragraph (a) insert:

8

9                   (aa)   to inspect any thing at the premises; and

10                   (ab)   to search the premises or any thing at the  
11                         premises; and

12                   (ac)   to examine, measure, test, photograph or film  
13                         any part of the premises or any thing at the  
14                         premises; and

15                   (ad)   to operate equipment, including (without  
16                         limitation) a computer, or facilities at the  
17                         premises or direct a person at the premises to  
18                         do so; and

19                   (ae)   to take any thing, or a sample of or from any  
20                         thing, at the premises for analysis or testing;  
21                         and

22

23           (b)   in paragraph (c) delete “persons” and insert:

24

25                   persons, equipment and materials

26

27           (c)   in paragraph (e) delete “from” and insert:

28

29                   from, download or print out

30



1 (d) in paragraph (e) delete “paragraph (d).” and insert:

2

3 paragraph (d) or any other documents at the premises  
4 that may be relevant to the investigation.

5

6 **37. Section 65 amended**

7 After section 65(1) insert:

8

9 (1A) A member of the staff of the Office executing a  
10 warrant must —

11 (a) produce an identity card given to the member  
12 of staff under section 17A for inspection by the  
13 occupier or a person in charge of the premises;  
14 or

15 (b) display an identity card given to the member of  
16 staff under section 17A so it is clearly visible to  
17 the occupier or person in charge of the  
18 premises.

19

20 **38. Section 67 amended**

21 In section 67(1):

22 (a) in paragraph (a) delete “document or record because the  
23 answer would relate to, or the book, document or  
24 record” and insert:

25

26 document, record or other thing because the answer  
27 would relate to, or the book, document, record or thing

28

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1 (b) in paragraph (b) delete “document or record if the  
2 answer, or the information in the book, document or  
3 record” and insert:

4  
5 document, record or thing if the answer, or the  
6 information in the book, document, record or thing  
7

8 **39. Sections 68A and 68B inserted**

9 After section 68 insert:  
10

11 **68A. Disclosure of information to other Commonwealth,  
12 State or Territory entities**

13 (1) In this section —

14 *protected information* means information that comes  
15 to the knowledge of the Director or a member of the  
16 staff of the Office in the course of, or because of,  
17 exercising functions under this Act;

18 *relevant entity* means —

19 (a) the Australian Health Practitioner Regulation  
20 Agency established under the *Health  
21 Practitioner Regulation National Law (Western  
22 Australia)*; or

23 (b) a registration board; or

24 (c) another entity of the Commonwealth, another  
25 State or a Territory that has functions similar to  
26 functions of the Director.

27 (2) In exercising functions under this Act, the Director  
28 may disclose protected information to a relevant entity  
29 if the Director is satisfied that —

30 (a) the protected information will be collected,  
31 stored and used by the relevant entity in a way

- 1 that ensures the privacy of the persons to whom  
2 it relates is protected; and  
3 (b) the provision of the protected information to the  
4 relevant entity is necessary to enable the  
5 relevant entity to exercise the entity's functions.  
6 (3) If the Director makes an interim prohibition order or a  
7 prohibition order in relation to a health care worker, the  
8 Director may give a copy of the order to a relevant  
9 entity.

10 **68B. Disclosure to protect health or safety of users and**  
11 **other persons**

- 12 (1) This section applies if the Director reasonably believes  
13 that —  
14 (a) a provider poses, or may pose, a risk to public  
15 health; or  
16 (b) the health or safety of a person or class of  
17 persons is or may be at risk because of the  
18 provision of a health service by a provider.  
19 (2) The Director may give written notice of the risk and  
20 any relevant information about the provider to an entity  
21 of this State, another State, a Territory or the  
22 Commonwealth that the Director considers may be  
23 required to take action in relation to the risk.  
24

25 **40. Section 70 amended**

26 In section 70(2)(a) delete “Part 3; or” and insert:

27

28 this Act; or  
29

1   **41.     Section 71A inserted**

2           After section 71 insert:

3

4           **71A.    Criminal record checks**

5           (1) In this section —

6                 **Commissioner of Police** means the person holding or  
7                 acting in the office of Commissioner of Police under  
8                 the *Police Act 1892*;

9                 **criminal record**, in relation to a health care worker,  
10                means the criminal record of the health care worker  
11                kept by the Commissioner of Police;

12               **relevant decision**, in relation to a health care worker,  
13                means a decision whether to —

- 14                   (a) make an interim prohibition order in relation to  
15                   the health care worker; or
- 16                   (b) make a prohibition order in relation to the  
17                   health care worker; or
- 18                   (c) publish a public health warning statement in  
19                   relation to the health care worker.

20           (2) For the purposes of making a relevant decision in  
21           relation to a health care worker, the Director may —

- 22                   (a) request that the Commissioner of Police give  
23                   the Director information concerning any  
24                   criminal record of the health care worker; and
- 25                   (b) for the purpose of the request, give the  
26                   Commissioner of Police any information  
27                   concerning the health care worker that is  
28                   necessary to conduct a check on the criminal  
29                   record of the health care worker.

- 1           (3) On a request under subsection (2), the Commissioner  
2           of Police may give the information sought to the  
3           Director.  
4

5   **42. Section 77A inserted**

6           After section 77 insert:  
7

8   **77A. Codes of conduct**

9           Regulations made under section 77 may prescribe 1 or  
10          more codes of conduct relating to the provision of  
11          health services by the following —

- 12           (a) health care workers who are not registered  
13           providers;  
14           (b) health care workers who are registered  
15           providers and who provide health services that  
16           are unrelated to their registration.  
17

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