

**Protection of Information (Entry Registration  
Information Relating to COVID-19 and Other  
Infectious Diseases) Bill 2021**

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**Defined terms**



Western Australia

LEGISLATIVE ASSEMBLY

**Protection of Information (Entry Registration  
Information Relating to COVID-19 and Other  
Infectious Diseases) Bill 2021**

**A Bill for**

**An Act to protect the confidentiality of certain information obtained  
for the purposes of contact tracing relating to COVID-19 and other  
infectious diseases.**

The Parliament of Western Australia enacts as follows:

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1     **1.     Short title**

2             This is the *Protection of Information (Entry Registration*  
3             *Information Relating to COVID-19 and Other Infectious*  
4             *Diseases) Act 2021*.

5     **2.     Commencement**

6             This Act comes into operation as follows —

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

10    **3.     Terms used**

11            In this Act —

12            **authorised officer** has the meaning given in the *Public Health*  
13            *Act 2016* section 4(1);

14            **CEO** means the chief executive officer of the department of the  
15            Public Service principally assisting in the administration of this  
16            Act;

17            **Chief Health Officer** has the meaning given in the *Public*  
18            *Health Act 2016* section 4(1);

19            **commencement day** means the day on which section 6 comes  
20            into operation;

21            **contact tracing**, in relation to an infectious disease emergency,  
22            means the process of identifying, notifying, communicating  
23            with, managing and directing —

- 24            (a)    individuals who —  
25                    (i)    may be, or may have been, a source of infection;  
26                            or  
27                    (ii)   may have been in contact, directly or indirectly,  
28                            with, or in the proximity of, an individual who  
29                            may be, or may have been, a source of infection;

1 or

2 (b) the parents, guardians or carers of, or other persons who  
3 have responsibility for the care of, such individuals;

4 **Department's website** means a website maintained by or on  
5 behalf of the department of the Public Service principally  
6 assisting in the administration of this Act;

7 **entry registration information** —

8 (a) means relevant information about the presence of  
9 persons at a place, obtained, on the occasion of their  
10 entry to the place, for the purposes of contact tracing in  
11 relation to an infectious disease emergency by the use of  
12 the mobile application known as “SafeWA”, or some  
13 other contact tracing register or system, whether or not  
14 obtained under the *Emergency Management Act 2005* or  
15 the *Public Health Act 2016*;

16 but

17 (b) does not include —

18 (i) such information obtained in the ordinary course  
19 of carrying on a business or undertaking if the  
20 information would have been obtained in any  
21 case for purposes other than contact tracing; or

22 (ii) statistical or summary information;

23 **entry registration record** means any record of entry registration  
24 information, including a record in the form of data, text, images  
25 or sound;

26 **Health Department** means the department of the Public Service  
27 principally assisting in the administration of the *Public Health*  
28 *Act 2016*;

29 **infectious disease emergency** means —

30 (a) an emergency situation or a state of emergency declared  
31 under the *Emergency Management Act 2005* in respect  
32 of an emergency relating to a plague or epidemic (as

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- 1 referred to in paragraph (d) of the definition of *hazard* in  
2 section 3 of that Act); or
- 3 (b) a public health state of emergency declared under the  
4 *Public Health Act 2016* in respect of a public health  
5 emergency relating to an infectious disease; or
- 6 (c) a serious public health risk, in respect of an infectious  
7 disease, in relation to which an authorised officer is  
8 authorised under the *Public Health Act 2016*  
9 section 152(1) to exercise serious public health incident  
10 powers;
- 11 ***initial storage period***, for an entry registration record, has the  
12 meaning given in section 8(1);
- 13 ***prescribed*** means prescribed by regulations made under this  
14 Act;
- 15 ***records contractor*** means a person engaged under a contract for  
16 services to provide services relating to the storage, maintenance,  
17 processing or destruction of entry registration records;
- 18 ***relevant information*** means any of the following —
- 19 (a) a person’s name and contact details;
- 20 (b) details of a person’s presence at a place, including —
- 21 (i) the time and date at which the person entered the  
22 place; and
- 23 (ii) details of any persons accompanying the person;
- 24 (c) any other information approved by the Minister for the  
25 purposes of this definition;
- 26 ***responsible person***, for an entry registration record, means —
- 27 (a) for a record in the possession or control of an agency as  
28 defined in the *Public Sector Management Act 1994*  
29 section 3(1) — the chief executive officer, as defined in  
30 that section, of that agency; or
- 31 (b) for a record in the possession or control of a records  
32 contractor — the records contractor; or

- 1 (c) for any other record — the person in possession or  
2 control of the record;
- 3 *serious public health incident powers* has the meaning given in  
4 the *Public Health Act 2016* section 4(1);
- 5 *statistical or summary information* means statistical or  
6 summary information that could not reasonably be expected to  
7 lead to the identification of an individual;
- 8 *use*, in relation to information, includes the following —
- 9 (a) to possess the information;
- 10 (b) to copy the information;
- 11 (c) to control the use of the information;
- 12 (d) to seize the information;
- 13 (e) to require the production of the information.

14 **4. Act binds Crown**

15 This Act binds the Crown in right of Western Australia and, so  
16 far as the legislative power of the Parliament permits, the Crown  
17 in all its other capacities.

18 **5. Relationship of this Act to other written laws**

- 19 (1) This Act has effect despite the *Freedom of Information*  
20 *Act 1992* and the *State Records Act 2000*.
- 21 (2) To the extent that there is an inconsistency between a provision  
22 of this Act and a provision of the *Criminal Investigation*  
23 *Act 2006*, the *Emergency Management Act 2005*, the *Public*  
24 *Health Act 2016* or any other written law, the provision of this  
25 Act prevails.

26 **6. Protection of entry registration information**

- 27 (1) Entry registration information cannot be used or disclosed for  
28 any purpose other than —
- 29 (a) contact tracing; or

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- 1 (b) purposes related to contact tracing, including (without  
2 limitation) —
- 3 (i) purposes necessary for the support and efficacy  
4 of contact tracing; and
- 5 (ii) purposes necessary for the integrity and security  
6 of entry registration information;
- 7 or
- 8 (c) a purpose in subsection (4) or (5).
- 9 (2) Without limiting subsection (1), entry registration information is  
10 not admissible in evidence in any criminal or civil proceedings  
11 other than proceedings in relation to an offence referred to in  
12 subsection (4).
- 13 (3) A person who uses or discloses entry registration information  
14 contrary to subsection (1) commits a crime.
- 15 Penalty for this subsection:
- 16 (a) for an individual, imprisonment for 3 years;
- 17 (b) for a body corporate, a fine of \$250 000.
- 18 Summary conviction penalty for this subsection:
- 19 (a) for an individual, imprisonment for 12 months and a  
20 fine of \$20 000;
- 21 (b) for a body corporate, a fine of \$100 000.
- 22 (4) Entry registration information may be used or disclosed for the  
23 purpose of investigating or prosecuting an offence relating to —
- 24 (a) compliance with an obligation under the *Emergency*  
25 *Management Act 2005* or the *Public Health Act 2016* to  
26 provide or record information for the purpose of contact  
27 tracing; or
- 28 (b) compliance with an obligation under this Act; or
- 29 (c) compliance with an obligation relating to the recording,  
30 use or disclosure of entry registration information



1                   under *The Criminal Code*, the *Emergency Management*  
2                   *Act 2005* or the *Public Health Act 2016*; or

3                   (d) the giving of false or misleading information in  
4                   compliance or purported compliance with an obligation  
5                   referred to in paragraph (a).

6                   (5) A public service officer in the Health Department or a records  
7                   contractor may, with the approval of the Chief Health Officer,  
8                   use entry registration information for the purpose of deriving  
9                   statistical or summary information.

10                  (6) The *Freedom of Information Act 1992* Parts 2 and 4 do not  
11                  apply to statistical or summary information derived under  
12                  subsection (5).

13       **7.       Storage of entry registration records**

14                  The responsible person for an entry registration record must, so  
15                  far as reasonably practicable, ensure that the record is stored in  
16                  a secure manner until it is destroyed.

17                  Penalty: imprisonment for 12 months and a fine of \$20 000.

18       **8.       Destruction of entry registration records**

19                  (1) In this section —  
20                  *initial storage period*, for an entry registration record, means the  
21                  period of 28 days (or, if a different period is prescribed for the  
22                  infectious disease emergency, that period) beginning on the day  
23                  after the day on which the information contained in the record  
24                  was obtained.

25                  (2) The responsible person for an entry registration record must  
26                  ensure that it is destroyed, in accordance with subsection (8), as  
27                  soon as practicable after the expiry of the initial storage period  
28                  for the record.

29                  Penalty for this subsection: imprisonment for 12 months and a  
30                  fine of \$20 000.

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- 1       (3) If a responsible person for an entry registration record is  
2       required under the *Emergency Management Act 2005* or the  
3       *Public Health Act 2016* to retain the record for purposes relating  
4       to contact tracing for a specified period (the *extended period*)  
5       that extends beyond the initial storage period, the person —  
6           (a) must retain the record for the extended period; and  
7           (b) must destroy the record, in accordance with  
8           subsection (8), as soon as practicable after the end of the  
9           extended period.
- 10       Penalty for this subsection: imprisonment for 12 months and a  
11       fine of \$20 000.
- 12       (4) Subsection (3) has effect despite subsections (2), (6) and (7).
- 13       (5) Subsections (6) and (7) do not apply to a person who is a  
14       responsible person solely because of being the occupier or  
15       person apparently in charge of a place referred to in  
16       paragraph (a) of the definition of *entry registration information*  
17       in section 3.
- 18       (6) A responsible person for an entry registration record is not  
19       required to destroy the record if, at the expiry of the initial  
20       storage period for the record, the record —  
21           (a) is required for contact tracing; or  
22           (b) is required in the investigation of an offence referred to  
23           in section 6(4); or  
24           (c) is, or is required as, evidence in proceedings for or in  
25           relation to an offence referred to in section 6(4).
- 26       (7) A responsible person for an entry registration record that is not  
27       destroyed in accordance with subsection (2) because of the  
28       application of subsection (6)(a) must ensure that the record is  
29       destroyed, in accordance with subsection (8), as soon as  
30       practicable after it ceases to be required for contact tracing.
- 31       Penalty for this subsection: imprisonment for 12 months and a  
32       fine of \$20 000.

- 1 (8) An entry registration record must be destroyed either —  
2 (a) in the manner approved by the CEO; or  
3 (b) if no approval under paragraph (a) applies to the  
4 record — by taking all reasonable steps to ensure that  
5 the entry registration information contained in the record  
6 cannot be retrieved.

7 **9. Liability of officers of body corporate for offence by body**  
8 **corporate**

- 9 (1) In this section —  
10 *officer*, in relation to a body corporate, has the meaning given in  
11 the *Corporations Act 2001* (Commonwealth) section 9.  
12 (2) If a body corporate is guilty of an offence against section 6, 7  
13 or 8, an officer of the body corporate is also guilty of the  
14 offence if the officer failed to take all reasonable steps to  
15 prevent the commission of the offence by the body corporate.  
16 (3) In determining whether things done or omitted to be done by the  
17 officer constitute reasonable steps, a court must have regard  
18 to —  
19 (a) what the officer knew, or ought to have known, about  
20 the commission of the offence by the body corporate;  
21 and  
22 (b) whether the officer was in a position to influence the  
23 conduct of the body corporate in relation to the  
24 commission of the offence; and  
25 (c) any other relevant matter.

26 **10. Publication of approvals**

- 27 (1) If the Minister approves information under paragraph (c) of the  
28 definition of *relevant information* in section 3, the Minister  
29 must ensure that the instrument by which the approval is given  
30 is published on the Department's website.

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1       (2) If the CEO approves a manner of destruction of entry  
2 registration records under section 8(8)(a), the CEO must ensure  
3 that the instrument by which the approval is given is published  
4 on the Department's website.

5       (3) A failure to comply with subsection (1) or (2) does not affect  
6 the validity of an approval.

7       **11. Transitional provisions**

8       (1) This Act applies, on and after commencement day, to entry  
9 registration information obtained at any time on or after  
10 5 December 2020.

11       (2) However, section 6(1) to (3) do not apply to entry registration  
12 information disclosed before commencement day in compliance  
13 with an order to produce under the *Criminal Investigation*  
14 *Act 2006* Part 6, to the extent necessary for the information to be  
15 used, disclosed or admitted in evidence for the purposes for  
16 which the order was obtained or for related purposes.

17       (3) If the initial storage period for an entry registration record  
18 begins before commencement day, section 8 applies in relation  
19 to the record as if the initial storage period for the record begins  
20 on commencement day.

21       **12. Regulations**

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

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
authorised officer .....	3
CEO .....	3
Chief Health Officer .....	3
commencement day .....	3
contact tracing .....	3
Department's website.....	3
entry registration information .....	3
entry registration record.....	3
extended period.....	8(3)
Health Department .....	3
infectious disease emergency .....	3
initial storage period .....	3, 8(1)
officer.....	9(1)
prescribed.....	3
records contractor .....	3
relevant information.....	3
responsible person.....	3
serious public health incident powers .....	3
statistical or summary information .....	3
use .....	3