



Local government implementation of the *Public Health Act 2016*

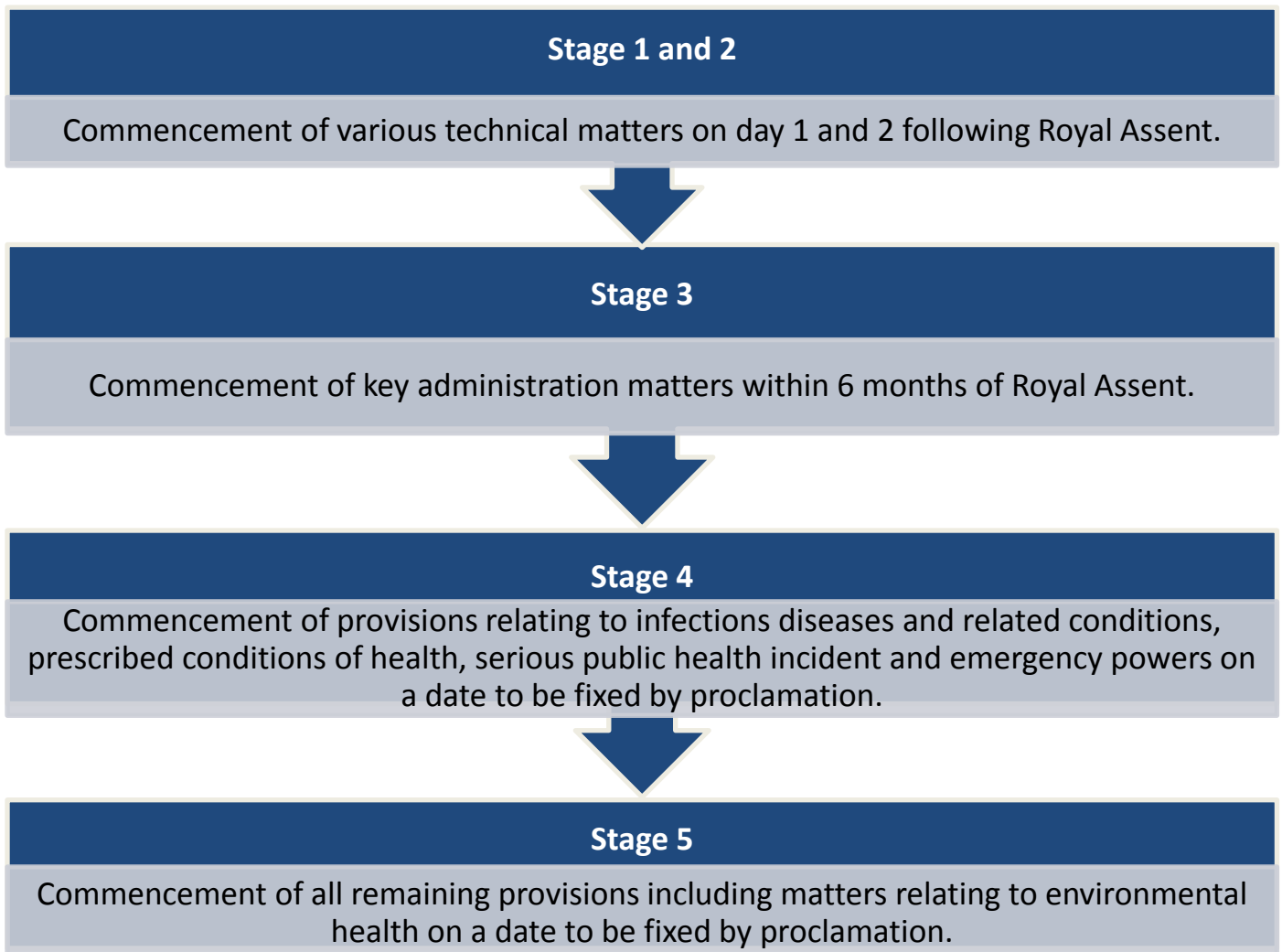
The *Public Health Act 2016* ('the Public Health Act') and *Public Health (Consequential Provisions) Act 2016* facilitate the comprehensive reform of public health regulation in Western Australia.

As there is a significant amount of work required to transition to the new regulatory framework, implementation is to occur in a staged manner over the next 3 to 5 years.

This document provides an overview of each stage of implementation and indicates the action required by local government to prepare for the initial stages of implementation. Further information regarding subsequent stages will be provided as implementation progresses.

The five stages

There will be five main stages of implementation, summarised below.



Stages 1 and 2

Stage 1 will come into operation on Royal Assent of the Act and stage 2 on the day after Royal Assent. These stages involve various technical matters required to facilitate the transition from the *Health Act 1911* (“the Health Act”) to the Public Health Act.

The Health Act and regulations, by-laws and local laws made under that Act will remain in operation.

While these introductory stages will have no practical implications for local governments, local governments should begin preparing for stage 3.

Stage 3

Stage 3 will occur on a date to be fixed by proclamation. It is anticipated that this will occur within 6 months of the date of Royal Assent.

During this stage, key elements of the administrative framework provided by Part 2 of the Public Health Act will come into operation to replace the equivalent administrative framework provided by Part II of the Health Act. This includes provisions establishing the Chief Health Officer and enabling local governments to designate authorised officers.

In order to minimise the impact on local governments, section 312 of the Public Health Act includes a transitional provision. Under that section, persons who are currently appointed as environmental health officers will be deemed to be designated as authorised officers for the purpose of the Public Health Act, the Health Act and a range of other relevant Acts.

To prepare for this stage, local governments should:

- identify all persons who hold a current appointment as an environmental health officer
- issue to each of those persons a certificate of authority in accordance with section 30 of the Public Health Act
- prepare and maintain a list of those authorised officers in accordance with section 27 of the Public Health Act.

Designations of persons to whom the transitional provision does not apply are to be made in accordance with Part 2 Division 4 of the Public Health Act.

During this stage, various technical amendments will also be made to facilitate the transition from the Health Act to the Public Health Act. Broadly speaking this will include making relevant amendments to legislation, including the Health Act and regulations and by-laws made under that Act, to replace references to:

- the “*Health Act 1911*” with references to the “*Health (Miscellaneous Provisions) Act 1911*”
- “Executive Director, Public Health” with references to “Chief Health Officer”
- “environmental health officer” with references to “authorised officer”.

The following regulations and by-laws made under the *Health (Miscellaneous Provisions) Act 1911* will also be repealed:

- *Annual Report Form (Local Authorities) Regulations*
- *Form for Result of Sample Analysis Regulations*
- *Health Act (Local Authorities Sewerage Undertakings) Model By-Laws*
- *Local Health Boards (Annual Statement of Accounts) Regulations 1961*
- *Model By-laws - Handling Dead Bodies*

- *Model By-laws – Series “A”.*

All other regulations, by-laws and local laws made under the *Health (Miscellaneous Provisions) Act 1911* will remain in operation.

It is noted that an amendment will be made to section 3.5 of the *Local Government Act 1995* to authorise local laws for matters relating to public health to be made under that Act. Local governments are encouraged to utilise this mechanism for all new local laws in anticipation of the repeal of the local law making powers provided by the *Health (Miscellaneous Provisions) Act 1911* in stage 5. The Department of Health will be coordinating a working group comprised of representatives from the Department, WALGA and local governments to consider the new regulatory framework and what it means for existing health local laws.

Stage 4

Stage 4 will occur on a date to be fixed by proclamation. Provisions in the Public Health Act relating to notifiable infectious diseases and related conditions, prescribed conditions of health, serious public health incident powers and public health emergencies will be commenced during this stage. Equivalent provisions in the *Health (Miscellaneous Provisions) Act 1911* and regulations made under that Act will be repealed.

No action is required by local governments to implement this stage.

Stage 5

Stage 5 will occur on a date to be fixed by proclamation. Provisions in the Public Health Act relating to environmental health matters will be commenced. Amongst other things, this will involve the development of new regulations in respect of broad subject areas including the built environment, water, personal safety and pests and vectors. Equivalent provisions in the *Health (Miscellaneous Provisions) Act 1911* and regulations and by-laws made under that Act will be repealed.

Stage 5 will be the most significant stage of implementation for local government. It will be the point at which local governments move from the framework provided by the *Health (Miscellaneous Provisions) Act 1911* to the framework provided by the Public Health Act. Provisions in the Public Health Act relating to public health planning, assessments, registration and licensing will be commenced along with the enforcement provisions.

The Department of Health will work closely with local government in the lead up to this stage, including consulting in respect of the development of required regulations.

What next?

The Department of Health will provide regular updates to local government to ensure that adequate notice is given for local government to prepare for each stage of implementation.

Further information

Refer to the WA Health website www.health.wa.gov.au for up-to-date information including the *Public Health Act Toolkit for Local Governments*, or email publichealthact@health.wa.gov.au for information. Copies of the Public Health Act can be downloaded from: www.slp.wa.gov.au

Comparing the old Act with the new Act

Below is a summary of the provisions of the *Health Act 1911* (now known as the *Health (Miscellaneous Provisions) Act 1911*) that will continue to remain in operation at each stage, compared to those parts of the *Public Health Act 2016* that will be proclaimed at each stage.

Both Acts will operate at the same time. The *Health (Miscellaneous Provisions) Act 1911*, and subsidiary legislation, will continue to be the main enforcement tool, until the provisions of the *Public Health Act 2016* are proclaimed over the next 3 to 5 years.

Stage 1 and 2

The provisions highlighted in bold text will operate during this stage. Provisions in light grey will not be enacted.

Health (Miscellaneous Provisions) Act 1911 (old Health Act 1911)	Public Health Act 2016
*Parts bolded remain in operation.	*Provisions bolded will be enacted. Light grey indicates provisions not yet enacted

- I – Preliminary**
- II – Administration**
- III – Financial**
- IV – Sanitary provisions**

- V – Dwellings**
- VI – Public buildings**
- VII – Nuisances and offensive trades**
- VIIA – Drugs, medicines, disinfectants, therapeutic substances, pesticides**
- VIIIA – Analytical services**

- IX – Infectious diseases**
- IXA – Prescribed conditions of health**
- X – Tuberculosis**
- XI – Venereal diseases**
- XII – Hospitals**
- XIIA – Community health centres**
- XIII – Child health and preventative medicine**
- XIIIA – Maternal Mortality Committee**
- XIIIB – Perinatal and Infant Mortality Committee**
- XIIIC – Anaesthetic Mortality Committee**

- XIV – Regulations and local laws**
- XV – Miscellaneous provisions**

- 1 – Preliminary**
- 2 – Administration
- 3 – General public health duty
- 4 – Serious public health risks and material public health risks
- 5 – Public health plans
- 6 – Public health policies
- 7 – Public health assessments
- 8 – Registration and licensing
- 9 – Notifiable infectious diseases & related conditions
- 10 – Non-infectious diseases and physical or functional abnormalities
- 11 – Serious public health incident powers
- 12 – Public health emergencies
- 13 – Compensation and insurance
- 14 – Improvement notices and enforcement orders
- 15 – Inquiries
- 16 – Powers of entry, inspection and seizure
- 17 – Crown exemptions**
- 18 – Liability, evidentiary and procedural provisions
- 19 – Miscellaneous (only Division 2,5 and 6)**
- 20 – Transitional and savings provisions (only section 310 and 322)**

Stage 3

The provisions highlighted in bold text will operate during this stage. Provisions in light grey will not be enacted.

Health (Miscellaneous Provisions) Act 1911 (old Health Act 1911)

*Parts bolded remain in operation.

Public Health Act 2016

*Provisions bolded will be enacted.
Light grey indicates provisions not yet enacted

I – Preliminary

II - Administration

III – Financial

IV – Sanitary provisions

V – Dwellings

VI – Public buildings

VII – Nuisances and offensive trades

VIIA – Drugs, medicines, disinfectants,
therapeutic substances, pesticides

VIIIA – Analytical services

IX – Infectious diseases

IXA – Prescribed conditions of health

X – Tuberculosis

XI – Venereal diseases

XII – Hospitals

XIIA – Community health centres

XIII – Child health and preventative medicine

XIIIA – Maternal Mortality Committee

XIIIB – Perinatal and Infant Mortality Committee

XIIIC – Anaesthetic Mortality Committee

XIV – Regulations and local laws

XV – Miscellaneous provisions

1 – Preliminary

2 – Administration (Subdivision 1 (but only sections 6, 9 and 10) and Subdivision 2 and Divisions 2, 3 and 4)

3 – General public health duty

4 – Serious public health risks and material public health risks

5 – Public health plans

6 – Public health policies

7 – Public health assessments

8 – Registration and licensing

9 – Notifiable infectious diseases & related conditions

10 – Non-infectious diseases and physical or functional abnormalities

11 – Serious public health incident powers

12 – Public health emergencies

13 – Compensation and insurance

14 – Improvement notices and enforcement orders

15 – Inquiries

16 – Powers of entry, inspection and seizure

17 – Crown exemptions

18 – Liability, evidentiary and procedural provisions (only Divisions 1 and 2)

19 – Miscellaneous (only Division 2,5 and 6)

20 – Transitional and savings provisions (only sections 307, 308, 310, 309, 311, 312 and 322)

Stage 4

The provisions highlighted in bold text will operate during this stage. Provisions in light grey will not be enacted.

Health (Miscellaneous Provisions) Act 1911 (old Health Act 1911)

*Parts bolded remain in operation.

Public Health Act 2016

*Provisions bolded will be enacted.
Light grey indicates provisions not yet enacted

I – Preliminary

II - Administration

III – Financial

IV – Sanitary provisions

V – Dwellings

VI – Public buildings

VII – Nuisances and offensive trades

VIIA – Drugs, medicines, disinfectants,
therapeutic substances, pesticides

VIIIA – Analytical services

IX – Infectious diseases

IXA – Prescribed conditions of health

X – Tuberculosis

XI – Venereal diseases

XII – Hospitals

XIIA – Community health centres

XIII – Child health and preventative medicine

XIIIA – Maternal Mortality Committee

XIIIB – Perinatal and Infant Mortality Committee

XIIIC – Anaesthetic Mortality Committee

XIV – Regulations and local laws

XV – Miscellaneous provisions

1 – Preliminary

2 – Administration (Subdivision 1 (but only sections 6, 9 and 10) and Subdivision 2 and Divisions 2, 3 4 and 5)

3 – General public health duty

4 – Serious public health risks and material public health risks

5 – Public health plans

6 – Public health policies

7 – Public health assessments

8 – Registration and licensing

9 – Notifiable infectious diseases & related conditions

10 – Non-infectious diseases and physical or functional abnormalities

11 – Serious public health incident powers

12 – Public health emergencies

13 – Compensation and insurance

14 – Improvement notices and enforcement orders

15 – Inquiries

16 – Powers of entry, inspection and seizure

17 – Crown exemptions

18 – Liability, evidentiary and procedural provisions (only Divisions 1 and 2)

19 – Miscellaneous (only Division 2,3,4,5 and 6)

20 – Transitional and savings provisions (only sections 307, 308, 310, 309, 311, 312, 317, 320, 321 and 322)

Stage 5

The provisions highlighted in bold text will operate during this stage. Provisions in light grey will not be enacted.

Health (Miscellaneous Provisions) Act 1911 (old Health Act 1911) End result	Public Health Act 2016 End result
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- I – Preliminary
- II - Administration
- III – Financial
- IV – Sanitary provisions

V – Dwellings

VI – Public buildings

VII – Nuisances and offensive trades

**VIIA – Drugs, medicines, disinfectants,
therapeutic substances, pesticides**

VIIIA – Analytical services

IX – Infectious diseases

IXA – Prescribed conditions of health

X – Tuberculosis

XI – Venereal diseases

XII – Hospitals

XIIA – Community health centres

XIII – Child health and preventative medicine

XIIIA – Maternal Mortality Committee

XIIIB – Perinatal and Infant Mortality Committee

XIIIC – Anaesthetic Mortality Committee

XIV – Regulations and local laws

XV – Miscellaneous provisions

- 1 – Preliminary**
- 2 – Administration**
- 3 – General public health duty**
- 4 – Serious public health risks and material public health risks**
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- 12 – Public health emergencies**
- 13 – Compensation and insurance**
- 14 – Improvement notices and enforcement order**
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- 16 – Powers of entry, inspection and seizure**
- 17 – Crown exemptions**
- 18 – Liability, evidentiary and procedural provisions**
- 19 – Miscellaneous**
- 20 – Transitional and savings provisions**

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