



Western Australia

# **Alcohol and Other Drugs Act 1974**



# Alcohol and Other Drugs Act 1974

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**Defined terms**



## **Alcohol and Other Drugs Act 1974**

**An Act for the purposes of —**

- **providing treatment, management, care and rehabilitation of persons experiencing alcohol or other drug use problems or co-occurring health issues, including persons who have or may have a mental illness; and**
  - **promoting and subsidising research into and education on the causation, prevention, reduction and treatment of alcohol and other drug use problems and co-occurring health issues such as mental illness; and**
  - **establishing and maintaining a coordinated focus on alcohol and other drug use and mental illness,**
- and for related purposes.**

*[Long title inserted: No. 3 of 2015 s. 4.]*

## **Part 1 — Preliminary**

*[Heading amended: No. 3 of 2015 s. 5.]*

### **1. Short title**

This Act may be cited as the *Alcohol and Other Drugs Act 1974*.

*[Section 1 amended: No. 3 of 2015 s. 6.]*

### **2. Commencement**

The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

*[3. Deleted: No. 10 of 1998 s. 76.]*

### **4. Terms used**

In this Act, unless the context requires otherwise —

**CEO** means the chief executive officer of the Department;

**Department** means the department of the Public Service principally assisting the Minister in administering this Act;

**facility** means premises maintained by the CEO for the assessment, treatment, management, care or rehabilitation of persons experiencing alcohol or other drug use problems or co-occurring health issues, including persons who have or may have a mental illness;

**medical practitioner** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

**Ministerial Body** means the Alcohol and Other Drugs Ministerial Body established by section 5;

**staff member** means —

- (a) a public service officer referred to in section 15(1)(a); or
- (b) a person appointed under section 15(1)(b) or (c); or



- (c) a person who is seconded to the Department under section 16(2).

*[Section 4 amended: No. 32 of 1994 s. 19; No. 22 of 2008 Sch. 3 cl. 2; No. 35 of 2010 s. 25; No. 3 of 2015 s. 7.]*

## **Part 2 — Administration**

*[Heading inserted: No. 3 of 2015 s. 8.]*

### **Division 1 — Role of Minister**

*[Heading inserted: No. 3 of 2015 s. 8.]*

#### **5. Establishment of Ministerial Body**

- (1) The Alcohol and Other Drugs Ministerial Body is established.
- (2) The Ministerial Body is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Ministerial Body in its corporate name.
- (4) The Ministerial Body must be governed by the Minister.
- (5) The Ministerial Body has the status, immunities and privileges of the Crown.

*[Section 5 inserted: No. 3 of 2015 s. 8.]*

#### **6. Purpose and nature of Ministerial Body**

- (1) The Ministerial Body is established to provide a body corporate through which the Minister can perform any of the Minister's functions under this Act that can more conveniently be performed by a body corporate than an individual.
- (2) Any acts or things done through the Ministerial Body as described in subsection (1) must be regarded as —
  - (a) services under the control of the Department for the purposes of the *Financial Management Act 2006* section 52; and
  - (b) operations of the Department for the purposes of Part 5 of that Act.
- (3) Despite the employment under the *Public Sector Management Act 1994* of ministerial officers for the purpose of assisting the

Minister to perform functions that the Minister performs through the Ministerial Body, the Ministerial Body and those officers are not an organisation for the purposes of that Act.

*[Section 6 inserted: No. 3 of 2015 s. 8.]*

**7. Execution of documents by Ministerial Body**

- (1) The Ministerial Body must have a common seal.
- (2) A document is duly executed by the Ministerial Body if —
  - (a) the common seal of the Ministerial Body is affixed to it in accordance with subsections (3) and (4); or
  - (b) it is signed on behalf of the Ministerial Body by the Minister; or
  - (c) it is signed on behalf of the Ministerial Body, as authorised under subsection (5), by the CEO or another person.
- (3) The common seal of the Ministerial Body must not be affixed to a document except as authorised by the Ministerial Body.
- (4) The common seal of the Ministerial Body must be affixed to a document in the presence of the Minister and the Minister must sign the document to attest that the common seal was so affixed.
- (5) The Ministerial Body may, by writing under its seal, authorise the CEO or another person to execute deeds or other documents on behalf of the Ministerial Body, either generally or subject to any conditions or restrictions specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section must be presumed to be duly executed until the contrary is shown.
- (7) A document executed by the CEO or another person under this section without the common seal of the Ministerial Body must not be regarded as a deed unless it is executed as a deed as authorised under subsection (5).

- (8) When a document is produced bearing a seal purporting to be the common seal of the Ministerial Body, it must be presumed that the seal is the common seal of the Ministerial Body until the contrary is shown.
- (9) For the purposes of this Act, a facsimile of any of the following may be used —
- (a) the Ministerial Body's seal;
  - (b) the signature of the Minister;
  - (c) the signature of a person authorised under subsection (5) to execute deeds or other documents.
- (10) A deed or other document purporting to be endorsed with such a facsimile must be regarded as bearing the facsimile under subsection (9) until the contrary is shown.

*[Section 7 inserted: No. 3 of 2015 s. 8.]*

**8. Minister's powers to acquire and dispose of property**

- (1) In this section —
- acquire*** includes taking on lease or licence or in any other manner in which property may be acquired;
- dispose of*** includes disposing of by way of lease or licence or in any other manner in which property may be disposed of.
- (2) For the purposes of this Act, the Minister may —
- (a) acquire, hold, manage, improve, develop, dispose of and otherwise deal in real and personal property; and
  - (b) develop and turn to account any technology, software or other intellectual property and apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights; and
  - (c) provide and turn to account education and training services; and

- (d) provide and turn to account advertising opportunities or opportunities to participate in arrangements in the nature of advertising or having a purpose similar to advertising.

*[Section 8 inserted: No. 3 of 2015 s. 8.]*

**9. Delegation by Minister**

- (1) The Minister may delegate to the CEO any power or duty of the Minister under another provision of this Act.
- (2) Without limiting the powers or duties that may be delegated under this section, they include powers or duties that are to be exercised or performed in the course of governing the affairs of the Ministerial Body under section 5(4).
- (3) A delegation under this section must be in writing signed by the Minister.
- (4) The CEO cannot delegate a power or duty that is delegated to the CEO under this section.
- (5) The exercise or performance by the CEO of a power or duty that has been delegated to the CEO under this section is to be taken to be in accordance with the terms of the delegation unless the contrary is shown.
- (6) This section does not limit the ability of the Minister to perform a function through an officer or agent.

*[Section 9 inserted: No. 3 of 2015 s. 8.]*

**Division 2 — Role of CEO**

*[Heading inserted: No. 3 of 2015 s. 8.]*

**10. Administration of this Act**

Subject to the general control of the Minister and any directions or instructions given under the *Public Sector Management Act 1994* section 32 by the Minister to the CEO, the CEO must carry out the administration of this Act.

*[Section 10 inserted: No. 3 of 2015 s. 8.]*

**11. Functions of CEO**

- (1) The functions of the CEO include the following —
- (a) to provide assessment, treatment, management, care and rehabilitation of persons experiencing alcohol or other drug use problems or co-occurring health issues, including persons who have or may have a mental illness, and to subsidise and otherwise support, as the CEO thinks fit, any other persons or organisations providing any one or more of those things;
  - (b) subject to the Minister's consent, to establish and maintain premises for the assessment, treatment, management, care and rehabilitation of persons experiencing alcohol or other drug use problems or co-occurring health issues, including persons who have or may have a mental illness, and to subsidise and otherwise support, as the CEO thinks fit, other persons and organisations establishing or maintaining premises for any one or more of those purposes;
  - (c) subject to the Minister's consent, to establish and maintain accommodation for persons for whom assessment, treatment, management, care or rehabilitation services are provided under this Act and to subsidise and otherwise support, as the CEO thinks fit, other persons and organisations establishing or maintaining such accommodation;
  - (d) to provide such other facilities and services as the CEO considers necessary or desirable for the purposes of this Act;
  - (e) to determine the persons or classes of person for whom the CEO may provide facilities or services under this Act or in respect of whom the CEO may subsidise or otherwise support other persons and organisations providing facilities and services consistent with the purposes of this Act;

- (f) to coordinate, promote, and subsidise, in Western Australia research into and education on the causation, prevention, reduction and treatment of alcohol and other drug use problems and co-occurring health issues such as mental illness;
  - (g) to inquire into offences in which the use of alcohol or other drugs or both is an element, and the penalties for those offences, and to make recommendations to the Minister and Attorney General in relation to the need for, or desirability of, legislative action in the community interest in relation to those offences and penalties;
  - (h) subject to the Minister's consent, to cooperate and enter into agreement with other persons and organisations, in this State or otherwise, to such extent as may be necessary for the purposes of this Act.
- (2) For the purposes of subsection (1)(b), (c) and (h), the Minister's consent may be given subject to such terms and conditions as the Minister thinks fit.

*[Section 11 inserted: No. 3 of 2015 s. 8.]*

## **12. Powers of CEO**

The CEO may do anything necessary or convenient for the performance of the CEO's functions under this Act.

*[Section 12 inserted: No. 3 of 2015 s. 8.]*

## **13. Delegation by CEO**

- (1) The CEO may delegate any power or duty of the CEO under another provision of this Act to —
- (a) a staff member; or
  - (b) with the approval of the Minister, any other person.

- (2) The Minister must not approve a delegation under subsection (1)(b) unless satisfied that the delegation is necessary or convenient having regard to —
  - (a) the functions of the Department; or
  - (b) the specialised knowledge, expertise or resources of the person to whom the power or duty is delegated.
- (3) A delegation under this section must be in writing signed by the CEO.
- (4) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (5) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) This section does not limit the ability of the CEO to perform a function through an officer or agent.

*[Section 13 inserted: No. 3 of 2015 s. 8.]*

### **Division 3 — Role of Alcohol and Other Drugs Advisory Board**

*[Heading inserted: No. 3 of 2015 s. 8.]*

#### **14. Establishment of Board**

- (1) The Minister must establish the Alcohol and Other Drugs Advisory Board to provide advice to the CEO about matters relevant to the performance of functions under section 11.
- (2) Subsection (1) does not authorise the Minister to establish a body corporate.
- (3) The Board must consist of the people that the Minister thinks fit to appoint.



- (4) The Board must be established by an instrument signed by the Minister that —
  - (a) identifies the members of the Board and the length and conditions of each of their appointments; and
  - (b) sets out the duties and responsibilities of the Board; and
  - (c) sets out any other matters in relation to the operation and procedures of the Board that the Minister considers appropriate.
- (5) The Minister may, by instrument signed by the Minister, amend or cancel an instrument made under subsection (4).
- (6) Except to the extent that its procedures are set out in an instrument made under subsection (4), the Board may determine its own procedures.
- (7) The members of the Board are entitled to any remuneration and allowances that the Minister may determine on the recommendation of the Public Sector Commissioner.

*[Section 14 inserted: No. 3 of 2015 s. 8.]*

#### **Division 4 — Staff**

*[Heading inserted: No. 3 of 2015 s. 8.]*

### **15. Appointment of staff**

- (1) For the purposes of this Act, the following persons may be employed or engaged in the Department —
  - (a) public service officers appointed or made available under the *Public Sector Management Act 1994* Part 3;
  - (b) medical practitioners appointed by the CEO;
  - (c) wages staff appointed by the CEO.
- (2) Subject to any relevant award or industrial agreement, the terms and conditions of an appointment under subsection (1)(b) or (c) are to be such terms and conditions as the CEO, with the approval of the Public Sector Commissioner, determines.

- (3) A person appointed under subsection (1)(b) or (c) is not a person appointed under the *Public Sector Management Act 1994* Part 3.

*[Section 15 inserted: No. 3 of 2015 s. 8.]*

**16. Secondments**

- (1) In this section —  
*employer* means —
- (a) an employing authority as defined in the *Public Sector Management Act 1994* section 3(1); or
  - (b) an employer outside the Public Sector as defined in the *Public Sector Management Act 1994* section 3(1).
- (2) The CEO may arrange with another employer for an employee of that other employer to perform duties in the service of the Department for the purposes of this Act.
- (3) The CEO may, with the consent of a person appointed under section 15(1)(b) or (c), arrange with another employer for the person to perform duties in the service of that other employer for the purposes of this Act.

*[Section 16 inserted: No. 3 of 2015 s. 8.]*

**17. Contracts for services**

- (1) The CEO may engage a person to perform services for the purposes of this Act under a contract for services on the terms and conditions (including as to remuneration) that the CEO thinks fit.
- (2) A person engaged under subsection (1) is not a person appointed under the *Public Sector Management Act 1994* Part 3.

*[Section 17 inserted: No. 3 of 2015 s. 8.]*

**18. Relationship to *Public Sector Management Act 1994***

The CEO's powers under this Division are in addition to, and do not affect, the CEO's powers under the *Public Sector Management Act 1994* as an employing authority.

*[Section 18 inserted: No. 3 of 2015 s. 8.]*

### **Part 3 — Facilities for alcohol and other drug use problems**

*[Heading inserted: No. 3 of 2015 s. 8.]*

#### **19. Facilities**

The CEO may, with the Minister's approval, with respect to any facility —

- (a) prohibit or regulate the admission of persons to, or the right of persons to remain in, the facility; or
- (b) fix fees for any service provided at the facility and determine the persons or classes of person who are liable for payment of those fees in full or in part or who may be exempted from such payment.

*[Section 19 inserted: No. 3 of 2015 s. 8.]*

#### **20. Procedure on deaths or serious injuries in facilities**

- (1) The CEO must hold an inquiry into the death of, or any serious injury caused to, any person while in a facility for assessment, treatment, management, care or rehabilitation.
- (2) The person in charge of a facility must report to the CEO with respect to the circumstances surrounding the death of, or any serious injury caused to, any person while in a facility for assessment, treatment, management, care or rehabilitation.

*[Section 20 inserted: No. 3 of 2015 s. 8.]*

*[21-26. Deleted: No. 3 of 2015 s. 8.]*

*[Pt. IV: s. 27-30 and 32 deleted: No. 3 of 2016 s. 8; s. 31 and 33 deleted: No. 98 of 1985 s. 3]*

## **Part 5 — Miscellaneous provisions**

*[Heading amended: No. 3 of 2015 s. 9.]*

### **34. Recovery of fees**

A fee payable under this Act is recoverable, by a staff member authorised by the CEO, in a court of competent jurisdiction as a debt due to the State.

*[Section 34 inserted: No. 3 of 2015 s. 10.]*

*[35. Deleted: No. 3 of 2015 s. 10.]*

### **36. Regulations**

- (1) The Governor may make such regulations, not inconsistent with this Act, as are necessary or desirable for the proper administration of this Act or for achieving the purposes of this Act.
- (2) Without limiting the generality of subsection (1) the Governor may make regulations —
  - (a) regulating the general conduct of persons while in a facility for assessment, treatment, management, care or rehabilitation and of visitors to a facility;
  - (b) for prohibiting and preventing trespass on a facility.
- (3) The regulations may prescribe penalties, not exceeding a fine of \$500, in respect of a breach of any of the regulations.
- (4) The regulations may require that any information, account, document, or form required to be given or furnished under the regulations must be verified by statutory declaration.
- (5) A regulation —
  - (a) may be limited in its application to time, place, or circumstance; and
  - (b) may provide that any act or thing done must be done with the approval or to the satisfaction of a specified

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person or class of persons and may confer a discretionary authority.

*[Section 36 amended: No. 3 of 2015 s. 11.]*

**37. Review of this Act**

- (1) The Minister must review the operation and effectiveness of this Act as soon as practicable after the expiry of 5 years from the commencement of the *Alcohol and Drug Authority Amendment Act 2015* section 8.
- (2) The Minister must, as soon as practicable —
  - (a) prepare a report about the outcome of the review; and
  - (b) cause a copy of the report to be laid before each House of Parliament.

*[Section 37 inserted: No. 3 of 2015 s. 12.]*

## **Part 6 — Transitional matters for *Alcohol and Drug Authority Amendment Act 2015***

*[Heading inserted: No. 3 of 2015 s. 13.]*

### **Division 1 — Interpretation**

*[Heading inserted: No. 3 of 2015 s. 13.]*

#### **38. Terms used**

In this Part —

***amended Act*** means this Act as amended by the *Alcohol and Drug Authority Amendment Act 2015* section 8;

***assets*** —

- (a) means any legal or equitable estates or interests (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description; and
- (b) includes money, securities, choses in action and documents;

***Authority*** means the Western Australian Alcohol and Drug Authority established by the former Act section 5;

***former Act*** means this Act as in force immediately before transition day;

***LAA*** means the *Land Administration Act 1997*;

***liabilities*** means any liabilities, duties or obligations, whether actual, contingent or prospective, liquidated or unliquidated or whether owed alone or jointly or jointly and severally with any other persons;

***Minister for Lands*** means the Minister as defined in the LAA section 3(1);

***operating account*** means an agency special purpose account established under the *Financial Management Act 2006* section 16;

**relevant official** means —

- (a) the Registrar of Titles; or
- (b) the Registrar of Deeds and Transfers; or
- (c) any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or any other property;

**relevant successor** means —

- (a) the Minister in relation to a function of the Authority that becomes a function of the Minister on transition day; or
- (b) the CEO in relation to a function of the Authority that becomes a function of the CEO on transition day; or
- (c) the Ministerial Body in relation to assets and liabilities assigned to the Ministerial Body by section 41; or
- (d) the State in relation to assets and liabilities of the Authority assigned to the State by section 41;

**rights** means any rights, powers, privileges or immunities, whether actual, contingent or prospective;

**statutory transition** —

- (a) means the transition from the provisions of the former Act to the amended Act; and
- (b) includes the transition from the Authority to a relevant successor;

**this Part** includes regulations made under section 56(2);

**transfer order** means an order made under section 42;

**transition day** means the day on which the *Alcohol and Drug Authority Amendment Act 2015* section 8 comes into operation.

[Section 38 inserted: No. 3 of 2015 s. 13.]



## **Division 2 — Authority and its members**

*[Heading inserted: No. 3 of 2015 s. 13.]*

### **39. Authority abolished**

On transition day, the Authority is abolished and the members of the Authority go out of office.

*[Section 39 inserted: No. 3 of 2015 s. 13.]*

### **40. Immunity continues**

Despite the abolition of the Authority by section 39, if the Authority had the benefit of any immunity in respect of an act, matter or thing done or omitted before transition day, that immunity continues on and after transition day in that respect for the benefit of a relevant successor so far as the act, matter or thing is within the relevant successor's functions.

*[Section 40 inserted: No. 3 of 2015 s. 13.]*

## **Division 3 — Authority's assets, rights and liabilities**

*[Heading inserted: No. 3 of 2015 s. 13.]*

### **41. Transfer to Ministerial Body or State**

- (1) On transition day —
  - (a) the assets of the Authority specified in a transfer order are assigned to and become the assets of the Ministerial Body; and
  - (b) the rest of the assets of the Authority are assigned to and become the assets of the State.
- (2) On transition day —
  - (a) the liabilities of the Authority specified in a transfer order are assigned to and become the liabilities of the Ministerial Body; and
  - (b) the rest of the liabilities of the Authority are assigned to and become the liabilities of the State.

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- (3) On transition day, the Ministerial Body is substituted for the Authority as a party to any proceedings specified in a transfer order.
- (4) On and after transition day, any agreement or instrument specified in a transfer order has effect as if references to the Ministerial Body were substituted, in accordance with the order, for references to the Authority.
- (5) On and after transition day, any proceedings or remedy that might have been commenced by or against, or might have been available to or against, the Authority in relation to the assets and liabilities assigned by subsections (1) and (2) may be commenced by or against, or are available to or against —
  - (a) the Ministerial Body in the case of assets and liabilities assigned by subsections (1)(a) and (2)(a); and
  - (b) the State in the case of assets and liabilities assigned by subsections (1)(b) and (2)(b).
- (6) On and after transition day, an act or omission done or omitted in relation to the assets and liabilities assigned by subsections (1) and (2) before the assignment by, to or in respect of the Authority is, to the extent that the act or omission has any effect, to be taken to have been done or omitted by, to or in respect of —
  - (a) the Ministerial Body in the case of the assets and liabilities assigned by subsections (1)(a) and (2)(a); and
  - (b) the State in the case of assets and liabilities assigned by subsections (1)(b) and (2)(b).

*[Section 41 inserted: No. 3 of 2015 s. 13.]*

**42. Transfer orders**

- (1) To facilitate the statutory transition, the Minister may, by order published in the *Gazette* (a **transfer order**), specify all or any of the following —
  - (a) assets and liabilities of the Authority that are to be assigned to the Ministerial Body by operation of section 41;

- (b) proceedings in which the Ministerial Body is to be substituted for the Authority as a party by operation of section 41;
  - (c) agreements and instruments that, by operation of section 41, are to have effect as if references to the Ministerial Body were substituted, in accordance with the order, for references in the agreements and instruments to the Authority.
- (2) A transfer order may also deal with any matter that is incidental or supplementary to a matter to which subsection (1) relates and the transfer order has effect accordingly.
  - (3) A transfer order may specify things by reference to one or more schedules that —
    - (a) need not be published in the *Gazette*; but
    - (b) must be available for public inspection.
  - (4) Anything specified in a schedule for a transfer order is to be taken to be specified in the transfer order.
  - (5) A thing may be specified in a transfer order by describing the class to which it belongs.
  - (6) Before a transfer order is made specifying an interest in land that, under the LAA, can only be assigned with the approval of the Minister for Lands, the Minister must obtain that approval.
  - (7) Before a transfer order is made specifying anything by reference to a schedule, the Minister must consult each relevant official about the form and content of the schedule.
  - (8) To the extent to which a schedule for a transfer order relates to the functions of the Registrar of Titles, the schedule must be in a form that meets the requirements of the Registrar.
  - (9) A thing done by, under or for the purposes of this Part is not invalid merely because subsection (7) or (8) was not complied with.

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- (10) The fact that a previous transfer order has been made does not prevent a further transfer order from being made.
- (11) The Minister may, by order published in the *Gazette*, amend a transfer order or a schedule for a transfer order.
- (12) A transfer order, or an amendment to a transfer order or to a schedule for a transfer order, can only be made before transition day.

*[Section 42 inserted: No. 3 of 2015 s. 13.]*

**43. Correction of errors in transfer orders**

- (1) The Minister may, by order published in the *Gazette*, make any provision that is necessary to correct any error in a transfer order or a schedule for a transfer order.
- (2) An order made under subsection (1) may have effect on and after transition day.
- (3) To the extent that an order made under subsection (1) has effect before the day of its publication in the *Gazette*, section 41 does not operate as a result of the order so as —
  - (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of its publication; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted before the day of its publication.

*[Section 43 inserted: No. 3 of 2015 s. 13.]*

**44. Reserves managed by Authority**

- (1) This section applies to any Crown land that, immediately before transition day, was a reserve under the LAA section 41 for which the Authority was the management body under the LAA section 46(1).

- (2) On transition day —
- (a) Crown land to which this section applies is to be taken to be a reserve under the LAA section 41 for the purposes of the *Alcohol and Other Drugs Act 1974*; and
  - (b) the Ministerial Body is to be taken to be the management body of the reserve under the LAA section 46(1).
- (3) For the purposes of section 45 and the purposes of the LAA —
- (a) subsection (2)(a) must be treated as if it were an order made under the LAA section 51 changing the purpose of the reserve; and
  - (b) subsection (2)(b) must be treated as if it were —
    - (i) an order made under the LAA section 50(1)(a) revoking the management order placing the care, control and management of the reserve with the Authority and specifying that any interests that existed in, or any caveats that existed in respect of, the reserve immediately before transition day continue to exist in respect of the reserve on and after transition day; and
    - (ii) a management order made under the LAA section 46(1) placing the care, control and management of the reserve with the Ministerial Body subject to any conditions (with the changes necessary to take account of differences as to purpose and management body) to which the management order referred to in subparagraph (i) was subject immediately before transition day.

*[Section 44 inserted: No. 3 of 2015 s. 13.]*

#### **45. Registration of documents**

- (1) The relevant officials —
- (a) must take notice of this Part and any transfer order, including any schedule for the transfer order; and

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- (b) must record and register in the appropriate manner the documents necessary to show the effect of this Part and any transfer order.
- (2) The Minister must give a copy of each transfer order and any schedule for it, and any amendment to a transfer order or to a schedule for a transfer order, to each relevant official.

*[Section 45 inserted: No. 3 of 2015 s. 13.]*

**46. Authority to complete necessary transactions**

- (1) If an asset or liability of the Authority cannot be properly assigned to the Ministerial Body or the State by the operation of this Division (whether because the matter is governed otherwise than by the law of the State or for any other reason) —
  - (a) the Authority is to be taken to continue to hold that asset or be liable for that liability until it is effectively assigned to the Ministerial Body or the State in accordance with this Division; and
  - (b) the Authority must take all practicable steps for the purpose of ensuring that the asset or liability is effectively assigned to the Ministerial Body or the State in accordance with this Division.
- (2) The fact that subsection (1)(a) applies to an asset or liability that is to be assigned to the Ministerial Body or the State under this Division does not affect the duty of the accountable authority of the Department under the *Financial Management Act 2006*.
- (3) Despite section 39, the Authority continues in existence for the purpose of performing the functions described in subsection (1).
- (4) The Authority must perform those functions through a person appointed by the Minister.
- (5) The person holds office at the pleasure of the Minister and on such terms and conditions as the Minister determines.

- (6) The Authority as continued by this section has the powers that are necessary or convenient for the purposes of this section.

*[Section 46 inserted: No. 3 of 2015 s. 13.]*

**47. Exemption from State tax**

- (1) In this section —

*State tax* includes —

- (a) duty chargeable under the *Duties Act 2008*; and
- (b) any other tax, duty, fee, levy or charge under a law of the State.

- (2) State tax is not payable in relation to —

- (a) anything that occurs by operation of this Part; or
- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Part, or to give effect to this Part, or for a purpose connected with or arising out of giving effect to this Part.

- (3) The Minister may certify in writing that —

- (a) a specified thing occurred by operation of this Part; or
- (b) a specified thing was done under this Part, or to give effect to this Part, or for a purpose connected with or arising out of giving effect to this Part.

- (4) For all purposes and in all proceedings, a certificate under subsection (3) is sufficient evidence of the matters it certifies unless the contrary is shown.

*[Section 47 inserted: No. 3 of 2015 s. 13.]*

**48. Operating accounts of Authority**

- (1) In this section —

*former accounts* means —

- (a) the Western Australian Alcohol and Drug Authority Account referred to in the former Act section 28(2); and

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- (b) any other operating accounts of the Authority.
- (2) On transition day, any moneys standing to the credit of the former accounts must be credited to an operating account of the Department and the former accounts must then be closed.
- (3) Moneys referred to in subsection (2) may be applied —
  - (a) in the payment of any liabilities of the former accounts arising before transition day; and
  - (b) for the purposes of this Act.
- (4) The operating account referred to in subsection (2) must be credited with any money payable to the former accounts before transition day that is paid on or after that day.
- (5) On and after transition day, any agreement, instrument or other document that contains a reference to any of the former accounts has effect as if the reference were to the operating account referred to in subsection (2).

*[Section 48 inserted: No. 3 of 2015 s. 13.]*

**49. Investments**

- (1) Despite the repeal of the former Act Part IV, the investment of any funds of the Authority that was authorised under the former Act section 30 immediately before transition day continues on and after transition day to be authorised as if that section had not been repealed.
- (2) Funds referred to in subsection (1) that cease to be invested as described in that subsection must be credited to an operating account of the Department.

*[Section 49 inserted: No. 3 of 2015 s. 13.]*





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- (b) affect the person's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave; or
  - (c) affect any rights under a superannuation scheme; or
  - (d) interrupt the continuity of the person's service.
- (3) For the purposes of subsection (2)(d), the person's service with the Authority is to be taken to have been service in the Department.

*[Section 51 inserted: No. 3 of 2015 s. 13.]*

**Division 5 — Continuation of certain things**

*[Heading inserted: No. 3 of 2015 s. 13.]*

**52. Completion of things done**

Anything commenced to be done by the Authority before transition day may be continued on and after transition day by a relevant successor so far as the doing of the thing is within the relevant successor's functions.

*[Section 52 inserted: No. 3 of 2015 s. 13.]*

**53. Continuing effect of things done**

- (1) This section applies in relation to an act or omission done or omitted before transition day by, to or in respect of the Authority to the extent that the act or omission —
- (a) has force or significance; and
  - (b) is not governed by another provision of this Part.
- (2) On and after transition day, the act or omission is to be taken to have been done or omitted by, to or in respect of a relevant successor so far as the act or omission relates to the relevant successor's functions.

*[Section 53 inserted: No. 3 of 2015 s. 13.]*

**54. Agreements, instruments, proceedings and remedies generally**

- (1) Subsection (2) applies to any agreement or instrument to which section 41 does not apply.
- (2) On and after transition day, any agreement or instrument that contains a reference to the Authority has effect as if the reference were to a relevant successor so far as the reference relates to the relevant successor's functions, unless the context otherwise requires.
- (3) Subsection (4) applies in relation to any proceedings or remedy to which section 41 does not apply.
- (4) On and after transition day, any proceedings or remedy that might have been commenced or continued by or against, or might have been available to or against, the Authority may be commenced or continued by or against, or is available to or against, a relevant successor so far as the proceedings or remedy are in respect of an act, matter or thing that is within the relevant successor's functions.

*[Section 54 inserted: No. 3 of 2015 s. 13.]*

**Division 6 — Other matters**

*[Heading inserted: No. 3 of 2015 s. 13.]*

**55. Authority's records to be delivered to CEO**

As soon as practicable after transition day, all papers, documents, minutes, books of account and other records (however compiled, recorded or stored) of the Authority must be delivered to the CEO.

*[Section 55 inserted: No. 3 of 2015 s. 13.]*

**56. Transitional regulations**

(1) In this section —

*publication day*, for regulations made under subsection (2), means the day on which those regulations are published in the *Gazette*;

*specified* means specified or described in regulations made under subsection (2);

*transitional matter* —

- (a) means a matter that needs to be dealt with for the purpose of effecting the statutory transition; and
- (b) includes a saving or application matter.

(2) If there is no sufficient provision in this Part or in a transfer order for dealing with a transitional matter, the Governor may make regulations prescribing matters —

- (a) required to be prescribed for the purpose of dealing with the transitional matter; or
- (b) necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.

(3) Regulations made under subsection (2) may provide that specified provisions of this Act —

- (a) do not apply to or in relation to a specified matter; or
- (b) apply with specified modifications to or in relation to a specified matter.

(4) If regulations made under subsection (2) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and after a day that is earlier than publication day for those regulations but not earlier than transition day, the regulations have effect according to their terms.

- (5) If regulations made under subsection (2) contain a provision referred to in subsection (4), the provision does not operate so as —
- (a) to affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that person existing before publication day for those regulations; or
  - (b) to impose liabilities on a person (other than the State or an authority of the State) in respect of an act done or omission made before publication day for those regulations.
- (6) Regulations can only be made under subsection (2) within 24 months after the day on which the *Alcohol and Drug Authority Amendment Act 2015* receives the Royal Assent.

*[Section 56 inserted: No. 3 of 2015 s. 13.]*

**57. Effect on other instruments, rights and obligations**

The operation of this Part or a transfer order must not be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information; or
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any assets, rights or liabilities; or
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

*[Section 57 inserted: No. 3 of 2015 s. 13.]*

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**58. *Interpretation Act 1984 not affected***

Except to the extent this Part expressly provides differently, the *Interpretation Act 1984* applies in relation to the repeal of an enactment by the *Alcohol and Drug Authority Amendment Act 2015* Part 2.

*[Section 58 inserted: No. 3 of 2015 s. 13.]*



## Notes

This is a compilation of the *Alcohol and Other Drugs Act 1974* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Alcohol and Drug Authority Act 1974</i> <sup>2</sup>	32 of 1974	4 Nov 1974	29 Nov 1974 (see s. 2 and <i>Gazette</i> 29 Nov 1974 p. 5167)
<i>Acts Amendment and Repeal (Disqualification for Parliament) Act 1984 Pt. II</i>	78 of 1984	14 Nov 1984	1 Jul 1985 (see s. 2 and <i>Gazette</i> 17 May 1985 p. 1671)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Public Service) Act 1987 s. 32</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Guardianship and Administration Act 1990 s. 123</i>	24 of 1990	7 Sep 1990	20 Oct 1992 (see s. 2 and <i>Gazette</i> 2 Oct 1992 p. 4811)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 48 and 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Trustees Amendment Act 1997 s. 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 76</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<b>Reprint of the <i>Alcohol and Drug Authority Act 1974</i> as at 1 Apr 1999</b> (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006 Sch. 1 cl. 8</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Medical Practitioners</i>	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and

## **Alcohol and Other Drugs Act 1974**

### **Notes** Uncommenced provisions table

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Act 2008 Sch. 3 cl. 2</i>			<i>Gazette 25 Nov 2008 p. 4989)</i>
<i>Acts Amendment (Bankruptcy) Act 2009 s. 8</i>	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<b>Reprint 2: The Alcohol and Drug Authority Act 1974 as at 5 Feb 2010</b> (includes amendments listed above)			
<i>Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 2</i>	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette 1 Oct 2010 p. 5075-6)</i>
<i>Public Sector Reform Act 2010 s. 90</i>	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette 5 Nov 2010 p. 5563)</i>
<i>Alcohol and Drug Authority Amendment Act 2015 Pt. 2</i>	3 of 2015	25 Feb 2015	s. 13: 25 Feb 2015 (see s. 2(a)); Pt. 2 (other than s. 13): 1 Jul 2015 (see s. 2(b) and <i>Gazette 10 Apr 2015 p. 1249)</i>
<b>Reprint 3: The Alcohol and Other Drugs Act 1974 as at 5 Feb 2016</b> (includes amendments listed above)			

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### **Uncommenced provisions table**

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 29</i>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))

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### **Other notes**

- <sup>1</sup> Repealed by the *Public Sector Management (Redeployment and Redundancy) Regulations 2014*.
- <sup>2</sup> Now known as the *Alcohol and Other Drugs Act 1974*; short title amended (see note under s. 1).



## 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>
acquire.....	8(1)
amended Act .....	38
assets .....	38
Authority.....	38
CEO .....	4
Department.....	4
dispose of .....	8(1)
employer .....	16(1)
facility .....	4
former accounts.....	48(1)
former Act.....	38
LAA .....	38
liabilities .....	38
medical practitioner .....	4
Minister for Lands .....	38
Ministerial Body .....	4
operating account .....	38
publication day.....	56(1)
relevant official .....	38
relevant successor .....	38
rights .....	38
specified .....	56(1)
staff member .....	4
State tax .....	47(1)
statutory transition .....	38
this Part .....	38
transfer order.....	38, 42(1)
transition day.....	38
transitional matter .....	56(1)