

# ALCOHOL AND DRUG AUTHORITY.

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No. 32 of 1974.

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AN ACT for the purposes of constituting a body corporate with the functions of providing treatment, management, care, and rehabilitation of persons who are suffering from the consumption or use of alcoholic or other intoxicating liquors or drugs to excess; promoting and subsidising research and educational facilities directed at prevention and treatment of alcohol and drug abuse, and with further functions related thereto, and for incidental and other purposes.

*[Assented to 4th November, 1974.]*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Alcohol and Drug Authority Act, 1974.*

Commencement.

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

Arrangement.

3. The arrangement of this Act is as follows—

PART I.—PRELIMINARY.

PART II.—ALCOHOL AND DRUG AUTHORITY.

*Division 1.—Establishment and Terms of Office.*

*Division 2.—General Functions, Powers, and Duties.*

*Division 3.—Staff.*

PART III.—ALCOHOL AND DRUG CENTRES.

PART IV.—FINANCIAL PROVISIONS.

PART V.—MISCELLANEOUS PROVISIONS.

Interpretation.

4. In this Act, unless the context requires otherwise—

“Authority” means the Western Australian Alcohol and Drug Authority established under this Act;

“Chairman” means the Chairman of the Authority;

“Centre” means premises maintained by the Authority for the assessment, treatment, management, care, or rehabilitation of persons suffering from alcohol or drug abuse;

“Deputy Chairman” means the Deputy Chairman of the Authority;

“medical practitioner” has the meaning assigned to it in section 3 of the Medical Act, 1894;

“member” means a member of the Authority;

“Public Service Board” means the Public Service Board established by Part II of the Public Service Act, 1904;

“section” means section of this Act;

“subsection” means a subsection of the section wherein the term is used.

PART II.—ALCOHOL AND DRUG AUTHORITY.

*Division 1.—Establishment and Terms of Office.*

5. (1) For the purposes of this Act an authority shall be established consisting of four members appointed by the Governor, one at least of whom shall be a medical practitioner.

Establishment and incorporation.

(2) The Governor shall appoint one member to be Chairman and another member to be Deputy Chairman of the Authority.

(3) The Minister shall cause notice of appointments to the respective offices of members to be published in the *Government Gazette*.

(4) When notice of the appointment of the first four members is so published the Authority is thereby incorporated as a body corporate by the name of “Western Australian Alcohol and Drug Authority” and under that corporate name—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may sue and be sued in any court;
- (d) may take, purchase, and hold real and personal property including property devised, bequeathed, or given to the Authority;

- (e) may, with the approval of the Governor, sell, alienate, mortgage, charge, and demise real or personal property;
- (f) may sell, assign, or charge personal property; and
- (g) may do and suffer all other things which bodies corporate may by law do and suffer.

(5) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document, and presume it was duly affixed.

Term of office.

6. Subject to this Act, each member shall hold office for such period not exceeding three years as the Governor may fix at the time of the member's appointment.

Re-appointment.

7. All members, on the expiration of their term are, unless otherwise disqualified, eligible for re-appointment.

Leave of absence.

8. The Authority may grant leave of absence to a member on such terms and conditions as the Authority determines.

Dismissal of members.

9. The Governor may terminate the appointment of a member for inability, inefficiency, or misbehaviour.

Vacation of office.

10. If a member—

- (a) dies;
- (b) resigns his office by writing under his hand delivered to the Minister;
- (c) is an incapable person within the meaning of section 5 of the Mental Health Act, 1962;

- (d) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (e) is convicted of an indictable offence;
- (f) is absent without leave of the Authority for more than three consecutive meetings of the Authority;
- (g) has his appointment terminated under section 9; or
- (h) being a medical practitioner at the time of his appointment ceases to be one,

his office shall become vacant and shall be filled as a casual vacancy in accordance with section 11.

11. Where a casual vacancy occurs in the office of a member the vacancy may be filled by such person as the Governor thinks fit, and the person who fills the vacancy shall, subject to this Act, hold office as member for the residue of his predecessor's term of office, but, if by reason of the vacancy there is no member who is a medical practitioner, the person who fills the vacancy shall be a medical practitioner.

Casual  
vacancy.

12. (1) Where the Minister is satisfied that a member is prevented by illness, absence, or other reasonable cause from performing his duties as a member, the Minister may appoint such person as the Minister thinks fit to be an acting member to act for the member and that person, while he so acts, shall be deemed to be a member, but, if the member is the only member who is a medical practitioner, the person appointed to act for him shall be a medical practitioner.

Acting  
members.

(2) The Minister may at any time terminate the appointment of an acting member.

13. (1) The Authority shall hold such meetings as are necessary for the exercise of its functions.

Meetings  
of the  
Authority.

(2) The Chairman, or if the Chairman is absent, or his office is vacant, the Deputy Chairman, may convene meetings of the Authority.

(3) If the Chairman is absent from a meeting of the Authority the Deputy Chairman shall preside at the meeting, and when doing so, shall have all the powers and duties of the Chairman.

(4) At a meeting of the Authority two members shall constitute a quorum.

(5) Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit.

Validity of acts of the Authority.

14. No act, proceeding, or determination of the Authority shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member or in the appointment of any acting member.

Remuneration of members.

15. The members shall be paid such fees and allowances as may from time to time be fixed by the Governor.

Office of member not office of profit under or from the Crown.  
(cf. 63 Vict. No. 19 as amended ss. 37, 38.)

16. Notwithstanding section 15, the offices of members or acting members shall be deemed not to be offices of profit under or from the Crown.

*Division 2.—General Functions, Powers, and Duties.*

Administration of this Act.

17. (1) Subject to subsection (2), the Authority shall carry out the administration of this Act.

(2) The Minister may from time to time give directions to the Authority with respect to its functions, powers, and duties, either generally or with respect to a particular matter, and the Authority shall give effect to those directions.

18. The functions of the Authority include the following— Functions.

- (a) to provide assessment, treatment, management, care, and rehabilitation of persons suffering from alcohol or drug abuse, and to subsidise and otherwise support, as the Authority thinks fit, any other persons or organisations providing any one or more of those things;
- (b) to establish and maintain premises for the assessment, treatment, management, care, and rehabilitation of persons suffering from alcohol or drug abuse, and to subsidise and otherwise support, as the Authority thinks fit, other persons and organisations establishing or maintaining premises for any one or more of those purposes;
- (c) 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 Authority thinks fit, other persons and organisations establishing or maintaining such accommodation;
- (d) to provide such other facilities and services as the Authority considers necessary or desirable for the purposes of this Act;
- (e) to determine the persons or classes of persons for whom the Authority may provide facilities or services under this Act, or in respect of whom the Authority may subsidise or otherwise support other persons and organisations providing facilities and services consistent with the purposes of this Act;
- (f) to co-ordinate, promote, and subsidise, in Western Australia, research into and education on the causation, prevention, and treatment of alcohol and drug abuse;

- (g) to inquire into the respective provisions of the laws of this State with respect to offences in which the use of alcohol or drugs, or both, is an element, and with respect to the penalties for those offences, to consider the desirability or otherwise, in the community interest, of repealing or modifying any of those provisions, and to make such recommendations thereon to the Minister and the Attorney General as the Authority thinks fit;
- (h) to co-operate 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; and
- (i) such other functions as are prescribed by any other Act or regulation, by-law, or rule made under any other Act.

Powers.

19. The Authority may do all such acts and things as may be necessary to enable it to perform its functions effectively.

Annual  
report on  
administra-  
tion.

20. (1) The Authority shall annually make and furnish the Minister with a report on—

- (a) the general administration of this Act;
- (b) the state and condition of the Centres; and
- (c) such other matters as the Minister directs.

(2) The Minister shall lay the report before each House of Parliament within 12 sitting days of that House after its receipt from the Authority by the Minister.

*Division 3.—Staff.*

Officers and  
wages  
employees.

21. (1) For the purposes of this Act and subject to it, the Authority—

- (a) may, with the approval of the Public Service Board, appoint such officers of the Authority as the Authority thinks fit; and
- (b) may appoint such wages employees of the Authority as the Authority thinks fit.



(2) Subject to any relevant award or industrial agreement under the Industrial Arbitration Act, 1912, the terms and conditions of appointment and employment of officers and wages employees of the Authority, including the salary and wages payable, shall be such terms and conditions as the Authority, with the approval of the Public Service Board, determines.

(3) Where a person so appointed was, immediately before being so appointed, an officer or a wages employee in the service of a department of the Public Service of the State—

- (a) he retains his existing and any rights that may have accrued to him under the Act pursuant to which he was then serving, and, subject to section 22 of this Act, in particular his rights if any under the Superannuation and Family Benefits Act, 1938; and
- (b) for the purpose of determining those rights his service as such an officer or a wages employee shall be taken into account as if it were service with the Authority.

(4) A person appointed under the provisions of this section is not a person appointed under the Public Service Act, 1904, and the provisions of the Government Employees (Promotion Appeal Board) Act, 1945, do not apply to or in relation to an officer or a wages employee of the Authority.

22. (1) The Authority may request the Minister to whom the administration of the Superannuation and Family Benefits Act, 1938, is committed to recommend that the Authority be included as a corporate body in the term "department" for the purposes of that Act, and the Treasurer may, on such recommendation and upon the Authority complying with the requirements of that Act, approve of the Authority as, and the Authority shall thereupon be deemed to be, a department for the purposes of that Act.

Superannuation.

(2) An officer or a wages employee of the Authority is not obliged to become a contributor under the Superannuation and Family Benefits Act, 1938.

Co-opted and  
seconded  
staff.

23. (1) The Authority may, with the consent of the Minister administering any department of the Public Service of the State, for the purposes of this Act, co-opt the services, whether of an administrative, professional, technical, or other nature, of any person employed in any of those departments, or request the secondment of any such person, upon such terms as may be agreed between that Minister and the Authority with the approval of the Public Service Board.

(2) Where the services of any person are co-opted or a person is seconded under the provisions of this section, it does not prejudice that person's existing or accruing rights under the Public Service Act, 1904, or under any other Act applying to him as a public servant, and his service with the Authority under this Act shall be regarded as service in the Public Service of the State for the purposes of determining those rights.

Contractual  
services.

24. (1) The Authority may, with the approval of the Public Service Board, engage under contract for services such professional, technical, or other assistance as may be necessary to enable the Authority to perform its functions effectively.

(2) A person engaged under the provisions of subsection (1) is not a person appointed under the Public Service Act, 1904, and subject to this Act and to any award or agreement in force under the Industrial Arbitration Act, 1912, the Authority may effect, suspend, and terminate the engagement subject to such terms and conditions as the Authority thinks fit and the Public Service Board approves.

PART III.—ALCOHOL AND DRUG CENTRES.

25. The Authority, may with the approval of the Minister, from time to time with respect to any Centre—

Centres.

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

26. (1) An inquiry shall be held by the Authority as to the death or injury caused to any person in a Centre while he is there for assessment, treatment, management, care, or rehabilitation.

Procedure on deaths in Centres.

(2) The person in charge of a Centre shall report to the Authority with respect to the circumstances surrounding the death or injury to any person in a Centre, while he is there for assessment, treatment, management, care, or rehabilitation.

PART IV.—FINANCIAL PROVISIONS.

27. (1) The Authority shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report on the financial operations of the Authority during the period of twelve months immediately preceding that day, together with financial statements in such form as the Treasurer approves.

Report and financial statements of Authority.

(2) Before furnishing the financial statements to the Minister, the Authority shall submit them to the Auditor General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;

- (b) whether the statements are in agreement with the accounts and records and show a true and correct view of the financial position and transactions of the Authority;
- (c) whether the receipt, expenditure, and investment of moneys and other transactions of the Authority during the year to which the financial statements relate have been in accordance with this Act.

(3) The Minister shall lay the report and financial statements of the Authority, together with the report of the Auditor General, before each House of Parliament within twelve sitting days of that House after their receipt from the Authority by the Minister.

Funds  
of the  
Authority.

28. (1) The funds available to the Authority for the purpose of enabling it to exercise its functions, powers, and duties under this Act are—

- (a) moneys from time to time appropriated by Parliament for that purpose;
- (b) moneys received by the Authority by way of fees, gifts, bequests, or otherwise;
- (c) moneys borrowed by the Authority under this Act; and
- (d) moneys made available to the Authority for the purposes of this Act.

(2) The moneys referred to in subsection (1) shall be paid into and be placed to the credit of an account at the Treasury or at a bank approved by the Treasurer to be called "Western Australian Alcohol and Drug Authority Account".

(3) All expenditure incurred by the Authority for the purposes of giving effect to this Act, including the repayment of moneys borrowed by or advanced to the Authority in accordance with this Act, shall be paid from the account referred to in subsection (2).

29. (1) The Authority has power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out its powers and functions under this Act.

Power to borrow money.

(2) The Authority is authorized with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.

(3) The Treasurer is hereby authorized to so approve and to give the guarantee, including the guarantee of interest, in subsection (1), for and on behalf of the Crown in right of the State.

(4) Any moneys borrowed by the Authority under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve, but the amount of the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.

(5) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(6) The Authority shall use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

30. Where any money standing to the credit of the Western Australian Alcohol and Drug Authority Account is not immediately required for the purposes of this Act, the Authority may invest it in any investments authorized by law as those in which trust funds may be invested.

Power of the Authority to invest certain moneys.

31. (1) The Authority shall cause to be prepared and submitted to the Treasurer, under such headings and in such manner as the Treasurer directs, annual estimates of the revenue and

Annual estimates of the Authority.

expenditure of the Authority in connection with the carrying out of the functions, powers, and duties of the Authority.

(2) Before the annual estimates referred to in subsection (1) are submitted to the Treasurer as required by that subsection, they shall be submitted to, and approved by, the Minister.

Application  
of moneys  
received  
by the  
Authority.

32. The Authority shall apply for the objects of the Authority all fees and other moneys received by it under this Act or otherwise.

Audit.

33. (1) The Authority shall cause the financial records and accounts kept by the Authority to be open to the inspection of the Auditor General and any person authorized by him to inspect them, and shall permit the Auditor General and any person so authorized to make and take copies of or extracts from them.

(2) The Auditor General has and shall exercise in respect of such accounts the powers conferred on him by the Audit Act, 1904 in respect of accounts which are required to be inspected, examined, or audited under that Act, but shall arrange for a periodical or continuous audit of the accounts of the Authority.

#### PART V.—MISCELLANEOUS PROVISIONS.

Recovery of  
fees.

34. In any court of competent jurisdiction an officer of the Authority, who is authorized in writing by the Authority in that behalf, may recover for the Authority any fees that are payable to the Authority and have not been paid.

Protection  
of members.

35. (1) Any person who is, or has at any time been, a member or an acting member of the Authority is not personally liable for any act done, or omitted to be done, in good faith by the Authority or by him as a member or an acting member.

(2) Acceptance of or being in the office of member or acting member of the Authority by any person does not of itself render the provisions of the Public Service Act, 1904, or any other Act applying to persons as officers of the Public Service of the State, applicable to that member or acting member, or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of or being in that office.

36. (1) The Governor may make such regula- Regulations  
tions, not inconsistent with this Act, as he considers 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) for maintaining order and discipline and regulating the general conduct of inmates of and visitors to a Centre or any other place at which accommodation is provided by the Authority under this Act;

(b) for prohibiting and preventing trespass on the Centres.

(3) The regulations may prescribe penalties, not exceeding a fine of forty dollars, 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 thereunder shall be verified by statutory declaration.

(5) A regulation—

(a) may be limited in its application to time, place, or circumstance; and

No. 32.] *Alcohol and Drug Authority.* [1974.

(b) may provide that any act or thing done shall be done with the approval or to the satisfaction of a specified person or class of persons and may confer a discretionary authority.

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