



Western Australia

Alcohol and Drug Authority Act 1974

Compare between:

[01 Dec 2010, 02-f0-05] and [25 Feb 2015, 02-g0-01]

Western Australia

Alcohol and Drug Authority Act 1974

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.

Part I — Preliminary

1. Short title

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

2. Commencement

The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation¹.

[3. Deleted by No. 10 of 1998 s. 76.]

4. Terms used

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

member means a member of the Authority;

section means section of this Act;

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

[Section 4 amended by No. 32 of 1994 s. 19; No. 22 of 2008 Sch. 3 cl. 2; No. 35 of 2010 s. 35.]

Part II — Alcohol and Drug Authority

Division 1 — Establishment and terms of office

5. Establishment and incorporation

- (1) For the purposes of this Act an authority shall be established consisting of 4 members appointed by the Governor, one at least of whom shall be a medical practitioner.
- (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 4 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.

6. Term of office

Subject to this Act, each member shall hold office for such period not exceeding 3 years as the Governor may fix at the time of the member's appointment.

7. Re-appointment

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

8. Leave of absence

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

9. Dismissal of members

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

10. Vacation of office

If a member —

- (a) dies; or
- (b) resigns his office by writing under his hand delivered to the Minister; or
- (c) is a person in respect of whom an administration order is in force under Part 6 of the *Guardianship and Administration Act 1990*; or
- (d) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (e) is convicted of an indictable offence; or
- (f) is absent without leave of the Authority for more than 3 consecutive meetings of the Authority; or
- (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.

[Section 10 amended by No. 24 of 1990 s. 123; No. 18 of 2009 s. 8.]

11. Casual vacancy

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.

12. Acting members

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

13. Meetings of the Authority

- (1) The Authority shall hold such meetings as are necessary for the exercise of its functions.
- (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 2 members shall constitute a quorum.
- (5) Subject to this Act, the Authority may regulate its procedure in such manner as it thinks fit.

14. Validity of acts of Authority

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.

15. Remuneration of members

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

[16. Deleted by No. 18 of 1984 s. 3.]

Division 2 — General functions, powers, and duties

17. Administration of this Act

- (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. Functions of the Authority

The functions of the Authority include the following —

- (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 organizations 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 organizations 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 organizations 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 organizations 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 organizations, 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, local law, by-law, or rule made under any other Act.

[Section 18 amended by No. 14 of 1996 s. 4.]

19. Powers

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

[20. Deleted by No. 98 of 1985 s. 3.]

Division 3 — Staff

21. Officers and wages employees

- (1) For the purposes of this Act and subject to it, the Authority —
 - (a) may 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*², 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 Sector Commissioner, 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, in particular his rights if any under the *Superannuation and Family Benefits Act 1938*⁴; 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 Part 3 of the *Public Sector Management Act 1994*, and the provisions of the *Government Employees (Promotion Appeal Board) Act 1945*⁵, do not apply to or in relation to an officer or a wages employee of the Authority.
- (5) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1)(a) to be an officer of the Authority and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978*⁶ an inconsistency between this Act and that Act that Act shall prevail.

[Section 21 amended by No. 113 of 1987 s. 32; No. 32 of 1994 s. 19; No. 39 of 2010 s. 90.]

22. Superannuation

- (1) The Authority may request the Minister to whom the administration of the *Superannuation and Family Benefits Act 1938*⁴, 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.
- (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*⁴.

23. Co-opted and seconded staff

- (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.
- (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*⁷, 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.

[Section 23 amended by No. 32 of 1994 s. 19.]

24. Contractual services

- (1) The Authority may 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 Part 3 of the *Public Sector Management Act 1994*, and subject to this Act and to any award or agreement in force under the *Industrial Arbitration Act 1912*², the Authority may effect, suspend, and terminate the engagement subject to such terms and conditions as the Authority thinks fit.

[Section 24 amended by No. 32 of 1994 s. 19.]

Part III — Alcohol and drug centres

25. Centres

The Authority, may with the approval of the Minister, from time to time with respect to any centre —

- (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. Procedure on deaths in centres

- (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.
- (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. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

[Section 27 inserted by No. 98 of 1985 s. 3; amended by No. 77 of 2006 Sch. 1 cl. 8(1).]

28. Funds of the Authority

- (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) An account called the Western Australian Alcohol and Drug Authority Account is to be established —
 - (a) as an agency special purpose account under section 16 of the *Financial Management Act 2006*; or
 - (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which the moneys referred to in subsection (1) are to be credited.

- (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 charged to the account referred to in subsection (2).

[Section 28 amended by No. 49 of 1996 s. 48 and 64; No. 77 of 2006 Sch. 1 cl. 8(2).]

29. Power to borrow money

- (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.
- (2) The Authority is authorised 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 authorised 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. Power of the Authority to invest certain moneys

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

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may invest it in any investments authorised by law as in force immediately before the coming into operation of the *Trustees Amendment Act 1997*⁸ as those in which trust funds may be invested.

[Section 30 amended by No. 1 of 1997 s. 18.]

[31. Deleted by No. 98 of 1985 s. 3.]

32. Application of moneys received by the Authority

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

[33. Deleted by No. 98 of 1985 s. 3.]

Part V — Miscellaneous provisions

34. Recovery of fees

In any court of competent jurisdiction an officer of the Authority, who is authorised 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.

35. Protection of members

- (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 Part 3 of the *Public Sector Management Act 1994*, 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.

[Section 35 amended by No. 32 of 1994 s. 19.]

36. Regulations

- (1) The Governor may make such regulations, 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.

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- (3) The regulations may prescribe penalties, not exceeding a fine of \$40, 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
 - (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.

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

[Heading inserted by No. 3 of 2015 s. 13.]

Division 1 — Interpretation

[Heading inserted by 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;

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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 by No. 3 of 2015 s. 13.]

Division 2 — Authority and its members

[Heading inserted by 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 by 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 by No. 3 of 2015 s. 13.]

Division 3 — Authority's assets, rights and liabilities

[Heading inserted by 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 by 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.

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(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.

(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 by 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 by 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.

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[Section 44 inserted by 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

(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 by 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 by 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 by 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

(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 by 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 by No. 3 of 2015 s. 13.]

Division 4 — Authority's staff

[Heading inserted by No. 3 of 2015 s. 13.]

50. Employees of Authority

- (1) A person who, immediately before transition day, held an appointment under the former Act section 21(1)(a) that required the person to be a medical practitioner is to be taken, on and after transition day, to be appointed under the amended Act section 15(1)(b).
- (2) A person who, immediately before transition day, held another appointment under the former Act section 21(1)(a) is to be taken, on and after transition day, to be a public service officer employed in the Department.
- (3) A person who, immediately before transition day, held an appointment under the former Act section 21(1)(b) is to be taken, on and after transition day, to be appointed under the amended Act section 15(1)(c).
- (4) A person who, immediately before transition day, is a senior executive officer (as defined in the *Public Sector Management Act 1994* section 3(1)) employed in the Authority is to be taken, on and after transition day, to be a senior executive officer employed in the Department.

[Section 50 inserted by No. 3 of 2015 s. 13.]

51. Preservation of rights

- (1) This section applies in relation to a person to whom section 50 applies.

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(2) Except as otherwise agreed by the person, the operation of section 50 does not —

(a) affect the person's pay as defined in the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* regulation 3(1); or

(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 by No. 3 of 2015 s. 13.]

Division 5 — Continuation of certain things

[Heading inserted by 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 by 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 by 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 by No. 3 of 2015 s. 13.]

Division 6 — Other matters

[Heading inserted by 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 by 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 by 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 by No. 3 of 2015 s. 13.]

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Division 6 Other matters

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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 by No. 3 of 2015 s. 13.]

Notes

- ¹ This is a compilation of the *Alcohol and Drug Authority Act 1974* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

| Short title | Number and year | Assent | Commencement |
|--|------------------------|---------------|---|
| <i>Alcohol and Drug Authority Act 1974</i> | 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)) |
| Reprint of the <i>Alcohol and Drug Authority Act 1974</i> as at 1 Apr 1999 (includes amendments listed above) | | | |

Alcohol and Drug Authority Act 1974

| Short title | Number and year | Assent | Commencement |
|---|---------------------------|-----------------------------|---|
| <i>Financial Legislation Amendment and Repeal Act 2006</i> Sch. 1 cl. 8 | 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 Act 2008</i> Sch. 3 cl. 2 | 22 of 2008 | 27 May 2008 | 1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989) |
| <i>Acts Amendment (Bankruptcy) Act 2009</i> s. 8 | 18 of 2009 | 16 Sep 2009 | 17 Sep 2009 (see s. 2(b)) |
| Reprint 2: The Alcohol and Drug Authority Act 1974 as at 5 Feb 2010 (includes amendments listed above) | | | |
| <i>Health Practitioner Regulation National Law (WA) Act 2010</i> Pt. 5 Div. 2 | 35 of 2010 | 30 Aug 2010 | 18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6) |
| <i>Public Sector Reform Act 2010</i> s. 90 | 39 of 2010 | 1 Oct 2010 | 1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563) |
| Alcohol and Drug Authority Amendment Act 2015 s. 13 | 3 of 2015 | 25 Feb 2015 | 25 Feb 2015 (see s. 2(a)) |

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

| Short title | Number and year | Assent | Commencement |
|--|---------------------------|-----------------------------|--|
| <i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 29 ⁹ | 43 of 2000 | 2 Nov 2000 | To be proclaimed (see s. 2(2)) |
| Alcohol and Drug Authority Amendment Act 2015 Pt. 2 (other than s. 13) ¹⁰ | 3 of 2015 | 25 Feb 2015 | 1 Jul 2015 (see s. 2(b) and Gazette 10 Apr 2015 p. 1249) |

² Repealed by the *Industrial Relations Act 1979*.

³ Footnote no longer applicable.

⁴ The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39, but its provisions continue to apply to and in

relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26. See also note 9.

⁵ Repealed by the *Acts Amendment and Repeal (Industrial Relations) Act (No. 2) 1984*.

⁶ Repealed by the *Public Sector Management Act 1994*.

⁷ Repealed by the *Public Service Act 1978* which was repealed by the *Public Sector Management Act 1994*.

⁸ The *Trustees Amendment Act 1997* came into operation on 16 June 1997.

⁹ On the date on which this [reprint compilation](#) was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 29 had not come into operation. It reads as follows:

29. Alcohol and Drug Authority Act 1974 amended

The *Alcohol and Drug Authority Act 1974* is amended as follows:

- (a) in section 21(3)(a) by deleting “, and, subject to section 22, in particular his rights if any under the *Superannuation and Family Benefits Act 1938*”;
- (b) by repealing section 22.

¹⁰ [On the date on which this compilation was prepared, the *Alcohol and Drug Authority Amendment Act 2015* Pt. 2 \(other than s. 13\) had not come into operation. It reads as follows:](#)

Part 2 — Alcohol and Drug Authority Act 1974 amended

3. Act amended

[This Part amends the *Alcohol and Drug Authority Act 1974*.](#)

4. Long title replaced

[Delete the long title and insert:](#)

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.

5. Part I heading amended

In the heading to Part I delete “**Part I —**” and insert:

Part 1 —

6. Section 1 amended

In section 1 delete “*Drug Authority*” and insert:

Other Drugs

7. Section 4 amended

(1) In section 4 delete the definitions of:

Authority

centre

Chairman

Deputy Chairman

member

section

subsection

(2) In section 4 insert in alphabetical order:

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;

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).

8. Parts II, III and IV replaced

Delete Parts II, III and IV and insert:

Part 2 — Administration

Division 1 — Role of Minister

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.

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.
- 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.

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.

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.

Division 2 — Role of CEO

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.

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.

12. Powers of CEO

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

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.

Division 3 — Role of Alcohol and Other Drugs Advisory Board

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.

Division 4 — Staff

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.

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.

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.

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.

Part 3 — Facilities for alcohol and other drug use problems

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.

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.

9. Part V heading amended

In the heading to Part V delete “**Part V —**” and insert:

Part 5 —

10. Sections 34 and 35 replaced

Delete sections 34 and 35 and insert:

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.

11. Section 36 amended

(1) In section 36(1) delete “he considers” and insert:

are

(2) In section 36(2):

(a) delete paragraph (a) and insert:

(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) in paragraph (b) delete “the centres.” and insert:

 a facility.

(3) In section 36(3) delete “\$40,” and insert:

 \$500.

(4) In section 36(4) delete “thereunder shall” and insert:

 under the regulations must

(5) In section 36(5)(b) delete “shall” and insert:

 must

12. Section 37 inserted

 After section 36 insert:

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.