

Alcohol and Drug Authority Amendment Bill 2014

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**Alcohol and Drug Authority Amendment
Bill 2014**

A Bill for

An Act to amend the *Alcohol and Drug Authority Act 1974* and for related purposes.

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary matters**

2 **1. Short title**

3 This is the *Alcohol and Drug Authority Amendment Act 2014*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) Part 1 and section 13 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation.

1 **Part 2 — *Alcohol and Drug Authority Act 1974***
2 **amended**

3 **3. Act amended**

4 This Part amends the *Alcohol and Drug Authority Act 1974*.

5 **4. Long title replaced**

6 Delete the long title and insert:

7
8 **An Act for the purposes of —**

- 9 • **providing treatment, management, care and**
10 **rehabilitation of persons experiencing alcohol or other**
11 **drug use problems or co-occurring health issues,**
12 **including persons who have or may have a mental illness;**
13 **and**
- 14 • **promoting and subsidising research into and education**
15 **on the causation, prevention, reduction and treatment of**
16 **alcohol and other drug use problems and co-occurring**
17 **health issues such as mental illness; and**
- 18 • **establishing and maintaining a coordinated focus on**
19 **alcohol and other drug use and mental illness,**
20 **and for related purposes.**
21

22 **5. Part I heading amended**

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

24
25 **Part 1 —**
26

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1 **6. Section 1 amended**

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

3

4 *Other Drugs*

5

6 **7. Section 4 amended**

7 (1) In section 4 delete the definitions of:

8 *Authority*

9 *centre*

10 *Chairman*

11 *Deputy Chairman*

12 *member*

13 *section*

14 *subsection*

15 (2) In section 4 insert in alphabetical order:

16

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

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

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

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

- 1 **staff member** means —
- 2 (a) a public service officer referred to in
- 3 section 15(1)(a); or
- 4 (b) a person appointed under section 15(1)(b) or
- 5 (c); or
- 6 (c) a person who is seconded to the Department
- 7 under section 16(2).
- 8

9 **8. Parts II, III and IV replaced**

10 Delete Parts II, III and IV and insert:

11

12 **Part 2 — Administration**

13 **Division 1 — Role of Minister**

14 **5. Establishment of Ministerial Body**

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

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

- 26 (1) The Ministerial Body is established to provide a body
- 27 corporate through which the Minister can perform any
- 28 of the Minister’s functions under this Act that can more

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- 1 conveniently be performed by a body corporate than an
2 individual.
- 3 (2) Any acts or things done through the Ministerial Body
4 as described in subsection (1) must be regarded as —
- 5 (a) services under the control of the Department for
6 the purposes of the *Financial Management*
7 *Act 2006* section 52; and
- 8 (b) operations of the Department for the purposes
9 of Part 5 of that Act.
- 10 (3) Despite the employment under the *Public Sector*
11 *Management Act 1994* of ministerial officers for the
12 purpose of assisting the Minister to perform functions
13 that the Minister performs through the Ministerial
14 Body, the Ministerial Body and those officers are not
15 an organisation for the purposes of that Act.
- 16 **7. Execution of documents by Ministerial Body**
- 17 (1) The Ministerial Body must have a common seal.
- 18 (2) A document is duly executed by the Ministerial Body
19 if —
- 20 (a) the common seal of the Ministerial Body is
21 affixed to it in accordance with subsections (3)
22 and (4); or
- 23 (b) it is signed on behalf of the Ministerial Body by
24 the Minister; or
- 25 (c) it is signed on behalf of the Ministerial Body,
26 as authorised under subsection (5), by the CEO
27 or another person.
- 28 (3) The common seal of the Ministerial Body must not be
29 affixed to a document except as authorised by the
30 Ministerial Body.

- 1 (4) The common seal of the Ministerial Body must be
2 affixed to a document in the presence of the Minister
3 and the Minister must sign the document to attest that
4 the common seal was so affixed.
- 5 (5) The Ministerial Body may, by writing under its seal,
6 authorise the CEO or another person to execute deeds
7 or other documents on behalf of the Ministerial Body,
8 either generally or subject to any conditions or
9 restrictions specified in the authorisation.
- 10 (6) A document purporting to be executed in accordance
11 with this section must be presumed to be duly executed
12 until the contrary is shown.
- 13 (7) A document executed by the CEO or another person
14 under this section without the common seal of the
15 Ministerial Body must not be regarded as a deed unless
16 it is executed as a deed as authorised under
17 subsection (5).
- 18 (8) When a document is produced bearing a seal
19 purporting to be the common seal of the Ministerial
20 Body, it must be presumed that the seal is the common
21 seal of the Ministerial Body until the contrary is
22 shown.
- 23 (9) For the purposes of this Act, a facsimile of any of the
24 following may be used —
25 (a) the Ministerial Body’s seal;
26 (b) the signature of the Minister;
27 (c) the signature of a person authorised under
28 subsection (5) to execute deeds or other
29 documents.
- 30 (10) A deed or other document purporting to be endorsed
31 with such a facsimile must be regarded as bearing the
32 facsimile under subsection (9) until the contrary is
33 shown.

- 1 **8. Minister’s powers to acquire and dispose of**
2 **property**
- 3 (1) In this section —
- 4 *acquire* includes taking on lease or licence or in any
5 other manner in which property may be acquired;
6 *dispose of* includes disposing of by way of lease or
7 licence or in any other manner in which property may
8 be disposed of.
- 9 (2) For the purposes of this Act, the Minister may —
- 10 (a) acquire, hold, manage, improve, develop,
11 dispose of and otherwise deal in real and
12 personal property; and
- 13 (b) develop and turn to account any technology,
14 software or other intellectual property and
15 apply for, hold, exploit and dispose of any
16 patent, patent rights, copyright or similar rights;
17 and
- 18 (c) provide and turn to account education and
19 training services; and
- 20 (d) provide and turn to account advertising
21 opportunities or opportunities to participate in
22 arrangements in the nature of advertising or
23 having a purpose similar to advertising.
- 24 **9. Delegation by Minister**
- 25 (1) The Minister may delegate to the CEO any power or
26 duty of the Minister under another provision of this
27 Act.
- 28 (2) Without limiting the powers or duties that may be
29 delegated under this section, they include powers or
30 duties that are to be exercised or performed in the
31 course of governing the affairs of the Ministerial Body
32 under section 5(4).

- 1 (3) A delegation under this section must be in writing
2 signed by the Minister.
- 3 (4) The CEO cannot delegate a power or duty that is
4 delegated to the CEO under this section.
- 5 (5) The exercise or performance by the CEO of a power or
6 duty that has been delegated to the CEO under this
7 section is to be taken to be in accordance with the
8 terms of the delegation unless the contrary is shown.
- 9 (6) This section does not limit the ability of the Minister to
10 perform a function through an officer or agent.

11 **Division 2 — Role of CEO**

12 **10. Administration of this Act**

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

18 **11. Functions of CEO**

- 19 (1) The functions of the CEO include the following —
- 20 (a) to provide assessment, treatment, management,
21 care and rehabilitation of persons experiencing
22 alcohol or other drug use problems or
23 co-occurring health issues, including persons
24 who have or may have a mental illness, and to
25 subsidise and otherwise support, as the CEO
26 thinks fit, any other persons or organisations
27 providing any one or more of those things;
- 28 (b) subject to the Minister's consent, to establish
29 and maintain premises for the assessment,
30 treatment, management, care and rehabilitation
31 of persons experiencing alcohol or other drug

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- 1 use problems or co-occurring health issues,
2 including persons who have or may have a
3 mental illness, and to subsidise and otherwise
4 support, as the CEO thinks fit, other persons
5 and organisations establishing or maintaining
6 premises for any one or more of those
7 purposes;
- 8 (c) subject to the Minister's consent, to establish
9 and maintain accommodation for persons for
10 whom assessment, treatment, management, care
11 or rehabilitation services are provided under
12 this Act and to subsidise and otherwise support,
13 as the CEO thinks fit, other persons and
14 organisations establishing or maintaining such
15 accommodation;
- 16 (d) to provide such other facilities and services as
17 the CEO considers necessary or desirable for
18 the purposes of this Act;
- 19 (e) to determine the persons or classes of person
20 for whom the CEO may provide facilities or
21 services under this Act or in respect of whom
22 the CEO may subsidise or otherwise support
23 other persons and organisations providing
24 facilities and services consistent with the
25 purposes of this Act;
- 26 (f) to coordinate, promote, and subsidise, in
27 Western Australia research into and education
28 on the causation, prevention, reduction and
29 treatment of alcohol and other drug use
30 problems and co-occurring health issues such
31 as mental illness;
- 32 (g) to inquire into offences in which the use of
33 alcohol or other drugs or both is an element,
34 and the penalties for those offences, and to
35 make recommendations to the Minister and
36 Attorney General in relation to the need for, or

- 1 desirability of, legislative action in the
2 community interest in relation to those offences
3 and penalties;
- 4 (h) subject to the Minister’s consent, to cooperate
5 and enter into agreement with other persons and
6 organisations, in this State or otherwise, to such
7 extent as may be necessary for the purposes of
8 this Act.
- 9 (2) For the purposes of subsection (1)(b), (c) and (h), the
10 Minister’s consent may be given subject to such terms
11 and conditions as the Minister thinks fit.
- 12 **12. Powers of CEO**
- 13 The CEO may do anything necessary or convenient for
14 the performance of the CEO’s functions under this Act.
- 15 **13. Delegation by CEO**
- 16 (1) The CEO may delegate any power or duty of the CEO
17 under another provision of this Act to —
- 18 (a) a staff member; or
19 (b) with the approval of the Minister, any other
20 person.
- 21 (2) The Minister must not approve a delegation under
22 subsection (1)(b) unless satisfied that the delegation is
23 necessary or convenient having regard to —
- 24 (a) the functions of the Department; or
25 (b) the specialised knowledge, expertise or
26 resources of the person to whom the power or
27 duty is delegated.
- 28 (3) A delegation under this section must be in writing
29 signed by the CEO.
- 30 (4) A person to whom a power or duty is delegated under
31 this section cannot delegate that power or duty.

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- 1 (5) A person exercising or performing a power or duty that
2 has been delegated to the person under this section is to
3 be taken to do so in accordance with the terms of the
4 delegation unless the contrary is shown.
- 5 (6) This section does not limit the ability of the CEO to
6 perform a function through an officer or agent.

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

9 **14. Establishment of Board**

- 10 (1) The Minister must establish the Alcohol and Other
11 Drugs Advisory Board to provide advice to the CEO
12 about matters relevant to the performance of functions
13 under section 11.
- 14 (2) Subsection (1) does not authorise the Minister to
15 establish a body corporate.
- 16 (3) The Board must consist of the people that the Minister
17 thinks fit to appoint.
- 18 (4) The Board must be established by an instrument signed
19 by the Minister that —
- 20 (a) identifies the members of the Board and the
21 length and conditions of each of their
22 appointments; and
- 23 (b) sets out the duties and responsibilities of the
24 Board; and
- 25 (c) sets out any other matters in relation to the
26 operation and procedures of the Board that the
27 Minister considers appropriate.
- 28 (5) The Minister may, by instrument signed by the
29 Minister, amend or cancel an instrument made under
30 subsection (4).

- 1 (6) Except to the extent that its procedures are set out in an
2 instrument made under subsection (4), the Board may
3 determine its own procedures.
- 4 (7) The members of the Board are entitled to any
5 remuneration and allowances that the Minister may
6 determine on the recommendation of the Public Sector
7 Commissioner.

Division 4 — Staff

8

9 **15. Appointment of staff**

- 10 (1) For the purposes of this Act, the following persons may
11 be employed or engaged in the Department —
- 12 (a) public service officers appointed or made
13 available under the *Public Sector Management*
14 *Act 1994* Part 3;
- 15 (b) medical practitioners appointed by the CEO;
- 16 (c) wages staff appointed by the CEO.
- 17 (2) Subject to any relevant award or industrial agreement,
18 the terms and conditions of an appointment under
19 subsection (1)(b) or (c) are to be such terms and
20 conditions as the CEO, with the approval of the Public
21 Sector Commissioner, determines.
- 22 (3) A person appointed under subsection (1)(b) or (c) is not
23 a person appointed under the *Public Sector*
24 *Management Act 1994* Part 3.

25 **16. Secondments**

- 26 (1) In this section —
- 27 ***employer*** means —
- 28 (a) an employing authority as defined in the *Public*
29 *Sector Management Act 1994* section 3(1); or

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- 1 (b) an employer outside the Public Sector as
2 defined in the *Public Sector Management*
3 *Act 1994* section 3(1).
- 4 (2) The CEO may arrange with another employer for an
5 employee of that other employer to perform duties in
6 the service of the Department for the purposes of
7 this Act.
- 8 (3) The CEO may, with the consent of a person appointed
9 under section 15(1)(b) or (c), arrange with another
10 employer for the person to perform duties in the service
11 of that other employer for the purposes of this Act.

12 **17. Contracts for services**

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

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

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

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**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 —

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1 **10. Sections 34 and 35 replaced**

2 Delete sections 34 and 35 and insert:

3

4 **34. Recovery of fees**

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

8

9 **11. Section 36 amended**

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

11

12 are

13

14 (2) In section 36(2):

15 (a) delete paragraph (a) and insert:

16

17 (a) regulating the general conduct of persons while
18 in a facility for assessment, treatment,
19 management, care or rehabilitation and of
20 visitors to a facility;

21

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

23

24 a facility.

25

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

27

28 \$500,

29

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

2

3 under the regulations must

4

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

6

7 must

8

9 **12. Section 37 inserted**

10 After section 36 insert:

11

12 **37. Review of this Act**

13 (1) The Minister must review the operation and
14 effectiveness of this Act as soon as practicable after the
15 expiry of 5 years from the commencement of the
16 *Alcohol and Drug Authority Amendment Act 2014*
17 section 8.

18 (2) The Minister must, as soon as practicable —
19 (a) prepare a report about the outcome of the
20 review; and
21 (b) cause a copy of the report to be laid before each
22 House of Parliament.

23

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1 **13. Part 6 inserted**

2 At the end of the Act insert:

3

4 **Part 6 — Transitional matters for *Alcohol and***
5 ***Drug Authority Amendment Act 2014***

6 **Division 1 — Interpretation**

7 **38. Terms used**

8 In this Part —

9 ***amended Act*** means this Act as amended by the
10 *Alcohol and Drug Authority Amendment Act 2014*
11 section 8;

12 ***assets*** —

13 (a) means any legal or equitable estates or interests
14 (whether present or future, whether vested or
15 contingent and whether personal or assignable)
16 in real or personal property of any description;
17 and

18 (b) includes money, securities, choses in action and
19 documents;

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

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

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

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

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

- 1 **operating account** means an agency special purpose
2 account established under the *Financial Management*
3 *Act 2006* section 16;
- 4 **relevant official** means —
- 5 (a) the Registrar of Titles; or
6 (b) the Registrar of Deeds and Transfers; or
7 (c) any other person authorised by a written law to
8 record and give effect to the registration of
9 documents relating to transactions affecting any
10 estate or interest in land or any other property;
- 11 **relevant successor** means —
- 12 (a) the Minister in relation to a function of the
13 Authority that becomes a function of the
14 Minister on transition day; or
15 (b) the CEO in relation to a function of the
16 Authority that becomes a function of the CEO
17 on transition day; or
18 (c) the Ministerial Body in relation to assets and
19 liabilities assigned to the Ministerial Body by
20 section 41; or
21 (d) the State in relation to assets and liabilities of
22 the Authority assigned to the State by
23 section 41;
- 24 **rights** means any rights, powers, privileges or
25 immunities, whether actual, contingent or prospective;
- 26 **statutory transition** —
- 27 (a) means the transition from the provisions of the
28 former Act to the amended Act; and
29 (b) includes the transition from the Authority to a
30 relevant successor;
- 31 **this Part** includes regulations made under
32 section 56(2);
- 33 **transfer order** means an order made under section 42;

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1 *transition day* means the day on which the *Alcohol and*
2 *Drug Authority Amendment Act 2014* section 8 comes
3 into operation.

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

5 **39. Authority abolished**

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

8 **40. Immunity continues**

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

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

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

- 18 (1) On transition day —
- 19 (a) the assets of the Authority specified in a
20 transfer order are assigned to and become the
21 assets of the Ministerial Body; and
- 22 (b) the rest of the assets of the Authority are
23 assigned to and become the assets of the State.
- 24 (2) On transition day —
- 25 (a) the liabilities of the Authority specified in a
26 transfer order are assigned to and become the
27 liabilities of the Ministerial Body; and

- 1 (b) the rest of the liabilities of the Authority are
2 assigned to and become the liabilities of the
3 State.
- 4 (3) On transition day, the Ministerial Body is substituted
5 for the Authority as a party to any proceedings
6 specified in a transfer order.
- 7 (4) On and after transition day, any agreement or
8 instrument specified in a transfer order has effect as if
9 references to the Ministerial Body were substituted, in
10 accordance with the order, for references to the
11 Authority.
- 12 (5) On and after transition day, any proceedings or remedy
13 that might have been commenced by or against, or
14 might have been available to or against, the Authority
15 in relation to the assets and liabilities assigned by
16 subsections (1) and (2) may be commenced by or
17 against, or are available to or against —
- 18 (a) the Ministerial Body in the case of assets and
19 liabilities assigned by subsections (1)(a) and
20 (2)(a); and
- 21 (b) the State in the case of assets and liabilities
22 assigned by subsections (1)(b) and (2)(b).
- 23 (6) On and after transition day, an act or omission done or
24 omitted in relation to the assets and liabilities assigned
25 by subsections (1) and (2) before the assignment by, to
26 or in respect of the Authority is, to the extent that the
27 act or omission has any effect, to be taken to have been
28 done or omitted by, to or in respect of —
- 29 (a) the Ministerial Body in the case of the assets
30 and liabilities assigned by subsections (1)(a)
31 and (2)(a); and
- 32 (b) the State in the case of assets and liabilities
33 assigned by subsections (1)(b) and (2)(b).

- 1 **42. Transfer orders**
- 2 (1) To facilitate the statutory transition, the Minister may,
- 3 by order published in the *Gazette* (a **transfer order**),
- 4 specify all or any of the following —
- 5 (a) assets and liabilities of the Authority that are to
- 6 be assigned to the Ministerial Body by
- 7 operation of section 41;
- 8 (b) proceedings in which the Ministerial Body is to
- 9 be substituted for the Authority as a party by
- 10 operation of section 41;
- 11 (c) agreements and instruments that, by operation
- 12 of section 41, are to have effect as if references
- 13 to the Ministerial Body were substituted, in
- 14 accordance with the order, for references in the
- 15 agreements and instruments to the Authority.
- 16 (2) A transfer order may also deal with any matter that is
- 17 incidental or supplementary to a matter to which
- 18 subsection (1) relates and the transfer order has effect
- 19 accordingly.
- 20 (3) A transfer order may specify things by reference to one
- 21 or more schedules that —
- 22 (a) need not be published in the *Gazette*; but
- 23 (b) must be available for public inspection.
- 24 (4) Anything specified in a schedule for a transfer order is
- 25 to be taken to be specified in the transfer order.
- 26 (5) A thing may be specified in a transfer order by
- 27 describing the class to which it belongs.
- 28 (6) Before a transfer order is made specifying an interest in
- 29 land that, under the LAA, can only be assigned with
- 30 the approval of the Minister for Lands, the Minister
- 31 must obtain that approval.

- 1 (7) Before a transfer order is made specifying anything by
2 reference to a schedule, the Minister must consult each
3 relevant official about the form and content of the
4 schedule.
- 5 (8) To the extent to which a schedule for a transfer order
6 relates to the functions of the Registrar of Titles, the
7 schedule must be in a form that meets the requirements
8 of the Registrar.
- 9 (9) A thing done by, under or for the purposes of this Part
10 is not invalid merely because subsection (7) or (8) was
11 not complied with.
- 12 (10) The fact that a previous transfer order has been made
13 does not prevent a further transfer order from being
14 made.
- 15 (11) The Minister may, by order published in the *Gazette*,
16 amend a transfer order or a schedule for a transfer
17 order.
- 18 (12) A transfer order, or an amendment to a transfer order or
19 to a schedule for a transfer order, can only be made
20 before transition day.
- 21 **43. Correction of errors in transfer orders**
- 22 (1) The Minister may, by order published in the *Gazette*,
23 make any provision that is necessary to correct any
24 error in a transfer order or a schedule for a transfer
25 order.
- 26 (2) An order made under subsection (1) may have effect on
27 and after transition day.

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- 1 (3) To the extent that an order made under subsection (1)
2 has effect before the day of its publication in the
3 *Gazette*, section 41 does not operate as a result of the
4 order so as —
5 (a) to affect in a manner prejudicial to any person
6 (other than the State or an authority of the
7 State) the rights of that person existing before
8 the day of its publication; or
9 (b) to impose liabilities on any person (other than
10 the State or an authority of the State) in respect
11 of anything done or omitted before the day of
12 its publication.

13 **44. Reserves managed by Authority**

- 14 (1) This section applies to any Crown land that,
15 immediately before transition day, was a reserve under
16 the LAA section 41 for which the Authority was the
17 management body under the LAA section 46(1).
18 (2) On transition day —
19 (a) Crown land to which this section applies is to
20 be taken to be a reserve under the LAA
21 section 41 for the purposes of the *Alcohol and*
22 *Other Drugs Act 1974*; and
23 (b) the Ministerial Body is to be taken to be the
24 management body of the reserve under the
25 LAA section 46(1).
26 (3) For the purposes of section 45 and the purposes of the
27 LAA —
28 (a) subsection (2)(a) must be treated as if it were an
29 order made under the LAA section 51 changing
30 the purpose of the reserve; and

- 1 (b) subsection (2)(b) must be treated as if it
2 were —
- 3 (i) an order made under the LAA
4 section 50(1)(a) revoking the
5 management order placing the care,
6 control and management of the reserve
7 with the Authority and specifying that
8 any interests that existed in, or any
9 caveats that existed in respect of, the
10 reserve immediately before transition
11 day continue to exist in respect of the
12 reserve on and after transition day; and
- 13 (ii) a management order made under the
14 LAA section 46(1) placing the care,
15 control and management of the reserve
16 with the Ministerial Body subject to any
17 conditions (with the changes necessary
18 to take account of differences as to
19 purpose and management body) to
20 which the management order referred to
21 in subparagraph (i) was subject
22 immediately before transition day.

23 **45. Registration of documents**

- 24 (1) The relevant officials —
- 25 (a) must take notice of this Part and any transfer
26 order, including any schedule for the transfer
27 order; and
- 28 (b) must record and register in the appropriate
29 manner the documents necessary to show the
30 effect of this Part and any transfer order.
- 31 (2) The Minister must give a copy of each transfer order
32 and any schedule for it, and any amendment to a
33 transfer order or to a schedule for a transfer order, to
34 each relevant official.

- 1 **46. Authority to complete necessary transactions**
- 2 (1) If an asset or liability of the Authority cannot be
- 3 properly assigned to the Ministerial Body or the State
- 4 by the operation of this Division (whether because the
- 5 matter is governed otherwise than by the law of the
- 6 State or for any other reason) —
- 7 (a) the Authority is to be taken to continue to hold
- 8 that asset or be liable for that liability until it is
- 9 effectively assigned to the Ministerial Body or
- 10 the State in accordance with this Division; and
- 11 (b) the Authority must take all practicable steps for
- 12 the purpose of ensuring that the asset or
- 13 liability is effectively assigned to the
- 14 Ministerial Body or the State in accordance
- 15 with this Division.
- 16 (2) The fact that subsection (1)(a) applies to an asset or
- 17 liability that is to be assigned to the Ministerial Body
- 18 or the State under this Division does not affect the duty
- 19 of the accountable authority of the Department under
- 20 the *Financial Management Act 2006*.
- 21 (3) Despite section 39, the Authority continues in
- 22 existence for the purpose of performing the functions
- 23 described in subsection (1).
- 24 (4) The Authority must perform those functions through a
- 25 person appointed by the Minister.
- 26 (5) The person holds office at the pleasure of the Minister
- 27 and on such terms and conditions as the Minister
- 28 determines.
- 29 (6) The Authority as continued by this section has the
- 30 powers that are necessary or convenient for the
- 31 purposes of this section.

- 1 **47. Exemption from State tax**
- 2 (1) In this section —
- 3 **State tax** includes —
- 4 (a) duty chargeable under the *Duties Act 2008*; and
- 5 (b) any other tax, duty, fee, levy or charge under a
- 6 law of the State.
- 7 (2) State tax is not payable in relation to —
- 8 (a) anything that occurs by operation of this Part;
- 9 or
- 10 (b) anything done (including a transaction entered
- 11 into or an instrument or document of any kind
- 12 made, executed, lodged or given) under this
- 13 Part, or to give effect to this Part, or for a
- 14 purpose connected with or arising out of giving
- 15 effect to this Part.
- 16 (3) The Minister may certify in writing that —
- 17 (a) a specified thing occurred by operation of this
- 18 Part; or
- 19 (b) a specified thing was done under this Part, or to
- 20 give effect to this Part, or for a purpose
- 21 connected with or arising out of giving effect to
- 22 this Part.
- 23 (4) For all purposes and in all proceedings, a certificate
- 24 under subsection (3) is sufficient evidence of the
- 25 matters it certifies unless the contrary is shown.
- 26 **48. Operating accounts of Authority**
- 27 (1) In this section —
- 28 **former accounts** means —
- 29 (a) the Western Australian Alcohol and Drug
- 30 Authority Account referred to in the former Act
- 31 section 28(2); and

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

18 **49. Investments**

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

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Division 4 — Authority’s staff

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.

51. Preservation of rights

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

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

10 **Division 5 — Continuation of certain things**

11 **52. Completion of things done**

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

17 **53. Continuing effect of things done**

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

- 1 **54. Agreements, instruments, proceedings and remedies**
2 **generally**
- 3 (1) Subsection (2) applies to any agreement or instrument
4 to which section 41 does not apply.
- 5 (2) On and after transition day, any agreement or
6 instrument that contains a reference to the Authority
7 has effect as if the reference were to a relevant
8 successor so far as the reference relates to the relevant
9 successor's functions, unless the context otherwise
10 requires.
- 11 (3) Subsection (4) applies in relation to any proceedings or
12 remedy to which section 41 does not apply.
- 13 (4) On and after transition day, any proceedings or remedy
14 that might have been commenced or continued by or
15 against, or might have been available to or against, the
16 Authority may be commenced or continued by or
17 against, or is available to or against, a relevant
18 successor so far as the proceedings or remedy are in
19 respect of an act, matter or thing that is within the
20 relevant successor's functions.

21 **Division 6 — Other matters**

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

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

27 **56. Transitional regulations**

28 (1) In this section —

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

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- 1 *specified* means specified or described in regulations
2 made under subsection (2);
- 3 *transitional matter* —
- 4 (a) means a matter that needs to be dealt with for
5 the purpose of effecting the statutory transition;
6 and
7 (b) includes a saving or application matter.
- 8 (2) If there is no sufficient provision in this Part or in a
9 transfer order for dealing with a transitional matter, the
10 Governor may make regulations prescribing matters —
- 11 (a) required to be prescribed for the purpose of
12 dealing with the transitional matter; or
13 (b) necessary or convenient to be prescribed for the
14 purpose of dealing with the transitional matter.
- 15 (3) Regulations made under subsection (2) may provide
16 that specified provisions of this Act —
- 17 (a) do not apply to or in relation to a specified
18 matter; or
19 (b) apply with specified modifications to or in
20 relation to a specified matter.
- 21 (4) If regulations made under subsection (2) provide that a
22 specified state of affairs is to be taken to have existed,
23 or not to have existed, on and after a day that is earlier
24 than publication day for those regulations but not
25 earlier than transition day, the regulations have effect
26 according to their terms.
- 27 (5) If regulations made under subsection (2) contain a
28 provision referred to in subsection (4), the provision
29 does not operate so as —
- 30 (a) to affect in a manner prejudicial to a person
31 (other than the State or an authority of the

- 1 State) the rights of that person existing before
2 publication day for those regulations; or
- 3 (b) to impose liabilities on a person (other than the
4 State or an authority of the State) in respect of
5 an act done or omission made before
6 publication day for those regulations.
- 7 (6) Regulations can only be made under subsection (2)
8 within 24 months after the day on which the *Alcohol*
9 *and Drug Authority Amendment Act 2014* receives the
10 Royal Assent.

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

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

- 14 (a) as a breach of contract or confidence or
15 otherwise as a civil wrong; or
- 16 (b) as a breach of any contractual provision
17 prohibiting, restricting or regulating the
18 assignment or transfer of assets, rights or
19 liabilities or the disclosure of information; or
- 20 (c) as giving rise to any remedy by a party to an
21 instrument, or as causing or permitting the
22 termination of any instrument, because of a
23 change in the beneficial or legal ownership of
24 any assets, rights or liabilities; or
- 25 (d) as causing any contract or instrument to be void
26 or otherwise unenforceable; or
- 27 (e) as releasing or allowing the release of any
28 surety.

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

30 Except to the extent this Part expressly provides
31 differently, the *Interpretation Act 1984* applies in

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relation to the repeal of an enactment by the *Alcohol
and Drug Authority Amendment Act 2014* Part 2.

Part 3 — Other Acts amended

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14. Constitution Acts Amendment Act 1899 amended

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 2 Division 2 delete “*Act 1951*, or the Western Australian Alcohol and Drug Authority established under the *Alcohol and Drug Authority Act 1974*.” and insert:

Act 1951.

15. Coroners Act 1996 amended

- (1) This section amends the *Coroners Act 1996*.
- (2) In section 3 in the definition of **person held in care** paragraph (b) delete “*Drug Authority*” and insert:

Other Drugs

16. Financial Management Act 2006 amended

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 delete “Western Australian Alcohol and Drug Authority”.

17. Public Sector Management Act 1994 amended

- (1) This section amends the *Public Sector Management Act 1994*.
- (2) Delete Schedule 2 item 58.

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1 **18. *Spent Convictions Act 1988* amended**

2 (1) This section amends the *Spent Convictions Act 1988*.

3 (2) In Schedule 3 clause 1(7) in the Table item 1(d) delete “*Drug*
4 *Authority*” and insert:

5

6 *Other Drugs*

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