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**ALCOHOL AND DRUG DEPENDENCY AMENDMENT ACT 1993**

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**No. 64 of 1993**

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**ALCOHOL AND DRUG DEPENDENCY AMENDMENT  
ACT 1993**

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**No. 64 of 1993**

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**AN ACT to abolish the Alcohol and Drug Dependency Board  
and to amend the *Alcohol and Drug Dependency Act 1968***

**[Royal Assent 27 October 1993]**

**B**E it enacted by His Excellency the Governor of Tasmania,  
by and with the advice and consent of the Legislative  
Council and House of Assembly, in Parliament assembled, as  
follows:—

**PART 1  
PRELIMINARY**

**Short title**

**1**—This Act may be cited as the *Alcohol and Drug  
Dependency Amendment Act 1993*.

**Commencement**

**2**—This Act commences on a day to be proclaimed.

## Principal Act

3—In this Act, the *Alcohol and Drug Dependency Act 1968\** is referred to as the Principal Act.

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## PART 2

### ABOLITION OF THE ALCOHOL AND DRUG DEPENDENCY BOARD

#### Abolition of Board and offices

4—(1) The Board is abolished.

(2) The offices of the chairman and deputy chairman of the Board are abolished.

(3) The offices of the members of the Board are abolished.

(4) The office of the secretary of the Board is abolished.

(5) In this section, “**Board**” means the Alcohol and Drug Dependency Board established under section 7 of the Principal Act and in existence immediately before the commencement of this Act.

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## PART 3

### AMENDMENTS TO PRINCIPAL ACT

#### Section 2 amended (Interpretation)

5—Section 2 (1) of the Principal Act is amended as follows:—

(a) by omitting the definition of “**Board**” and substituting the following definition:—

“**application**” means an application made under section 29 or 34;

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\* No. 61 of 1968. For this Act, as amended to 1 September 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 29 of 1984, No. 6 of 1986, Nos. 13 and 24 of 1987, No. 5 of 1990, No. 46 of 1991 and No. 7 of 1993.

- (b) by omitting the definition of “Medical Commissioner”;
- (c) by inserting the following definition after the definition of “medical treatment”:—  
     “**member**” means a member of the Tribunal appointed under section 8;
- (d) by omitting the definition of “transfer direction”;
- (e) by inserting the following definition after the definition of “superintendent”:—  
     “**transfer direction**” means a transfer direction made under section 37;
- (f) by inserting the following definition after the definition of “treatment order”:—  
     “**Tribunal**” means the Alcohol and Drug Dependency Tribunal established under section 7;

## **Part II, Division I substituted**

6—Division I of Part II of the Principal Act is repealed and the following Division is substituted:—

### ***Division I—Alcohol and Drug Dependency Tribunal*** **Alcohol and Drug Dependency Tribunal**

7—The Alcohol and Drug Dependency Tribunal is established.

#### **Membership of Tribunal**

8—(1) The Tribunal consists of 5 persons appointed by the Governor—

- (a) 3 of whom are legally-qualified medical practitioners with experience in the treatment and rehabilitation of persons suffering from alcohol or drug dependency; and
- (b) 2 of whom are persons with suitable qualifications or experience.

(2) The Governor may appoint a member as chairperson of the Tribunal.

(3) If the chairperson of the Tribunal is ill or absent from the State, the other members may choose a member to be an acting chairperson and an acting chairperson may exercise the same powers and must perform the same duties as does the chairperson of the Tribunal.

(4) Schedule 1 has effect with respect to the membership of the Tribunal.

### **Functions and powers of Tribunal**

9—(1) The function of the Tribunal is to hear and determine applications.

(2) The Tribunal has power to do all things necessary or convenient to be done in connection with the performance of its function and, in particular, has power to—

- (a) require the patient, in respect of whom the application is made, to be brought before the Tribunal; and
- (b) authorize a person appointed by the Tribunal to examine or interview the patient in private; and
- (c) require medical records relating to the patient to be produced to the Tribunal or a person authorized by it.

### **Hearing and determining applications**

10—(1) The following members of the Tribunal, at least 2 of whom are to be persons referred to in section 8 (1) (a), are to hear and determine an application:—

- (a) the chairperson;
- (b) 2 other members nominated by the chairperson.

(2) The Tribunal may conduct a formal hearing or an informal hearing in respect of an application.

(3) The conduct of, and proceedings at, a hearing in respect of an application are to be in accordance with the regulations.

### **Staff and facilities**

11—(1) The Tribunal may, with the approval of the Head of an Agency within the meaning of the *Tasmanian State Service Act 1984*, appoint a person employed in that Agency to be the clerk of the Tribunal, and that person may hold that office in conjunction with that person's position in the State Service.

(2) The Secretary may make arrangements for any services or facilities required by the Tribunal.

**Section 22 amended (Authority for making drugs available to certain patients)**

7—Section 22 of the Principal Act is amended by omitting subsections (4) and (5).

**Part IV: Part heading amended**

8—The heading to Part IV of the Principal Act is amended by omitting “ADMISSION OF PATIENTS” and substituting “PATIENTS ADMITTED”.

**Part IV, Division IA heading inserted**

9—The Principal Act is amended by inserting the following Division heading after section 27:—

*Division IA—Discharge of patients*

**Section 29 amended (Discharge of patients by Tribunal)**

10—Section 29 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “Board” and substituting “Tribunal”;
- (b) by omitting from subsection (2)—
  - (i) “Board” and substituting “Tribunal”; and
  - (ii) “shall” and substituting “is to”.

**Section 34 amended (Extension of period of detention)**

11—Section 34 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (4) “Board” and substituting “Tribunal”;
- (b) by omitting from subsection (5)—
  - (i) “Board” and substituting “Tribunal”; and
  - (ii) “shall” and substituting “is to”.

**Section 49 amended (Visiting and examination of patients in relation to applications to the Tribunal, &c.)**

12—Section 49 of the Principal Act is amended by omitting “Board” and substituting “Tribunal”.

**Part V: Part heading amended**

13—The heading to Part V of the Principal Act is amended by omitting “ALCOHOL AND DRUG DEPENDENCY BOARD” and substituting “TRIBUNAL”.

**Section 50 amended (Limitation on applications)**

- 14—Section 50 of the Principal Act is amended as follows:—
- (a) by omitting “No application shall” and substituting “An application is not to”;
  - (b) by omitting “Board” and substituting “Tribunal”.

**Section 51 repealed**

15—Section 51 of the Principal Act is repealed.

**Section 52 amended (Tribunal procedures)**

- 16—Section 52 of the Principal Act is amended as follows:—
- (a) by omitting from subsection (1) “Board” (wherever occurring) and substituting “Tribunal”;
  - (b) by omitting from subsection (1) “and with respect to the proceedings thereon and matters incidental thereto or consequential thereon, and, in particular, may make provision” and substituting “and the Tribunal’s hearing and determination of applications, including provisions”;
  - (c) by omitting subsection (3).

**Section 53 amended (Appeals)**

- 17—Section 53 of the Principal Act is amended as follows:—
- (a) by omitting “Board” (wherever occurring) and substituting “Tribunal”;
  - (b) by omitting subsection (5).



**Section 56 amended (Questions of law)**

**18**—Section 56 of the Principal Act is amended by omitting “Board” (twice occurring) and substituting “Tribunal”.

**Schedule 1 inserted**

**19**—The Principal Act is amended by inserting the following Schedule after section 68:—

**SCHEDULE 1**

Section 8 (4)

**PROVISIONS WITH RESPECT TO MEMBERSHIP OF  
TRIBUNAL****Terms of office**

**1**—(1) A member of the Tribunal is to be appointed for a term not exceeding 4 years.

(2) A person who has been a member of the Tribunal may be appointed as a member of the Tribunal for a further term if the person is eligible to be so appointed.

(3) A person is not eligible to be appointed as a member of the Tribunal if the person—

(a) has attained the age of 70 years; or

(b) has vacated the office of member of the Tribunal under clause 4.

**Holding other office**

**2**—If, by or under any Act, provision is made requiring a person who holds an office to devote the whole of his or her time to the duties of office under that Act, that provision does not disqualify that person from holding that office and also the office of a member of the Tribunal.

**Remuneration**

**3**—A member of the Tribunal is entitled to be paid remuneration, including travelling and subsistence allowances, as the Governor may determine.

**Vacancies**

**4**—(1) A member of the Tribunal vacates office if the member—

(a) dies; or

(b) resigns; or

- (c) being a member referred to in section 8 (1) (a), ceases to be a legally-qualified medical practitioner; or
- (d) is removed from office under subclause (2) or (3).

(2) The Governor may remove a member of the Tribunal from office if the member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration or estate for their benefit; or
- (b) is convicted, in Tasmania or elsewhere, of a crime or an offence punishable by imprisonment for 12 months or longer.

(3) The Governor may remove a member of the Tribunal from office if the Governor is satisfied that the member is unable to perform adequately or competently the duties of office.

(4) A member of the Tribunal must not be removed from office otherwise than in accordance with this clause.

#### **Filling of vacancies**

5—If the office of a member becomes vacant, the Governor may appoint another person who has similar qualifications and experience to that office for the remainder of the term for which the vacating member was appointed.

#### **Validity of proceedings**

6—(1) An act or proceeding of the Tribunal or of a person acting under the direction of the Tribunal is not invalid by reason only that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the membership of the Tribunal.

(2) An act or proceeding of the Tribunal or of a person acting under the direction of the Tribunal is valid even if—

- (a) the appointment of a member of the Tribunal was defective; or
- (b) a person appointed as a member of the Tribunal was disqualified from acting as, or incapable of being, such a member.

**Immunity from liability**

7—A member of the Tribunal, or a person acting under the direction of the Tribunal, is not personally liable for an honest act or omission done or made in the exercise or purported exercise of a power, or in the performance or purported performance of a function, under this Act.

**Presumptions**

8—In any proceedings by or against the Tribunal, unless evidence is given to the contrary, proof is not required of—

- (a) the constitution of the Tribunal; or
- (b) the appointment of any member of the Tribunal.

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*[Second reading presentation speech made in:—  
House of Assembly on 27 April 1993  
Legislative Council on 18 August 1993]*

