

New South Wales Institute of Psychiatry Act 1964 No 44

[1964-44]



New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Health Legislation Further Amendment Act 2004 No 87](#) (not commenced — to commence on 1.1.2005)

Authorisation

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New South Wales Institute of Psychiatry Act 1964 No 44



New South Wales

An Act to provide for the establishment and incorporation of a New South Wales Institute of Psychiatry, and to define its powers, authorities, duties and functions; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *New South Wales Institute of Psychiatry Act 1964*.

2 Definitions

In this Act, unless the context or subject-matter otherwise indicates or requires:

Account means the New South Wales Institute of Psychiatry Account established under this Act.

appointed member means a member appointed by the Minister.

By-laws means by-laws made under this Act.

Director means the Director of the Institute holding office as such under Part 2 of the *Public Sector Management Act 1988*.

General Committee means a committee established under section 15 (2A).

House Committee means the New South Wales Institute of Psychiatry House Committee.

Institute means the New South Wales Institute of Psychiatry.

Member means a member of the Institute.

3 Constitution of New South Wales Institute of Psychiatry

(1) There shall be constituted a New South Wales Institute of Psychiatry which shall carry into effect the objects and purposes of this Act, and shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon the Institute by or under this Act.

- (2) The Institute shall be a body corporate under the name of “The New South Wales Institute of Psychiatry” with perpetual succession and a common seal and shall be capable by that name of suing and being sued, and of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

4 Objects of the Institute

- (1) The objects for which the Institute is established are:
- (a) to assist and foster research and investigation into the causation, prevention, diagnosis and treatment of mental illnesses and disorders,
 - (b) to assist and foster post-graduate education and training in psychiatry,
 - (c) to prescribe programmes of training in psychiatry for medical practitioners to meet the requirements and standards of authorities which are recognised by the Institute and which conduct examinations for post-graduate degrees and post-graduate diplomas in psychiatry,
 - (d) to prescribe programmes of training in psychiatry for medical practitioners, and for other persons approved by the Institute,
 - (e) to prescribe programmes of training in mental health for non-medical groups approved by the Institute,
 - (f) to provide training for the purpose of carrying out any of the programmes of training prescribed by the Institute pursuant to paragraph (c), (d) or (e),
 - (g) to co-ordinate, as far as is practicable, programmes of research and investigation into the causation, prevention, diagnosis and treatment of mental illnesses and disorders,
 - (h) to award fellowships for training or research in psychiatry or allied disciplines,
 - (i) to promote visits from other States or countries by lecturers in psychiatry or allied disciplines,
 - (j) to promote mental health education in the community.
- (2) The Institute may do and perform all acts and things that are necessary or convenient for carrying out or giving effect to the objects set out in subsection (1).
- (2A) Without limiting subsection (2), the Institute may charge such fees as are reasonable in respect of the programmes of training conducted by the Institute.
- (3) Without limiting the generality of the foregoing provisions of this section the Institute

shall have the power, subject to the approval of the Minister, to accept the invitation of or to co-operate with the Government or a Public Health Authority or other authority of the Commonwealth or of any State or Territory of the Commonwealth or of any country in implementing within the Commonwealth, State, Territory or country any of the objects for which the Institute is established.

5 Members of the Institute

(1) The Institute is to consist of:

- (a) the Director of the Institute, and
- (b) 10 members who are to be appointed by the Minister.

(2) Of the members appointed by the Minister:

(a) 3 are to be:

- (i) a person appointed, in and by the person's instrument of appointment, as the chairperson of the Institute, and
- (ii) a member of the business community, and
- (iii) a person who, in the opinion of the Minister, has a demonstrated interest in mental health, appointed to represent consumer interests, and

(b) 6 are to be:

- (i) a psychiatrist selected from a panel of 3 persons nominated by the NSW Branch of the Royal Australian and New Zealand College of Psychiatrists, and
- (ii) a health professional engaged in mental health services work selected from 2 nominees from each of the NSW Branch of the Australian Psychological Society, the NSW Branch of the Australian Association of Social Workers, and the Australian Association of Occupational Therapists, and
- (iii) a mental health nurse nominated by the Australian and New Zealand College of Mental Health Nurses, and
- (iv) 3 academic psychiatrists selected from a panel of persons consisting of up to 2 nominees each of the University of Newcastle, the University of New South Wales and the University of Sydney, and

(c) 1 is to be a senior officer of the Department of Health, or a chief executive officer of an area health board constituted under the [Health Services Act 1997](#).

(3) The academic psychiatrists selected under subsection (2) (b) (iv) are to be from different universities.

- (4) If, for the purposes of this section, a nomination of a person for appointment as a member, or a panel of such persons, is not made within the time or in the manner specified by the Minister in a notice in writing given to the body entitled to make the nomination, the Minister may appoint any person to be a member instead of the person required to be appointed on that nomination or from that panel.
- (5) A person is not eligible to be appointed as chairperson if the person is employed by, or is a member of the governing body of, any of the bodies referred to in subsection (2) (b).

6 Term of office

An appointed member holds office for such period not exceeding 3 years as is specified by the member's instrument of appointment but is eligible, if otherwise qualified, for reappointment for such period not exceeding 3 years as is specified by the instrument of reappointment.

7 Public Sector Management Act 1988 not to apply to members other than Director

Except as provided by section 20, the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of any appointed member, and an appointed member is not, in the member's capacity as such a member, subject to the provisions of that Act.

8 Remuneration of members

- (1) A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.
- (2) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

9 Chairperson and deputy chairperson of the Institute

- (1) The chairperson of the Institute shall preside at all meetings of the Institute at which the chairperson is present.
- (2) The members shall appoint one of their number to be the deputy chairperson of the Institute.
- (3) The member so appointed shall, subject to this Act, hold office as deputy chairperson for a period of 3 years or until the member's term of office as a member expires, whichever first happens.
- (4) A member who has held office as deputy chairperson shall be eligible to be again appointed to hold office as deputy chairperson.
- (5) In the event of a vacancy in the office of deputy chairperson, the Institute may

appoint one of its members to the vacant office and the person so appointed shall, subject to this Act, hold office as deputy chairperson for the balance of his or her predecessor's term.

- (6) In the absence of the chairperson from any meeting of the Institute, the deputy chairperson shall preside at that meeting.
- (7) In the absence of both the chairperson and the deputy chairperson from any meeting of the Institute, the members present shall elect one of their number to preside at the meeting.
- (8) The person presiding for the time being at any meeting of the Institute shall have a vote and, in the case of an equality of votes, a second or casting vote.

10 Vacation of office

- (1) A member shall be deemed to have vacated his or her office if the member:
 - (a) dies,
 - (b) resigns his or her office by writing under his or her hand addressed to the Minister,
 - (c) becomes a mentally incapacitated person,
 - (d) is absent without leave of the Institute from four consecutive ordinary meetings of the Institute,
 - (e) is removed from office by the Minister, or
 - (f) ceases to hold any qualification by virtue of which the member was appointed as a member.
 - (g) (Repealed)
- (2) The Minister may, for any cause which appears to the Minister to be sufficient, remove any member from office.

11 Casual vacancy

- (1) Where a casual vacancy occurs in the office of a member, the Minister may appoint a person to the vacant office.
- (2) The person so appointed shall:
 - (a) if the member in whose office the vacancy occurs was appointed pursuant to section 5 (2) (a) or (b), be appointed on the same nomination as that member, and
 - (b) subject to this Act, hold office for the residue of his or her predecessor's term of office.

12 Alternate member

- (1) Where a member has been granted leave of absence by the Institute for a period of six months or longer, the Minister may appoint an alternate member to act for the period of the leave in the place of the member to whom the leave was so granted.
- (2) An alternate member so appointed shall if appointed to act in the place of a member appointed:
 - (a) pursuant to section 5 (2) (a) or (c), be appointed on the nomination of the Minister, or
 - (b) (Repealed)
 - (c) pursuant to section 5 (2) (b), be appointed on the nomination of the person or body which nominated the member in whose place the alternate member is appointed to act.
- (3) An alternate member shall during the period for which the alternate member is appointed to act as such have all the powers, authorities, duties and functions of a member and be deemed to be a member.

13 Proceedings of the Institute

- (1) The procedure for the calling of meetings of the Institute and for the conduct of business at those meetings shall, subject to any by-laws in relation thereto, be as determined by the Institute.
- (2) At any meeting of the Institute a quorum shall be formed:
 - (a) where the total number of members for the time being is exactly divisible by two, by one more than one-half of that number,
 - (b) where the total number of members for the time being is not exactly divisible by two, by the number of members equal to the next whole number above one-half of the total number of members for the time being.
- (3) Any duly convened meeting at which a quorum is present shall be competent to transact any business of the Institute, and shall have and discharge all the powers, authorities, duties and functions of the Institute.
- (4) A decision of the majority of the members present at a meeting of the Institute shall be the decision of the Institute.
- (5) The Institute shall cause minutes to be kept of the proceedings at formal meetings.
- (6) No act or proceeding of the Institute shall be invalidated by reason only of the fact that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of any member.

14 Protection of Institute and officers

No matter or thing done or suffered by the Institute, or by any member, bona fide in the execution, or intended execution, of this Act or the exercise or discharge, or intended exercise or discharge, of any of the Institute's or the member's powers or duties shall subject the Institute or any member, or any other person, or the Crown, to any liability in respect thereof.

15 Committees

(1) The Institute may establish a committee, consisting of such members as the Institute may appoint thereto, to be called the "New South Wales Institute of Psychiatry House Committee" (in this section referred to as the **House Committee**) and may delegate to that committee the power to make out of the House Account established under section 16 (5) payments to meet the ordinary costs of administration of the Institute.

(2) Any payments made by the House Committee out of the House Account shall be deemed to be made by the Institute.

(2A) The Institute is to establish the following committees (referred to in this section as General Committees) within 3 months after the commencement of this subsection:

- (a) Psychiatrist Training Committee,
- (b) Research Committee,
- (c) Multidisciplinary Programs Committee,
- (d) Community Education and Outreach Committee.

The General Committees are to have such functions as are conferred by the Institute.

(2B) A person sitting on a General Committee holds office for a period not exceeding 3 years but is eligible (if otherwise qualified) for reappointment for a period not exceeding 3 years.

(2C) The procedure for the calling of meetings of any of the General Committees and for the conduct of business at those meetings is, subject to this Act, to be determined by the Institute or (subject to any determination of the Institute) by the committee concerned.

(2D) A person sitting on a General Committee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of that person.

(3) The Institute may establish such other committees for the purpose of advising the Institute, as may from time to time appear to the Institute to be necessary.

(4) Each committee, other than the House Committee, shall consist of such persons,

whether members of the Institute or not, as the Institute may appoint thereto.

(4A) However, a General Committee is to include at least one member of the Institute who is to be the chairperson of that committee.

(5) The Institute may at any time revoke any delegation made under subsection (1).

16 New South Wales Institute of Psychiatry Account

(1) The Institute shall, as soon as practicable after the commencement of this Act, establish an Account to be called "The New South Wales Institute of Psychiatry Account".

(2) There shall be placed to the credit of the Account:

(a) any moneys appropriated by Parliament for the purposes of this Act,

(b) except as provided by subsection (7), any moneys received by the Institute from any other source for any of the objects of the Institute.

(3) The moneys in the Account may, subject to the terms of any trust or condition affecting those moneys or any part thereof and the provisions of subsection (10), be applied:

(a) for the purpose of carrying out or giving effect to all or any of the objects of the Institute,

(b) without limiting the generality of paragraph (a), in making grants:

(i) to institutions, hospitals, departments or other bodies or to individuals for, or for the encouragement of, research or investigation into the causation, prevention, diagnosis or treatment of mental illnesses or disorders,

(ii) to institutions, hospitals, departments or other bodies for carrying out, or for the encouragement of, any training or education which the Institute itself is entitled to provide or promote, and

(c) in meeting the costs of administration of this Act.

(4) Any moneys in the Account that are not immediately required for the purposes of this Act may, subject to the terms of any trust or condition affecting those moneys or any part thereof, be invested in any manner in which trustees are for the time being authorised to invest trust funds.

(5) The Institute may establish an account to be known as the "House Account" into which the Institute may, in accordance with subsection (3) (c), pay out of the Account such moneys as the Institute considers necessary to meet any of the ordinary costs of administration of the Institute.

- (6) The Institute may establish such other accounts as it deems necessary for the purpose of maintaining, separate from the Account, accounts relating to property acquired by the Institute for any of the purposes of this Act on trust or subject to conditions affecting that property to which the Institute has agreed as referred to in section 18.
- (7) There shall be placed to the credit of an account established under subsection (6) such moneys as are received by the Institute in respect of the property to which the account relates.
- (8) Where, prior to the commencement of the *New South Wales Institute of Psychiatry (Amendment) Act 1971*, any moneys in the Account were received by the Institute in respect of property acquired by the Institute on trust or subject to any condition affecting that property to which the Institute has agreed as referred to in section 18, the moneys may, in lieu of being retained in the Account, be carried to a separate account established under subsection (6).
- (9) Subject to subsection (11), the moneys in an account established under subsection (6) shall be applied in accordance with the trust or condition affecting the property to which such moneys relate.
- (10) Any moneys in the Account not subject to a trust or a condition as referred to in section 18 may be placed to the credit of any account established under subsection (6).
- (11) The Institute may transfer any moneys placed to the credit of an account in accordance with subsection (10) from such account to the Account or any other account established under subsection (6).
- (12) The Institute may, subject to the terms of any trust or condition affecting the property to which the account established under subsection (6) relates, invest any moneys in such an account in any manner in which trustees are for the time being authorised to invest trust funds.
- (13) Property that is subject to a trust by reason only of the provisions of section 17 shall be deemed not to be subject to a trust for the purposes of this section.

17 Property to be held in trust

The Institute shall, subject to section 16, hold all property acquired by it on trust to apply the property for the purpose of carrying out or giving effect to all or any of the objects of the Institute, but subject to the terms of any trust or condition affecting that property.

18 Power to accept gifts etc

- (1) The Institute has power to acquire by gift, bequest or devise any property for any of the purposes of this Act, and to agree to and carry out the conditions of the gift,

bequest or devise.

- (2) The rule of law relating to perpetuities does not apply to any condition of a gift, bequest or devise to which the Institute has agreed.
- (3) Nothing contained in the *Stamp Duties Act 1920* applies to any real or personal property of any nature or kind whatsoever comprised in any gift, bequest or devise made to the Institute.

19 Public appeals

- (1) The Institute may conduct public appeals for funds for the purposes of the Institute.
- (2) (Repealed)

20 Officers and employees

- (1) Subject to subsection (3), the Director of the Institute and such other staff of the Institute as are necessary are to be employed under Part 2 of the *Public Sector Management Act 1988*.
- (2) In making any recommendation for the appointment of any person to the staff of the Institute, the Public Employment Office shall have regard to any recommendation made by the Institute.
- (3) Subject to the approval of the Public Employment Office, the Institute may appoint and employ, otherwise than in a full-time capacity, such persons possessing medical, scientific or technical or other para-medical qualifications, as may be necessary for carrying out the provisions of this Act.
- (3A) Salaries and fees payable pursuant to subsection (3) shall be part of the costs of administration of this Act.
- (4) For carrying out the provisions of this Act, the Institute, with the approval of the Department or public authority concerned, and the Public Employment Office, may make use of the services of any of the officers and temporary employees of the Public Service.

21 Financial year of the Institute

The financial year of the Institute shall be:

- (a) where no period is prescribed as referred to in paragraph (b)—the year commencing on 1 July, or
- (b) the period prescribed for the purposes of this section.

22 Recovery of fees

Any fee due or payable to the Institute may be recovered by the Institute as a debt in a court of competent jurisdiction.

23 Report of proceedings of Institute

As soon as practicable after the thirtieth day of June in each year, the Institute shall prepare and transmit to the Minister for presentation to Parliament a report of the proceedings of the Institute during the period of twelve months immediately preceding that day.

24 By-laws

- (1) The Institute may make by-laws not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1), the Institute may make by-laws:
 - (a) regulating the conduct of meetings of the Institute including the times and places of meetings and the notice to be given of any class of meetings,
 - (b) prescribing the circumstances in which and the terms and conditions upon which any property vested in the Institute may be applied for any purpose for which it may be applied in accordance with this Act,
 - (c) relating to programmes of training, and the conditions upon which persons may undertake training, referred to in section 4 (1) (c), (d) or (e),
 - (d) relating to the implementation of any organisation, institution, hospital or other body on behalf of the Institute of programmes of training referred to in section 4 (1) (c), (d) or (e), and
 - (e) regulating the terms and conditions, including remuneration and allowances, governing the award of fellowships referred to in section 4 (1) (h).
- (3) A by-law shall be submitted to the Governor for approval and shall not be published in the Gazette until after it has been approved by the Governor.
- (4) (Repealed)

25 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 25)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts or provisions of Acts:

Schedule 3 to the *Health Legislation Amendment Act 1997*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate 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 date 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 to be done before the date of its publication.

Part 2 Provisions consequent on enactment of Health Legislation Amendment Act 1997

2 Definitions

In this Part:

amending Act means the *Health Legislation Amendment Act 1997*.

new Institute means the Institute as constituted after the commencement of Schedule 3 [2] to the amending Act.

old Institute means the Institute as constituted immediately before the commencement of Schedule 3 [2] to the amending Act.

3 Members of Institute

- (1) A person who, immediately before the commencement of Schedule 3 [2] to the amending Act held office as a member of the old institute:
 - (a) ceases to hold that office on that commencement, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the new

Institute.

- (2) A person who ceases to hold office as a member of the old Institute because of the operation of the amending Act is not entitled to be paid any remuneration or compensation because of ceasing to hold that office.

4 Continuity of Institute

Anything done by, to or in relation to the old Institute is taken to have been done by, to or in relation to the new Institute.

5 Appointments before commencement

For the purpose only of enabling the new Institute to be constituted in accordance with this Act on or after (but not before) the commencement of Schedule 3 [2] to the amending Act, appointments may be made under this Act (and anything else may be done) before that commencement as if the whole of the amending Act commenced on the date of assent, but so that no appointment as a member of the new Institute as so constituted takes effect before that commencement.