

CHARTER of the LIFETIME SUPPORT AUTHORITY

Part 1: Preliminary

1. Purpose

This Charter sets out the strategic objectives, operational arrangements and financial requirements for the Lifetime Support Authority of South Australia (the Authority).

The Minister directs the Authority to have a Charter, pursuant to section 8 of the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*.

This Charter has been approved by the Minister and the Treasurer, following consultation with the Authority.

This Charter may be amended at any time by the Minister or the Treasurer, following consultation with the Authority.

The Authority is to review the Charter annually and submit any variations to the Minister and the Treasurer for approval.

2. Governance Context

This Charter should be read in conjunction with the following:

- *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*
- *Public Corporations (Lifetime Support Authority) Regulations 2013¹*, which applies provisions of the *Public Corporations Act 1993* to the Authority, as outlined in Appendix 1 to this Charter
- *Public Finance and Audit Act 1987*
- *Public Sector Act 2009*
- *Superannuation Funds Management Corporation of South Australia Variation Regulations¹*, which declare the Authority a 'prescribed public authority' for the purposes of that Act
- Code of Conduct for South Australian Public Sector Employees March 2005
- any other applicable legislation or government policy, including the Treasurer's Instructions.

¹ These regulations have been drafted, and a submission to Cabinet sub-committee is currently being prepared for the regulations to be made.

3. Definitions

In this Charter the following definitions apply:

- '*Act*' means the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*
- '*Authority*' means the Lifetime Support Authority
- '*Board*' means the Board of Directors established as the governing body of the Authority under section 9 of the Act
- '*Chair*' means the Chairperson of the Board
- '*Chief Executive*' means the Chief Executive of the Authority
- '*Director*' means a member of the Board
- '*Scheme*' means the Lifetime Support Scheme under the Act for the lifetime treatment, care and support of certain persons injured in motor vehicle accidents
- '*LSS Rules*' means the criteria for eligibility to be accepted under the Act as a participant of the Scheme, and the entitlements of a participant of the Scheme to necessary and reasonable treatment, care and support, as made by the Governor on the recommendation of the Authority, under 56 of the Act
- '*Minister*' means the Minister to which the Act is committed under the *Administrative Arrangements Act 1994*
- '*Participant*' means a person accepted under the Act as a participant of the Scheme (either as a lifetime participant or an interim participant)
- '*Performance Statement*' means the statement of performance objectives that the Lifetime Support Authority must attain
- '*the Government*' means the Government of South Australia
- '*the State*' means South Australia
- '*Treasurer*' means the Treasurer of the Government of South Australia.

Part 2: Purpose and Direction

4. Establishment

The Authority was established under section 7 of the Act as a body corporate.

The sections of the Act which establish the Authority, appoint the Board and establish the LSS Fund (sections 1 to 3 and Parts 2, 7 and 8) commence 1 July 2013. The parts which bring the Scheme into operation commence 1 July 2014.

The *Public Corporations (Lifetime Support Authority) Regulations 2013* applies provisions of the *Public Corporations Act 1993* to the Authority, as outlined in Appendix 1 to this Charter.

5. Functions of the Authority

The functions of the Authority under section 16 of the Act are:

- to monitor the operation of the Scheme
- to provide advice to the Minister about the administration, efficiency and effectiveness of the Scheme
- to provide support and funding for programs that will provide high-quality services to participants in the Scheme and research and education in connection with services provided to participants in the Scheme
- to disseminate information about the Scheme
- to keep the LSS Rules under review
- to be responsible for the LSS Fund
- other functions conferred on the Authority by or under the Act or any other legislation.

6. Governance Arrangements

The Authority owns assets for and on behalf of the Government for the benefit of the State (section 7 of the Act) and has the powers of a natural person (section 17 of the Act) and those conferred on it by legislation.

The Government (represented by the Minister and the Treasurer) is the owner of the Authority, acting for and on behalf of the people of the State.

In line with section 10 of the Act, the Minister has formed the opinion that the Board must include Directors with skills and experience in governance, health, disability, legal, financial management and investment.

The Authority is subject to the general control and direction of the Minister, under section 8 of the Act.

The Authority shall discharge its duties under the legislation listed in clause 2 of this Charter, as well as under any other piece of legislation which has an impact on the Authority's activities.

The Authority will prepare a Performance Statement annually, commencing in 2014-15 aligned to the commencement of the Scheme from 1 July 2014, setting the various performance objectives that the Authority is to attain, in consultation with and for the approval of the Minister and the Treasurer.

The Minister and the Treasurer will assess the Board's performance as against the Authority's Performance Statement and in line with the Charter.

Each Committee of the Board – the Audit Committee, the LSS Rules Committee and the Applications Committee – is required to have a Terms of Reference including performance objectives. The Authority will assess each Committee's performance against its Terms of Reference.

The Chief Executive, appointed by the Board in consultation with the Minister, is accountable to the Board for day-to-day management of the Authority and the implementation of the Board's decisions, directions and policies and discharge of delegated powers or functions.

Board Powers

The Board is empowered under section 9 of the Act to make binding decisions in the administration of the Authority.

The Board shall have authority to interpret the meaning of this Charter and any other matter relating to the affairs of the Board on which this Charter is silent.

The Board through the Chair may make recommendations to the Minister about improvements or modifications to the Charter.

7. Functions of the Board

Board Powers

The Board is empowered under section 9 of the Act to make binding decisions in the administration of the Authority.

The Board shall have authority to interpret the meaning of this Charter and any other matter relating to the affairs of the Board on which this Charter is silent.

The Board through the Chair may make recommendations to the Minister about improvements or modifications to the Charter.

Board Responsibilities

The Board through the Chair is responsible to the Minister for:

- sound management and stewardship of the Authority and its assets for and on behalf of the Government in accordance with the law
- setting and approving plans for resource allocation, strategic direction and performance objectives for the Authority
- ensuring the Authority implements management and operation policies which provide high quality services and are respectful of participants, their families and carers.

The Board's responsibilities include to:

- manage the Scheme to provide necessary and reasonable treatment, care and support to people who acquire an eligible injury as a result of a motor vehicle accident in South Australia, in a manner that is financially prudent and supports the inclusion and independence of participants
- recommend the required contribution to the LSS Fund contribution each period, in a manner that protects its long term financial sustainability and considers the affordability of the Scheme for South Australian vehicle owners.

The Board will have documented decision making procedures modelled on good governance practice, and exemplify high standards of corporate and business ethics and respect for the dignity of people with disability.

Minister's or Treasurer's Representative

The Minister or the Treasurer may authorise a person (a Representative) in writing to attend, as an observer, any meeting of the Board and have access to papers provided to Directors for the purposes of the meeting. The Representative attends Board meetings for the purposes of representing and conveying the views of the Minister or the Treasurer to the Board, and for reporting the activities of the Board to the Minister or the Treasurer.

Part 3: Operational Matters

8. Operational activities

Strategic and Business Plans

The Board must ensure that appropriate strategic and business plans are established, consistent with this Charter and the Authority's performance objectives, and there are appropriate structures and systems to monitor performance and take corrective action when necessary.

LSS Fund – Contributions

Under the Act, the Authority must establish and maintain the LSS Fund. The Act provides that:

- the Authority is to determine, and report to the Minister, the amount it considers is required to be contributed to the LSS Fund for a period, which will (amongst other things) cover the present and likely future liabilities of the Authority in respect of people who become participants in the Scheme, in accordance with a report of an independent actuary
- on the report from the Authority, the Minister must, in consultation with the Treasurer, determine the required contribution to the LSS Fund
- the required contribution to the LSS Fund is to be made by the payment to the Authority of the LSS Fund levy, that is imposed on the registration of a motor vehicle, and
- the LSS Fund levy is an amount calculated under a Scheme determined by the Minister after consultation with the Treasurer and the Authority.

The Board will work with the Board of the Motor Accident Commission to establish protocols, to ensure that the setting of both the Compulsory Third Party Premium and the LSS Fund levy have regard for the other and appropriately consider the combined effect on vehicle registration payers.

LSS Fund – Investment

The Authority must adopt a prudent investment and management strategy for the LSS Fund, which should be framed to achieve a portfolio with characteristics which appropriately take account of the long tail of liabilities created under the Scheme. The investment and management strategy adopted by the Authority for the LSS Fund must be approved by the Minister and the Treasurer.

Borrowings

Under section 19 of the Act, the Treasurer may advance money to the Authority from the Consolidated account, by way of grant or loan on terms and conditions as determined by the Treasurer in consultation with the Board.

Operations and Transactions Outside of the State

The Authority may undertake operations or transactions outside of the State which are ancillary to the functions of the Authority, such as to:

- avoid exposure to excessive levels of insurance risk by reinsuring its risks
- implement an appropriate investment strategy for the LSS Fund
- enter contracts, to obtain expert advice on the administration of the Scheme
- provide treatment, care and support services to participants who reside outside of the State
- make reciprocal arrangements with other states and territories to provide treatment, care and support services to participants.

The Authority will not engage in operations or transactions outside of the State, which are not ancillary to the Authority's functions, unless approval to any acceptance and commencement of an activity has been obtained from the Minister and the Treasurer.

Subsidiaries, Associated and Allied Organisations

Note that there are no subsidiaries of the Authority, or other companies or entities related to the Authority. The Authority is not to undertake any activities or transactions through partnership, or under any arrangement for the sharing of profits, co-operation or joint venture with another person, unless approval to any acceptance and commencement of an activity has been obtained from the Minister and the Treasurer.

Asset Management

The Authority will comply with the Treasurer's Instructions and other Government policies relating to the acquisition and disposal of assets.

Tax Equivalent Payments

The Authority will comply with the Government Policy and relevant Treasurer's Instructions in relation to tax equivalent payments, in accordance with any exemption provided by the Treasurer or variation provided by the Under Treasurer.

Codes of Conduct

Directors are bound by duties of care and to act honestly, and to disclose conflicts of interest, as applied in the *Public Corporations (Lifetime Support Authority) Regulations 2013* outlined in Appendix 1 of this Charter.

The *Code of Conduct for South Australian Public Sector Employees* March 2005 will apply to staff engaged directly by the Authority, or who are involved in the operation of the Authority by way of arrangement with a government department, agency or instrumentality or any other entity.

The Authority is also to develop and maintain a code of conduct under section 23 of the Act covering the procedures and standards required for providing services to people who interact with the Authority.

Delegations

The Authority will maintain a register of its financial and administrative delegations.

Every delegation made by the Board or a delegate of the Board under section 15 of the Act which will or could give rise to a liability or a contingent liability must contain a limitation which requires that the delegate must not incur a liability that exceeds the monetary amount specified in the instrument of delegation.

9. Other Matters

Commitment to Supporting Participants

The Government is committed to implementing practices which support the capacity of people with disability to pursue their goals and independence, in a way that is appropriate to their circumstances.

The Authority works to respect the individuality and diversity of participants.

The Authority provides necessary and reasonable treatment, care and support through a person centred approach, enabling participants, their families and carers to choose and control evidence based support and service arrangements that provide opportunities to participate and contribute to social and economic life.

These policies are to be financially prudent and affordable for vehicle registration payers.

Government Policies

The Authority is to undertake its functions and exercise its powers in line with the Government's vision and direction, and policies and governance frameworks for statutory authorities. The Authority's strategic planning process will be linked to the Government's *South Australia's Strategic Plan* and the 'Seven Strategic Priorities'.

The Authority is to ensure it adopts a collaborative approach to working with other Government agencies, and relationships with key stakeholders are managed appropriately for the benefit of the Scheme.

Part 4: Financial reports, systems and practices

10. Financial reports, systems and practices

Obligations to report on operations

In addition to statutory reporting, the Authority must provide the following reports to the Minister, the Treasurer, and the Department of Treasury and Finance (as required):

- financial, budget and investment performance information and reports, as presented to the Board
- quarterly reporting of the performance of the LSS, including levy revenue, participants and payments under the Scheme
- the annual report of the Authority
- performance against standards for customer service
- any other information that is requested at any time by the Minister or the Treasurer
- any other information which, in the opinion of the Board, should be provided to the Minister or Treasurer.

The annual report of the Authority must contain, in addition the audited accounts and financial statements for the financial year:

- achievement of its legislative and statutory obligations, functions and expectations of the Minister
- comparisons between strategic plan objectives and actual results, and reasons for the results
- implementation of policies for the administration of the Scheme and management of the LSS Fund.

The Authority must advise the Minister and the Treasurer whenever it enters into any arrangements which give rise to a material contingent liability, and of any material development (as soon as practicable) which adversely affects the operating or financial capacity of the Authority or gives rise to an expectation that the Authority may not be able to meet its debts as and when they fall due.

Form and Contents of Accounts and Financial Statements

The Authority will maintain proper financial and accounting processes, practices and systems, and prepare financial statements in accordance with applicable Australian Accounting Standards, generally accepted accounting principles and practices, and all relevant Government policies including Treasurer's Instructions (unless specifically exempted) issued under the *Public Finance and Audit Act 1987*.

Accounting and Internal Auditing Systems and Practices

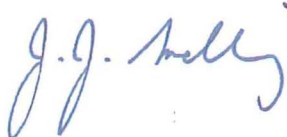
The Authority will establish and maintain effective records of all asset acquisitions and disposals and establish and maintain effective internal auditing of its operations via the Audit Committee in accordance with appropriate standards of practice.

Part 5: Date of Operation

11. Date of Operation

This Charter or any amendment comes into operation upon signing by the Minister and the Treasurer, and is binding on the Authority.

Part 6: Approvals



MINISTER FOR HEALTH AND AGEING

Date: 19.xii.13



TREASURER

Date: 10/12/14

Noted by the Authority:



CHAIRPERSON

Date: 6/3/2014

Appendix 1

Provisions of *Public Corporations Act 1993* to apply to the Authority by the *Public Corporations (Lifetime Support Authority) Regulations 2013*

The *Public Corporations Act 1993* (the PC Act) provides a legislative framework for the duties and obligations of public corporations. The Authority as a body corporate meets the definition of a public corporation.

Under section 5(1) of the PC Act, a provision applies to a statutory corporation to which the provision is declared to apply by the corporation's incorporating Act, or by regulation.

Consistent with the Government's aims of strong governance and oversight of the public corporations, the *Public Corporations (Lifetime Support Authority) Regulations 2013* applies the following sections of the PC Act to the Authority:

- s 7 - Provision of information and records to Minister
- s 8 - Minister's or Treasurer's representatives may attend meetings
- s 10 - No breach of duty to report matter to Minister
- s 14 - General management duties of board
- s 15 - Directors' duties of care etc.
- s 16 - Director's duty to act honestly
- s 17 - Transactions with directors or associates of directors
- s 18 - Directors' and associates' interests in corporation or subsidiary
- s 19 - Conflict of interest
- s 20 - Removal of director
- s 21 - Civil liability if director or former director contravenes this Part
- s 22 - Immunity for directors
- s 23 - Formation of subsidiary companies
- s 29 - Tax and other liabilities of corporation
- s 31 - Internal audits and audit committee
- s 35 - Minister to be consulted as to appointment or removal of chief executive officer
- s 36A - Duty of employees to act honestly
- s 36B - Duty of senior executives with respect to conflict of interest
- s 37 - Transactions with executives or associates of executives
- s 38 - Executives' and associates' interests in corporation or subsidiary
- s 38A - Duty of employees with respect to conflict of interest
- s 39 - Validity of transactions of corporation