



New South Wales

Drug Court Amendment Act 1999 No 47

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Drug Court Amendment Act 1999 No 47

Act No 47, 1999

An Act to amend the *Drug Court Act 1998* in relation to the procedures to be adopted by courts in referring persons to the Drug Court and the procedures to be adopted by the Drug Court in dealing with persons so referred; and to make related amendments to the *Periodic Detention of Prisoners Act 1981*. [Assented to 1 November 1999]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Drug Court Amendment Act 1999*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Drug Court Act 1998 No 150

The *Drug Court Act 1998* is amended as set out in Schedule 1.

4 Amendment of Periodic Detention of Prisoners Act 1981 No 18

The *Periodic Detention of Prisoners Act 1981* is amended as set out in Schedule 2.

Schedule 1 Amendment of Drug Court Act 1998

(Section 3)

[1] Section 5 Definition of “eligible person”

Omit “likely that the person will, if convicted, be sentenced to imprisonment” from section 5 (1) (b).

Insert instead “highly likely that the person will, if convicted, be required to serve a sentence of full-time imprisonment”.

[2] Section 6 Courts may refer persons to Drug Court

Insert “or to which a person appeals against a sentence imposed by some other court” after “charged with an offence” in section 6 (2).

[3] Section 6 (3)

Omit the subsection. Insert instead:

(3) The power conferred on a court by this section is to be exercised as soon as practicable after the person first comes before the court in connection with the offence, but may be exercised at any time:

(a) in the case of a court exercising functions under the *Justices Act 1902*, before the court has committed the person for trial or sentence in relation to that offence under Division 1 of Part 4 of that Act, and

(b) in any case, before the person is sentenced or re-sentenced for the offence.

[4] Section 7 Persons accepted into program

Insert “the conditions imposed by this Act and” after “accepts” in section 7 (2) (d).

[5] Section 7 (3)

Omit “On sentencing the person”.

Insert instead “On or within 14 days after sentencing the person”.

[6] Section 7 (3A)

Insert after section 7 (3):

- (3A) An order referred to in subsection (3) (a) or (b) may be made in the absence of the person in respect of whom it is made.

[7] Section 7 (4A)

Insert after section 7 (4):

- (4A) Subsection (3) applies to a sentence under subsection (4) in the same way as it applies to a sentence under subsection (2).

[8] Section 7 (6)

Insert after section 7 (5):

- (6) In this section, a reference to the convicting and sentencing of a person is, in the case of a person who is referred to the Drug Court after having been convicted, a reference to the sentencing of the person only.

[9] Section 8 Persons not accepted into program

Insert “or in such other circumstances as the Drug Court may determine” after “under this section” in section 8 (3).

[10] Section 8 (3A) and (3B)

Insert after section 8 (3):

- (3A) In the case of a person who has been referred to the Drug Court for 2 or more offences by 2 or more referring courts, the Drug Court may refer the person back to any one of the referring courts to be dealt with:
- (a) for the offences for which the person was referred by that court, and
 - (b) for such of the other offences as are within the criminal jurisdiction of that court.
- (3B) In dealing with a person for an offence referred to in subsection (3A) (b), the court to which the person is referred back is taken to be the referring court for the purposes of subsection (4).

[11] Section 8 (6)

Insert after section 8 (5):

- (6) In this section, a reference to the convicting and sentencing of a person is, in the case of a person who is referred to the Drug Court after having been convicted, a reference to the sentencing of the person only.

[12] Section 8A

Insert before section 9:

8A Statutory conditions of program

- (1) It is a condition of a drug offender's program that the Drug Court may, with the consent of the drug offender, commit the drug offender to a correctional centre for up to 7 days at a time if, in the opinion of the Drug Court, such action is necessary to facilitate:
 - (a) detoxification of the drug offender, or
 - (b) assessment of the drug offender's participation in the program.
- (2) However, a drug offender is not to be committed to a correctional centre for detoxification unless the Drug Court is satisfied that no other suitable facilities are immediately available.
- (3) A consent referred to in subsection (1) that is given by a drug offender in relation to the committal of the drug offender to a correctional centre for a particular period of time is irrevocable during that period.
- (4) A drug offender does not fail to comply with his or her program merely because the drug offender fails to give a consent referred to in subsection (1).

[13] Section 12 Imposition of final sentence

Insert at the end of section 12 (2):

- , and
- (c) any time for which the drug offender has been held in custody in connection with an offence to which his or

her program relates, including time during which the person has undergone imprisonment:

- (i) under the sentence, or
- (ii) under the condition of the program arising under section 8A.

[14] Section 14 Arrest warrants

Insert after section 14 (3):

- (4) The Drug Court's functions under this section may be exercised by the registrar.

[15] Section 14A

Insert after section 14:

14A Warrants of committal

- (1) For the purpose of subjecting a drug offender to imprisonment in a correctional centre as referred to in section 8A or 16 (2) (f), the Drug Court may issue a warrant committing the drug offender to a correctional centre.
- (2) A warrant under this section:
 - (a) authorises any police officer to have custody of the drug offender named in the warrant, to convey the drug offender to the correctional centre specified in the warrant and to deliver the drug offender into the custody of the governor of that correctional centre, and
 - (b) authorises the governor of the correctional centre specified in the warrant to have custody of the drug offender named in the warrant for the period of time specified in the warrant.
- (3) The Drug Court's functions under this section may be exercised by the registrar.

[16] Section 24 Jurisdiction of Drug Court

Insert "or the *Bail Act 1978*" after "the *Justices Act 1902*" in section 24 (2) (b).

Schedule 2 Amendment of Periodic Detention of Prisoners Act 1981

(Section 4)

[1] Section 20 Leave of absence at request of periodic detainee

Insert “or is participating in a program under the *Drug Court Act 1998*” after “custody” in section 20 (1) (c).

[2] Section 24 Cancellation of orders for periodic detention on subsequent conviction

Insert “, makes a suspension order under the *Drug Court Act 1998* in relation to the periodic detainee” before “or takes action” in section 24 (1).

[3] Section 24 (1)

Insert “or the *Drug Court Act 1998*” before “in connection with”.

[Minister's second reading speech made in—
Legislative Council on 21 September 1999
Legislative Assembly on 20 October 1999]