



New South Wales

Drug Court Amendment Act 2002 No 93

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Drug Court Amendment Act 2002 No 93

Act No 93, 2002

An Act to amend the *Drug Court Act 1998* to make further provision with respect to participation in drug programs, the termination of drug programs, sentencing and the accommodation of participants; and for other purposes. [Assented to 28 November 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Drug Court Amendment Act 2002*.

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.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Objects

Omit section 3 (1). Insert instead:

- (1) The objects of this Act are:
 - (a) to reduce the drug dependency of eligible persons, and
 - (b) to promote the re-integration of such drug dependent persons into the community, and
 - (c) to reduce the need for such drug dependent persons to resort to criminal activity to support their drug dependencies.

[2] Section 3 (2)

Omit “that object”. Insert instead “its objects”.

[3] Section 7 Persons accepted into program

Insert after section 7 (2) (e):

- (f) that any person (an *affected person*) with whom it is likely the person would reside during the period of the person’s participation in a program under this Act has consented in writing to the person residing with the affected person during that period.

[4] Section 7 (3B)

Insert after section 7 (3A):

- (3B) The kinds of conditions that the Drug Court may impose on the person under this section are as follows:
 - (a) conditions relating to conduct and good behaviour,
 - (b) conditions relating to attendance for counselling or other treatment,
 - (c) conditions relating to the supervision of the person for the duration of a program under this Act,
 - (d) conditions relating to drug testing that the person must undergo,
 - (e) conditions relating to residence, association with other persons or attendance at specified locations,

- (f) conditions relating to involvement in activities, courses, training or employment for the purpose of promoting the re-integration of the person into the community,
- (g) conditions relating to conferring rewards of the kind referred to in section 16 (1),
- (h) conditions relating to the imposition of sanctions of the kind referred to in section 16 (2),
- (i) any other kinds of conditions that may be prescribed by the regulations,
- (j) such other conditions as the Drug Court considers appropriate in the circumstances.

[5] Section 7 (5A) and (5B)

Insert after section 7 (5):

- (5A) A suspension order does not operate to suspend any period of disqualification from holding a driver licence imposed by or under the road transport legislation within the meaning of the *Road Transport (General) Act 1999*.
- (5B) For the purposes of subsection (2) (f):
 - (a) the consent of children below a prescribed age, and
 - (b) the consent of persons suffering a prescribed disability,may be given on their behalf by such other persons as the regulations may determine or may, if the regulations so provide, be dispensed with.

[6] Section 8A Statutory conditions of program

Omit “7 days” from section 8A (1). Insert instead “21 days”.

[7] Section 8A (1) (c)

Insert at the end of section 8A (1) (b):

- , or
- (c) the development of a suitable treatment plan.

[8] Section 10 Proceedings for non-compliance with program

Omit section 10 (1) (b). Insert instead:

- (b) if it is also satisfied, on the balance of probabilities, that the offender is unlikely to make any further progress in the program or that the offender's further participation in the program poses an unacceptable risk to the community that the person may re-offend—may decide to terminate the program.

[9] Section 11 Termination of program

Omit section 11 (1) (a). Insert instead:

- (a) if the Drug Court is satisfied on the balance of probabilities that, having regard to the objects of this Act, the drug offender has substantially complied with the program, or

[10] Section 15 Sentences imposed by Drug Court

Insert after section 15 (2):

- (3) The provisions of section 58 of the *Crimes (Sentencing Procedure) Act 1999* do not apply to a sentence imposed on a person under this Act by the Drug Court as referred to in subsection (1) (b) if that sentence is imposed for an offence committed while the person was participating in a program under this Act.
- (4) The provisions of Division 3 (Taking further offences into account) of Part 3 of the *Crimes (Sentencing Procedure) Act 1999* apply in relation to a relevant conviction of a person for an offence as if:
 - (a) the person had been charged, but not convicted, of the offence, and
 - (b) the person had admitted guilt for the offence for the purposes of section 33 (2) (a) (i) of the *Crimes (Sentencing Procedure) Act 1999*.
- (5) In this section, **relevant conviction** of a person for an offence means the conviction of the person by a court (other than the Drug Court) for the offence under any of the following provisions for which the person has not been sentenced by that court:

- (a) section 75B of the *Justices Act 1902*,
- (b) section 196 of the *Criminal Procedure Act 1986* (as inserted by the *Criminal Procedure Amendment (Justices and Local Courts) Act 2001*).

[11] Section 31 Provision of information to Drug Court

Omit “The following provisions apply to and in respect of any information provided for the purposes of this section (*protected information*)” from section 31 (3).

Insert instead “The following provisions apply to and in respect of any information (*protected information*) relating to a drug offender that is provided to the Drug Court, or to any person to whom this section applies, by a person to whom this section applies”.

[12] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[13] Schedule 2

Insert at the end of the Schedule (with appropriate Part and clause numbers):

Part Provisions consequent on enactment of Drug Court Amendment Act 2002

Application of Drug Court Amendment Act 2002 to existing programs

Each amendment made to this Act by any of the following provisions of the *Drug Court Amendment Act 2002* extends to a program under this Act that is in effect immediately before the commencement of the amendment:

- (a) Schedule 1 [1] and [2],
- (b) Schedule 1 [5] (but only to the extent it inserts section 7 (5A) in this Act),

- (c) Schedule 1 [6],
- (d) Schedule 1 [7],
- (e) Schedule 1 [8],
- (f) Schedule 1 [9],
- (g) Schedule 1 [11].

[Second reading speech made in—

Legislative Assembly on 25 September 2002

Legislative Council on 20 November 2002]

BY AUTHORITY