



New South Wales

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Drug and Alcohol Treatment Act 2007* (***the Act***) to further provide for the involuntary rehabilitative care of persons with severe substance dependence:

- (a) by providing a new option for rehabilitation, so that, instead of being detained, persons with severe substance dependence can (during a trial-period) agree to undergo out-patient treatment, including having naltrexone implanted under their skin and undergoing counselling for relapse prevention and other health issues, and
- (b) by amending the procedure for assessing persons for involuntary treatment, including by adding to the persons who can request an assessment and to the circumstances in which a person can be involuntarily treated, and
- (c) by amending the procedure for the detention and transportation of persons for the purposes of involuntary rehabilitative treatment and for the conduct of the subsequent treatment of those persons, and

- (d) by adding to the rights of detained dependent persons, including their right to plan their treatment and their rights to competent and reasonable care, to legal representation and to information about these and other rights, and
- (e) by further restricting the conduct of detained dependent persons (including by prohibiting the abuse or possession of addictive substances, including liquor or drugs, during the period of treatment), and
- (f) by increasing the maximum time for which a person may be involuntarily detained for treatment (from 28 days to 90 days) and by removing the ability to extend that time, and
- (g) by providing for the post-rehabilitative care of persons who were formerly detained or treated (which may involve a second detention or treatment if substance use continues), and
- (h) by applying the Act to young people and specifying the rights of their parents or guardians.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 3 months after the date of assent to the proposed Act.

Schedule 1 Amendment of Drug and Alcohol Treatment Act 2007 No 7

Objects of Act

Schedule 1 [1] updates the objects of the Act to clarify that involuntary treatment provided under the Act is rehabilitative treatment.

Schedule 1 [2] includes in the objects of the Act the objects of facilitating post-rehabilitative care and assistance of persons who were dependent persons so as to help the re-integration of those persons into the workforce and society and granting the police, and the staff of treatment centres, the necessary powers to achieve that object and the other objects.

Application of Act to minors

Schedule 1 [4] provides for the Act to apply to any person who is 16 years old or older (at present it applies only to persons who are 18 years old or older).

Declaration of premises as treatment centres

Schedule 1 [12] provides that the Director-General of the Ministry of Health must not declare any premises to be a treatment centre unless the Director-General is satisfied that its facilities for rehabilitation are safe and adequate.

Assessment of persons with suspected severe substance dependence

Schedule 1 [13] specifies (in proposed section 9) the persons who may request an accredited medical practitioner to assess a person for treatment under the Act, if they reasonably suspect that the person has a severe substance dependence (at present, only a medical practitioner can request an assessment).

Schedule 1 [13] also restates the procedure for assessing persons for treatment, including by inserting new provisions (in proposed section 9A (3) and (4)) which change the criteria that must be satisfied before a dependency certificate can be issued, so that:

- (a) a dependency certificate must not be issued unless the accredited medical practitioner who assesses a person is satisfied that the care, treatment or control of the person is necessary to protect the person from harm to his or her own physical or mental health, to protect others or to remove the risk of the person committing an offence due to the person's substance dependence (whereas, at present, the certificate may only be issued if necessary to protect the person himself or herself from serious harm), and
- (b) a dependency certificate must not be issued unless the accredited medical practitioner who assesses a person is satisfied that the person is likely to benefit from treatment for his or her substance dependence but is unable or unwilling to participate in treatment voluntarily (whereas, at present, the certificate may be issued only if the person has refused treatment), and
- (c) a dependency certificate must not be issued unless the accredited medical practitioner who assesses a person has sought the involvement of the person in the process of planning and developing a personalised plan for the person's rehabilitation and treatment. **Schedule 1 [35] and [41]** make consequential amendments.

Schedule 1 [15] inserts two new sections that provide:

- (a) that an accredited medical practitioner must not issue a dependency certificate in relation to a person unless the medical practitioner has given the person a reasonable opportunity to seek legal representation before the certificate is issued (proposed section 11A) (**Schedule 1 [19]** makes a consequential amendment), and
- (b) that, if a person proposed to be assessed is under the age of 18 years, the medical practitioner conducting the assessment must obtain the consent of the parent or guardian of the young person before conducting the assessment and before issuing a dependency certificate (proposed section 11B).

Schedule 1 [17] provides (in proposed section 14B) that the Director-General may determine the treatment centre in which a specified dependent person, or a person of a class of dependent persons, is to be treated and that, in making that determination, the Director-General is to have regard to the best interests of the dependent person or persons concerned. The Director-General may also direct that a specified dependent person receive treatment in hospital.

Schedule 1 [21] provides (in proposed section 15C) that the director of a treatment centre must make arrangements for any dependent person at the treatment centre to be provided with psychiatric treatment as an integrated part of a rehabilitation plan, and for other medical problems that the person has, and makes provision for that treatment.

Schedule 1 [26] provides (in proposed section 19A) that the Director-General may determine that a dependent person is not to be detained or treated under the Act if the Director-General is aware that the person is awaiting trial for an alleged criminal offence. The amendment also provides (in proposed section 19B) for the detention of persons for the purposes of treatment.

Implanting of naltrexone as alternative to detention

Schedule 1 [13] allows (in proposed section 9A (2) (b), (5) and (6)) for an accredited medical practitioner who determines that a person has a severe substance dependence to recommend (during a trial period) that, instead of being detained for treatment, the dependent person should receive out-patient treatment. That out-patient treatment is to consist of naltrexone being implanted under the person's skin and counselling for relapse prevention and for other medical problems. The dependency certificate issued to such a person is defined as a *Category B dependency certificate*. (A dependency certificate that recommends the detention and treatment of the relevant person is a *Category A dependency certificate*.)

Schedule 1 [21] specifies the elements of the treatment of persons subject to a Category B dependency certificate (proposed section 15A) and provides for such persons to undergo in-patient treatment if they fail to meet their obligations or in other circumstances (proposed section 15B).

Schedule 1 [37] provides (in proposed section 24B) for the release of a person from the obligation to have naltrexone treatment if an accredited medical practitioner is satisfied that the person no longer meets the criteria to be certified a dependent person or that the person's continued presence at the treatment centre will not achieve the purpose for which the person was certified a dependent person.

Schedule 1 [3], [5], [6], [8], [10], [18], [19], [23]–[25], [27], [41] and [46] make amendments consequent on the creation of new categories of dependency certificate and treatment.

Schedule 1 [5], [7], [9], [11] and [31]–[34] make amendments consequent on the creation of two categories of treatment centres (out-patient treatment centres and in-patient treatment centres).

Amendments relating to length of detention

Schedule 1 [16] provides (in proposed section 14) that a person must not be detained for treatment for more than 90 days after a dependency certificate is issued (at present the person may not be detained for more than 28 days). The amendment also provides (in proposed section 14A) for the review of the issue of a Category A dependency certificate by a Magistrate.

Explanatory note

Schedule 1 [22] provides that a dependent person must be told that he or she cannot be involuntarily detained for more than 90 days, and that when the term of the dependency certificate finishes the person may refuse further treatment, and must also be told of his or her rights to legal representation and to competent and reasonable care.

Schedule 1 [42] and [43] remove the power of a Magistrate to extend a dependency certificate beyond the new maximum of 90 days. **Schedule 1 [39] and [44]** make consequential amendments.

Treatment of persons who are detained for treatment

Schedule 1 [14] removes a provision about the detention of persons which is transferred to proposed section 14C by **Schedule 1 [17]**.

Schedule 1 [17] provides that:

- (a) a dependent person must not be detained if more than 14 days have elapsed since the issue of the dependency certificate (proposed section 14C (1) (b)), and
- (b) the treatment of a dependent person must commence no later than 7 days after the person arrives at the relevant treatment centre (proposed section 14C (2)).

Schedule 1 [20] provides that:

- (a) an accredited medical practitioner responsible for the care of a dependent person must give the dependent person an opportunity to be involved in the process of planning and developing a personalised plan for his or her rehabilitation and treatment (proposed section 15 (3)), and
- (b) a dependent person is entitled to competent and reasonable care while being treated in a treatment centre (proposed section 15 (4)).

Schedule 1 [28] provides that when a dependent person is searched by the transport officer who transports the dependent person to a treatment centre, the rights and bodily integrity of the dependent person must be observed at all times.

Schedule 1 [30] provides that the director of an in-patient treatment centre must ensure that each dependent person detained at the centre has access to legal representation at all reasonable times. **Schedule 1 [19]** makes a consequential amendment.

Schedule 1 [36] makes additional provision for the discharge of persons who are detained.

Schedule 1 [37] provides for the discharge of detained persons so that they can undergo out-patient treatment (proposed section 24A).

Conduct of dependent persons undergoing treatment

Schedule 1 [29] provides for the conduct of dependent persons undergoing treatment, namely that:

- (a) a dependent person must not consume or have in his or her possession during the period of his or her treatment any of the substance in relation to which the person has a severe substance dependence, any liquor or illegal drug or certain other intoxicating substances (proposed section 20A (1)), and
- (b) a dependent person must not have in his or her possession objects that are able to be used by the dependent person or any other person in assisting abuse of a substance, that could be detrimental to the rehabilitation process of the dependent person, or any other person being treated at the treatment centre, or could be detrimental to the good order of the treatment centre (proposed section 20A (2)), and
- (c) those substances or objects may be confiscated (proposed section 20A (3)).

Post-rehabilitative care

Schedule 1 [38] makes provision for the post-rehabilitative care of persons who were dependent persons and, in particular, provides that:

- (a) a case worker or social worker must be appointed to manage the post-rehabilitative care of any person who was a dependent person, and
- (b) the case worker or social worker must take steps during the first 90 days after the person's discharge from an in-patient treatment centre or completion of out-patient treatment to assist the person to integrate back into the community, including any reasonable steps required to secure housing, employment, training, social security payments, personal support and psychiatric or psychological treatment, and
- (c) the case worker or social worker must contact the person at least once a week for the first 90 days after the person's discharge from an in-patient treatment centre or completion of out-patient treatment, and
- (d) the case worker or social worker must report on the progress of the person's post-rehabilitative care, the progress of the person in securing housing, employment, training, social security payments and personal support and whether the person has abstained from using the substance in relation to which the person was certified a dependent person, and
- (e) the Director-General may direct an accredited medical practitioner to assess a person who was a dependent person for further detention and treatment if he or she reasonably believes that, during the 90-day post-rehabilitation period, the person has not stopped using the substance in relation to which the person was certified a dependent person.

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012

Explanatory note

Other amendments

Schedule 1 [45] provides that the Director-General may delegate the exercise of any function of the Director-General under the Act.

Schedule 1 [47] makes savings, transitional and other provisions consequent on the enactment of the proposed Act.



New South Wales

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Drug and Alcohol Treatment Act 2007 No 7	3



New South Wales

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012

No. , 2012

A Bill for

An Act to amend the *Drug and Alcohol Treatment Act 2007* to further provide for the involuntary rehabilitative care of persons with severe substance dependence; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Act 2012</i> .	3 4 5
2 Commencement	6
This Act commences 3 months after the date of assent to this Act.	7

Schedule 1	Amendment of Drug and Alcohol Treatment Act 2007 No 7	1
		2
[1] Section 3 Objects of Act		3
	Insert “rehabilitative” after “involuntary” in section 3 (1) (a).	4
[2] Section 3 (1) (e) and (f)		5
	Insert at the end of section 3 (1) (d):	6
	, and	7
	(e) to facilitate post-rehabilitative care and assistance for those persons so as to help the re-integration of those persons into the workforce and society, and	8
		9
		10
	(f) to grant the police, and the staff of treatment centres, the necessary powers to achieve these objects.	11
		12
[3] Section 3 (2) (a)		13
	Insert “, or involuntary treatment of those persons on an out-patient basis,” after “persons”.	14
		15
[4] Section 4 Application of Act		16
	Insert at the end of the section (with appropriate numbering):	17
	() In this section, a reference to a <i>minor</i> is a reference to a person under the age of 16 years.	18
		19
[5] Section 5 Definitions		20
	Insert in alphabetical order in section 5 (1):	21
	<i>Category A dependency certificate</i> means a dependency certificate recommending that the dependent person be detained for treatment under this Act.	22
		23
		24
	<i>Category B dependency certificate</i> means a dependency certificate recommending that the dependent person receive out-patient treatment under this Act.	25
		26
		27
	<i>in-patient treatment centre</i> means a facility declared under section 8 to be an in-patient treatment centre.	28
		29
	<i>out-patient treatment centre</i> means a facility declared under section 8 to be an out-patient treatment centre.	30
		31

[6] Section 5 (1), definition of “dependency certificate”	1
Omit the definition. Insert instead:	2
<i>dependency certificate</i> means a certificate issued under section 9A.	3 4
[7] Section 5 (1), definition of “treatment centre”	5
Omit the definition. Insert instead:	6
<i>treatment centre</i> means:	7
(a) an in-patient treatment centre, or	8
(b) an out-patient treatment centre.	9
[8] Part 2, heading	10
Omit the heading. Insert instead:	11
Part 2 Involuntary treatment	12
[9] Section 6 General restriction on involuntary detention	13
Omit “a treatment centre”. Insert instead “an in-patient treatment centre”.	14
[10] Section 6	15
Insert “Category A” before “dependency certificate”.	16
[11] Section 8 Declaration of treatment centres	17
Omit “a treatment centre” from section 8 (1) (a).	18
Insert instead “an in-patient treatment centre or an out-patient treatment centre”.	19 20
[12] Section 8 (1A)	21
Insert after section 8 (1):	22
(1A) The Director-General must not declare any premises to be an in-patient treatment centre or an out-patient treatment centre unless the Director-General is satisfied that its facilities for the rehabilitation of persons with severe substance dependence are safe and adequate.	23 24 25 26 27

[13] Sections 9 and 9A	1
Omit section 9. Insert instead:	2
9 Certain persons may request assessment of person with suspected severe substance dependence	3 4
(1) A concerned person may, if he or she reasonably suspects that another person has a severe substance dependence, request an accredited medical practitioner to assess the other person for treatment under this Act.	5 6 7 8
(2) In this section:	9
<i>concerned person</i> means any of the following:	10
(a) a medical practitioner,	11
(b) a social worker,	12
(c) a police officer,	13
(d) a psychologist,	14
(e) a member of staff of a community-based not-for-profit organisation that provides services that include the rehabilitation of persons with a severe substance dependence,	15 16 17 18
(f) a member of staff of a private health facility (within the meaning of the <i>Private Health Facilities Act 2007</i>) that provides services that include the rehabilitation of persons with a severe substance dependence,	19 20 21 22
(g) a close friend or relative of the person with a suspected severe substance dependence,	23 24
(h) the primary carer, or any other care-giver, of the person with a suspected severe substance dependence,	25 26
(i) the Director-General.	27
9A Assessing persons for treatment	28
(1) An accredited medical practitioner who has been requested to assess a person for treatment under this Act may carry out that assessment.	29 30 31
(2) After assessing the person, the accredited medical practitioner may issue a certificate (a <i>dependency certificate</i>):	32 33
(a) in the form shown in Schedule 2, recommending that the dependent person be detained for in-patient treatment under this Act (a <i>Category A dependency certificate</i>), or	34 35 36

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012

Schedule 1 Amendment of Drug and Alcohol Treatment Act 2007 No 7

- (b) in the form shown in Schedule 2A, recommending that, instead of being detained, the dependent person receive treatment at an out-patient treatment centre under this Act (a *Category B dependency certificate*). 1
2
3
4
- (3) A dependency certificate must not be issued in relation to a person unless the accredited medical practitioner is satisfied that: 5
6
 - (a) the person has a severe substance dependence, and 7
 - (b) the care, treatment or control of the person is necessary: 8
 - (i) to protect the person from harm to his or her own physical or mental health, or 9
10
 - (ii) to protect others (including, but not limited to, children in the care of the person, or dependants of the person) from harm to their physical or mental health, or 11
12
13
14
 - (iii) to remove the risk of the person committing an offence due to the person's severe substance dependence, and 15
16
17
 - (c) the person is likely to benefit from treatment for his or her substance dependence but is unable or unwilling to participate in treatment voluntarily, and 18
19
20
 - (d) no other appropriate and less restrictive means for dealing with the person are reasonably available. 21
22
- (4) A dependency certificate must not be issued in relation to a person unless the accredited medical practitioner has sought the involvement of the person in the process of planning and developing a personalised plan for the person's rehabilitation and treatment. 23
24
25
26
27
- (5) A Category B dependency certificate must not be issued in relation to a person unless: 28
29
 - (a) in addition to being satisfied of the matters specified in subsection (3), the accredited medical practitioner is satisfied that out-patient treatment is an appropriate treatment for the person, having regard to the person's medical condition and personal circumstances, and 30
31
32
33
34
 - (b) the accredited medical practitioner has explained to the person the elements of out-patient treatment, including the implanting of naltrexone under the person's skin, and 35
36
37
 - (c) the person has agreed in writing: 38
 - (i) to have naltrexone implanted under his or her skin, 39
and 40

(ii)	to co-operate with any measures for monitoring the persons's substance use or other behaviour, and	1 2
(iii)	to receive the counselling required by this Act.	3
(6)	A Category B dependency certificate:	4
(a)	must specify:	5
(i)	the intervals at which the dependent person must attend the out-patient treatment centre for the implanting of naltrexone under the person's skin, and	6 7 8 9
(ii)	the measures to be taken by the treatment centre for monitoring the person's substance use or other behaviour, and	10 11 12
(iii)	the out-patient counselling for relapse prevention that the person must attend, and	13 14
(b)	may specify the further counselling that the dependent person must attend for medical problems (other than severe substance dependence) that the dependent person has (including, but not limited to, mental health problems, chronic pain and barriers to social adjustment or recovery).	15 16 17 18 19
(7)	A Category B dependency certificate cannot be issued after the date appointed under section 15A (3).	20 21
[14]	Section 10 Order for assessment	22
	Omit section 10 (6).	23
[15]	Sections 11A and 11B	24
	Insert after section 11:	25
11A	Legal representation for persons before dependency certificate issued	26 27
	An accredited medical practitioner must not issue a dependency certificate in relation to a person unless the medical practitioner has given the person a reasonable opportunity to seek legal representation before the certificate is issued.	28 29 30 31

11B	Parent or guardian of young person must consent to assessment and issue of dependency certificate	1 2
	If a person proposed to be assessed under section 9A is under the age of 18 years, the accredited medical practitioner conducting the assessment:	3 4 5
	(a) must, before conducting the assessment, obtain the consent of the parent or guardian of the young person to the conduct of an assessment, and	6 7 8
	(b) must, before issuing a dependency certificate, obtain the consent of the parent or guardian of the young person to the issue of the dependency certificate.	9 10 11
[16]	Sections 14 and 14A	12
	Omit section 14. Insert instead:	13
	14 Term of dependency certificates	14
	(1) If an accredited medical practitioner issues a Category A dependency certificate in relation to a person, the person must not be detained for treatment for more than 90 days after the day the certificate is issued.	15 16 17 18
	(2) If an accredited medical practitioner issues a Category B dependency certificate in relation to a person, the person must not be required to undergo treatment (including counselling) for more than 90 days after the day the certificate is issued.	19 20 21 22
	14A Review of Category A dependency certificates	23
	An accredited medical practitioner must, as soon as practicable after the practitioner issues a Category A dependency certificate in relation to a person being assessed, bring the person before a Magistrate for a review of the issue of the certificate.	24 25 26 27
[17]	Sections 14B and 14C	28
	Insert before section 15:	29
	14B Choice of treatment centre for treatment of specific dependent persons	30 31
	(1) The Director-General may determine the treatment centre in which a specified dependent person, or a class of dependent persons, is to be treated.	32 33 34
	(2) In making that determination, the Director-General is to have regard to the best interests of the dependent person or persons concerned.	35 36 37

(3)	The Director-General may direct that a specified dependent person receive treatment in a hospital rather than a treatment centre. If such a direction is made, any reference in this Act to a treatment centre includes a reference to that hospital.	1 2 3 4
14C	Detention and treatment of persons subject to Category A dependency certificates	5 6
(1)	If a Category A dependency certificate is issued in relation to a person, the person:	7 8
(a)	may be detained in accordance with the certificate, and	9
(b)	must not be taken into detention if more than 14 days have elapsed after the issue of the dependency certificate.	10 11
(2)	The treatment of such a dependent person must commence no later than 7 days after the person arrives at the relevant treatment centre.	12 13 14
[18]	Section 15 Treatment of dependent persons	15
	Omit “detained in” from section 15 (1). Insert instead “at”.	16
[19]	Section 15 (1) (b)	17
	Insert “his or her legal representative or (in the case of a person subject to a Category A dependency certificate) with” after “adequately with”.	18 19
[20]	Section 15 (3) and (4)	20
	Insert after section 15 (2):	21
(3)	An accredited medical practitioner responsible for the care of a dependent person must give the dependent person an opportunity to be involved in the process of planning and developing a personalised plan for his or her rehabilitation and treatment.	22 23 24 25
(4)	A dependent person is entitled to competent and reasonable care:	26
(a)	while being detained in an in-patient treatment centre, or	27
(b)	while being treated or counselled at an out-patient treatment centre.	28 29

[21] Sections 15A–15C	1
Insert after section 15:	2
15A Treatment of persons subject to Category B dependency certificate	3 4
(1) A dependent person the subject of a Category B dependency certificate must:	5 6
(a) attend the relevant treatment centre for the implanting of naltrexone under his or her skin at the intervals specified in the dependency certificate, and	7 8 9
(b) agree to being implanted with naltrexone at the intervals specified in the dependency certificate, and	10 11
(c) agree to undergo a weekly urine test, and	12
(d) co-operate with any other measures for monitoring the person’s substance use or other behaviour that are specified in the dependency certificate, and	13 14 15
(e) attend any counselling for relapse prevention that is specified in the dependency certificate, and	16 17
(f) attend any other counselling for any other medical problem that is specified in the dependency certificate.	18 19
(2) This section applies to a dependent person for the period specified in the dependency certificate. That period cannot exceed 90 days.	20 21 22
(3) This section is repealed on a date appointed by proclamation for its repeal.	23 24
15B Persons subject to Category B dependency certificate who commit more than one punishable breach to be detained	25 26
(1) This section applies to a dependent person the subject of a Category B dependency certificate:	27 28
(a) who, during the period specified in the dependency certificate, has, on more than one occasion, committed a punishable breach, and	29 30 31
(b) who was, after the first punishable breach, warned by the director of the relevant treatment centre of the consequences of any further punishable breach.	32 33 34
(2) If this section applies:	35
(a) the person may be detained in accordance with the dependency certificate issued in relation to the person as if	36 37

the person were the subject of a Category A dependency certificate, and	1
(b) this Act applies to the person as follows:	2
(i) sections 14A and 14C apply to the person as if the person were the subject of a Category A dependency certificate issued on the same day as the person committed the second or subsequent punishable breach,	3
(ii) the remainder of this Act applies to the person as if the person were the subject of a Category A dependency certificate issued on the same day, and for the same term, as the Category B dependency certificate was in fact issued.	4
(3) In this section:	5
<i>punishable breach</i> means:	6
(a) a breach of section 15A (1), or	7
(b) the provision of a urine sample in which a substance listed in Schedule 1 is detected, or	8
(c) the detection of a substance listed in Schedule 1 by virtue of any other monitoring, or	9
(d) a breach of section 20A.	10
15C Psychiatric or psychological treatment and counselling	11
(1) The director of a treatment centre must make arrangements for any dependent person detained or treated at the centre to be provided with:	12
(a) psychiatric or psychological treatment or counselling as an integrated part of a rehabilitation plan, and	13
(b) psychiatric or psychological treatment or counselling, or other medical treatment, for other medical problems that the dependent person has (including, but not limited to, mental health problems, chronic pain and barriers to social adjustment or recovery), being treatment or counselling that is specified in the dependency certificate issued in relation to the person.	14
(2) Any such treatment or counselling:	15
(a) may be provided only after a further assessment of the dependent person by an accredited medical practitioner, and	16

	(b) in the case of treatment or counselling provided to a person detained at an in-patient treatment centre—must be provided by a psychiatrist, psychologist or other health care practitioner who is independent of the treatment centre.	1 2 3 4 5
[22]	Section 16 Information to be given to dependent person	6
	Insert after section 16 (1):	7
	(1A) In particular, the written statement in relation to the dependent person’s legal rights must refer to the following facts:	8 9
	(a) that the person cannot be involuntarily detained, or required to undergo treatment, for more than 90 days,	10 11
	(b) that, when the term of the dependency certificate finishes, the person may refuse further treatment (unless a further assessment is made in pursuance of section 25A and a further certificate is issued),	12 13 14 15
	(c) that the person has a right to legal representation under section 21A,	16 17
	(d) that the person has a right to competent and reasonable care under section 15 (4).	18 19
	Note. Section 18 gives a dependent person the subject of a Category A dependency certificate a right to be given a statement of the rights of review of the dependency certificate conferred on the person under Part 4.	20 21 22 23
[23]	Section 17 Notice to primary carer about detention	24
	Omit “the dependency certificate” from section 17 (1).	25
	Insert instead “a Category A dependency certificate”.	26
[24]	Section 18 Notice to dependent person of review rights	27
	Omit “the dependent person a statement of the rights of appeal conferred on the person” from section 18 (1).	28 29
	Insert instead “a dependent person the subject of a Category A dependency certificate a statement of his or her right to have the dependency certificate reviewed”.	30 31 32

[25] Section 19 Notice to primary carer of events affecting dependent person	1
Omit section 19 (1). Insert instead:	2
(1) An accredited medical practitioner must take all reasonably practicable steps to notify the primary carer of a dependent person if any of the following events occurs:	3
(a) in the case of a dependent person the subject of a Category A dependency certificate:	4
(i) the person is absent from the relevant treatment centre without permission or fails to return at the end of a period of leave, or	5
(ii) the person is discharged from the treatment centre,	6
(b) in the case of a dependent person the subject of a Category B dependency certificate:	7
(i) the person is absent from the relevant treatment centre without permission or fails to return at the end of a period of leave, or	8
(ii) the person is discharged from the treatment centre,	9
(i) the person fails to attend the relevant treatment centre for the implanting of naltrexone under the person's skin at the intervals specified in the dependency certificate, or	10
(ii) the person fails to agree to being implanted with naltrexone at the intervals specified in the dependency certificate, or	11
(iii) the person fails to agree to a weekly urine test, or	12
(iv) the person fails to co-operate with any other measures for monitoring the person's substance use or other behaviour that are specified in the dependency certificate, or	13
(v) any urine sample provided by the person, or any other such monitoring, indicates that the person has consumed a substance listed in Schedule 1, or	14
(vi) the person breaches section 20A, or	15
(vii) the person fails to attend the counselling for relapse prevention that is specified in the dependency certificate, or	16
(viii) the person fails to attend any counselling for any other medical problem that is specified in the dependency certificate.	17
	18
	19
	20
	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33
	34
	35

[26] Sections 19A and 19B	1
Insert after section 19:	2
19A Treatment may be refused if dependent person is awaiting trial	3
The Director-General may determine that a dependent person is not to be detained or treated under this Act if the Director-General is aware that the person is awaiting trial for an alleged criminal offence.	4 5 6 7
19B Detention of person for the purposes of involuntary rehabilitation	8
(1) An accredited medical practitioner who issues a Category A dependency certificate may request the assistance of any of the following persons to take custody of a dependent person for the purposes of transporting the person to a treatment centre:	9 10 11 12
(a) a police officer,	13
(b) a member of staff of the Ministry of Health,	14
(c) a person of a class prescribed by the regulations.	15
(2) A dependent person must not be taken into custody for such a purpose if more than 14 days have elapsed after a dependency certificate was issued in relation to that person.	16 17 18
[27] Section 20 Transporting dependent person to treatment centre	19
Omit “to or from a treatment centre” from section 20 (1).	20
Insert instead “the subject of a Category A dependency certificate to or from a treatment centre”.	21 22
[28] Section 20 (4A)	23
Insert after section 20 (4):	24
(4A) The rights and bodily integrity of a dependent person must be observed at all times while the person is being searched in accordance with subsection (3).	25 26 27

[29] Section 20A	1
Insert after section 20:	2
20A Conduct of dependent person undergoing treatment	3
(1) A dependent person must not consume or have in his or her possession any of the following during the period of the person's treatment under this Act:	4
(a) any of the substance in relation to which the person has a severe substance dependence,	5
(b) any liquor within the meaning of the <i>Liquor Act 2007</i> ,	6
(c) any prohibited drug within the meaning of the <i>Drug Misuse and Trafficking Act 1985</i> ,	7
(d) any other substance (including any volatile solvent of a type) listed in Schedule 1, or intoxicating substance, of a kind prescribed by the regulations.	8
(2) A dependent person must not, without reasonable excuse, have in his or her possession any of the following during the period of the person's treatment under this Act:	9
(a) any hypodermic syringe,	10
(b) any other object that, in the opinion of the director of the relevant treatment centre, is able to be used by the dependent person or any other person in assisting abuse of a substance,	11
(c) anything that, in the opinion of the director of the relevant treatment centre:	12
(i) could be detrimental to the rehabilitation process of the dependent person or any other person being treated at the treatment centre, or	13
(ii) could be detrimental to the good order of the treatment centre.	14
(3) Any substance, object or thing referred to in this section may be confiscated from the dependent person by:	15
(a) the director of the treatment centre at which the dependent person is being treated, or	16
(b) any person acting with the authority of the director of the treatment centre.	17
	18
	19
	20
	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33
	34
	35

[30] Section 21A	1
Insert after section 21:	2
21A Right to legal representation	3
The director of an in-patient treatment centre must ensure that each dependent person detained at the centre has unrestricted access to legal representation at all reasonable times.	4 5 6
[31] Section 22 Apprehension of persons not permitted to be absent from in-patient treatment centre	7 8
Omit “a treatment centre” wherever occurring in section 22 (1) (a) and (3).	9
Insert instead “an in-patient treatment centre”.	10
[32] Section 23 Police assistance	11
Omit “a treatment centre” wherever occurring in section 23 (1) and (2).	12
Insert instead “an in-patient treatment centre”.	13
[33] Section 23, note	14
Omit “treatment centre”. Insert instead “in-patient treatment centre”.	15
[34] Section 24 Discharge from in-patient treatment centre—generally	16
Omit “a treatment centre” wherever occurring.	17
Insert instead “an in-patient treatment centre”.	18
[35] Section 24 (2) (a)	19
Omit “section 9 (3)”. Insert instead “section 9A (3)”.	20
[36] Section 24 (3)–(4)	21
Insert after section 24 (2):	22
(3) The Director-General must discharge a dependent person from an in-patient treatment centre if:	23 24
(a) an accredited medical practitioner has certified that the purpose of rehabilitation of the dependent person has been achieved, or	25 26 27
(b) a court orders the termination of the treatment, or	28
(c) the dependent person is remanded in police custody in relation to an offence, or	29 30
(d) the dependent person has been sentenced to a term of imprisonment, or	31 32

(e)	the Director-General reasonably believes that the dependent person has committed an offence while detained for treatment, or	1 2 3
(f)	the Director-General makes a determination under section 19A, or	4 5
(g)	the dependent person has consented to having out-patient treatment in accordance with section 24A.	6 7
(4)	The Director-General may discharge a dependent person from a treatment centre at any time on compassionate grounds.	8 9
	Note. Section 14 (1) provides that any involuntary treatment under a Category A dependency certificate will cease 90 days after the issue of that certificate.	10 11 12
[37]	Sections 24A and 24B	13
	Insert after section 24:	14
24A	Discharge from in-patient treatment centre so as to have out-patient treatment	15 16
(1)	An accredited medical practitioner may make a recommendation that a dependent person the subject of a Category A dependency certificate should be discharged from an in-patient treatment centre and receive treatment at an out-patient treatment centre.	17 18 19 20
(2)	An accredited medical practitioner may only make such a recommendation if:	21 22
(a)	the practitioner is satisfied that out-patient treatment is an appropriate treatment for the dependent person, having regard to the person's medical condition and personal circumstances, and	23 24 25 26
(b)	the dependent person has accepted in writing the obligations imposed by this Act relating to receiving out-patient treatment.	27 28 29
(3)	An accredited medical practitioner who recommends that a dependent person receive out-patient treatment:	30 31
(a)	must specify:	32
(i)	the intervals at which the dependent person must attend the out-patient treatment centre for the implanting of naltrexone under the person's skin, and	33 34 35 36
(ii)	the measures that must be taken for monitoring the person's substance use or other behaviour, and	37 38

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012

Schedule 1 Amendment of Drug and Alcohol Treatment Act 2007 No 7

- (iii) the out-patient counselling for relapse prevention that the person must attend, and 1
2
 - (b) may specify the further counselling that the dependent person must attend for medical problems (other than severe substance dependence) that the dependent person has (including, but not limited to, mental health problems, chronic pain and barriers to social adjustment or recovery). 3
4
5
6
7
- (4) A dependent person who has been discharged by virtue of consenting to having out-patient treatment must, for the remainder of the period of 90 days after the day the dependency certificate was issued in relation to the person: 8
9
10
11
 - (a) attend the out-patient treatment centre for the implanting of naltrexone under the skin of the dependent person at the intervals specified by the accredited medical practitioner under subsection (3), and 12
13
14
15
 - (b) agree to being implanted with naltrexone at the intervals specified under subsection (3), and 16
17
 - (c) co-operate with any measures for monitoring the person's substance use or other behaviour that are specified under subsection (3), and 18
19
20
 - (d) attend the out-patient counselling for relapse prevention that is specified under subsection (3), and 21
22
 - (e) attend out-patient counselling for any other medical problem specified under subsection (3). 23
24
- (5) If such a dependent person: 25
 - (a) on more than one occasion, commits a punishable breach, and 26
27
 - (b) was, after the first punishable breach, warned by the director of the relevant treatment centre of the consequences of any further punishable breach, 28
29
30

the person may be detained again in accordance with the dependency certificate as if a recommendation had not been made under subsection (1). 31
32
33
- (6) This section is repealed on a date appointed by proclamation for its repeal. 34
35
- (7) In this section: 36
 - punishable breach*** means: 37
 - (a) a breach of subsection (4), or 38

(b)	the provision of a urine sample in which a substance listed in Schedule 1 is detected, or	1 2
(c)	a breach of section 20A.	3
24B	Release of persons from obligation to have out-patient treatment	4
(1)	An accredited medical practitioner:	5
(a)	must release a dependent person the subject of a Category B dependency certificate from the person's obligations under section 15A if the practitioner is satisfied that the person no longer meets the criteria for treatment under section 9A (3), and	6 7 8 9 10
(b)	may release such a dependent person from the person's obligations under section 15A at any time if the practitioner is satisfied that the person's continued presence at the relevant treatment centre will not achieve the purpose for which the person was certified a dependent person.	11 12 13 14 15 16
(2)	The Director-General must release a dependent person the subject of a Category B dependency certificate from the person's obligations under section 15A if:	17 18 19
(a)	an accredited medical practitioner has certified that the purpose of rehabilitation of the dependent person has been achieved, or	20 21 22
(b)	a court orders the termination of the treatment, or	23
(c)	the dependent person is remanded in police custody in relation to an offence, or	24 25
(d)	the dependent person is serving a sentence of imprisonment, or	26 27
(e)	the Director-General reasonably believes that the dependent person has committed an offence while being treated, or	28 29 30
(f)	the Director-General makes a determination under section 19A.	31 32
(3)	The Director-General may release a dependent person the subject of a Category B dependency certificate from the person's obligations under section 15A at any time on compassionate grounds.	33 34 35 36
(4)	This section is repealed on a date appointed by proclamation for its repeal.	37 38

[38] Section 25A	1
Insert after section 25:	2
25A Post-rehabilitative care by case worker or social worker	3
(1) The Director-General must appoint a case worker or social worker who is a member of staff of the Ministry of Health to manage the post-rehabilitative care of any person who was a dependent person.	4 5 6 7
(2) The case worker or social worker appointed to manage the post-rehabilitative care of any person who was a dependent person must take steps during the first 90 days after the person's discharge from an in-patient treatment centre, or completion of treatment at an out-patient treatment centre, to assist the person to integrate back into the community, including any reasonable steps required to secure the following:	8 9 10 11 12 13 14
(a) public or private housing for the person and his or her dependants,	15 16
(b) employment for the person,	17
(c) training for the person,	18
(d) social security payments or benefits for the person,	19
(e) personal support for the person,	20
(f) psychiatric or psychological treatment for relapse prevention,	21 22
(g) psychiatric or psychological treatment or counselling, or other medical treatment, for other medical problems that the person has (including, but not limited to, mental health problems, chronic pain and barriers to social adjustment or recovery).	23 24 25 26 27
(3) The case worker or social worker must contact the person at least once a week for the first 90 days after the person's discharge from an in-patient treatment centre or completion of treatment at an out-patient treatment centre.	28 29 30 31
(4) The case worker or social worker must report to the Director-General 90 days after the person's discharge from an in-patient treatment centre, or completion of treatment at an out-patient treatment centre, on:	32 33 34 35
(a) the progress of the person's post-rehabilitative care, and	36
(b) the progress of the person in securing the following:	37
(i) housing,	38
(ii) employment,	39

(iii)	training,	1
(iv)	social security payments or benefits,	2
(v)	personal support,	3
(vi)	psychiatric or psychological treatment or counselling, or other medical treatment, for other medical problems that the person has, and	4 5 6
(c)	whether the person has abstained from using the substance in relation to which the person was certified a dependent person, and	7 8 9
(d)	whether there was any change in any other medical problem that the person had (including, but not limited to, mental health problems, chronic pain and barriers to social adjustment or recovery).	10 11 12 13
(5)	The Director-General may direct an accredited medical practitioner to assess a person who was formerly a dependent person for further detention and in-patient treatment, or further out-patient treatment, under this Act if the Director-General reasonably believes that, during the 90-day post-rehabilitation period, the person has not stopped using the substance in relation to which the person was certified a dependent person.	14 15 16 17 18 19 20
[39]	Part 4, heading	21
	Omit the heading. Insert instead:	22
	Part 4 Review of Category A dependency certificates	23 24
[40]	Section 34 Reviewing issue of Category A dependency certificates	25
	Omit “section 14” from section 34 (1). Insert instead “section 14A”.	26
[41]	Section 34 (3), (5) and (7)	27
	Omit “criteria for detention under section 9” wherever occurring.	28
	Insert instead “criteria for the issue of a Category A dependency certificate under section 9A”.	29 30
[42]	Section 35 Applying for extension of dependency certificates	31
	Omit the section.	32
[43]	Section 36 Consideration of applications to extend detention and treatment under dependency certificates	33 34
	Omit the section.	35

[44] Section 37 Proceedings to be informal	1
Omit “or the consideration of an application under section 35 (both, the” from section 37 (1).	2
Insert instead “(the”.	3
	4
[45] Section 49A	5
Insert after section 49:	6
49A Delegation	7
The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to:	8
	9
	10
(a) any member of staff of the Ministry of Health, or	11
(b) any person, or any class of persons, authorised for the purposes of this section by the regulations.	12
	13
[46] Schedules 2 and 2A	14
Omit Schedule 2. Insert instead:	15
Schedule 2 Category A dependency certificate—recommending in-patient treatment	16
	17
	18
(Section 9A (2) (a))	19
Drug and Alcohol Treatment Act 2007	20
Part 1	21
I, [<i>name in full—use block letters</i>] (accredited medical practitioner) of [<i>address</i>] certify that on [<i>date</i>] immediately before, or shortly before, completing this certificate, I personally assessed [<i>name of person in full</i>] under section 9A of the <i>Drug and Alcohol Treatment Act 2007</i> at [<i>state place where assessment took place</i>] for a period of [<i>state length of assessment</i>].	22
	23
	24
	25
	26
I certify the following matters:	27
1. I am of the opinion that:	28
(a) the person I assessed (the <i>dependent person</i>) has a severe substance dependence, and	29
	30
(b) care, treatment or control of the person is necessary:	31
(i) to protect the person from harm to his or her own physical or mental health, or	32
	33
(ii) to protect others, or	34

(iii) to remove the risk of the person committing an offence due to the person's severe substance dependence, and	1 2
(c) the person is likely to benefit from treatment for his or her substance dependence but is unable or unwilling to participate in treatment voluntarily, and	3 4 5
(d) no other appropriate and less restrictive means for dealing with the person are reasonably available.	6 7
2. The following incidents and/or abnormalities of behaviour have been observed by me and/or communicated to me by others [<i>state name, relationship and address of each informant</i>]:	8 9 10
3. The general medical and/or surgical condition of the dependent person is as follows:	11 12
4. The following medication (if any) has been administered for the purposes of treating the dependent person:	13 14
5. I am of the opinion, and recommend, that the dependent person should be detained for 90* days for treatment under the <i>Drug and Alcohol Treatment Act 2007</i> .	15 16 17
6. I am of the opinion, and recommend, that the dependent person should receive, in addition to any other treatment at the treatment centre, the following counselling for other medical problems that the dependent person has:	18 19 20
7. I have sought the involvement of the dependent person in the process of planning and developing a personalised plan for the person's rehabilitation and treatment.	21 22 23
8. I am not a near relative or the primary carer of the dependent person.	24
(* fewer days may be inserted in item 5 by the accredited medical practitioner)	25
Signed this day of 20	26
Signature	27
Part 2	28
A member of staff of the NSW Health Service or a police officer may transport a dependent person who is required to be detained to an in-patient treatment centre under the <i>Drug and Alcohol Treatment Act 2007</i> .	29 30 31
If the assistance of a police officer is required, this Part of the Form must be completed.	32 33
YOU SHOULD NOT REQUEST THIS ASSISTANCE UNLESS THERE ARE SERIOUS CONCERNS RELATING TO THE SAFETY OF THE DEPENDENT PERSON OR OTHER PERSONS IF THE PERSON IS TAKEN TO AN IN-PATIENT TREATMENT CENTRE WITHOUT THE ASSISTANCE OF A POLICE OFFICER.	34 35 36 37 38
I have assessed the risk and I am of the opinion that there are serious concerns relating to the safety of the dependent person or other persons if the dependent person is taken to an in-patient treatment centre without the assistance of a police officer. The reason	39 40 41

for me being of this opinion is [*include any information known about the dependent person relevant to the risk*]:

Signed this day of 20

Signature

1
2
3
4

Schedule 2A Category B dependency certificate—recommending out-patient treatment

5
6
7

(Section 9A (2) (b))

8

Drug and Alcohol Treatment Act 2007

9

Part 1

10

I, [*name in full—use block letters*] (accredited medical practitioner) of [*address*] certify that on [*date*] immediately before, or shortly before, completing this certificate, I personally assessed [*name of person in full*] under section 9A of the *Drug and Alcohol Treatment Act 2007* at [*state place where assessment took place*] for a period of [*state length of assessment*].

11
12
13
14
15

I certify the following matters:

16

1. I am of the opinion that:
 - (a) the person I assessed (the *dependent person*) has a severe substance dependence, and
 - (b) care, treatment or control of the person is necessary:
 - (i) to protect the person from harm to his or her own physical or mental health, or
 - (ii) to protect others, or
 - (iii) to remove the risk of the person committing an offence due to the person's severe substance dependence, and
 - (c) the person is likely to benefit from treatment for his or her substance dependence but is unable or unwilling to participate in treatment voluntarily, and
 - (d) no other appropriate and less restrictive means for dealing with the person are reasonably available.
2. The following incidents and/or abnormalities of behaviour have been observed by me and/or communicated to me by others [*state name, relationship and address of each informant*]:
3. The general medical and/or surgical condition of the dependent person is as follows:
4. The following medication (if any) has been administered for the purposes of treating the dependent person:
5. The dependent person has agreed in writing:
 - (a) to having naltrexone implanted under his or her skin, and

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

(b)	to co-operating in any measures for monitoring the person's substance use or other behaviour, and	1
(c)	to receiving the counselling required.	2
6.	I am of the opinion, and recommend, that, instead of being detained, the dependent person should receive treatment for 90* days at an out-patient treatment centre. That treatment is to consist of:	3
(a)	naltrexone being implanted under the person's skin on [state number of occasions] occasions at intervals of [state number of days] days, and	4
(b)	the following counselling for relapse prevention:	5
	, and	6
(c)	the following counselling for other medical problems that the dependent person has:	7
7.	I am of the opinion, and recommend, that the dependent person undergo weekly urine tests and the following other monitoring procedures:	8
8.	I have sought the involvement of the dependent person in the process of planning and developing a personalised plan for the person's rehabilitation and treatment.	9
9.	I am not a near relative or the primary carer of the dependent person.	10
	(* fewer days may be inserted in item 6 by the accredited medical practitioner)	11
	Signed this day of 20	12
	Signature	13
	Part 2 [Applicable only if the dependent person breaches certain obligations on more than one occasion]	14
	A member of staff of the NSW Health Service or a police officer may transport a dependent person who is required to be detained to an in-patient treatment centre under the <i>Drug and Alcohol Treatment Act 2007</i> .	15
	If the assistance of a police officer is required, this Part of the Form must be completed.	16
	YOU SHOULD NOT REQUEST THIS ASSISTANCE UNLESS THERE ARE SERIOUS CONCERNS RELATING TO THE SAFETY OF THE DEPENDENT PERSON OR OTHER PERSONS IF THE PERSON IS TAKEN TO AN IN-PATIENT TREATMENT CENTRE WITHOUT THE ASSISTANCE OF A POLICE OFFICER.	17
	I have assessed the risk and I am of the opinion that there are serious concerns relating to the safety of the dependent person or other persons if the dependent person is taken to an in-patient treatment centre without the assistance of a police officer. The reason for me being of this opinion is [include any information known about the dependent person relevant to the risk]:	18
	Signed this day of 20	19
	Signature	20

[47] Schedule	1
Insert at the end of the Act, with appropriate numbering:	2
Schedule	3
Savings, transitional and other provisions consequent on amendment of Act	4
	5
Part	6
Provisions consequent on enactment of Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Act 2012	7
	8
	9
Meaning of “amending Act”	10
In this Part:	11
<i>amending Act</i> means the <i>Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Act 2012</i> .	12
	13
	14
Application of amendments relating to declaration of treatment centres	15
	16
Any declaration of a treatment centre under section 8 that was in force immediately before the commencement of the amending Act is taken to be revoked on the day that is 3 months after that commencement. A treatment centre may, in accordance with the amended section, be declared a treatment centre at any time after the commencement of the amendment.	17
	18
	19
	20
	21
	22
Application of amendment relating to detention and treatment	23
Except as provided by this Part, the amendments made by the amending Act extend to any person the subject of a dependency certificate in force immediately before the commencement of the amending Act. Such a person is taken to be subject to a Category A dependency certificate.	24
	25
	26
	27
	28
Application of amendments relating to post-rehabilitative care	29
Section 25A does not apply to any person the subject of a dependency certificate that expired before the commencement of the amending Act unless the person is made the subject of a dependency certificate after that commencement.	30
	31
	32
	33

Application of amendments relating to extension of dependency certificates	1
	2
The repeal of sections 35 and 36 by the amending Act does not affect any application made under section 35 that was not finally determined before the commencement of the amending Act.	3
	4
	5
Application of amendment relating to dealing with offences by dependent person	6
	7
Section 47A does not apply to any person the subject of a dependency certificate issued before the commencement of the amending Act unless:	8
	9
	10
(a) the person is made the subject of a dependency certificate after that commencement, and	11
	12
(b) the relevant offence is alleged to have been committed after that commencement.	13
	14