

[Act 1998 No 73]



New South Wales

Drug Misuse and Trafficking Amendment (Ongoing Dealing) Bill 1998

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 Misuse and Trafficking Act 1985* to create a new wholly indictable offence of supplying prohibited drugs on an ongoing basis. Under the proposed section, a person will be guilty of an offence if the person supplies a prohibited drug (other than cannabis) for financial or material reward on 3 or more separate occasions over any period of 30 consecutive days. It does not matter whether the same drug is supplied on each of those occasions, and the amount that is supplied (whether on each such occasion or in total) is not relevant to the offence.

The term *supply* currently has an extended meaning under the *Drug Misuse and Trafficking Act 1985*, and accordingly the new offence will cover the sale of prohibited drugs (*sell* is also widely defined at present to include barter, exchange or dealing in) as well as any other act of supply so long as it is for financial or material reward.

The new offence can only be prosecuted on indictment, and the penalty for the offence is 3,500 penalty units (currently \$385,000) or imprisonment for 20 years, or both. This penalty is the same as for an offence under section 25 (2) of the Act for supplying a commercial quantity of a prohibited drug (eg 250g of heroin).

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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendment to the *Drug Misuse and Trafficking Act 1985* as set out in Schedule 1.

Clause 4 is a formal provision giving effect to the consequential amendments to the Acts specified in Schedule 2.

Schedule 1 amends the *Drug Misuse and Trafficking Act 1985* as described in the above overview.

Schedule 2 amends certain Acts consequentially. The *Bail Act 1978* is amended to include the new offence described in the above overview in the list of offences in respect of which there is neither a presumption for, nor a presumption against, the granting of bail. Both the *Confiscation of Proceeds of Crime Act 1989* and the *Criminal Assets Recovery Act 1990* are amended to bring the new offence within the reach of those Acts.