

**Act No. 119**

## **DRUG OFFENSIVE BILL 1987**

NEW SOUTH WALES



### **EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The following Bills are cognate with this Bill:

- Drug and Alcohol Rehabilitation Establishments Bill 1987;
- Private Health Establishments (Amendment) Bill 1987;
- Private Hospitals (Amendment) Bill 1987.

The objects of this Bill are—

- (a) to establish a New South Wales Drug Offensive Council and a Directorate of the Drug Offensive;
- (b) to specify the functions of the Council and the Director of the Drug Offensive, being functions that primarily involve the provision of advice on, and the co-ordination, review and facilitation of, drug or alcohol services throughout New South Wales;
- (c) to constitute a New South Wales Drug Offensive Foundation;
- (d) to make various provisions relating to the Council, the Directorate and the Foundation; and
- (e) to repeal the Drug and Alcohol Authority Act 1980.

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#### **PART 1—PRELIMINARY**

Clause 1 specifies the short title of the proposed Act.

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Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 defines certain expressions for the purposes of the proposed Act. In particular, "drug or alcohol service" is defined to mean any service or facility (provided by any government department, public authority or other organisation or person) relating to the detection or diagnosis of drug or alcohol related problems, the treatment or rehabilitation of persons suffering from those problems or the prevention or alleviation of those problems.

Clause 4 provides that a reference in the proposed Act to a drug or alcohol related problem includes a reference to any personal, social, health or economic problem arising from or related to—

- (a) the use of a drug or alcohol;
- (b) the inhalation of any other substance; or
- (c) any other activity that involves physiological dependence and is behaviourally detrimental and that is of a prescribed kind.

**PART 2—THE NEW SOUTH WALES DRUG OFFENSIVE COUNCIL**

Clause 5 establishes the New South Wales Drug Offensive Council. The Council is to be subject to the control and direction of the Minister and is to consist of 12 part-time members appointed by the Minister. Other provisions relating to the members and the procedure of the Council are contained in Schedules 2 and 3 to the proposed Act.

Clause 6 specifies the functions of the Council. These include providing advice to the Minister on such matters as the implementation of government policy on the provision of drug or alcohol services, the role of non-government organisations in providing those services and the initiatives for promoting and facilitating the provision of co-ordinated drug or alcohol services. The Council is to consult and liaise with the Director when exercising its functions.

Clause 7 empowers the Council to establish committees to enable it to carry out its functions.

**PART 3—THE DIRECTORATE OF THE DRUG OFFENSIVE**

Clause 8 establishes, within the Department of Health, the Directorate of the Drug Offensive. It also provides that the Director is to be the head of the Directorate and is responsible for its affairs so far as they relate to the Director's functions. The Director is to be assisted by other members of the staff of the Directorate and is to be subject to the control and direction of the Minister.

Clause 9 specifies the functions of the Director. The Director is to have those functions imposed under the proposed Act, the proposed Drug and Alcohol Rehabilitation Establishments Act 1987 or any other Act. The Director may—

- (a) review and make recommendations to the Minister on the policies and programmes concerning the provision of drug or alcohol services within the Department of Health and other organisations;

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- (b) in consultation with the Secretary of the Department of Health, co-ordinate, monitor and evaluate drug or alcohol services provided throughout New South Wales by the Department of Health;
- (c) co-ordinate, monitor and evaluate, and provide overviews of, drug or alcohol services provided throughout New South Wales by prescribed organisations;
- (d) undertake, promote and facilitate research into drug or alcohol related problems;
- (e) promote and facilitate educational or training programmes relating to drug or alcohol related problems;
- (f) review and make recommendations on grants to organisations or persons for the purpose of assisting or enabling the provision of drug or alcohol services;
- (g) co-ordinate the financial arrangements concerning Commonwealth grants for drug or alcohol services or relating to drug or alcohol related problems;
- (h) provide administrative and research support for the Council and any other organisations in relation to drug or alcohol services or drug or alcohol related problems; and
- (i) formulate standards for rehabilitation centres and policies for their implementation.

The clause also provides that the Director's functions may be exercised in association with other organisations having similar or complementary functions and that the Director's co-ordinating functions are of a recommendatory nature only.

Clause 10 provides that the Directorate is required to consult with government departments and public authorities (which have similar functions to the Director) when exercising those functions. It also provides that if the functions of a government department or public authority involve the provision of drug or alcohol services then the department or authority must consult with the Directorate. This requirement does not apply to members of the Police Force in the exercise of their functions in relation to the detection of offenders.

Clause 11 requires the Director to furnish to the Minister an annual report of the Directorate's work and activities. The Minister is required to lay the report before Parliament.

#### PART 4—THE NEW SOUTH WALES DRUG OFFENSIVE FOUNDATION

Clause 12 constitutes the New South Wales Drug Offensive Foundation as a corporation and provides that its affairs are to be managed by the Minister.

Clause 13 specifies the functions of the Foundation. It may provide funds and make grants, and provide other support, for any purpose connected with the provision of drug or alcohol services or any of the Council's or Director's functions. The Foundation may also raise funds by way of public appeal.

Clause 14 empowers the Foundation to acquire (by gift, bequest or devise) any property and to agree to conditions attached to its acquisition of property.

Clause 15 contains provisions relating to the corporate status of the Foundation.

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Clause 16 establishes a Drug Offensive Foundation Fund consisting of all money received by the Foundation from Parliament, pursuant to or in connection with any gift, bequest or devise or from any fund raising activity.

Clause 17 specifies the financial year of the Foundation.

Clause 18 provides for the inclusion in the annual report of the Department of Health a report of the work and activities of the Foundation.

**PART 5—MISCELLANEOUS**

Clause 19 empowers the Governor to make regulations under the proposed Act.

Clause 20 repeals various enactments listed in Schedule 1, being the the Drug and Alcohol Authority Act 1980 and certain miscellaneous enactments.

Clause 21 amends the Statutory and Other Offices Remuneration Act 1975 and the Public Finance and Audit Act 1983 in consequence of the repeal of the Drug and Alcohol Authority Act 1980 and the abolition of the Drug and Alcohol Authority by the proposed Act.

Clause 22 is a formal provision that gives effect to Schedule 4 which contains savings, transitional and other provisions.

**SCHEDULES**

Schedule 1 contains the enactments to be repealed.

Schedule 2 contains provisions with respect to the members of the Council. In particular, provision is made with respect to a Chairperson of the Council, acting members, the term of office of members (not exceeding 4 years), remuneration, vacation of office, the disclosure of pecuniary interests and the protection from personal liability when members act in good faith.

Schedule 3 contains provisions with respect to the procedure for the conduct of meetings of the Council.

Schedule 4 contains savings, transitional and other provisions.

Clause 1 defines certain expressions for the purposes of the Schedule. In particular, "Authority" is defined as the Drug and Alcohol Authority of New South Wales constituted under the repealed Act (being the Drug and Alcohol Authority Act 1980).

Clause 2 abolishes the Authority.

Clause 3 deals with members of the Authority and provides that a member has no right to compensation for ceasing to hold office. It also makes provision to preserve certain rights under the repealed Act relating to the Chairman of the Authority.

Clause 4 provides that references to the Authority in other Acts (or to a member, officer or employee of the Authority) shall be read as a reference to the Director, except in relation to the property of the Authority (in which case the reference shall be read as a reference to the Foundation).

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Clause 5 provides for the transfer to the Foundation of the property of the Authority and further provides that property acquired by gift by the Authority shall be deemed to have been acquired by the Foundation, and to be subject to any condition to which it was originally acquired.

Clause 6 provides that grants approved by the Authority before the commencement of the proposed Act shall be payable after that commencement and that any conditions in relation to any grant are not affected by the repeal of the repealed Act.

Clause 7 provides that any money standing to the credit of the Special Projects Fund under the repealed Act is money standing to the credit of the Drug Offensive Foundation Fund.

Clause 8 provides that the Directorate is deemed to have been established under section 49 of the Constitution Act 1902.

Clause 9 empowers the Governor-in-Council to make other regulations of a savings and transitional nature.

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