



New South Wales

Drug Court Legislation Amendment Bill 2014

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Drug Court Act 1998* and the *Crimes (Administration of Sentences) Act 1999* to give effect to certain recommendations made by the Minister for Justice in the review entitled *Review of the Compulsory Drug Treatment Program and the Compulsory Drug Treatment Correctional Centre pursuant to the Crimes (Administration of Sentences) Act 1999* (May 2013) (the *Review*), and
- (b) to make a related amendment to the *Crimes (Administration of Sentences) Regulation 2008*.

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Drug Court Act 1998 No 150

Schedule 1 [1] provides that an *eligible convicted offender* must be a person who has been sentenced to a term of imprisonment for the relevant offence to be served by way of full-time detention where, at the time the sentence was imposed:

- (a) the unexpired non-parole period of the sentence was a period of at least 18 months, and

(b) the unexpired total sentence was a period of not more than 6 years.

Currently, the unexpired non-parole period must be at least 18 months at the time the sentence was imposed and no more than 3 years at the time the Drug Court determines whether to make a compulsory drug treatment order (see recommendation 4 of the Review).

Schedule 1 [2] removes the requirement that an eligible convicted offender must be a person who has been convicted of at least 2 offences resulting in a sentence of imprisonment, community service order or good behaviour bond within the 5-year period immediately before the offender's current conviction (see recommendation 5 of the Review).

Schedule 1 [3] provides that an eligible convicted offender includes a person whose parole order has been revoked if the person can be referred to the Drug Court by the State Parole Authority under the provision to be inserted by Schedule 1 [5] (see recommendation 9 of the Review).

Schedule 1 [4] provides that a person may not be an eligible convicted offender if the offence for which the person has been convicted involved the use of a firearm, or if the person has been convicted at any time of any offence involving the violent use of a firearm. Currently, a person may not be an eligible convicted offender if the person has been convicted at any time of any offence involving the use of a firearm (see recommendation 10 of the Review).

Schedule 1 [5] requires the State Parole Authority to refer a person, whose parole has been revoked in respect of a sentence that has previously been the subject of a compulsory drug treatment order which has expired, to the Drug Court to determine whether the person should be the subject of a compulsory drug treatment order (see recommendation 9 of the Review).

Schedule 1 [6] provides that for an eligible convicted offender referred to the Drug Court by the State Parole Authority whose parole order has been revoked, the Drug Court may make a new compulsory drug treatment order having regard to the circumstances of the revocation (see recommendation 9 of the Review).

Schedule 1 [7] provides that when assessing an offender's suitability to serve a sentence by way of compulsory drug treatment detention, the multi-disciplinary team must have regard to the offender's history of committing offences involving weapons (see recommendation 10 of the Review).

Schedule 1 [8] provides that when assessing an offender's suitability to serve a sentence by way of compulsory drug treatment detention, the multi-disciplinary team must have regard to the offender's history of committing offences that are related to the offender's long-term drug dependency and associated lifestyle (see recommendation 5 of the Review).

Schedule 1 [9] extends the effect of a compulsory drug treatment order to include the suspension of any entitlement of an eligible convicted offender to be considered for parole (see recommendation 3 of the Review).

Schedule 1 [10] provides that the functions conferred or imposed on the registrar of the Drug Court by the regulations or the rules of court that the registrar may exercise are not restricted to administrative functions (see recommendation 6 of the Review).

Schedule 1 [11] enables savings and transitional regulations to be made as a consequence of amendments to the Act. **Schedule 1 [12]** contains specific savings and transitional provisions.

Schedule 2 Amendment of other legislation

Schedule 2.1 Crimes (Administration of Sentences) Act 1999 No 93

Schedule 2.1 [2] provides that if the Director of the Compulsory Drug Treatment Correctional Centre (the *Director*) is satisfied that an offender has failed to comply in a serious respect with any condition of the offender's compulsory drug treatment personal plan, the Director may direct that an offender regress from one stage of compulsory drug treatment detention to a lower stage for a specified period not exceeding 3 months. It also provides that the Director must notify the

Drug Court of any such direction within 7 days of issuing the direction and that the offender may apply to the Drug Court for a review of the direction within 14 days of the direction (see recommendation 2 of the Review). **Schedule 2.1 [1]** makes a consequential amendment.

Schedule 2.1 [3] provides that a compulsory drug treatment order may be revoked if, in the opinion of the Drug Court (having regard to advice provided by the Director and the offender's progress in the compulsory drug treatment program), the offender is unlikely to make any further progress in the offender's compulsory drug treatment program (see recommendation 1 of the Review).

Schedule 2.1 [5] provides that a court that sentences an offender to a term of imprisonment (*a new sentence*) that is being served concurrently or partly concurrently with a sentence in relation to which a compulsory drug treatment order is made must refer the offender to the Drug Court in order to determine whether the order should be varied or revoked, regardless of when the new sentence was imposed (see recommendation 7 of the Review). **Schedule 2.1 [4]** makes a consequential amendment.

Schedule 2.1 [6] provides that the State Parole Authority may consider an offender's case less than 60 days before the offender's parole eligibility date where the Drug Court has revoked the offender's compulsory drug treatment order (see recommendation 3 of the Review).

Schedule 2.2 Crimes (Administration of Sentences) Regulation 2008

Schedule 2.2 enables the State Parole Authority to consider an offender's case at any time after the offender's parole eligibility date without the need for an application where the Drug Court has revoked the offender's compulsory drug treatment order (see recommendation 3 of the Review).