

## Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Bill 2002

### 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 *Disorderly Houses Act 1943* (the **Principal Act**):

- (a) to change the title of the Act, and
- (b) to enable applications for declarations under that Act to be made by senior police officers to the District Court or to the Supreme Court, and
- (c) to remove the requirement that notice of a declaration has to be published in a newspaper, and
- (d) to remove the offence of being on premises in respect of which a declaration is in force, and
- (e) to enable senior police officers to apply to a Magistrate for an order to close premises for up to 72 hours if it can be shown that there is a reasonable suspicion that certain activities relating to the illegal commercial supply of prohibited drugs is taking place, and
- (f) to increase penalties for offences under the Act.

The Bill also makes minor consequential amendments to various other Acts.

#### 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 that gives effect to the amendments to the *Disorderly Houses Act 1943* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to consequential amendments to other Acts set out in Schedule 2.

#### Schedule 1 Amendment of Disorderly Houses Act 1943

**Schedule 1 [2]** changes the name of the *Disorderly Houses Act 1943* to the *Restricted Premises Act 1943*.

Currently, Part 2 of the Principal Act enables applications to be made by a Superintendent or Inspector of Police to the Supreme Court for premises to be declared a disorderly house. For an application to be granted it has to be shown that there are reasonable grounds for suspecting that certain conditions apply to the premises (for example, that liquor or a drug is being unlawfully sold or supplied from the premises).

**Schedule 1 [4]** enables a senior police officer (defined as a police officer of or above the rank of sergeant) to apply to the Supreme Court or the District Court for a declaration that Part 2 of the Principal Act applies to specified premises.

**Schedule 1 [3], [6], [8], [9] and [15]** contain consequential amendments.

**Schedule 1 [1], [5] and [7]** remove references to “disorderly house” as it is considered that this expression is outdated and does not reflect the circumstances in which Part 2 of the Principal Act is mainly used, namely, in relation to premises from which drugs are illegally sold.

**Schedule 1 [10]** removes the current requirement that notice of the making of a declaration under Part 2 of the Principal Act must be published in a newspaper. The current requirement that the notice also be served personally on the owner or occupier of the premises concerned (or, if this cannot be achieved

promptly, by fixing the notice near the entrance to the premises) remains. However, it is an offence for someone other than a police officer or the owner or occupier of the premises to remove a notice that has been fixed to the premises.

**Schedule 1 [11]** removes the offence of being on premises the subject of a declaration under Part 2 of the Principal Act.

**Schedule 1 [12]** increases the penalty for an offence by the owner of premises the subject of a declaration under Part 2 of the Principal Act to allow the conditions that constituted the grounds on which the declaration was made to continue to exist in relation to the premises.

**Schedule 1 [13]** increases the penalty for an offence by the occupier of premises the subject of a declaration under Part 2 of the Principal Act to allow the conditions that constituted the grounds on which the declaration was made to continue to exist in relation to the premises.

**Schedule 1 [14]** increases the penalty for an offence of obstructing or aiding in the obstruction of a police officer in the exercise of his or her powers under the Principal Act.

**Schedule 1 [16]** inserts a new Part 2A (proposed sections 15B–15D) into the Principal Act which enables a senior police officer to apply to a Magistrate for the closure of premises for a period of up to 72 hours if the police officer provides reasonable grounds for suspecting that the premises are being used by the owner or occupier (or with the knowledge of the owner or occupier) for a commercial purpose in order:

- (a) to supply prohibited drugs unlawfully to persons, or
- (b) to keep prohibited drugs to enable their unlawful supply to persons, or
- (c) to make arrangements for the unlawful supply of prohibited drugs to persons at another place.

The owner or occupier of the premises may apply for revocation of the order.

**Schedule 1 [17]** provides for offences under the Principal Act to be dealt with summarily by a Local Court.

**Schedule 1 [18] and [19]** contain savings and transitional provisions.

#### **Schedule 2 Amendment of other Acts**

**Schedule 2** contains consequential amendments to other Acts.