



New South Wales

Compulsory Drug Treatment Correctional Centre Bill 2004

Explanatory note

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

Overview of Bill

The object of this Bill is to amend certain Acts of Parliament to establish a scheme to provide for the compulsory treatment and rehabilitation of recidivist drug dependent offenders.

Under the proposed compulsory drug treatment scheme, certain eligible convicted offenders are to be referred to the Drug Court of New South Wales (*the Drug Court*) for assessment. To be eligible for the program an offender must:

- (a) appear to have a long-term drug dependency, and
- (b) have been convicted of an offence related to the offender's drug dependency and lifestyle and been sentenced to imprisonment with an unexpired non-parole period of at least 18 months but not more than 3 years, and
- (c) have been convicted of other offences at least 3 times in the previous 5 years.

If it is determined by the Drug Court that an offender is eligible and suitable, the Drug Court will be empowered to order that the offender serve his or her sentence of imprisonment by way of compulsory drug treatment detention in the Compulsory Drug Treatment Correctional Centre (to be established for the purposes of this scheme) and later in the community.

While an offender is serving a sentence by way of compulsory drug treatment detention, the offender will be required to comply with a compulsory drug treatment personal plan prepared for the offender. The personal plan will contain conditions relating to conduct and good behaviour, attendance for counselling or other treatment, the management of the offender in the Compulsory Drug Treatment Correctional Centre, periodic drug testing that the offender must undergo and involvement in activities, courses, training or employment for the purpose of promoting the re-integration of the offender into the community.

Compulsory drug treatment detention under the proposed scheme is to consist of three stages: closed detention (Stage 1), semi-open detention (Stage 2) and community custody (Stage 3). Under closed detention (Stage 1), the offender is to be kept in full-time custody at the Compulsory Drug Treatment Correctional Centre. Under semi-open detention (Stage 2), the offender is to be kept in the Compulsory Drug Treatment Correctional Centre with leave approved by the Drug Court to allow the offender to attend employment, training or social programs. Under community custody (Stage 3), the offender may reside outside the Compulsory Drug Treatment Correctional Centre under intensive supervision at accommodation approved by the Drug Court. An offender will be able to progress from one stage of detention to a higher stage after the offender has served at least 6 months in the stage, but only on the order of the Drug Court after comprehensive assessment reports relating to the offender have been prepared. The Drug Court will also be empowered to regress an offender to a lower stage of detention if the offender has failed to comply with his or her personal plan.

If an offender has progressed under the proposed scheme to semi-open detention (Stage 2) or community custody (Stage 3) and is eligible to spend time outside the Compulsory Drug Treatment Correctional Centre, the Drug Court is to impose a community supervision order on the offender. A community supervision order may contain conditions relating to the supervision of the offender outside the Compulsory Drug Treatment Correctional Centre (for example, by way of electronic monitoring), conditions relating to drug testing that the offender must undergo and conditions relating to residence, association with other persons or attendance at specified locations.

The Drug Court is to supervise the offender while the offender is serving the offender's sentence by way of compulsory drug treatment detention. The Drug Court will be empowered to impose sanctions on and grant rewards to the offender in response to the offender's level of compliance with his or her compulsory drug treatment personal plan. If necessary, the Drug Court will be able to terminate a drug offender's participation in the compulsory drug treatment scheme and return the offender to full-time detention in the normal correctional centre system.

The Drug Court also is to act as the parole authority in relation to drug offenders serving their sentences by way of compulsory drug treatment detention. It will determine whether such an offender is to be released on parole and the conditions of that parole.

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 *Drug Court Act 1998* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Crimes (Sentencing Procedure) Act 1999* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Crimes (Administration of Sentences) Act 1999* set out in Schedule 3.

Schedule 1 Amendment of Drug Court Act 1998

Schedule 1 amends the *Drug Court Act 1998* to give effect to the Overview above relating to the making of orders for compulsory drug treatment detention.

Schedule 1 [1]–[3] amend section 3 (Objects) of the *Drug Court Act 1998* to provide that it is an object of that Act to establish a scheme for compulsory drug treatment and rehabilitation for certain drug dependent persons.

Schedule 1 [4] inserts certain definitions into section 4 (Definitions) of the *Drug Court Act 1998* for the purposes of the proposed compulsory drug treatment scheme.

Schedule 1 [5] inserts proposed section 5A into the *Drug Court Act 1998* to define persons who are "eligible convicted offenders". A person is an eligible convicted offender if:

- (a) the person is convicted of an offence and sentenced to a term of imprisonment for the offence to be served by way of full-time detention and the unexpired non-parole period in relation to that sentence is a period of at least 18 months but not more than 3 years, and
- (b) the person has, in the 5-year period immediately before the person was sentenced, been convicted, under the law of this State or under the law of the Commonwealth or another State or Territory or of another country, of at least 3 other offences, not being offences arising out of the same circumstances, that resulted in any of the following:
 - (i) a sentence of imprisonment (including a sentence of imprisonment that was suspended),
 - (ii) the making of a community service order (however described),
 - (iii) the entry into a good behaviour bond or recognizance (however described), and
- (c) the person has, in the opinion of the Drug Court, a long-term dependency on the use of prohibited drugs or other drugs prescribed by the regulations, and
- (d) the facts in connection with the offence for which the person has been sentenced, together with the person's antecedents and any other information available, indicate, in the opinion of the Drug Court, that the offence was related to the person's long-term drug dependency and associated lifestyle, and
- (e) the person satisfies such other criteria as are prescribed by the regulations.

A person is not an eligible convicted offender if the person has been convicted at any time of the following:

- (a) murder, attempted murder or manslaughter,
- (b) sexual assault of an adult or child or a sexual offence involving a child,
- (c) any offence involving the use of a firearm,
- (d) any offence that, in the opinion of the Drug Court, involves serious violence (such as malicious wounding or assault with intent to do grievous bodily harm, but not including common assault),
- (e) certain offences under the *Drug Misuse and Trafficking Act 1985* involving a commercial quantity or large commercial quantity of a prohibited plant or prohibited drug within the meaning of that Act,
- (f) any offence prescribed by the regulations for the purposes of the proposed section.

Further, a person is not an eligible convicted offender if:

- (a) the person suffers from a mental condition, illness or disorder that:
 - (i) is serious, or
 - (ii) leads to the person being violent, and
- (b) the mental condition, illness or disorder could prevent or restrict the person's active participation in a drug treatment program.

Schedule 1 [6] inserts proposed Part 2A into the *Drug Court Act 1998*.

Division 1 of Part 2A contains certain definitions for the purposes of the proposed Part.

Division 2 of Part 2A provides that it is the duty of certain prescribed courts that sentence persons to imprisonment:

- (a) to ascertain whether there are grounds on which the Drug Court might find the person to be an eligible convicted offender, and
- (b) if so, to refer the person to the Drug Court to determine whether the person should be the subject of a compulsory drug treatment order.

Division 3 of Part 2A contains provisions relating to making of compulsory drug treatment orders by the Drug Court, including restrictions on the making of those orders and the requirement for certain assessments to be made before making those orders.

Division 4 of Part 2A contains miscellaneous provisions dealing with certain consequences of making compulsory drug treatment orders.

Schedule 1 [7] and [8] make certain consequential amendments.

Schedule 1 [9] and [10] make amendments relating to savings and transitional matters, including allowing the Drug Court to make compulsory drug treatment orders in relation to certain persons currently imprisoned.

Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999

Schedule 2 makes amendments to the *Crimes (Sentencing Procedure) Act 1999* to give effect to the Overview above. The amendments insert provisions into the *Crimes (Sentencing Procedure) Act 1999* to point to the ability of the Drug Court to make orders for imprisonment by way of compulsory drug treatment detention as an alternative to imprisonment by way of full-time detention. The Schedule also amends the heading to Division 2 of Part 2 so that it better describes the custodial sentencing options under the Part.

Schedule 3 Amendment of Crimes (Administration of Sentences) Act 1999

Schedule 3 makes amendments to the *Crimes (Administration of Sentences) Act 1999* to give effect to the Overview above relating to the administration of offenders serving sentences by way of compulsory drug treatment detention.

Schedule 3 [1]–[3] insert certain definitions into section 3 (Interpretation) of the *Crimes (Administration of Sentences) Act 1999*, and amend another definition in that section, for the purposes of the proposed compulsory drug treatment scheme.

Schedule 3 [4] inserts proposed Part 4A into the *Crimes (Administration of Sentences) Act 1999*.

Division 1 of Part 4A contains certain definitions for the purposes of the proposed Part. The proposed Division also sets out the objects of compulsory drug treatment, the obligations of offenders serving sentences by way of compulsory drug treatment detention and the stages and duration of compulsory drug treatment detention.

Division 2 of Part 4A deals with compulsory drug treatment personal plans, sanctions and rewards for non-compliance and compliance with those personal plans, progression and regression between stages of detention, community supervision orders and the power of the Commissioner of Corrective Services to make certain regression and removal orders.

Division 3 of Part 4A deals with the revocation of compulsory drug treatment orders.

Division 4 of Part 4A provides that the Drug Court is the authority that will determine whether an offender serving a sentence by way of compulsory drug treatment detention is to be released on parole. The proposed Division also makes it clear that after release on parole (and the consequent expiry of the offender's compulsory drug treatment order), the Parole Board is responsible for the supervision and revocation of any parole order made in relation to the offender.

Division 5 of Part 4A contains miscellaneous provisions dealing with the administration of persons in compulsory drug treatment detention. The proposed Division includes provisions relating to the provision of information to the Drug Court and the Director of the Compulsory Drug Treatment Correctional Centre by persons (such as health professionals) relating to an offender's drug treatment.

Compulsory Drug Treatment Correctional Centre Bill 2004

Explanatory note

Schedule 3 [5] makes an amendment to section 135 of the *Crimes (Administration of Sentences) Act 1999* to require the Parole Board in deciding whether to make a parole order to have regard to the circumstances of any decision by the Drug Court to decline to make a compulsory drug treatment order in relation to an offender's sentence on the ground that the offender's participation in the program might damage the program or any other person's participation in it.

Schedule 3 [6] makes an amendment to enable regulations of a savings or transitional nature consequent on the amendment of the *Crimes (Administration of Sentences) Act 1999* by the proposed Act to be made.



New South Wales

Compulsory Drug Treatment Correctional Centre Bill 2004

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Drug Court Act 1998 No 150	2
4 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	2
5 Amendment of Crimes (Administration of Sentences) Act 1999 No 93	2
Schedule 1 Amendment of Drug Court Act 1998	3
Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999	12
Schedule 3 Amendment of Crimes (Administration of Sentences) Act 1999	13



New South Wales

Compulsory Drug Treatment Correctional Centre Bill 2004

No. , 2004

A Bill for

An Act to amend the *Drug Court Act 1998*, the *Crimes (Sentencing Procedure) Act 1999* and the *Crimes (Administration of Sentences) Act 1999* to provide for the compulsory treatment and rehabilitation of recidivist drug offenders; and for related purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Compulsory Drug Treatment Correctional Centre Act 2004</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Drug Court Act 1998 No 150	8
The <i>Drug Court Act 1998</i> is amended as set out in Schedule 1.	9
4 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	10
The <i>Crimes (Sentencing Procedure) Act 1999</i> is amended as set out in Schedule 2.	11 12
5 Amendment of Crimes (Administration of Sentences) Act 1999 No 93	13
The <i>Crimes (Administration of Sentences) Act 1999</i> is amended as set out in Schedule 3.	14 15

Schedule 1 Amendment of Drug Court Act 1998

(Section 3)

[1] Section 3 Objects

Insert “and eligible convicted offenders” after “eligible persons” in section 3 (1) (a).

[2] Section 3 (2)

Insert “in relation to eligible persons” after “objects”.

[3] Section 3 (2A)

Insert after section 3 (2):

(2A) This Act achieves its objects in relation to eligible convicted offenders by establishing a scheme for compulsory drug treatment and rehabilitation for certain drug dependent persons.

[4] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

Compulsory Drug Treatment Correctional Centre has the same meaning as in Part 4A of the *Crimes (Administration of Sentences) Act 1999*.

compulsory drug treatment detention means detention in accordance with Part 4A of the *Crimes (Administration of Sentences) Act 1999*.

compulsory drug treatment order means an order made under section 18C.

eligible convicted offender is defined in section 5A.

[5] Section 5A

Insert after section 5:

5A Definition of “eligible convicted offender”

(1) A person is an eligible convicted offender if:

(a) the person is convicted of an offence, other than an offence referred to in subsection (2), and

Compulsory Drug Treatment Correctional Centre Bill 2004

Schedule 1 Amendment of Drug Court Act 1998

- (b) the person has been sentenced to a term of imprisonment for the offence to be served by way of full-time detention and the unexpired non-parole period in relation to that sentence is a period of at least 18 months but not more than 3 years, and
 - (c) the person has, in the 5-year period immediately before the person was sentenced, been convicted, under a law of this State or under a law of the Commonwealth or another State or Territory or of another country, of at least 3 other offences, not being offences arising out of the same circumstances, that resulted in any one or more of the following:
 - (i) a sentence of imprisonment (including a sentence of imprisonment that was suspended),
 - (ii) the making of a community service order (however described),
 - (iii) the entry into a good behaviour bond or recognizance (however described), and
 - (d) in the opinion of the Drug Court, the person has a long-term dependency on the use of prohibited drugs (within the meaning of the *Drug Misuse and Trafficking Act 1985*) or other drugs prescribed by the regulations, and
 - (e) in the opinion of the Drug Court, the facts in connection with the offence for which the person has been sentenced, together with the person's antecedents and any other information available, indicate that the offence was related to the person's long-term drug dependency and associated lifestyle, and
 - (f) the person satisfies such other criteria as are prescribed by the regulations.
- (2) A person is not an eligible convicted offender if the person has been convicted at any time of the following:
- (a) murder, attempted murder or manslaughter,
 - (b) sexual assault of an adult or child or a sexual offence involving a child,
 - (c) any offence involving the use of a firearm,

(d)	any offence that, in the opinion of the Drug Court, involves serious violence (such as malicious wounding or assault with intent to do grievous bodily harm, but not including common assault),	1 2 3 4
(e)	an offence under section 23 (2), 24 (2), 25 (2), 26, 27 or 28 of the <i>Drug Misuse and Trafficking Act 1985</i> involving a commercial quantity or large commercial quantity of a prohibited plant or prohibited drug within the meaning of that Act,	5 6 7 8 9
(f)	any offence prescribed by the regulations for the purposes of this section.	10 11
(3)	A person is not an eligible convicted offender if, in the opinion of the Drug Court:	12 13
(a)	the person suffers from a mental condition, illness or disorder that:	14 15
(i)	is serious, or	16
(ii)	leads to the person being violent, and	17
(b)	the mental condition, illness or disorder could prevent or restrict the person's active participation in a drug treatment program.	18 19 20
[6] Part 2A		21
	Insert after Part 2:	22
	Part 2A Compulsory drug treatment detention	23
	Division 1 Preliminary	24
	18A Definitions	25
	In this Part:	26
	<i>assessment report</i> means a report prepared under Division 3.	27
	<i>multi-disciplinary team</i> means a team comprised of:	28
(a)	the Director of the Compulsory Drug Treatment Correctional Centre (or a person nominated by the Director), who is to be the team leader, and	29 30 31
(b)	a probation and parole officer appointed by the Commissioner of Corrective Services, and	32 33

-
- (c) a person appointed by the Chief Executive Officer, Corrections Health Service, and 1
 - (d) such other persons as are prescribed by the regulations. 2
- offender's obligations* under a compulsory drug treatment order means the obligations that the offender has under section 106C of the *Crimes (Administration of Sentences) Act 1999* as a consequence of the making of the order. 3
- probation and parole officer* has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*. 4

Division 2 Referral of eligible convicted offenders to Drug Court 10

18B Courts to refer eligible convicted offenders to Drug Court 11

- (1) This section applies to such courts as are prescribed by the regulations. 12
- (2) It is the duty of a court to which this section applies that sentences a person to imprisonment or which, on determining an appeal, confirms a sentence of imprisonment imposed on the person by some other court (whether or not on the same terms as the other court): 13

 - (a) to ascertain whether there are grounds on which the Drug Court might find the person to be an eligible convicted offender, and 14
 - (b) if so, to refer the person to the Drug Court to determine whether the person should be the subject of a compulsory drug treatment order. 15

- (3) The duty imposed on a court by this section is to be exercised as soon as practicable after the person is sentenced to imprisonment or the appeal is dealt with. 16
- (4) The registrar or clerk of a court that refers a person to the Drug Court under this section must give to the registrar of the Drug Court such documents and materials prescribed by the regulations relating to the person as are requested by that registrar. 17

Division 3 Making compulsory drug treatment orders

18C Compulsory drug treatment detention

The Drug Court may make an order directing that an eligible convicted offender serve the offender's sentence of imprisonment by way of compulsory drug treatment detention.

18D Restriction on power of Drug Court to make compulsory drug treatment orders

- (1) The Drug Court must not make a compulsory drug treatment order with respect to an offender's sentence of imprisonment unless:
- (a) the Drug Court has referred the offender to the multi-disciplinary team for assessment as to the eligibility and suitability of the offender for compulsory drug treatment detention and has had regard to the contents of the assessment report made by the team under section 18E, and
 - (b) the Drug Court is satisfied:
 - (i) that the offender is of or above the age of 18 years, and
 - (ii) that the offender is an eligible convicted offender, and
 - (iii) that the offender is a suitable person to serve the sentence by way of compulsory drug treatment detention, and
 - (iv) that it is appropriate in all of the circumstances that the sentence be served by way of compulsory drug treatment detention, and
 - (v) that there is accommodation available (or is likely to be available within 14 days) at the Compulsory Drug Treatment Correctional Centre for the offender to serve the sentence by way of compulsory drug treatment detention, and
 - (vi) that the offender's participation in the program will not damage the program or any other person's participation in it.

- (2) If the Drug Court declines to make a compulsory drug treatment order in relation to an eligible convicted offender's sentence on the ground that the offender's participation in the program will damage the program or any other person's participation in it (as referred to in subsection (1) (b) (vi)), the Drug Court may:
 - (a) revoke any parole order made under section 50 of the *Crimes (Sentencing Procedure) Act 1999* in relation to the offender, and
 - (b) notify the Parole Board of the decision to decline to make the order and the circumstances in which it was made.
 - (3) The Drug Court may, for any reason it considers sufficient, decline to make a compulsory drug treatment order despite the contents of an assessment report.
 - (4) No appeal lies against the Drug Court's decision to make or not to make a compulsory drug treatment order.
- 18E Assessment of eligibility and suitability by the multi-disciplinary team**
- (1) When an offender is referred to the multi-disciplinary team for assessment, the multi-disciplinary team is to investigate and report to the Drug Court on the matters referred to in sections 5A and 18D (1) (b) (i)–(vi).
 - (2) When assessing whether an offender is a suitable person to serve a sentence by way of compulsory drug treatment detention (being the ground referred to in section 18D (1) (b) (iii)), the multi-disciplinary team is to have regard to the following matters:
 - (a) the offender's level of motivation and attitude to the compulsory drug treatment program,
 - (b) the offender's drug treatment history,
 - (c) the likelihood that the offender will commit a domestic violence offence (within the meaning of the *Crimes Act 1900*) during community custody (Stage 3) (within the meaning of Part 4A of the *Crimes (Administration of Sentences) Act 1999*),
 - (d) any other matter prescribed by the regulations.

(3)	The regulations may make provision for or with respect to the conduct of investigations and the preparation of reports for the purposes of this Part.	1 2 3
18F	Concurrent and consecutive sentences	4
(1)	A compulsory drug treatment order may be made in respect of two or more sentences of imprisonment that are being served concurrently or consecutively (or partly concurrently and partly consecutively).	5 6 7 8
(2)	A reference in this Part to a sentence of imprisonment includes a reference to two or more sentences of imprisonment that are being served concurrently or consecutively (or partly concurrently and partly consecutively).	9 10 11 12 13
(3)	A reference in section 5A (1) (b) to an unexpired non-parole period in relation to a sentence includes a reference to a cumulative unexpired non-parole period in relation to two or more sentences of imprisonment that are being served concurrently or consecutively (or partly concurrently and partly consecutively).	14 15 16 17 18 19
Division 4	Miscellaneous	20
18G	Effect of compulsory drug treatment order	21
	A compulsory drug treatment order has the effect of:	22
(a)	cancelling the warrant of commitment issued under section 62 of the <i>Crimes (Sentencing Procedure) Act 1999</i> in relation to the offender, and	23 24 25
(b)	revoking any parole order made under section 50 of the <i>Crimes (Sentencing Procedure) Act 1999</i> in relation to the offender, and	26 27 28
(c)	requiring the eligible convicted offender to comply with the compulsory drug treatment personal plan to be set for the person under section 106F of the <i>Crimes (Administration of Sentences) Act 1999</i> .	29 30 31 32

18H	Explanation of compulsory drug treatment order to offender	1
(1)	Before making a compulsory drug treatment order in relation to an eligible convicted offender's sentence of imprisonment, the Drug Court must ensure that all reasonable steps are taken to explain to the offender (in language that the offender can readily understand):	2 3 4 5 6
(a)	the offender's obligations under the compulsory drug treatment order, and	7 8
(b)	the consequences that may follow if the offender fails to comply with those obligations.	9 10
(2)	A compulsory drug treatment order is not invalidated by a failure to comply with this section.	11 12
18I	Preparation and service of written notice of compulsory drug treatment order	13 14
(1)	As soon as practicable after making a compulsory drug treatment order, the Drug Court must cause written notice of the order to be given to the eligible convicted offender and to the Commissioner of Corrective Services.	15 16 17 18
(2)	A compulsory drug treatment order is not invalidated by a failure to comply with this section.	19 20
18J	Warrant of commitment	21
	As soon as practicable after making a compulsory drug treatment order, the Drug Court must issue a warrant for the committal of the eligible convicted offender to the Compulsory Drug Treatment Correctional Centre.	22 23 24 25
[7]	Section 26 Court proceedings	26
	Insert "or the <i>Crimes (Administration of Sentences) Act 1999</i> " after "this Act" in section 26 (1).	27 28
[8]	Section 26 (2) (b)	29
	Omit "this Act and the regulations".	30
	Insert "this Act, the <i>Crimes (Administration of Sentences) Act 1999</i> and any regulations made under those Acts".	31 32

[9] Schedule 2 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>Compulsory Drug Treatment Correctional Centre Act 2004</i>	3
(but only to the extent that it amends this Act)	4
[10] Schedule 2	5
Insert at the end of the Schedule with appropriate Part and clause numbers:	6
Part	7
 Provision consequent on enactment of	8
 Compulsory Drug Treatment	9
 Correctional Centre Act 2004	
 Compulsory drug treatment order may be made in relation to	10
 certain existing inmates	11
(1) Subject to subclause (2), Part 2A does not apply to a person	12
who was sentenced before the commencement of this clause.	13
(2) The Drug Court may make a compulsory drug treatment order	14
in relation to a person who:	15
(a) was convicted of an offence, other than an offence	16
referred to in section 5A (2), and was sentenced to serve	17
a term of imprisonment by way of full-time detention	18
for that offence within the period of 12 months before	19
the commencement of this clause, and	20
(b) would be an eligible convicted offender if section	21
5A (1) (a) and (b) were disregarded,	22
but only if:	23
(c) the unexpired non-parole period in relation to that	24
sentence is a period of at least 18 months but not more	25
than 3 years at the time the Drug Court makes the order,	26
and	27
(d) the person would, but for the sentence of imprisonment,	28
be ordinarily a resident of a local government area	29
prescribed by the regulations.	30

Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999	1
	2
(Section 4)	3
[1] Section 3 Interpretation	4
Insert in alphabetical order in section 3 (1):	5
<i>compulsory drug treatment detention</i> means detention in accordance with Part 4A of the <i>Crimes (Administration of Sentences) Act 1999</i> .	6
<i>Drug Court</i> means the Drug Court of New South Wales constituted under the <i>Drug Court Act 1998</i> .	7
	8
	9
	10
[2] Part 2, Division 2, heading	11
Insert after section 4:	12
Division 2 Custodial sentences	13
[3] Section 5A	14
Insert after section 5:	15
5A Compulsory drug treatment detention	16
The Drug Court may make an order under Part 2A of the <i>Drug Court Act 1998</i> directing that an offender, who is an eligible convicted offender within the meaning of that Act, serve a sentence of imprisonment by way of compulsory drug treatment detention.	17
	18
	19
	20
	21
[4] Part 2, Division 2, heading	22
Omit the heading occurring before section 6.	23

Schedule 3	Amendment of Crimes (Administration of Sentences) Act 1999	1
		2
	(Section 5)	3
[1]	Section 3 Interpretation	4
	Insert in alphabetical order in section 3 (1):	5
	<i>compulsory drug treatment detention</i> means detention in accordance with Part 4A.	6
		7
	<i>compulsory drug treatment order</i> means an order in force under section 18C of the <i>Drug Court Act 1998</i> .	8
		9
	<i>Drug Court</i> means the Drug Court of New South Wales constituted under the <i>Drug Court Act 1998</i> .	10
		11
[2]	Section 3 (1), definition of “offender”	12
	Insert “, 4A” after “Part 3, 4”.	13
[3]	Section 3 (1), definition of “offender”	14
	Omit “Part 3 or 4”. Insert instead “Part 3, 4 or 4A”.	15
[4]	Part 4A	16
	Insert after Part 4:	17
	Part 4A	18
	Imprisonment by way of compulsory drug treatment detention	19
	Division 1	20
	Preliminary	
106A	Definitions	21
	In this Part:	22
	<i>community supervision order</i> means an order by the Drug Court that imposes conditions on the offender in relation to the periods of time when the offender is not in the Compulsory Drug Treatment Correctional Centre.	23
		24
		25
		26
	Note. See section 106O.	27
	<i>Compulsory Drug Treatment Correctional Centre</i> means the correctional centre given that name by a proclamation under section 225.	28
		29
		30

Director or **Director of the Compulsory Drug Treatment Correctional Centre** means the governor of that correctional centre.

1
2
3

offender means a person in respect of whom a compulsory drug treatment order is in force.

4
5

progression order means an order by the Drug Court that an offender progress from one stage of compulsory drug treatment detention to a higher stage.

6
7
8

Note. See sections 106D and 106M.

9

regression order means an order by the Drug Court that an offender regress from one stage of compulsory drug treatment detention to a lower stage.

10
11
12

Note. See sections 106D and 106M.

13

revocation order means an order by the Drug Court that revokes an offender's compulsory drug treatment order.

14
15

Note. See section 106Q.

16

106B Objects of compulsory drug treatment

17

The objects of compulsory drug treatment are:

18

- (a) to provide a comprehensive program of compulsory treatment and rehabilitation under judicial supervision for drug dependent persons who repeatedly resort to criminal activity to support that dependency, and
- (b) to effectively treat those persons for drug dependency, eliminating their illicit drug use while in the program and reducing the likelihood of relapse on release, and
- (c) to promote the re-integration of those persons into the community, and
- (d) to prevent and reduce crime by reducing those persons' need to resort to criminal activity to support their dependency.

19
20
21
22
23
24
25
26
27
28
29
30

106C Obligations of offender

31

The obligations of an offender while serving a sentence by way of compulsory drug treatment detention are:

32
33

- (a) to comply with such requirements of this Part and the regulations as apply to the offender, and

34
35

- (b) to comply with the requirements of any compulsory drug treatment personal plan applying to the offender under this Part, and 1
2
3
- (c) to comply with the provisions of any other Part of this Act or the regulations applying to the offender under section 106V. 4
5
6

106D Stages of compulsory drug treatment detention 7

- (1) There are 3 stages of compulsory drug treatment detention: 8
 - (a) closed detention (Stage 1), and 9
 - (b) semi-open detention (Stage 2), and 10
 - (c) community custody (Stage 3). 11
- (2) Under closed detention (Stage 1), the offender is to be kept in full-time custody at the Compulsory Drug Treatment Correctional Centre. 12
13
14
- (3) Under semi-open detention (Stage 2), the offender is to be kept in the Compulsory Drug Treatment Correctional Centre and may be allowed to attend employment, training or social programs outside the Centre (as specified in the offender's compulsory drug treatment personal plan). 15
16
17
18
19
- (4) Under community custody (Stage 3), the offender may reside outside the Compulsory Drug Treatment Correctional Centre at accommodation approved by the Drug Court under intensive supervision. 20
21
22
23
- (5) An offender allocated to, or by order progressed or regressed to, a stage of detention is in that stage of detention. 24
25

106E Duration of compulsory drug treatment order 26

- Unless sooner revoked, an offender's compulsory drug treatment order expires: 27
28
- (a) at the end of the term of the sentence to which it relates, or 29
30
 - (b) when the offender is released on parole, 31
- whichever occurs first. 32

Division 2	Administration of compulsory drug treatment orders	1 2
Subdivision 1	Compulsory drug treatment personal plans	3 4
106F	Compulsory drug treatment personal plans	5
(1)	The Commissioner must, as soon as practicable after the making of a compulsory drug treatment order in relation to an offender, prepare a plan that imposes conditions on the offender regarding the offender's drug treatment and rehabilitation during the period of operation of that order (the offender's <i>compulsory drug treatment personal plan</i>).	6 7 8 9 10 11
(2)	An offender's compulsory drug treatment personal plan comes into operation when it is approved by the Drug Court.	12 13
(3)	The Commissioner, when preparing a compulsory drug treatment personal plan, must consult the Chief Executive Officer, Corrections Health Service or the Chief Executive Officer's delegate.	14 15 16 17
(4)	The Drug Court may make recommendations to the Commissioner regarding the conditions to be included in an offender's compulsory drug treatment personal plan.	18 19 20
(5)	A compulsory drug treatment personal plan may be approved by the Drug Court in the absence of the offender in respect of whom it is made.	21 22 23
(6)	The kinds of conditions that may be imposed on an offender in a compulsory drug treatment personal plan are as follows:	24 25
(a)	conditions relating to conduct and good behaviour,	26
(b)	conditions relating to attendance for counselling or other treatment,	27 28
(c)	conditions relating to the management of the offender in the Compulsory Drug Treatment Correctional Centre,	29 30 31
(d)	conditions relating to periodic drug testing that the offender must undergo,	32 33

-
- (e) conditions relating to involvement in activities, courses, training or employment for the purpose of promoting the re-integration of the offender into the community, 1
2
3
4
- (f) any other kinds of conditions that may be prescribed by the regulations, 5
6
- (g) such other conditions as the Commissioner considers appropriate in the circumstances, 7
8
- (h) such other conditions as the Drug Court considers appropriate in the circumstances. 9
10
- (7) The regulations referred to in subsection (6) (f) may deal with the following: 11
12
- (a) the form of compulsory drug treatment, 13
- (b) the provision of integrated case management services to the offender, 14
15
- (c) the key elements of non-pharmacotherapy drug treatment programs. 16
17
- (8) The regulations may make provision for or with respect to the following: 18
19
- (a) the preparation and implementation of compulsory drug treatment personal plans (including comprehensive individual assessments of offenders before the making of any such plans), 20
21
22
23
- (b) the role and responsibilities of an offender under the offender's compulsory drug treatment personal plan, 24
25
- (c) the role and responsibilities of persons responsible for the offender's care and treatment, 26
27
- (d) ongoing review and regular updating of compulsory drug treatment personal plans, 28
29
- (e) informing the Drug Court of the contents of offenders' compulsory drug treatment personal plans. 30
31
- (9) The conditions of an offender's compulsory drug treatment personal plan relating to periodic drug testing do not prevent any random drug testing of the offender. 32
33
34

106G	Variation of conditions of personal plan	1
(1)	The Commissioner may from time to time prepare a variation to an offender’s compulsory drug treatment personal plan that adds new conditions to, or varies or revokes existing conditions of, the plan.	2 3 4 5
(2)	A variation of an offender’s compulsory drug treatment personal plan comes into effect when it is approved by the Drug Court.	6 7 8
(3)	The Commissioner, when preparing a variation to a compulsory drug treatment personal plan, must consult the Chief Executive Officer, Corrections Health Service or the Chief Executive Officer’s delegate.	9 10 11 12
(4)	A variation to a compulsory drug treatment personal plan may be approved by the Drug Court in the absence of the offender in respect of whom it relates.	13 14 15
106H	Mandatory conditions of all personal plans	16
	It is a condition of each compulsory drug treatment personal plan that the offender:	17 18
(a)	must not use any drug other than a drug prescribed by a registered medical practitioner or registered dentist, and	19 20
(b)	must not resort to violence or make any threat of violence, and	21 22
(c)	must comply with any community supervision order made in relation to the offender, and	23 24
(d)	must not commit any further offences.	25
	Note. The term drug is defined in section 3 of this Act to mean:	26
(a)	a prohibited drug or prohibited plant within the meaning of the <i>Drug Misuse and Trafficking Act 1985</i> , or	27 28
(b)	any other substance declared by the regulations to be a drug for the purposes of this Act.	29 30
106I	Sanctions for non-compliance with personal plan	31
(1)	If the Commissioner is satisfied that an offender has failed to comply with any condition of the offender’s compulsory drug treatment personal plan, the Commissioner may impose any one or more of the sanctions specified in subsection (2).	32 33 34 35

-
- (2) The following kinds of sanctions may be imposed on an offender under this section:
 - (a) withdrawal of privileges granted to the offender under section 106J (2) (a),
 - (b) an increase in the level of the management of the offender in the Compulsory Drug Treatment Correctional Centre,
 - (c) an application to the Drug Court to vary any community supervision order applying to the offender to increase the level of supervision to which the offender is subject,
 - (d) an application to the Drug Court to vary the offender's compulsory drug treatment personal plan to increase the frequency with which the offender must undergo periodic testing for drugs.

 - (3) The Commissioner must refer an offender to the Drug Court if the Commissioner is of the opinion that the offender's failure to comply with any condition of the offender's compulsory drug treatment personal plan is of such a serious nature that it might warrant the Drug Court making any of the following:
 - (a) a regression order,
 - (b) a revocation order,
 - (c) a variation of any community supervision order applying to the offender to increase the level of supervision to which the offender is subject.

 - (4) Without affecting the other circumstances in which an offender is taken to have failed to comply with his or her compulsory drug treatment personal plan, if an offender is charged before a court with an offence referred to in section 5A (2) of the *Drug Court Act 1998*:
 - (a) the offender is taken to have failed to comply with his or her compulsory drug treatment personal plan and that failure is taken to be of a serious nature, and
 - (b) the Commissioner must refer the offender to the Drug Court.

 - (5) Nothing in this section prevents:
 - (a) the Commissioner from referring an offender to the Drug Court for any other reason, or

(b)	the Drug Court from dealing with an offender as it sees fit, including making any order under this Part.	1 2
106J	Rewards for compliance with personal plan	3
(1)	If the Commissioner is satisfied that an offender has maintained a satisfactory level of compliance with the offender's compulsory drug treatment personal plan, the Commissioner may grant any one or more of the rewards specified in this section.	4 5 6 7 8
(2)	The following kinds of rewards may be granted to an offender under this section:	9 10
(a)	conferral of privileges,	11
(b)	a decrease in the level of the management of the offender in the Compulsory Drug Treatment Correctional Centre,	12 13 14
(c)	an application to the Drug Court to vary any community supervision order applying to the offender to decrease the level of supervision to which the offender is subject,	15 16 17
(d)	an application to the Drug Court to vary the offender's compulsory drug treatment personal plan to decrease the frequency with which the offender must undergo periodic testing for drugs.	18 19 20 21
106K	No appeal from decisions of Drug Court or Commissioner	22
	No appeal lies against the Drug Court or the Commissioner in relation to any decision made by the Drug Court or the Commissioner under this Subdivision.	23 24 25
Subdivision 2	Initial allocation and movement between stages of compulsory drug treatment detention	26 27 28
106L	New offenders in compulsory drug treatment detention allocated to Stage 1	29 30
	On the making of a compulsory drug treatment order in relation to the offender's sentence of imprisonment, the offender is automatically allocated to closed detention (Stage 1).	31 32 33 34

106M	Progression and regression between stages of detention	1
(1)	After an offender has served his or her sentence in closed detention (Stage 1) for a period of at least 6 months, the Drug Court may order that the offender progress to semi-open detention (Stage 2).	2 3 4 5
(2)	After an offender has served his or her sentence in semi-open detention (Stage 2) for a period of at least 6 months, the Drug Court may order that the offender progress to community custody (Stage 3).	6 7 8 9
(3)	If the Drug Court is satisfied, on the balance of probabilities, that an offender has failed to comply in a serious respect with any condition of the offender's compulsory drug treatment personal plan, the Drug Court may order that an offender:	10 11 12 13
	(a) serving a sentence in semi-open detention (Stage 2) regress to closed detention (Stage 1), or	14 15
	(b) serving a sentence in community custody (Stage 3) regress to closed detention (Stage 1) or semi-open detention (Stage 2), as the Drug Court sees fit.	16 17 18
(4)	The regulations may make provision for or with respect to the criteria to be used by the Drug Court in determining whether to make a progression or regression order under this section.	19 20 21
(5)	No appeal lies against the Drug Court's decision to make a progression or regression order under this section.	22 23
106N	Assessment reports	24
(1)	Before the Drug Court makes a progression order in relation to an offender, the Court is to have regard to the following reports prepared in relation to the offender:	25 26 27
	(a) an assessment report prepared by the Director of the Compulsory Drug Treatment Correctional Centre,	28 29
	(b) in relation to a progression order that would progress an offender to community custody (Stage 3), an assessment report prepared by a probation and parole officer,	30 31 32 33
	(c) any other report that the Drug Court considers relevant.	34
(2)	The Drug Court may, at any time, order that an assessment report on an offender be prepared.	35 36

- (3) The regulations may make provision for or with respect to the conduct of investigations and the preparation of reports for the purposes of this Part. 1
2
3
- 1060 Community supervision orders** 4
- (1) On the making of a progression order in relation to an offender, the Drug Court must make an order (a *community supervision order*) that: 5
6
7
- (a) allows the offender to be absent from the Compulsory Drug Treatment Correctional Centre, and 8
9
 - (b) imposes conditions on the offender in relation to the periods of time when the offender is not in the Compulsory Drug Treatment Correctional Centre. 10
11
12
- (2) The kinds of conditions that the Drug Court may impose on the offender under this section are as follows: 13
14
- (a) conditions relating to conduct and good behaviour, 15
 - (b) conditions relating to the supervision of the offender outside the Compulsory Drug Treatment Correctional Centre, 16
17
18
 - (c) conditions relating to drug testing that the offender must undergo, 19
20
 - (d) conditions relating to residence, association with other persons or attendance at specified locations, 21
22
 - (e) any other kinds of conditions that may be prescribed by the regulations, 23
24
 - (f) such other conditions as the Drug Court considers appropriate in the circumstances. 25
26
- (3) The Drug Court when imposing any condition on an offender under this section is to have regard to and give substantial weight to any recommendations of the Commissioner. 27
28
29
- (4) The Drug Court may from time to time vary an offender's community supervision order by adding new conditions to, or varying or revoking existing conditions of, the order. 30
31
32
- (5) No appeal lies against the Drug Court in relation to a decision regarding an order under this section. 33
34

106P	Commissioner of Corrective Services may make regression and removal orders in special circumstances	1
		2
(1)	The Commissioner may order that an offender serving his or her sentence:	3
		4
(a)	in semi-open detention (Stage 2) regress to closed detention (Stage 1), or	5
		6
(b)	in community custody (Stage 3) regress to closed detention (Stage 1), or	7
		8
(c)	in community custody (Stage 3) regress to semi-open detention (Stage 2).	9
		10
(2)	The Commissioner may order that an offender serving his or her sentence in closed detention (Stage 1) or semi-open detention (Stage 2) be removed from the Compulsory Drug Treatment Correctional Centre and taken to another correctional centre and held in separate custody.	11
		12
		13
		14
		15
(3)	The Commissioner may make an order referred to in subsection (1) or (2) only if the Commissioner believes, on reasonable grounds, that:	16
		17
		18
(a)	the security of the community is threatened, or	19
(b)	the good order and discipline of a correctional centre may be jeopardised if the offender is not regressed or removed, or	20
		21
		22
(c)	the offender may be about to commit an offence, or	23
(d)	another reason exists to regress or remove the offender.	24
(4)	The Commissioner must immediately notify the Drug Court if the Commissioner makes an order under this section and must give the Drug Court his or her reasons for making the order.	25
		26
		27
		28
(5)	Within 21 days (or such other period determined by the Drug Court) after receiving the notification of the Commissioner, the Drug Court must review the Commissioner's order and make an order:	29
		30
		31
		32
(a)	revoking the Commissioner's order, or	33
(b)	confirming the Commissioner's order, or	34
(c)	confirming the Commissioner's order, but amending its terms, or	35
		36

- (d) revoking, in accordance with section 106Q, the offender's compulsory drug treatment order. 1
2
- (6) The Drug Court when reviewing a Commissioner's order under subsection (5) is to have regard to and give substantial weight to any recommendations of the Commissioner. 3
4
5
- (7) No appeal lies against the Drug Court in relation to a decision regarding an order under subsection (5). 6
7

Division 3 Revocation of compulsory drug treatment order 8
9

106Q Revocation of compulsory drug treatment order 10

- (1) The Drug Court may by order revoke an offender's compulsory drug treatment order: 11
12
 - (a) if: 13
 - (i) the offender has failed to comply with a condition of the offender's compulsory drug treatment personal plan, and 14
15
16
 - (ii) that failure is of a serious nature, and 17
 - (iii) in the opinion of the Drug Court, the offender: 18
 - (A) is unlikely to make any further progress in the offender's compulsory drug treatment program, or 19
20
21
 - (B) poses an unacceptable risk to the community of re-offending, or 22
23
 - (C) poses a significant risk of harming others or himself or herself, or 24
25
 - (b) if the non-parole period for the offender's sentence has expired or is about to expire and the offender is serving his or her sentence in closed detention (Stage 1) or semi-open detention (Stage 2), or 26
27
28
29
 - (c) if the offender ceases to be an eligible convicted offender (within the meaning of the *Drug Court Act 1998*), or 30
31
32
 - (d) for any other reason the Drug Court sees fit. 33

-
- | | | |
|-------------|--|----------------------------|
| (2) | In making a decision under Part 6 as to whether to make a parole order for an offender whose compulsory drug treatment order has been revoked under this section, the Parole Board is to have regard to the circumstances that led to the revocation. | 1
2
3
4
5 |
| (3) | No appeal lies against the Drug Court's revocation of a compulsory drug treatment order. | 6
7 |
| 106R | Effect of revocation order | 8 |
| (1) | A revocation order takes effect, or is taken to have taken effect, on the day on which it is made or on such earlier day as the Drug Court thinks fit. | 9
10
11 |
| (2) | If an offender is not taken into custody until after the day on which the revocation order takes effect: | 12
13 |
| | (a) the term of the offender's sentence, and | 14 |
| | (b) if the order takes effect during a non-parole period of the sentence, the non-parole period of the sentence, | 15
16 |
| | are, by this subsection, extended by the number of days the offender was at large after the order took effect. | 17
18 |
| 106S | Warrants committing offenders to correctional centres | 19 |
| (1) | If the Drug Court revokes a compulsory drug treatment order, it is to issue a warrant committing the offender to a correctional centre to serve the remainder of the sentence to which the order relates by way of full-time detention. | 20
21
22
23 |
| (2) | A warrant under this section is sufficient authority: | 24 |
| | (a) for any police officer to arrest, or to have custody of, the offender named in the warrant, to convey the offender to the correctional centre specified in the warrant and to deliver the offender into the custody of the governor of that correctional centre, and | 25
26
27
28
29 |
| | (b) for the governor of the correctional centre specified in the warrant to have custody of the offender named in the warrant for the remainder of the sentence to which the warrant relates. | 30
31
32
33 |
| (3) | The regulations may make provision for or with respect to the form of any warrants issued for the purposes of this section. | 34
35 |
-

Division 4 Parole for offenders in compulsory drug treatment detention

106T Drug Court is parole authority for offenders in compulsory drug treatment detention

- (1) Part 6 applies to an offender who is serving a sentence by way of compulsory drug treatment detention, subject to the following:
- (a) references to the Parole Board are taken to be references to the Drug Court,
 - (b) references to the Chairperson of the Parole Board are taken to be references to the Senior Judge of the Drug Court,
 - (c) references to the Secretary of the Parole Board are taken to be references to the registrar of the Drug Court,
 - (d) any modifications of those provisions prescribed by the regulations.
- (2) On the release of an offender on parole under a parole order made by the Drug Court under Part 6 as applied in accordance with this section (and the consequent expiry of the offender's compulsory drug treatment order under section 106E (b)), Part 7 applies to the offender in the same way as it applies to other offenders released on parole.

Note. This section provides that the Drug Court is the authority that will determine whether an offender serving a sentence by way of compulsory drug treatment detention is to be released on parole. Subsection (2) makes it clear that after release on parole (and the consequent expiry of the offender's compulsory drug treatment order), the Parole Board is responsible for the supervision and revocation of any parole order made in relation to the offender.

Division 5 Miscellaneous

106U Formal assessment by Director

- (1) The Director is to cause regular assessment reports to be prepared setting out the progress of each offender's drug treatment and rehabilitation and the offender's compliance with his or her compulsory drug treatment personal plan.
- (2) An assessment report under this section is to be prepared in consultation with the Chief Executive Officer, Corrections Health Service and the Drug Court.

(3)	The regulations may make provision for or with respect to assessment reports under this section, including but not limited to:	1 2 3
(a)	the frequency of such reports, and	4
(b)	the procedures that must be followed with respect to assessment of offenders.	5 6
106V	Application of Part 2 to Stages 1 and 2 compulsory drug treatment detention	7 8
(1)	Part 2 and the provisions of any regulations made under that Part, subject to any modifications prescribed by the regulations under this section, apply to and in respect of an offender who is in closed detention (Stage 1) or semi-open detention (Stage 2).	9 10 11 12 13
(2)	Any provision of Part 2 or of the regulations under that Part that is so applied has effect as if it formed part of this Part.	14 15
106W	Conviction and sentencing of offenders for old offences while compulsory drug treatment order is in force	16 17
(1)	If an offender is convicted and sentenced to a term of imprisonment (a <i>new sentence</i>) for an offence that occurred before the offender's compulsory drug treatment order was made, the court that sentenced that offender is to refer the offender to the Drug Court to determine whether the offender's compulsory drug treatment order should:	18 19 20 21 22 23
(a)	be varied so as to apply also in relation to the new sentence, or	24 25
(b)	be revoked.	26
(2)	The Drug Court may vary a compulsory drug treatment order so as to direct an offender to serve a new sentence of imprisonment by way of compulsory drug treatment detention.	27 28 29 30
(3)	Subject to subsection (4), the Drug Court must not vary a compulsory drug treatment order under this section unless the offender is an eligible convicted offender (within the meaning of the <i>Drug Court Act 1998</i>).	31 32 33 34
(4)	Despite section 5A (1) (b) of the <i>Drug Court Act 1998</i> , the Drug Court may vary a compulsory drug treatment order under this section if the cumulative unexpired non-parole	35 36 37

period for the offender's term of imprisonment under all sentences in force is greater than 3 years but not more than 4 years.

1
2
3

106X Arrest warrants

4

- (1) If it suspects that an offender who is not serving the offender's sentence of imprisonment in the Compulsory Drug Treatment Correctional Centre may have failed to comply with his or her compulsory drug treatment personal plan, the Drug Court may issue a warrant for the offender's arrest.
- (2) A warrant under this section authorises any police officer to arrest the offender and to bring the offender before the Drug Court to be dealt with under this Act.
- (3) The *Bail Act 1978* does not apply to an offender who is arrested on the authority of a warrant under this section.
- (4) The Drug Court's functions under this section may be exercised by the registrar of the Drug Court.

5
6
7
8
9
10
11
12
13
14
15
16

106Y Provision of information relating to offenders

17

- (1) This section applies to such persons as are prescribed by the regulations for the purposes of this section, being persons who are involved in the administration of, or who provide services in connection with, an offender's drug treatment under this Part.
- (2) It is the duty of a person to whom this section applies:
 - (a) to promptly notify the registrar of the Drug Court or the Commissioner of any failure by an offender to comply with the offender's compulsory drug treatment personal plan, and
 - (b) to promptly comply with the requirements of the regulations with respect to the giving of information to the registrar.
- (3) The following provisions apply to and in respect of any information (*protected information*) relating to an offender that is provided to the Drug Court or the Commissioner, or to any person to whom this section applies, by a person to whom this section applies:

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

-
- (a) the provision of the information does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, 1
2
3
- (b) the provision of the information does not constitute a contravention of the *Health Records and Information Privacy Act 2002* or the *Privacy and Personal Information Protection Act 1998*, 4
5
6
7
- (c) no liability for defamation is incurred because of the provision of the information, 8
9
- (d) the provision of the information does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy, 10
11
12
- (e) the information is not admissible in evidence in any proceedings before a court, tribunal or committee, 13
14
- (f) a person is not compellable in any proceedings before a court, tribunal or committee to disclose the information or to produce any document that contains the information. 15
16
17
18
- (4) The provisions of subsection (3) (e) and (f) do not apply to or in respect of the provision of protected information: 19
20
- (a) in proceedings before the Drug Court or any court hearing or determining an appeal from a decision of the Drug Court, or 21
22
23
- (b) in proceedings before the Parole Board or any court hearing or determining an application in relation to a decision of the Parole Board, or 24
25
26
- (c) in support of, or in answer to, any charge or allegation made in proceedings against a person in relation to the person's exercise of functions under this Act. 27
28
29
- (5) An offender is taken to have authorised the communication of protected information: 30
31
- (a) from any person to whom this section applies to the registrar of the Drug Court, and 32
33
- (b) from the registrar of the Drug Court to any person to whom this section applies, and 34
35
- (c) from any member of staff of the Drug Court to any other member of staff of the Drug Court. 36
37

- (6) A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the provision of information in accordance with this section. 1
2
3

106Z Review of Compulsory Drug Treatment Correctional Centre 4

- (1) The Minister is to arrange for a review to be conducted of: 5
- (a) the compulsory drug treatment program, established under Part 2A of the *Drug Court Act 1998* and this Part, during the first four years of the program's operation, and 6
7
8
9
 - (b) the provisions of the *Drug Court Act 1998* and this Act relating to the compulsory drug treatment program and of any regulations made for the purposes of those provisions, 10
11
12
13
- in order to ascertain whether any of those provisions (or any other provisions of any other Act or regulations) should be amended. 14
15
16
- (2) The review is to commence as soon as practicable after the declaration of the Compulsory Drug Treatment Correctional Centre under section 225. 17
18
19
- (3) The Minister is to cause a report of the outcome of the review to be tabled in each House of Parliament as soon as practicable after its completion. 20
21
22

106ZA Regulations 23

The regulations may make provision for or with respect to the following matters: 24
25

- (a) the administration of the compulsory drug treatment program, 26
27
- (b) the management, control, administration, supervision and inspection of the Compulsory Drug Treatment Correctional Centre, 28
29
30
- (c) the procedure to be followed when receiving an offender into the Compulsory Drug Treatment Correctional Centre, including the procedure for accepting or refusing custody of property in an offender's possession when the offender is admitted, 31
32
33
34
35
- (d) the search and security procedures to be observed in the Compulsory Drug Treatment Correctional Centre, 36
37

-
- | | |
|---|----|
| (e) visits to inmates in the Compulsory Drug Treatment Correctional Centre, including the following: | 1 |
| | 2 |
| (i) the days and times that visits may be allowed, | 3 |
| (ii) the maximum number of persons who may visit an inmate at the same time, | 4 |
| | 5 |
| (iii) the classes of persons who may be prohibited from visiting an inmate, | 6 |
| | 7 |
| (iv) the conditions that must be observed by persons intending to visit an inmate before such a visit will be allowed, | 8 |
| | 9 |
| | 10 |
| (v) the procedures to be observed by visitors and inmates during visits, | 11 |
| | 12 |
| (f) the use of electronic monitoring devices in relation to offenders in semi-open detention (Stage 2) or community custody (Stage 3), | 13 |
| | 14 |
| | 15 |
| (g) the circumstances in which an offender may be tested for drugs (including random and periodic testing) and the type and nature of the tests to be used, | 16 |
| | 17 |
| | 18 |
| (h) the circumstances under which an offender may be required to submit to a medical examination by a medical officer, | 19 |
| | 20 |
| | 21 |
| (i) the declaration of offences against discipline, | 22 |
| (j) the day-to-day routine of offenders, | 23 |
| (k) the service of notices on an offender, | 24 |
| (l) the provision of post release case management services and other services to offenders after release. | 25 |
| | 26 |

[5] Section 135 General duty of Parole Board	1
Insert after section 135 (2) (i):	2
(ia) if the Drug Court has notified the Parole Board	3
that it has declined to make a compulsory drug	4
treatment order in relation to an offender's	5
sentence on the ground referred to in section 18D	6
(1) (b) (vi) of the <i>Drug Court Act 1998</i> , the	7
circumstances of that decision to decline to make	8
the order,	9
[6] Schedule 5 Savings, transitional and other provisions	10
Insert at the end of clause 1 (1):	11
<i>Compulsory Drug Treatment Correctional Centre Act 2004</i>	12
(but only to the extent that it amends this Act)	13