



New South Wales

# Drug Supply Prohibition Order Pilot Scheme Bill 2020

## Explanatory note

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

## Overview of Bill

The object of this Bill is to establish a pilot scheme for drug supply prohibition orders in 4 pilot scheme areas. During the pilot scheme, a police officer will be able to seek the making of a drug supply prohibition order against a person who is over 18 years of age and has been convicted of a serious drug offence. The order, if made, will permit a police officer to stop, detain and search the person and search certain vehicles, vessels, aircraft or premises without the requirement for a warrant. These powers are only able to be exercised in a pilot scheme area.

## 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.

**Clause 3** sets out definitions used in the proposed Act, including *pilot scheme area* (being the Bankstown Police Area Command and the Coffs-Clarence, Hunter Valley and Orana Mid-Western Police Districts) and *pilot scheme period* (being the period of 2 years after the commencement of the proposed Act).

**Clause 4** provides that if a drug supply prohibition order is in force against a person, a police officer may, without a warrant, stop, detain and search the person or a vehicle driven by or otherwise under the control or management of the person or occupied by the person. The police officer may also enter and search a dwelling at which the person resides or premises that the police officer reasonably suspects are owned by the person, under the control or management of the person or are used by the person for an unlawful purpose involving the manufacture or supply of a prohibited drug. The police officer may also search any vehicle parked at the dwelling or

premises. The police officer may seize and detain anything that is evidence of certain offences or that is a stolen or dangerous article. These powers may be exercised only in a pilot scheme area.

**Clause 5** provides that a drug supply prohibition order may be made against a person who is at least 18 years of age and who has been convicted of a serious drug offence within the previous 10 years (an *eligible person*).

**Clause 6** permits a police officer to apply to an authorised magistrate for a drug supply prohibition order to be made against an eligible person if the police officer reasonably believes the eligible person is likely to engage in the manufacture or supply of a prohibited drug.

**Clause 7** sets out the form and content of an application and the documents required to accompany an application.

**Clause 8** requires notice of the application to be given to the oversight commissioner.

**Clause 9** permits an authorised magistrate to make a drug supply prohibition order against a person if the magistrate is satisfied that the person is an eligible person and is likely to engage in the manufacture or supply of a prohibited drug.

**Clause 10** sets out matters that an authorised magistrate may take into account in deciding whether a person is likely to engage in the manufacture or supply of a prohibited drug and in deciding whether to make a drug supply prohibition order.

**Clause 11** sets out the matters to be specified in a drug supply prohibition order.

**Clause 12** provides that a drug supply prohibition order commences when it is made. However, powers may not be exercised under the order until a copy of the order has been served personally on the subject of the order.

**Clause 13** permits the Local Court to revoke a drug supply prohibition order on the application of the person who is subject to the order. The application cannot be made within 6 months after notice of the order is first served on the subject of the order or after the Local Court has refused an earlier application to revoke the order. The Local Court may also revoke a drug supply prohibition order on application by the Commissioner of Police.

**Clause 14** requires the Commissioner of Police, after a drug supply prohibition order ceases to be in force, to provide the authorised magistrate that issued the order and the oversight commissioner a report setting out how the order was used.

**Clause 15** provides for the appointment of the oversight commissioner.

**Clause 16** provides for a magistrate to be declared to be an authorised magistrate for the purposes of the proposed Act if the magistrate consents to being declared.

**Clause 17** permits regulations to be made under the proposed Act that are necessary or convenient for carrying out or giving effect to the proposed Act and to prescribe forms for the purposes of the proposed Act.

**Clause 18** provides for the repeal of the proposed Act 3 years after proposed section 9 commences.

## **Schedule 1      Savings, transitional and other provisions**

**Schedule 1** provides for the making of savings or transitional regulations.

## **Schedule 2      Amendment of Surveillance Devices Act 2007 No 64**

**Schedule 2** amends the *Surveillance Devices Act 2007* to authorise the use of an optical surveillance device by a police officer in the conduct of a search under the proposed Act.