

1994

LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

DRUGS OF DEPENDENCE (AMENDMENT) BILL (No.2) 1994

EXPLANATORY MEMORANDUM

**Circulated by the authority of Terry Connolly MLA
Minister for Health**

Drugs of Dependence (Amendment) Bill (No.2) 1994

Summary

ACT courts have the option referring offenders who may have a drug dependency to a treatment assessment panel under the *Drugs of Dependence Act 1989* for assessment of this dependency and to seek advice on treatment. The Bill provides for the transfer of certain duties in relation to the administration of assessment and treatment of offenders referred to panels, from the Minister to the Director, Alcohol and Drug Service.

The duties relate to:

- referral of an order;
- revocation or variation of an order;
- delivery of orders to persons or agencies specified within the Act;
- signing of panel assessment notices for the court;
- variation of treatment orders;
- advising of an offender's failure to attend to a police officer and to the court;
- making alternative arrangements for treatment.

The Bill also establishes a legislative requirement for the position of Director, Alcohol and Drug Service to ensure that there is an officer to carry out the duties.

Financial Implications

No financial implications.

Drugs of Dependence (Amendment) Bill (No.2) 1994

Short Title

Clause 1: provides that the Act can be cited as the *Drugs of Dependence (Amendment) Act (No.2) 1994*.

Commencement

Clause 2: Provides for the Act to commence on the day notified in the *Gazette*.

Principal Act

Clause 3: The "Principal Act" is the *Drugs of Dependence Act 1989*.

Interpretation

Clause 4: Provides a definition for the term "Director" when used in the Act as being the Director, Alcohol and Drug Service, Department of Health.

Insertion – Director, Alcohol and Drug Service

Clause 5: Inserts a new section 3A within the Principal Act which imposes a duty on the Chief Executive (defined in the *Interpretation Act 1969* section 14(1) as the chief executive of a unit given responsibility for the administration of the relevant Act) to create and maintain an office of Director, Alcohol and Drug Service and that a public servant is appointed to this position.

Assessment orders

Clause 6: Provides that assessment orders made by the court are given to the Director.

Alternative arrangements on cancellation

Clause 7: Provides that where the Minister cancels the approval of a treatment centre, the Director is required to make alternative arrangements for treatment of the offender and to advise any other persons receiving treatment at that centre where treatment may be continued.

Schedule 4

Clause 8: Provides for the amendments to Form 7 to be addressed to the Director, Alcohol and Drug Service and the signature block to name the Director.

Further Amendments

Clause 9: Provides for the Director to assume the following duties previously allocated to the Minister:

Assessment orders

- application to the court for variation of the treatment order (subsection 123(5)(c))
- receipt of an order for treatment by the court (subsection 123 (7)(b))

Offences – treatment orders

- receipt of a treatment order made by the court (subsection 124 (6))

Revocation and variation of periods of orders

- apply to the Court for revocation or variation of an order (subsection 129(1))
- for provision of an application where the offender initiates an application for revocation or variation of an order (subsection 129 (3))
- provides that the Director can only apply to revoke or vary the order where the panel has recommended this (subsection 129 (4))
- requires that the Director arrange for an application for revocation or variation to be delivered to the court (subsection 129 (5))
- on application from the Director, the court takes specified action (subsection 129 (6))

Referral for initial assessment

- on receiving an order the Director must refer this to a panel (subsection 141 (1))
- the panel notifies the Director of any assessment in respect of orders (subsection 141 (3))
- the panel notifies the Director of its recommendations (subsection 141 (4))
- requirement for the Director to sign any notices received from the panel and forward these to the court and to the responsible officer (subsection 141 (5))

Referral for variation of treatment

- a person who is the subject of a treatment order or the person in charge of the treatment centre can apply to the Director for variation of the order (subsection 142 (1))
- the Director should refer this application to the panel (subsection 142 (2))
- the panel can recommend variation of treatment on the request of the offender or the Director (subsection 142 (3)(a))
- the instrument of variation completed by the panel shall be provided to the Director, among others (subsection 142 (6))

Review of treatment

- the Director shall refer the request for review of the offender's program, where necessary, to the panel (subsection 143 (1))
- the panel provides an instrument of review to the Director, where the panel consider the offender should attend another treatment centre (subsection 143 (3)(a))
- the panel provides an instrument of review to the Director where the panel recommends the period of treatment be extended or reduced (subsection 143 (3)(c))
- when the panel makes a recommendation to extend or reduce the period, the Director will make an application to the court in terms of the recommendation (subsection 143 (5))

Referral for other purposes

- the Director is required to refer a matter to the panel:
 - when the court orders that a person be referred to an assessment panel ;
 - when a request for variation of the order occurs;
 - as considered necessary (subsection 144 (1))
- the panel shall make a recommendation only in terms sought by the Director, where the Director makes the referral (subsection 144 (4)(c))
- the Director shall receive recommendations from the panel (subsection 144 (5))
- the Director will refer recommendations to the court (subsection 144 (6))

Assessment by treatment centres

- where an assessment notice from a treatment centre is not provided to the panel within a specified time, the presiding member of the panel shall notify the Director in writing (subsection 145 (6))

Attendance for assessment before panels and at treatment

- where an offender does not attend a panel, the presiding member is to inform the Director (subsection 146 (2))
- where an offender does not attend a treatment centre as required by the panel, the presiding member shall inform the Director (subsection 146 (3))
- on receiving such information the Director shall orally inform a police officer immediately and in writing inform the proper officer of the court (subsection 146 (4))