



# Drug Court Act 2000

Reprinted as in force on 14 October 2010

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## Queensland

# Drug Court Act 2000

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# Drug Court Act 2000

[as amended by all amendments that commenced on or before 14 October 2010]

## **An Act to provide a drug court program for intensive drug rehabilitation of drug dependent offenders**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Drug Court Act 2000*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Objects of this Act**

- (1) The objects of this Act are—
- (a) to reduce the level of drug dependency in the community and the drug dependency of eligible persons; and
  - (b) to reduce the level of criminal activity associated with drug dependency; and
  - (c) to reduce the health risks associated with drug dependency of eligible persons; and
  - (d) to promote the rehabilitation of eligible persons and their re-integration into the community; and

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- (e) to reduce pressure on resources in the court and prison systems.
- (2) The objects are to be achieved by establishing drug courts.

#### **4 Relationship with Penalties and Sentences Act 1992**

- (1) A drug court magistrate—
  - (a) must have regard to the principles stated in the *Penalties and Sentences Act 1992*, section 9; and
  - (b) may exercise the powers and make the orders a magistrate may exercise or make under that Act.
- (2) Subsection (1) applies unless a contrary intention appears.

#### **4A Notes in text**

A note in the text of this Act is part of the Act.

## **Part 2 Definitions and important terms**

### **5 Definitions**

The dictionary in the schedule defines particular words used in this Act.

### **6 Who is an *eligible person***

- (1) A person charged with an offence is an *eligible person* if—
  - (a) the person is not a person who must be dealt with as a child under the *Youth Justice Act 1992*; and
  - (b) the person is drug dependent and that dependency contributed to the person committing the offence; and



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- (c) it is likely the person would, if convicted of the offence, be sentenced to imprisonment; and
  - (d) the person satisfies any other criteria prescribed under a regulation.
- (2) Without limiting subsection (1)(d), the regulation may require that the person be someone who resides within a stated locality at the time—
- (a) the person is referred for an indicative assessment; or
  - (b) the person is referred for an assessment; or
  - (c) an intensive drug rehabilitation order is made for the person.
- (3) The person is not an *eligible person* if—
- (a) the person is serving a term of imprisonment other than a community term of imprisonment; or
  - (b) the person is the subject of a parole order that is cancelled by a parole board and the person is to serve the unexpired portion of the person's period of imprisonment; or
  - (c) a charge against the person for a disqualifying offence is pending in a court.

*Note for subsection (3)(a)—*

A person released on parole is taken to be still serving the sentence imposed on the person: *Corrective Services Act 2006*, section 214.

- (4) For the purpose of deciding whether a person ordered to serve a term of imprisonment under a law of another State or the Commonwealth (the *relevant law*) is a person serving a term of imprisonment for subsection (3)(a)—
- (a) the *Corrective Services Act 2006*, section 214 applies; and
  - (b) a reference in the *Corrective Services Act 2006*, section 214 to parole includes a reference to a release under the relevant law that is similar to parole.
- (5) In this section—

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*parole order* includes a release under a law of another State or the Commonwealth that is similar to a parole order.

## 7 What is a *disqualifying offence*

- (1) A *disqualifying offence* is—
- (a) an offence of a sexual nature; or
  - (b) an offence involving violence against another person, other than an offence charged under any of the following provisions of the Criminal Code—
    - section 335
    - section 340(1)(a), but only if the offence is the assault of another with intent to resist or prevent the lawful arrest or detention of the person or of any other person
    - section 340(1)(b)
    - section 413.
- (2) For section 6(3)(c), a reference in subsection (1) to a provision of the Criminal Code includes a reference to a corresponding provision of a law of another State or the Commonwealth.
- (3) For subsection (1), an offence of a sexual nature does not include an offence by a prostitute in providing prostitution, or in offering or accepting an offer to provide prostitution.
- (4) For subsection (1)(b), an offence involving violence against another person is an offence that involves any allegation of personal violence, whether as an element of the offence or as an act of violence associated with the offence.

*Examples of offences involving violence other than as an element of the offence—*

- operating a vehicle dangerously involving dragging a person behind the vehicle
- operating a vehicle dangerously involving intentionally colliding with another vehicle or a person
- breaching a domestic violence order involving a wilful injury

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**7A What is a *community term of imprisonment***

- (1) A term of imprisonment in relation to a person is a ***community term of imprisonment*** if the person is ordered to serve the term of imprisonment—
  - (a) by way of intensive correction in the community under an intensive correction order made under the *Penalties and Sentences Act 1992*, section 112; or
  - (b) in a similar way under an order made under a law of another State or the Commonwealth.
- (2) However, a term of imprisonment is not a ***community term of imprisonment*** if the order mentioned in subsection (1) was revoked and the person was committed to prison.

**8 What is a *relevant offence***

- (1) Each of the following is a ***relevant offence***—
  - (a) a simple offence;
  - (b) an indictable offence that may be dealt with summarily;
  - (c) a prescribed drug offence;
  - (d) another offence prescribed under a regulation that is punishable by imprisonment for a term of not more than 7 years.
- (2) A relevant offence does not include a disqualifying offence.

## **Part 3 Drug courts and drug court magistrates**

**9 Drug courts**

- (1) The Governor in Council, by regulation, may declare 1 or more Magistrates Courts to be drug courts.

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- (2) A court is a drug court under subsection (1) whether or not it is constituted by a drug court magistrate.
- (3) However, a power of a drug court magistrate may be exercised only in a drug court.

## **10 Drug court magistrates**

- (1) The Chief Magistrate must allocate the functions of a drug court magistrate to 1 or more magistrates.
- (2) Nothing in this Act prevents a drug court magistrate exercising the jurisdiction of a Magistrates Court at any time.

## **11 Functions, additional jurisdiction and powers of drug court magistrates**

- (1) A drug court magistrate has the functions given by this Act.
- (2) For the performance of a drug court magistrate's functions, a drug court magistrate has jurisdiction to deal with a person appearing before the magistrate charged with a prescribed drug offence.
- (3) A drug court magistrate has power to do all things necessary or convenient to be done for the performance of the magistrate's functions.
- (4) A drug court magistrate must conduct proceedings under this Act quickly and in a way that avoids unnecessary technicalities and facilitates the fair and practical conduct of the proceedings.
- (5) In a proceeding under this Act, the drug court magistrate is not bound by the rules of evidence, but may inform himself or herself in any way the magistrate considers appropriate.

## **12 Other functions of drug court magistrates**

- (1) This Act does not affect the application of the *Magistrates Act 1991* to a drug court magistrate.

- (2) For example, a drug court magistrate, in addition to exercising functions as a drug court magistrate, must—
- (a) exercise other functions as a magistrate as directed by the Chief Magistrate; and
  - (b) comply with reasonable directions given, or requirements made, by the Chief Magistrate.

## **Part 3A                      Indicative assessment of drug dependency**

### **12A      Application of pt 3A**

This part applies if—

- (a) a person charged with a relevant offence appears before a magistrate in a Magistrates Court prescribed under a regulation for this section; and
- (b) the person has pleaded guilty to the offence or has indicated that he or she intends to plead guilty to the offence; and
- (c) the magistrate is satisfied the person may be drug dependent; and
- (d) the person appears, to the magistrate, to be an eligible person; and
- (e) the maximum number of active intensive drug rehabilitation orders prescribed under a regulation has not been exceeded.

### **12B      Referral for indicative assessment**

- (1) The magistrate may decide to refer the person for an indicative assessment.

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- (2) If the magistrate decides to refer the person for an indicative assessment, the magistrate may adjourn the proceedings and—
  - (a) remand the person in custody to appear before a drug court magistrate; or
  - (b) release the person on bail to appear before a drug court magistrate.
- (3) If the magistrate adjourns the proceedings to refer the person for an indicative assessment, the magistrate must require—
  - (a) the person to attend at the times and places decided by the chief executive (health) for an indicative assessment by an appropriately qualified health professional decided by the chief executive (health); and
  - (b) the chief executive (health) to prepare and submit to a drug court magistrate, within the time allowed by the magistrate, a report (an *indicative assessment report*) containing an indicative assessment of the person by the appropriately qualified health professional.
- (4) The magistrate may require the indicative assessment report to be given orally or in writing.
- (5) If the magistrate remands the person in custody, the chief executive (corrective services) must ensure the person—
  - (a) is assessed by an appropriately qualified health professional decided by the chief executive (health); and
  - (b) appears before a drug court magistrate to be dealt with as required by the drug court magistrate.
- (6) After the indicative assessment report is submitted to a drug court magistrate, the prosecuting authority appearing before the court and the person's legal representatives may make submissions about whether the proceedings should continue in the drug court or the matter should be dealt with by a magistrates court.

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## **12C Indicative assessment reports**

- (1) When required to do so by a magistrate, the chief executive (health) must arrange for an appropriately qualified health professional to prepare an indicative assessment report for a drug court magistrate about a stated person remanded or required to appear before the drug court magistrate.
- (2) The indicative assessment report must be given to the drug court magistrate within the time allowed under section 12B(3) by the magistrate.
- (3) The drug court magistrate must give a copy of the indicative assessment report to—
  - (a) the prosecuting authority that appeared before the court when the offender was referred for an indicative assessment; and
  - (b) the person's legal representatives; and
  - (c) the chief executive (corrective services).
- (4) The drug court magistrate must ensure the prosecuting authority and the person's legal representatives have sufficient time before the proceedings to consider and respond to the report.

## **12D Additional matters for indicative assessment report**

- (1) The drug court magistrate may order that the report, or part of the report, not be shown to the person.
- (2) A report purporting to be an indicative assessment report made by an appropriately qualified health professional is evidence of the matters contained in it.
- (3) An objection must not be taken or allowed to the evidence on the ground that it is hearsay.
- (4) To remove any doubt, it is declared that this section does not limit the jurisdiction and powers of the drug court magistrate under section 11.

## **Part 4                      Referral for assessment**

### **13        Application of pt 4**

This part applies if—

- (a) a person charged with a relevant offence appears before a drug court magistrate; and
- (b) there is evidence the person is drug dependent.

### **14        Referral to be decided as soon as practicable**

- (1) The powers conferred on a drug court magistrate under this part must be exercised as soon as practicable after the person first comes before the drug court for a relevant offence.
- (2) Despite subsection (1), the powers may be exercised at any time before the court sentences the person or commits the person for trial or sentence for the offence.

### **15        Deciding whether to refer for assessment**

- (1) The drug court magistrate must decide whether the person appears to be an eligible person.
- (2) If the person appears to be an eligible person, the drug court magistrate may decide to refer the person for assessment if satisfied—
  - (a) the person has pleaded guilty to the offence or has indicated that he or she intends to plead guilty to the offence; and
  - (b) the person is willing to be assessed for suitability for rehabilitation and to appear before a drug court magistrate to be dealt with for the offence; and
  - (c) the maximum number of active intensive drug rehabilitation orders prescribed under a regulation has not been exceeded.



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## 16 Referral for assessment

- (1) If the drug court magistrate (the *referring magistrate*) decides to refer the person for assessment, the referring magistrate may adjourn the proceedings and—
  - (a) remand the person in custody to appear before a drug court magistrate; or
  - (b) release the person on bail to appear before a drug court magistrate.
- (2) If the referring magistrate adjourns the proceedings, the referring magistrate must require the chief executive (corrective services) to prepare and submit to a drug court magistrate, within the time allowed by the referring magistrate, a pre-sentence report under the *Corrective Services Act 2006*, section 344 that contains—
  - (a) an assessment of the person's suitability for rehabilitation; and
  - (b) if the person is suitable, a proposed rehabilitation program.
- (3) Also, if the referring magistrate adjourns the proceedings, the referring magistrate must require the chief executive (health) to prepare and submit to a drug court magistrate, within the time allowed by the referring magistrate, a written report (an *assessment report*) containing an assessment of the person by an appropriately qualified health professional.
- (4) If the referring magistrate releases the person on bail, the grant of bail must be made subject to the condition that, for the purpose of preparing the pre-sentence report and assessment report, the person—
  - (a) reports to an authorised corrective services officer within a stated time; and
  - (b) reports to other persons at the times and places directed by an authorised corrective services officer, including to an appropriately qualified health professional decided by the chief executive (health) for assessment.

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- (5) If the referring magistrate remands the person in custody, the chief executive (corrective services) must ensure the person—
  - (a) is assessed by an appropriately qualified health professional decided by the chief executive (health); and
  - (b) appears before a drug court magistrate to be dealt with as required by the drug court magistrate.

### **16A Assessment report**

- (1) When required to do so under section 16(3) by a referring magistrate, the chief executive (health) must arrange for an appropriately qualified health professional to prepare an assessment report for a drug court magistrate about a stated person remanded or required to appear before the drug court magistrate.
- (2) The assessment report must be given to the drug court magistrate within the time allowed by the referring magistrate.
- (3) The drug court magistrate must give a copy of the assessment report to—
  - (a) the prosecuting authority that appeared before the court when the offender was referred for assessment; and
  - (b) the person's legal representatives; and
  - (c) the chief executive (corrective services).
- (4) The drug court magistrate must ensure the prosecuting authority and the person's legal representatives have sufficient time before the proceedings to consider and respond to the assessment report.

### **16B Additional matters for assessment report**

- (1) The drug court magistrate may order that the assessment report, or part of the assessment report, not be shown to the person.

- (2) A report purporting to be an assessment report made by an appropriately qualified health professional is evidence of the matters contained in it.
- (3) An objection must not be taken or allowed to the evidence on the ground that it is hearsay.

## **Part 5                      Intensive drug rehabilitation orders**

### **Division 1                Preliminary**

#### **17        Application of pt 5**

- (1) This part applies if a person charged with a relevant offence (the *offender*) appears before a drug court magistrate—
  - (a) on proceedings adjourned under part 4; or
  - (b) if expressly provided in relation to a provision of this part, on other proceedings.
- (2) In deciding whether to make an order under this part, it does not matter whether the offence was committed before or after the commencement of this Act.

### **Division 2                Making an order**

#### **18        Drug court magistrate may make order only if conviction recorded**

- (1) A drug court magistrate may make an intensive drug rehabilitation order for the offender for a relevant offence only if the magistrate records a conviction.

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- (2) Subsection (1) also applies if the proceedings for the offence are before the magistrate other than on adjournment under part 4.

## 19 Making of order

A drug court magistrate may make an order (*intensive drug rehabilitation order*) for the offender for an offence if satisfied—

- (a) the offence is a relevant offence; and
- (b) the offender is an eligible person; and
- (c) the offender has pleaded guilty to the offence; and
- (d) the magistrate would, apart from this Act, sentence the offender to a term of imprisonment; and
- (e) the offence is—
  - (i) a prescribed drug offence, or an offence against the *Drugs Misuse Act 1986* that may be prosecuted summarily, for which the offender may be adequately punished with imprisonment of not more than 3 years; or
  - (ii) another offence for which the offender may be adequately punished with imprisonment of not more than 4 years; and
- (f) the offender is not suffering from any mental condition that could prevent the offender's active participation in a rehabilitation program; and
- (g) the maximum number of active intensive drug rehabilitation orders prescribed under a regulation has not been exceeded; and
- (h) the facilities to supervise and control the offender's participation in a rehabilitation program are available for allocation to the offender under guidelines prescribed under a regulation; and
- (i) there are reasonable prospects the offender would satisfactorily comply with an intensive drug

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rehabilitation order and it would be otherwise appropriate for an intensive drug rehabilitation order to be made, having regard to all relevant matters including, for example—

- (i) the pre-sentence report and assessment report mentioned in section 16; and
- (ii) whether a charge for an offence that can not be dealt with under this Act (other than a disqualifying offence) is pending in a court against the offender, and if so, the nature and seriousness of the offence and when the charge is likely to be dealt with.

## 20 Contents of order

- (1) If the drug court magistrate decides to make an intensive drug rehabilitation order for the offender, the order must contain—
  - (a) an order—
    - (i) sentencing the offender to serve a term of imprisonment (the *initial sentence*); and
    - (ii) suspending the whole of the term of imprisonment under this Act; and
  - (b) the requirements of the order; and
  - (c) a rehabilitation program decided by the drug court magistrate for the offender.
- (2) For subsection (1)(a)(i), the intensive drug rehabilitation order may contain an order sentencing the offender to serve a term of imprisonment of more than 3 years only if the prosecuting authority appearing before the court and the offender have consented to the offence being prosecuted summarily on the ground that the defendant will be adequately punished on summary conviction.

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## **21 Delaying suspension of sentence**

If the drug court magistrate is satisfied sufficient grounds exist, the magistrate may—

- (a) direct that the commencement of the suspension of the sentence be delayed for not more than 15 days; and
- (b) order that the offender be detained in custody in a prison until the earlier of the following days—
  - (i) the day the chief executive (corrective services) is given a release authority in the approved form signed by the clerk of the court of a drug court;
  - (ii) the day the 15 day period ends.

*Example—*

The drug court magistrate is satisfied the offender requires detoxification but suitable facilities for detoxification are not immediately available.

## **22 Core conditions of intensive drug rehabilitation order**

An intensive drug rehabilitation order is subject to the following core conditions—

- (a) the offender must not commit an offence, in or outside Queensland, during the period of the order;
- (b) the offender must notify an authorised corrective services officer of every change of the offender's place of residence or employment within 2 business days after the change happens;
- (c) the offender must not leave or stay out of Queensland without an authorised corrective services officer's permission;
- (d) the offender must comply with every reasonable direction of an authorised corrective services officer, including a direction to appear before a drug court magistrate at a stated time and place;
- (e) the offender must attend before a drug court magistrate at the times and places stated in the order.

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**23 Additional requirements of order**

- (1) The intensive drug rehabilitation order may also contain requirements that the offender—
  - (a) make restitution, or pay compensation; and
  - (b) satisfactorily perform community service of up to 240 hours for the period stated in the order, as and when directed by an authorised corrective services officer; and
  - (c) do another thing that a drug court magistrate considers may help the offender's rehabilitation.
- (2) A requirement to make restitution may be made for property—
  - (a) in relation to which an offence was committed; or
  - (b) taken in the course of, or in connection with, the commission of the offence.
- (3) A requirement to pay compensation may be made—
  - (a) to a person for any loss or destruction of, damage caused to, or unlawful interference with, property—
    - (i) in relation to which an offence was committed; or
    - (ii) in the course of, or in connection with, the commission of the offence; and
  - (b) for personal injury suffered by a person, whether or not the person is the victim against whom an offence was committed, because of the commission of the offence.
- (4) In deciding whether to require the offender to perform community service under subsection (1)(b), the drug court magistrate must consider the number of hours of community service the offender has outstanding under another order and when the hours must be completed.
- (5) If the drug court magistrate decides to require the offender to perform community service under subsection (1)(b), the drug court magistrate must consider whether the offender is in a residential rehabilitation facility and is able to complete the community service.

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- (6) The *Penalties and Sentences Act 1992*, part 3, division 4, does not apply to restitution or compensation under an intensive drug rehabilitation order.
- (7) The *Penalties and Sentences Act 1992*, part 5, divisions 2 and 3, do not apply to community service under an intensive drug rehabilitation order.
- (8) A requirement under subsection (1) is not a sentence within the meaning of the *Penalties and Sentences Act 1992*, section 4.

## **24 Contents and requirements of rehabilitation program**

- (1) The intensive drug rehabilitation order must, as far as practicable, state the details of the rehabilitation program the offender must undertake, including, for example, that the offender must—
  - (a) report to, or receive visits from, an authorised corrective services officer; or
  - (b) report for drug testing to an authorised corrective services officer; or
  - (c) attend vocational education and employment courses; or
  - (d) submit to medical, psychiatric or psychological treatment.
- (2) As part of the medical, psychiatric or psychological treatment, the offender may be required to remain at a place, and for a time, stated in the program.
- (3) The offender's rehabilitation program must also state that a drug court magistrate may, at any time, commit the offender to a prison if, in the magistrate's opinion, the committal is necessary to facilitate—
  - (a) detoxification of the offender; or
  - (b) assessment of the offender's participation in the program.



- (4) However, the offender must not be committed to a prison for detoxification unless the drug court magistrate is satisfied no other suitable facilities are immediately available.
- (5) If a drug court magistrate commits an offender to prison to facilitate detoxification, the offender is committed to the prison until the earliest of the following—
  - (a) 22 days after the offender is committed to prison for detoxification;
  - (b) the chief executive (corrective services) or chief executive (health) is satisfied the offender is detoxified;
  - (c) a drug court magistrate, on the offender's application, orders the committal of the offender end.
- (6) If an offender is committed to prison for an assessment of the offender's participation in the program, the committal must not be for more than—
  - (a) if the assessment is because the offender has failed to attend on a person or at a place as stated in the rehabilitation program—30 days; or
  - (b) otherwise—15 days.
- (7) If a drug court magistrate commits an offender to prison under subsection (5) to facilitate detoxification, the drug court magistrate must order that after the committal ends the person must appear before a drug court magistrate at the time and place stated.
- (8) If a drug court magistrate commits an offender to prison under subsection (6) for assessment, the drug court magistrate must state that after the committal ends the offender must—
  - (a) appear before a drug court magistrate at the times and places stated; or
  - (b) attend at another place at the times stated.

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## **25 Explaining orders**

- (1) Before making an intensive drug rehabilitation order, the drug court magistrate must explain, or cause to be explained, to the offender the following matters—
  - (a) that the intensive drug rehabilitation order has 3 parts—
    - (i) the sentence of imprisonment and the suspension of the sentence; and
    - (ii) the core conditions and additional requirements of the order; and
    - (iii) the rehabilitation program;
  - (b) the purpose and effect of the order;
  - (c) what may happen if the offender does not comply with the order;
  - (d) that, subject to divisions 4 and 5, the requirements of the order or the rehabilitation program may be amended or a rehabilitation program terminated on a drug court magistrate's own initiative or on application by—
    - (i) the offender; or
    - (ii) an authorised corrective services officer; or
    - (iii) the commissioner of the police service; or
    - (iv) the director of public prosecutions.
- (2) If the offender is charged with a prescribed drug offence, the magistrate must also explain—
  - (a) the offender would normally be dealt with in the Supreme Court for the offence; and
  - (b) the magistrate is dealing with the offender on the condition the offender successfully complete the rehabilitation program; and
  - (c) if the offender does not successfully complete the rehabilitation program, the offender will be dealt with in the Supreme Court for the offence.

- (3) The explanation must be made in language, or in a way, likely to be readily understood by the offender.

## **26 Offender to agree to making or amending of order**

- (1) The drug court magistrate may make an intensive drug rehabilitation order for the offender only if the offender agrees to the order being made, including the core conditions, and agrees to comply with it.
- (2) The drug court magistrate may amend the requirements of an intensive drug rehabilitation order or a rehabilitation program only if the offender agrees to the order being amended and agrees to comply with it.

## **27 Copy of order to offender**

- (1) The clerk of the court of the drug court must give the offender a copy of the intensive drug rehabilitation order.
- (2) A copy of the core conditions must be included in, or attached to, the intensive drug rehabilitation order.
- (3) The offender must acknowledge receipt of the copy of the intensive drug rehabilitation order in writing.
- (4) Until subsections (1) and (3) are complied with, the offender must remain in the custody of a police officer.

## **28 Multiple offences**

- (1) Under section 19, the drug court magistrate (*magistrate*) may make more than 1 intensive drug rehabilitation order (*order*) for the offender for more than 1 offence.
- (2) If the magistrate makes an order for the offender in proceedings adjourned before the magistrate under part 4, the magistrate may also make an order under section 19 for the offender in relation to another relevant offence even though proceedings for the other offence are before the magistrate other than on adjournment under part 4.
- (3) However, in no case may the magistrate make more than 1

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order for the offender for more than 1 offence if the total period of imprisonment for which the offender would be sentenced under section 20(a)(i) would be more than 4 years.

- (4) The orders may be included in a single form of order that specifies each offence for which an intensive drug rehabilitation order is made.

### **Division 3                      Not making an order**

#### **29            Dealing with offenders if no intensive drug rehabilitation order made**

If the drug court magistrate decides not to make an intensive drug rehabilitation order for the offender, the magistrate must exercise the jurisdiction of a Magistrates Court and deal with the offender according to law.

### **Division 4                      Rewards and sanctions**

#### **30            Application for reward or sanction**

A reward or sanction under this division may be given or imposed on the application of an authorised corrective services officer or the offender or on the drug court magistrate's own initiative.

#### **31            Rewards**

- (1) A drug court magistrate may give the following kinds of rewards to the offender if the magistrate is satisfied on the balance of probabilities the offender is satisfactorily complying with the offender's intensive drug rehabilitation order—
  - (a) stated privileges;

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- (b) a decrease in the amount of any monetary penalty payable, but not yet paid, by the offender under section 32;
  - (c) a decrease in the frequency of drug testing of the offender;
  - (d) a decrease in the level of supervision of the offender by a drug court magistrate or someone else;
  - (e) a change in—
    - (i) the nature of the vocational education and employment courses the offender attends; or
    - (ii) the nature of medical, psychiatric or psychological treatment the offender is undergoing;
  - (f) a decrease in the frequency with which the offender must attend the courses or treatment;
  - (g) a decrease in the amount of community service the offender must perform under the order.
- (2) The magistrate may, if necessary, amend the requirements of the offender's intensive drug rehabilitation order or the offender's rehabilitation program to give the reward.

## **32 Sanctions**

- (1) A drug court magistrate may impose the following kinds of sanctions on the offender if the magistrate is satisfied on the balance of probabilities the offender is not complying with the offender's intensive drug rehabilitation order—
- (a) the withdrawal of stated privileges;
  - (b) the imposition of a monetary penalty payable to the clerk of the court of a drug court;
  - (c) an increase in the level of supervision of the offender by a drug court magistrate or someone else;
  - (d) a change in—
    - (i) the nature of the vocational education and employment courses the offender attends; or

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- (ii) the nature of medical, psychiatric or psychological treatment the offender is undergoing;
  - (e) an increase in the frequency with which the offender must attend the courses or treatment;
  - (f) a term of imprisonment for up to 15 days for each failure to comply with the order, but not so as to impose a term of more than 22 days at any 1 hearing under this section;
  - (g) an increase in the amount of community service the offender must perform, but—
    - (i) not more than 40 hours community service for each failure to comply with the order; and
    - (ii) not so as to impose more than 40 hours community service at any 1 hearing under this section; and
    - (iii) not so as to increase the total number of hours to be performed under this section and under the order to more than 240 hours.
- (2) In deciding whether to increase the amount of community service the offender must perform under subsection (1)(g), the drug court magistrate must consider—
- (a) the number of hours of community service the offender has outstanding under another order and when the hours must be completed; and
  - (b) whether the offender is in a residential rehabilitation facility and is able to complete the community service.
- (3) The magistrate may, if necessary, amend the requirements of the offender's intensive drug rehabilitation order or the offender's rehabilitation program to give the sanction.
- (4) A monetary penalty imposed under subsection (1)(b) is not a penalty within the meaning of the *Penalties and Sentences Act 1992*, section 4.
- (5) A term of imprisonment imposed under subsection (1)(f) is not a sentence within the meaning of the *Penalties and Sentences Act 1992*, section 4.

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## **Division 5                      Amending orders and terminating    rehabilitation programs**

### **33            Amending intensive drug rehabilitation orders**

- (1) A drug court magistrate may, on application under this division or on the magistrate's own initiative, amend the requirements of an intensive drug rehabilitation order or a rehabilitation program.
- (2) If the magistrate amends the order, the magistrate must give reasons.
- (3) This section is subject to section 26(2).

### **34            Terminating rehabilitation programs**

- (1) A drug court magistrate may, on application under this division or on the magistrate's own initiative, terminate a rehabilitation program decided for the offender if—
  - (a) the offender asks the magistrate to terminate the rehabilitation program; or
  - (b) if the magistrate proposes to amend the order—
    - (i) the offender does not agree to the order being amended; or
    - (ii) the offender does not agree to comply with the amended order; or
  - (c) the offender does not attend before a drug court magistrate as required under the offender's intensive drug rehabilitation order or otherwise; or
  - (d) the offender has otherwise failed to comply with the intensive drug rehabilitation order; or
  - (e) the magistrate is satisfied, on the balance of probabilities, there are not reasonable prospects of the offender satisfactorily complying with the offender's intensive drug rehabilitation order.

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- (2) If the magistrate terminates the rehabilitation program, the magistrate must give reasons.
- (3) If the magistrate terminates the rehabilitation program and the offence in relation to which the intensive drug rehabilitation order for the offender was made is a prescribed drug offence, the magistrate must—
  - (a) revoke the conviction recorded for the offence; and
  - (b) vacate the intensive drug rehabilitation order; and
  - (c) under the *Justices Act 1886*, section 113, commit the offender to the Supreme Court for sentence, even though the magistrate has not addressed the defendant as required under section 104(2).

**35 Process for application to amend intensive drug rehabilitation order or terminate rehabilitation program**

- (1) An application under section 33 or 34 may be made by any of the following persons—
  - (a) the offender;
  - (b) an authorised corrective services officer;
  - (c) a prosecuting authority.
- (2) The application may be made—
  - (a) if the offender is before a drug court magistrate—without notice; or
  - (b) if the offender is not before a drug court magistrate—after giving notice in the approved form and as required under subsection (3), (4), (5) or (6).
- (3) If an application is made by the offender, notice must be given by the court to the chief executive (corrective services) and the prosecutor.
- (4) If an application is made by an authorised corrective services officer, notice must be given to the court, the offender and the prosecutor.



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- (5) If an application is made by a prosecuting authority, notice must be given to the court, the offender and the chief executive (corrective services).
  - (6) Notice under subsection (3), (4) or (5) must be given to the person at least the day before the application is to be heard before the magistrate.
  - (7) In this section—  
*prosecutor* means the prosecuting authority that appeared before the court when the intensive drug rehabilitation order was made.

### **35A Inclusion of new rehabilitation program**

- (1) This section applies when an offender is brought before a drug court magistrate after the offender's rehabilitation program has been terminated by a magistrate in the offender's absence for a reason mentioned in section 34(1)(c) or (d).
- (2) Unless the offender's intensive drug rehabilitation order has been vacated under section 34(3), the drug court magistrate may amend the intensive drug rehabilitation order to include a new rehabilitation program.
- (3) The drug court magistrate may amend the intensive drug rehabilitation order to include a new rehabilitation program only if—
  - (a) the drug court magistrate is satisfied of the matters mentioned in section 19 and is satisfied the offender has reasonable prospects of successfully completing the new rehabilitation program; and
  - (b) the offender agrees to the order being amended and agrees to comply with it.

### **36 Final sentence to be decided on completion or termination of rehabilitation program**

- (1) This section applies when an offender's rehabilitation program ends—

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- (a) if the offence for which the offender's intensive drug rehabilitation order was made was a prescribed drug offence—because the offender has successfully completed the rehabilitation program under the order; or
  - (b) if the offence for which the offender's intensive drug rehabilitation order was made was not a prescribed drug offence—for any reason unless a new rehabilitation program is included in the offender's intensive drug rehabilitation order under section 35A.
- (2) The magistrate must reconsider the offender's initial sentence, vacate the intensive drug rehabilitation order and impose a final sentence.
- (3) When reconsidering the initial sentence, the magistrate must consider the extent to which the offender participated in his or her rehabilitation program, including, for example—
- (a) whether any rewards or sanctions were given to or imposed on the offender; and
  - (b) if sanctions were imposed on the offender that included the imposition of a term of imprisonment under section 32(1)(f), the number and length of the terms imposed.
- (4) The final sentence may be—
- (a) for a prescribed drug offence—any sentence that a magistrate could impose for an offence against the *Drugs Misuse Act 1986* on proceedings taken summarily under section 13 of that Act; or
  - (b) for any other relevant offence—any sentence that the magistrate could have imposed for the offence.

*Note to subsection (4)—*

See also the Criminal Code, section 552H(1)(b) for an express extension of a drug court magistrate's power to impose a maximum penalty of 4 years imprisonment on summary conviction under section 552A or 552B of the Code.

- (5) The magistrate must revoke the conviction recorded for the offence—

- (a) if the *Penalties and Sentences Act 1992*, section 16 or 22 applies; or
  - (b) otherwise, if the magistrate has a discretion not to record a conviction and decides not to record a conviction.
- (6) If the magistrate sentences the offender to serve a term of imprisonment with or without suspending the sentence, the term of imprisonment must not be greater than the term imposed in the initial sentence.
- (7) It is declared that in applying the *Penalties and Sentences Act 1992*, section 159A, to a sentence for a term of imprisonment imposed on an offender under this section, time spent in custody under this Act, other than under section 32(1)(f), is taken to be imprisonment already served under the sentence.

## Division 6                      General

### 36A      **Drug court magistrate must consider views of drug court team**

- (1) This section applies if a drug court magistrate is making a decision (a *relevant decision*) about any of the following matters—
- (a) whether an offender’s rehabilitation program should include medical, psychiatric or psychological treatment (*health treatment*);
  - (b) what matters should be included in an offender’s rehabilitation program about the offender’s health treatment;
  - (c) where the offender should be placed for health treatment, including, for example, in a residential rehabilitation facility, an outpatient facility or with a particular service provider;
  - (d) how often the offender should meet with the persons providing or supervising the offender’s rehabilitation program, including health treatment;

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- (e) how often the offender should appear before a drug court magistrate;
  - (f) whether or not to give a reward to, or impose a sanction on, an offender;
  - (g) whether or not an intensive drug rehabilitation order or a rehabilitation program for an offender should be amended;
  - (h) whether or not an intensive drug rehabilitation order for an offender should be terminated.
- (2) The drug court magistrate must consider the views of the members of the offender's drug court team in making the relevant decision.

(3) In this section—

***drug court team***, for an offender, means the persons who—

- (a) act for an interested entity; and
- (b) attend a hearing at which a relevant decision is made about the offender.

***interested entity*** means any of the following—

- (a) Legal Aid (Queensland);
- (b) a prosecuting authority;
- (c) the department in which the *Corrective Services Act 2000* is administered;

*Editor's note—*

*Corrective Services Act 2000—see the Acts Interpretation Act 1954, section 14H and Corrective Services Act 2006.*

- (d) the department in which the *Health Services Act 1991* is administered.

### **37 Immunity from prosecution**

- (1) A person is not liable to be prosecuted for an offence as a result of an admission made by the person—
- (a) for the purposes of deciding whether the person—

- (i) is, or appears to be, an eligible person; or
    - (ii) is suitable for rehabilitation; or
  - (b) to someone responsible for the person's supervision or treatment under this Act.
- (1A) To remove any doubt, it is declared that subsection (1) does not prevent a prosecution if there is evidence, other than the admission or evidence obtained as a result of the admission, implicating the accused.
- (2) The admission, and any evidence obtained as a result of the admission, is not admissible against the person in proceedings for an offence.
- (3) However, this section does not apply to—
- (a) a disqualifying offence; or
  - (b) an indictable offence, other than an indictable offence mentioned in the Criminal Code, section 552B or the *Drugs Misuse Act 1986*, section 13; or
  - (c) an offence committed in connection with an offence mentioned in paragraph (a) or (b).

### **38 Random drug testing**

If a rehabilitation program under an intensive drug rehabilitation order includes a requirement that the offender must report for drug testing and states the frequency for the testing, an authorised corrective services officer—

- (a) may decide when and where the offender is to report; and
- (b) may require the offender to report for further random testing as directed by the officer.

### **39 Disclosure of compliance and related information**

- (1) A prescribed person—

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- (a) must promptly give the chief executive (corrective services), or a drug court magistrate, any compliance information the prescribed person has about the offender; and
  - (b) may enter in the drug court database any compliance information or related information the prescribed person has about the offender.
- (2) Subsection (1) applies despite any Act, oath, rule of law or practice that prohibits or restricts the disclosure of information.
- (3) In this section—

***compliance information*** means any information about the offender's compliance with, or failure to comply with—

- (a) the requirements of the offender's intensive drug rehabilitation order; or
- (b) the offender's rehabilitation program.

***drug court database*** means a database for the drug court diversion program to which only a prescribed person has access.

***information*** includes a document.

***prescribed person*** means a person involved in the administration of, or who provides services in connection with, an offender's rehabilitation program who is prescribed under a regulation.

***related information*** means any information, other than compliance information, about the offender obtained in the administration of, or in the provision of services in connection with, the offender's rehabilitation program.

### **39A Disclosure of relevant information**

- (1) A person who is a member of a drug court team for an offender may give another member of the drug court team any relevant information the person has about the offender.
- (2) In this section—

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***compliance information*** see section 39.

***drug court team***, for an offender, means any of the following persons who are responsible for attending the drug court and providing reports to the drug court magistrate about the performance of the offender under the intensive drug rehabilitation order—

- (a) a corrective services officer;
- (b) a police officer;
- (c) a person employed for the purposes of the *Director of Public Prosecutions Act 1984*;
- (d) a health service employee under the *Health Services Act 1991*;
- (e) a Legal Aid employee under the *Legal Aid Queensland Act 1997*.

***related information*** see section 39.

***relevant information*** means—

- (a) compliance information; or
- (b) related information; or
- (c) any other information prescribed under a regulation for this section;

but does not include information to which legal professional privilege attaches.

### **39B Protection from liability**

- (1) This section applies if—
  - (a) a person who is a health professional gives an indicative assessment report to the chief executive (health) or a drug court magistrate; or
  - (b) a person who is a health professional gives an assessment report to the chief executive (health) or a drug court magistrate; or

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- (c) a prescribed person gives the chief executive (corrective services) or a drug court magistrate compliance information under section 39; or
  - (d) a prescribed person enters compliance information or related information in the drug court database under section 39; or
  - (e) a person who is a member of a drug court team for an offender gives another member of the team relevant information under section 39A.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the report, or giving or entering the information, honestly and on reasonable grounds.
- (3) Also, merely because the person gives the report, or gives or enters the information, the person can not be held to have—
- (a) breached any code of professional etiquette or ethics; or
  - (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsections (2) and (3)—
- (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the report or information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the report or information under an Act, oath or rule of law or practice, the person—
    - (i) does not contravene the Act, oath or rule of law or practice by giving the report or giving or entering information; and
    - (ii) is not liable to disciplinary action for giving the report or giving or entering information.

### **39C Protection of personal information about offenders**

- (1) This section applies if a personal information document about an offender is given to a drug court.



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- (2) The clerk of the court of a drug court may give a copy of a personal information document to a person, other than the offender to whom the document relates, only if—
    - (a) the person applies to the drug court for a copy of the document; and
    - (b) the court is satisfied the person has a sufficient interest in the document; and
    - (c) the court orders the person is to be given a copy of the document.
  - (3) A regulation may provide for the storage of personal information documents to ensure the confidentiality of information in the document.

*Example for subsection (3)—*

A regulation may provide that a medical report about an offender, kept in the offender's file, is to be stored in a sealed envelope.

- (4) This section applies despite any other Act, including the *Justices Act 1886*, section 154.
- (5) In this section—

***personal information document*** means a document that is prescribed, under a regulation, to be a document to which this section applies.

## 40 Arrest warrants

- (1) A drug court magistrate may issue a warrant for the offender's arrest if the magistrate—
  - (a) reasonably suspects an offender has failed to comply with his or her rehabilitation program; or
  - (b) terminates the offender's rehabilitation program.
- (2) The warrant authorises any police officer to arrest the offender and to bring the offender before a drug court magistrate.
- (3) The *Bail Act 1980* does not apply to an offender who is arrested on the authority of a warrant under this section.

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- (4) If the drug court magistrate decides to refer the offender for an assessment as to whether the offender should continue with the offender's intensive drug rehabilitation order or to reserve making a decision about terminating the offender's rehabilitation program, the magistrate may remand the offender in custody to appear before a drug court magistrate.
- (5) The period for which an offender may be remanded in custody is as follows—
  - (a) an initial period of not more than 30 days;
  - (b) a further period or periods of not more than 8 days.
- (6) If the drug court magistrate remands the offender in custody, the chief executive (corrective services) must ensure the person appears before a drug court magistrate to be dealt with as required by the drug court magistrate.
- (7) The clerk of the court of a drug court may perform the magistrate's functions under subsection (1).

#### **41 Warrants of commitment**

- (1) A drug court magistrate may issue a warrant of commitment for the purposes of section 21 or 32(1)(f).
- (2) The clerk of the court of a drug court may perform the magistrate's functions under subsection (1).

#### **42 When no appeal**

- (1) An appeal does not lie against—
  - (a) an initial sentence; or
  - (b) a decision to do or not to do any of the following—
    - (i) remand a person to appear before a drug court magistrate;
    - (ii) make an intensive drug rehabilitation order for a person;

- (iii) amend an intensive drug rehabilitation order or terminate a rehabilitation program for an offender;
  - (iv) give a reward to or impose a sanction on an offender.
- (2) Subsection (1) applies despite the *Justices Act 1886*, section 222 and the Criminal Code, chapter 67.

#### **42A Application of Penalties and Sentences Act 1992, s 188**

To remove any doubt, it is declared that the *Penalties and Sentences Act 1992*, section 188 applies to initial sentences and final sentences imposed under this Act.

## **Part 6 General**

### **43 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation prescribing the maximum number of active intensive drug rehabilitation orders may prescribe the maximum number of active intensive drug rehabilitation orders applicable for persons who reside within a stated locality.
- (3) A regulation may prescribe guidelines for drug courts or a particular drug court.
- (4) Without limiting subsection (3), a regulation may prescribe guidelines for drug courts or a particular drug court about the following matters—
  - (a) the requirements of an intensive drug rehabilitation order;

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*Example—*

the maximum number of attendances ordinarily required before a drug court magistrate during a particular period

- (b) the contents and requirements of a rehabilitation program;

*Example—*

the maximum number of times an offender must ordinarily report for drug testing during a particular period

- (c) the ordinary requirements for successful completion of a rehabilitation program.
- (5) A regulation may prescribe the minimum frequency with which offenders must be drug tested under the offenders' intensive drug rehabilitation orders.

#### **44 Approved forms**

The chief executive may approve forms for this Act.

## **Part 7 Transitional provisions**

### **Division 1 Transitional provision for Drug Rehabilitation (North Queensland Court Diversion Initiative) Amendment Act 2002**

#### **46A Transitional provisions for Drug Rehabilitation (North Queensland Court Diversion Initiative) Amendment Act 2002**

- (1) Sections 6 and 19, as in force immediately before the commencement of this subsection, continue to apply in relation to an intensive drug rehabilitation order made before the commencement.

(2) The release under section 16(1) during the transitional period of a person on bail subject to a condition that the person report to persons at the times and places directed by a community correctional officer is taken instead to have been subject to a condition that the person report to persons at the times and places directed by a corrective services officer.

(3) In this section—

*transitional period* means the period beginning on 1 July 2001 and ending immediately before the commencement of subsection (2).

## **Division 2                      Transitional provisions for Drug Legislation Amendment Act 2006**

### **47            Definition for div 2**

In this division—

*commencement* means the commencement of this division.

### **48            References to Act**

In an Act or document, a reference to the *Drug Rehabilitation (Court Diversion) Act 2000* may, if the context permits, be taken as a reference to this Act.

### **49            Transitional provision for courts**

A Magistrate Court that was, immediately before the commencement, declared to be a pilot program court is, on the commencement, taken to be a drug court.

### **50            Transitional provision for magistrates**

A magistrate who, immediately before the commencement, had been allocated the functions of a pilot program magistrate is, on the commencement, taken to have been allocated the functions of a drug court magistrate.

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## **51 Transitional provision for proceedings**

If proceedings before a pilot program court had been started but not finished before the commencement, the proceedings may continue as if they had been started after the commencement.

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# Schedule Dictionary

## section 5

***active intensive drug rehabilitation order*** means an intensive drug rehabilitation order other than—

- (a) an intensive drug rehabilitation order, the rehabilitation program for which has been terminated under section 34; or
- (b) an intensive drug rehabilitation order that has been vacated.

***appropriately qualified***, for a health professional, means having the qualifications or experience to carry out an indicative assessment or assessment of a person.

***approved form*** see section 44.

***assessment***, of a person, means an assessment of the following to help decide the person's capacity to undertake treatment—

- (a) the person's physical and mental health;
- (b) the person's past and present drug dependency and drug use;
- (c) the treatment options appropriate for the person.

***assessment report*** see section 16(3).

***authorised corrective services officer*** see *Penalties and Sentences Act 1992*, section 4A.

***chief executive (health)*** means the chief executive of the department in which the *Health Services Act 1991* is administered.

***community service*** means any activity declared by the chief executive (corrective services) to be community service for the *Corrective Services Act 2006* or the *Penalties and Sentences Act 1992*.

***community term of imprisonment*** see section 7A.

**core condition**, of an intensive drug rehabilitation order, means a condition mentioned in section 22.

**corrective services officer** see the *Corrective Services Act 2006*.

**corresponding provision** means a corresponding provision of a law of another State or the Commonwealth.

**disqualifying offence** see section 7.

**drug** means—

- (a) a dangerous drug within the meaning given by the *Drugs Misuse Act 1986*; or
- (b) another drug prescribed under a regulation.

**drug court** means a Magistrates Court declared to be a drug court under section 9.

**drug court magistrate** means a magistrate to whom functions are allocated under section 10(1).

**eligible person** see section 6.

**health professional** has the meaning given by the *Health Services Act 1991*, section 60.

**health service facility** means a place at which a health service, within the meaning of the *Health Services Act 1991*, section 3, is provided.

**indicative assessment**, of a person, means an assessment as to whether the person is drug dependent.

**indicative assessment report** see section 12B.

**initial sentence** see section 20(1)(a)(i).

**intensive drug rehabilitation order** see section 19.

**offender** see section 17.

**period of imprisonment** means the unbroken duration of imprisonment that an offender is to serve for 2 or more terms of imprisonment, whether—

- (a) ordered to be served concurrently or cumulatively; or



- (b) imposed at the same time or different times;  
and includes a term of imprisonment.

***prescribed drug offence*** means an offence under the *Drugs Misuse Act 1986*—

- (a) for which the maximum penalty is 20 years imprisonment; and  
(b) that is prescribed under a regulation.

***prison*** means a prison within the meaning of the *Corrective Services Act 2006*.

***prosecuting authority*** means the commissioner of the police service or the director of public prosecutions.

***referring magistrate*** see section 16(1).

***rehabilitation program*** means a rehabilitation program under an intensive drug rehabilitation order.

***relevant offence*** see section 8.

***term of imprisonment*** means the duration of imprisonment imposed for a single offence.

## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 14 October 2010. Future amendments of the Drug Court Act 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	13 June 2000	7 July 2000
1A	2000 Act No. 46	25 October 2000	8 November 2000
1B	2000 Act No. 58	17 November 2000	27 November 2000

Reprint No.	Amendments included	Effective	Notes
1C	2002 Act No. 23	19 July 2002	
1D	2002 Act No. 41	25 October 2002	
2	2003 Act No. 55	18 September 2003	
2A rv	2004 Act No. 43	3 December 2004	
2B	2006 Act No. 8	3 July 2006	
2C	2006 Act No. 29	28 August 2006	
2D	2007 Act No. 37	28 September 2007	
3	2007 Act No. 37	1 July 2008	

Reprint No.	Amendments included	Effective	Notes
3A	2009 Act No. 34	29 March 2010	
3B	2010 Act No. 42	14 October 2010	

## 5 List of legislation

### **Drug Court Act 2000 No. 3 (prev Drug Rehabilitation (Court Diversion) Act 2000)**

date of assent 8 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 13 June 2000 (2000 SL No. 103)

amending legislation—

### **Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch**

date of assent 25 October 2000

commenced on date of assent

### **Justice and Other Legislation (Miscellaneous Provisions) Act 2000 No. 58 ss 1–2 sch**

date of assent 17 November 2000

s 2 sch amdt 4 commenced on date of assent (amdt could not be given effect)

remaining provisions commenced on date of assent

### **Criminal Law Amendment Act 2002 No. 23 ss 1, 2(3), pt 5**

date of assent 23 May 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 19 July 2002 (2002 SL No. 157)

### **Drug Rehabilitation (North Queensland Court Diversion Initiative) Amendment Act 2002 No. 41**

date of assent 12 September 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 25 October 2002 (2002 SL No. 279)

### **Evidence (Protection of Children) Amendment Act 2003 No. 55 pts 1, 9A**

date of assent 18 September 2003

commenced on date of assent

### **Justice and Other Legislation Amendment Act 2004 No. 43 pts 1, 9, s 3 sch**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 3 December 2004 (2004 SL No. 263)

### **Drug Legislation Amendment Act 2006 No. 8 pts 1–2**

date of assent 15 March 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 3 July 2006 (2006 SL No. 151)

**Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3**

date of assent 1 June 2006  
 ss 1–2 commenced on date of assent  
 s 518 sch 3 amdts 5, 6 and 8 (to the extent it amds def “corrective services office”)  
 commenced 28 August 2006 (amdts could not be given effect)  
 remaining provisions commenced 28 August 2006 (2006 SL No. 213)

**Justice and Other Legislation Amendment Act 2007 No. 37 pts 1, 11, s 51 sch**

date of assent 29 August 2007  
 ss 1–2 commenced on date of assent  
 ss 52–61 commenced 1 July 2008 (2008 SL No. 197)  
 remaining provisions commenced 28 September 2007 (2007 SL No. 241)

**Juvenile Justice and Other Acts Amendment Act 2009 No. 34 ss 1, 2(2), 45(1) sch pt 1  
amdt 15**

date of assent 17 September 2009  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 29 March 2010 (2010 SL No. 37)

**Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010  
No. 26 pts 1, 7**

date of assent 13 August 2010  
 ss 1–2 commenced on date of assent  
 remaining provisions commence 1 November 2010 (2010 SL No. 236)

**Justice and Other Legislation Amendment Act 2010 No. 42 ss 1, 214 sch**

date of assent 14 October 2010  
 commenced on date of assent

**6 List of annotations**

**Title** sub 2006 No. 8 s 4

**Short title**

s 1 sub 2006 No. 8 s 5

**Objects of this Act**

s 3 sub 2006 No. 8 s 6

**Relationship with Penalties and Sentences Act 1992**

s 4 amd 2006 No. 8 s 7

**Notes in text**

s 4A ins 2002 No. 41 s 4

**Who is an “eligible person”**

s 6 amd 2002 No. 41 s 5; 2006 No. 8 s 8; 2006 No. 29 s 518 sch 3; 2007 No. 37 s 52; 2009 No. 34 s 45(1) sch pt 1 amdt 15

**What is a “disqualifying offence”**

s 7           amd 2000 No. 58 s 2 sch; 2002 No. 41 s 6; 2006 No. 8 s 9; 2010 No. 42 s 214  
                  sch

**What is a “community term of imprisonment”**

s 7A          prev s 7A ins 2002 No. 41 s 7  
                  amd 2003 No. 55 s 51B  
                  om 2006 No. 8 s 10  
                  pres s 7A (prev s 7B) ins 2002 No. 41 s 7  
                  renum 2006 No. 8 s 11

**What is a “suspended term of imprisonment”**

s 7C          ins 2002 No. 41 s 7  
                  om 2006 No. 8 s 12

**What is a “rehabilitated term of imprisonment”**

s 7D          ins 2002 No. 41 s 7  
                  om 2006 No. 8 s 12

**PART 3—DRUG COURTS AND DRUG COURT MAGISTRATES**

pt hdg       sub 2006 No. 8 s 13

**Drug courts**

prov hdg    amd 2006 No. 8 s 14(1)  
s 9           amd 2006 No. 8 s 14(2)–(4)

**Drug court magistrates**

prov hdg    amd 2006 No. 8 s 15(1)  
s 10          amd 2006 No. 8 s 15(2)–(3)

**Functions, additional jurisdiction and powers of drug court magistrates**

prov hdg    amd 2006 No. 8 s 16  
s 11          amd 2006 No. 8 s 16

**Other functions of drug court magistrates**

prov hdg    amd 2006 No. 8 s 17(1)  
s 12          amd 2002 No. 41 s 3 sch; 2006 No. 8 s 17(1)–(2)

**PART 3A—INDICATIVE ASSESSMENT OF DRUG DEPENDENCY**

pt hdg       ins 2006 No. 8 s 18

**Application of pt 3A**

s 12A        ins 2006 No. 8 s 18  
                  amd 2007 No. 37 s 53

**Referral for indicative assessment**

s 12B        ins 2006 No. 8 s 18

**Indicative assessment reports**

s 12C        ins 2006 No. 8 s 18  
                  amd 2007 No. 37 s 54

**Additional matters for indicative assessment report**

s 12D        ins 2006 No. 8 s 18

**Application of pt 4**

s 13 amd 2006 No. 8 s 19; 2007 No. 37 s 55

**Referral to be decided as soon as practicable**

s 14 amd 2006 No. 8 s 20; 2007 No. 37 s 56

**Deciding whether to refer for assessment**

s 15 amd 2002 No. 23 s 38; 2006 No. 8 s 21; 2007 No. 37 s 57

**Referral for assessment**

s 16 amd 2002 No. 41 s 3 sch; 2006 No. 8 s 22; 2006 No. 29 s 518 sch 3 amdt 4  
(amdt 5 could not be given effect); 2007 No. 37 s 58

**Assessment report**

s 16A ins 2006 No. 8 s 23  
amd 2007 No. 37 s 59

**Additional matters for assessment report**

s 16B ins 2006 No. 8 s 23

**Application of pt 5**

s 17 amd 2006 No. 8 s 24

**Drug court magistrate may make order if conviction recorded**

prov hdg amd 2006 No. 8 s 25(1)

s 18 amd 2006 No. 8 s 25(2)

**Making of order**

s 19 amd 2002 No. 23 s 39; 2002 No. 41 s 8; 2006 No. 8 s 26

**Contents of order**

s 20 amd 2006 No. 8 s 27

**Delaying suspension of sentence**

s 21 amd 2006 No. 8 s 28; 2007 No. 37 s 51 sch

**Core conditions of intensive drug rehabilitation order**

s 22 sub 2006 No. 8 s 29

**Additional requirements of order**

s 23 amd 2006 No. 8 s 30

**Contents and requirements of rehabilitation program**

s 24 amd 2006 No. 8 s 31

**Explaining orders**

s 25 amd 2006 No. 8 s 32

**Offender to agree to making or amending of order**

s 26 amd 2006 No. 8 s 33

**Copy of order to offender**

s 27 amd 2006 No. 8 s 34

**Multiple offences**

s 28 amd 2006 No. 8 s 35

**Dealing with offenders if no intensive drug rehabilitation order made**

s 29            amd 2006 No. 8 s 36

**Application for reward or sanction**

s 30            amd 2006 No. 8 s 37

**Rewards**

s 31            amd 2006 No. 8 s 38

**Sanctions**

s 32            amd 2006 No. 8 s 39

**Amending intensive drug rehabilitation orders**

s 33            amd 2006 No. 8 s 40

**Terminating rehabilitation programs**

s 34            amd 2002 No. 23 s 40; 2002 No. 41 s 9; 2006 No. 8 s 41; 2007 No. 37 s 60

**Process for application to amend intensive drug rehabilitation order or terminate rehabilitation program**

s 35            amd 2006 No. 8 s 42; 2006 No. 29 s 518 sch 3 (amdt could not be given effect)

**Inclusion of new rehabilitation program**

s 35A          ins 2002 No. 23 s 41  
                  amd 2006 No. 8 s 43

**Final sentence to be decided on completion or termination of rehabilitation program**

s 36            amd 2002 No. 23 s 42; 2006 No. 8 s 44; 2010 No. 42 s 214 sch

**Drug court magistrate must consider views of drug court team**

s 36A          ins 2006 No. 8 s 45

**Immunity from prosecution**

s 37            amd 2000 No. 58 s 2 sch

**Disclosure of compliance and related information**

prov hdg      sub 2002 No. 23 s 43(1)

s 39            amd 2002 No. 23 s 43(2)–(4); 2006 No. 8 s 46; 2006 No. 29 s 518 sch 3 (amdt could not be given effect)

**Disclosure of relevant information**

s 39A          ins 2006 No. 8 s 47

**Protection from liability**

s 39B          ins 2006 No. 8 s 47

**Protection of personal information about offenders**

s 39C          ins 2006 No. 8 s 47

**Arrest warrants**

s 40            amd 2006 No. 8 s 48

**Warrants of commitment**

s 41            amd 2006 No. 8 s 49



**When no appeal**

s 42 amd 2006 No. 8 s 50

**Application of Penalties and Sentences Act 1992, s 188**

s 42A ins 2006 No. 8 s 51

**Regulation-making power**

s 43 amd 2002 No. 23 s 44; 2006 No. 8 s 52

**Review of Act by Minister**

s 45 om 2006 No. 8 s 53

**Report on Act's operation by pilot program magistrate**

s 46 om 2006 No. 8 s 53

**PART 7—TRANSITIONAL PROVISIONS**

pt hdg ins 2006 No. 8 s 54

**Division 1—Transitional provision for Drug Rehabilitation (North Queensland Court Diversion Initiative) Amendment Act 2002**

div hdg ins 2006 No. 8 s 54

**Transitional provisions for Drug Rehabilitation (North Queensland Court Diversion Initiative) Amendment Act 2002**

s 46A ins 2002 No. 41 s 10

**Division 2—Transitional provisions for Drug Legislation Amendment Act 2006**

div hdg ins 2006 No. 8 s 55  
amd 2007 No. 37 s 51 sch

**Definition for div 2**

prov hdg sub 2006 No. 8 s 56  
s 47 amd 2002 No. 23 s 45  
AIA s 20A applies to s 47(2) (see s 47(3))  
amd 2004 No. 43 s 43  
sub 2006 No. 8 s 56

**References to Act**

s 48 ins 2006 No. 8 s 56

**Transitional provision for courts**

s 49 ins 2006 No. 8 s 56

**Transitional provision for magistrates**

s 50 ins 2006 No. 8 s 56

**Transitional provision for proceedings**

s 51 ins 2006 No. 8 s 56

**SCHEDULE—DICTIONARY**

def “**active intensive drug rehabilitation order**” ins 2002 No. 23 s 46  
def “**appropriately qualified**” ins 2006 No. 8 s 57(2)  
def “**assessment**” ins 2006 No. 8 s 57(2)  
def “**assessment report**” ins 2006 No. 8 s 57(2)  
def “**chief executive (health)**” ins 2006 No. 8 s 57(2)

- def “**community correctional officer**” om 2002 No. 41 s 3 sch  
def “**community service**” amd 2002 No. 41 s 3 sch; 2006 No. 29 s 518 sch 3  
def “**community term of imprisonment**” ins 2002 No. 41 s 3 sch  
amd 2006 No. 8 s 57(3)  
def “**core condition**” ins 2006 No. 8 s 57(2)  
def “**corrective services’ chief executive**” amd 2002 No. 41 s 3 sch  
om 2006 No. 8 s 57(1); 2006 No. 29 s 518 sch 3 (amdt could not be given effect)  
def “**corrective services office**” ins 2002 No. 41 s 3 sch  
om 2006 No. 8 s 57(1)  
amd 2006 No. 29 s 518 sch 3 (amdt could not be given effect)  
def “**corrective services officer**” ins 2002 No. 41 s 3 sch  
amd 2006 No. 29 s 518 sch 3  
def “**corresponding provision**” ins 2002 No. 41 s 3 sch  
def “**disqualifying term of imprisonment**” ins 2002 No. 41 s 3 sch  
om 2006 No. 8 s 57(1)  
def “**drug court**” ins 2006 No. 8 s 57(2)  
def “**drug court magistrate**” ins 2006 No. 8 s 57(2)  
def “**health professional**” ins 2006 No. 8 s 57(2)  
def “**health service facility**” ins 2006 No. 8 s 57(2)  
def “**indicative assessment**” ins 2006 No. 8 s 57(2)  
def “**indicative assessment report**” ins 2006 No. 8 s 57(2)  
def “**initial sentence**” amd 2010 No. 42 s 214 sch  
def “**offender**” amd 2000 No. 46 s 3 sch; 2000 No. 58 s 2 sch (amdt could not be given effect)  
def “**pilot program court**” om 2006 No. 8 s 57(1)  
def “**pilot program magistrate**” om 2006 No. 8 s 57(1)  
def “**prison**” amd 2002 No. 41 s 3 sch; 2006 No. 29 s 518 sch 3  
def “**prosecuting authority**” ins 2006 No. 8 s 57(2)  
def “**referring magistrate**” ins 2007 No. 37 s 61  
def “**rehabilitated term of imprisonment**” ins 2002 No. 41 s 3 sch  
om 2006 No. 8 s 57(1)  
def “**suspended term of imprisonment**” ins 2002 No. 41 s 3 sch  
om 2006 No. 8 s 57(1)

## 7 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form 1 Version 3—Order for referral for assessment**  
pubd gaz 27 October 2006 p 936

- Form 2 Version 3—Order for referral for indicative assessment**  
pubd gaz 27 October 2006 p 936
- Form 3 Version 3—Intensive drug rehabilitation order**  
pubd gaz 27 October 2006 p 936
- Form 4 Version 4—Permit for offender subject to Intensive Drug Rehabilitation Order (IDRO) to leave or stay out of Queensland**  
pubd gaz 4 April 2008 p 1852
- Form 5 Version 3—Warrant of commitment where suspension of sentence delayed**  
pubd gaz 27 October 2006 p 936
- Form 6 Version 3—Release Authority**  
pubd gaz 27 October 2006 p 936
- Form 8 Version 1—Community service order**  
pubd gaz 9 June 2000 p 446
- Form 9 Version 4—Warrant of commitment for detoxification or assessment of an offender subject to intensive drug rehabilitation order (IDRO)**  
pubd gaz 6 July 2007 p 1280
- Form 9A Version 1—Warrant of commitment for assessment of offender subject to intensive drug rehabilitation order (IDRO)**  
pubd gaz 6 July 2007 p 1280
- Form 10 Version 3—Application for reward or sanction of person subject to intensive drug rehabilitation order**  
pubd gaz 27 October 2006 p 936
- Form 11 Version 4—Warrant of commitment for sanction of imprisonment**  
pubd gaz 4 April 2008 p 1852
- Form 12 Version 3—Application to amend intensive drug rehabilitation order**  
pubd gaz 27 October 2006 p 936
- Form 13 Version 3—Application to terminate an intensive drug rehabilitation program**  
pubd gaz 27 October 2006 p 936
- Form 14 Version 3—Notice of application to amend or terminate intensive drug rehabilitation order**  
pubd gaz 27 October 2006 p 936
- Form 15 Version 4—Warrant to arrest and detain an offender participating in a drug court rehabilitation program**  
pubd gaz 4 April 2008 p 1852
- Form 15A Version 1—Warrant remanding offender in custody for assessment or to reserve making a decision about termination**  
pubd gaz 4 April 2008 p 1852

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Endnotes

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**Form 16 Version 2—Sanction—monetary penalty**  
pubd gaz 27 October 2006 p 936

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