

Queensland



**DRUG REHABILITATION
(NORTH QUEENSLAND
COURT DIVERSION
INITIATIVE) AMENDMENT
ACT 2002**

Act No. 41 of 2002

Queensland



**DRUG REHABILITATION (NORTH
QUEENSLAND COURT DIVERSION
INITIATIVE) AMENDMENT ACT 2002**

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MINOR AMENDMENTS

Queensland



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

Act No. 41 of 2002

**An Act to amend the *Drug Rehabilitation (Court Diversion) Act 2000* to
facilitate a drug court pilot program in North Queensland, and for
other purposes**

[Assented to 12 September 2002]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Drug Rehabilitation (North Queensland Court Diversion Initiative) Amendment Act 2002*.

2 Commencement

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

3 Act amended

This Act amends the *Drug Rehabilitation (Court Diversion) Act 2000*.

4 Insertion of new s 4A

Part 1—

insert—

‘4A Notes in text

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

5 Amendment of s 6 (Who is an “eligible person”)

Section 6(2) and (3)—

omit, insert—

‘(2) Without limiting subsection (1)(d), the regulation may require that the person be someone who resides within a stated locality.

‘(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) a charge against the person for a disqualifying offence is pending in a court.

Note to subsection (3)(a)—

A person on post-prison community based release is taken to be still serving the sentence imposed on the person: *Corrective Services Act 2000*, section 153.

‘(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 2000*, section 153 applies; and
- (b) a reference in the *Corrective Services Act 2000*, section 153 to post-prison community based release includes a reference to a release under the relevant law that is similar to post-prison community based release.

‘(5) Also, a person appearing before a pilot program court prescribed by regulation for this subsection is not an “**eligible person**” if, at any previous time, the person has been ordered to serve a disqualifying term of imprisonment.’

6 Amendment of s 7 (What is a “disqualifying offence”)

Section 7(2), ‘section 6(2)(b)’—

omit, insert—

‘section 6(3)(b)’.

7 Insertion of new ss 7A to 7D

After section 7—

insert—

‘7A What is a “disqualifying term of imprisonment”

‘(1) A “**disqualifying term of imprisonment**” is a single term of imprisonment of more than 6 months.

‘(2) However, the following terms of imprisonment are not terms of imprisonment for subsection (1)—

- (a) a community term of imprisonment;
- (b) a suspended term of imprisonment;
- (c) a rehabilitated term of imprisonment.

‘(3) Also, a period of detention under the *Juvenile Justice Act 1992* or a corresponding law of another State or the Commonwealth is not a term of imprisonment for subsection (1).

‘(4) It is immaterial whether the term of imprisonment is in relation to a conviction for a disqualifying offence.

‘7B 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.

‘7C What is a “suspended term of imprisonment”

‘(1) A term of imprisonment is a **“suspended term of imprisonment”** if the whole of the term of imprisonment was suspended under an order made under the *Penalties and Sentences Act 1992*, section 144(1) or a corresponding provision.

‘(2) However, a term of imprisonment is not a **“suspended term of imprisonment”** if the person for whom the order was made was ordered under the *Penalties and Sentences Act 1992*, section 147(1) or a corresponding provision to serve the whole or part of the suspended imprisonment.

‘7D What is a “rehabilitated term of imprisonment”

‘(1) A **“rehabilitated term of imprisonment”** is a term of imprisonment that was ordered to be served in relation to a rehabilitated conviction.

‘(2) In this section—

“**conviction**” see the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.

“**rehabilitated conviction**” means a conviction in relation to which the rehabilitation period has expired, and not been revived, under the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

“**rehabilitation period**” see the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.

“**revived**” see the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.’.

8 Amendment of s 19 (Making of order)

Section 19(i), before ‘it’—

insert—

‘there are reasonable prospects the offender would satisfactorily comply with an intensive drug rehabilitation order and’.

9 Amendment of s 34 (Terminating rehabilitation programs)

Section 34(1)(e)—

omit, insert—

‘(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.’.

10 Insertion of new s 46A

After section 46—

insert—

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

‘(1) Sections 6 and 19,¹ 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)² 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).’.

1 Sections 6 (Who is an “eligible person”) and 19 (Making of order)

2 Section 16 (Referral for assessment)

SCHEDULE**MINOR AMENDMENTS**

section 3

- 1 Section 12(1), ‘Stipendiary Magistrates Act 1991’—**
omit, insert—
‘Magistrates Act 1991’.
- 2 Section 16(2), ‘Corrective Services Act 1988, section 201’—**
omit, insert—
‘Corrective Services Act 2000, section 245³’.
- 3 Section 16(3)(a), ‘community correctional office’—**
omit, insert—
‘corrective services office’.
- 4 Section 16(3)(b), ‘community correctional officer’—**
omit, insert—
‘corrective services officer’.
- 5 Schedule, definition “community correctional officer”—**
omit.
- 6 Schedule—**
insert—

3 *Corrective Services Act 2000, section 245 (Pre-sentence reports)*

SCHEDULE (continued)

- ‘**“community term of imprisonment”**’ see section 7B.
- “corrective services office”** means an office of the department within which the *Corrective Services Act 2000* is administered.
- “corrective services officer”** see the *Corrective Services Act 2000*.
- “corresponding provision”** means a corresponding provision of a law of another State or the Commonwealth.
- “disqualifying term of imprisonment”** see section 7A.
- “rehabilitated term of imprisonment”** see section 7D.
- “suspended term of imprisonment”** see section 7C.’.

7 Schedule, definition “community service”, ‘*Corrective Services Act 1988*’—

omit, insert—

‘*Corrective Services Act 2000* or the *Penalties and Sentences Act 1992*’.

8 Schedule, definitions “corrective services’ chief executive” and “prison”, ‘*Corrective Services Act 1988*’—

omit, insert—

‘*Corrective Services Act 2000*’.