2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Sentencing (Drug and Alcohol Treatment Orders) Legislation Amendment Bill 2023

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THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Sentencing (Drug and Alcohol Treatment Orders) Legislation Amendment Bill 2023

A Bill for

An Act to amend legislation about sentencing, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Sentencing (Drug and Alcohol Treatment Orders) Legislation Amendment Act 2023*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

3 Legislation amended

This Act amends the [Crimes (Sentence Administration) Act 2005](http://www.legislation.act.gov.au/a/2005-59) and the [Crimes (Sentencing) Act 2005](http://www.legislation.act.gov.au/a/2005-58).

Part 2 Crimes (Sentence Administration) Act 2005

4 Application—pt 5A.3
Section 82B (b)

omit

section 80ZD (2) (d) (i)

substitute

section 80ZD (3A) (a)

5 Section 82B (c)

omit

section 80ZD (2) (d) (ii)

substitute

section 80ZD (3A) (b)

Part 3 Crimes (Sentencing) Act 2005

6 Drug and alcohol treatment orders
Section 12A (1) (b)

substitute

 (b) the Supreme Court convicts the offender of the eligible offence and sentences the offender to a term of imprisonment for—

 (i) if the offender is convicted of 1 eligible offence only—at least 1 year but not more than 4 years; or

 (ii) if the offender is convicted of more than 1 eligible offence—a total period of at least 1 year but not more than 4 years; and

7 Section 12A (2)

omit

fully

8 Section 12A (3)

substitute

 (3) A drug and alcohol treatment order, in suspending a sentence of imprisonment, must—

 (a) if the sentence is taken to have started on a day before the day the sentence is imposed—suspend the remaining part of the sentence beginning on the day the sentence is imposed; or

 (b) in any other case—fully suspend the sentence.

9 Section 12A (4) (a) and (b)

substitute

 (a) the offender must not be subject to more than 1 treatment order at any particular time; and

 (b) a treatment order may apply to more than 1 eligible offence dealt with in the same sentencing proceeding; and

10 Section 12A (4) (c)

omit

subsection (3)

substitute

subsection (1) (b)

11 Section 12A (9), definition of associated offence

omit

12 Section 12A (9), new definition of treatment program

insert

treatment program—see section 80Z (1) (a).

13 Drug and alcohol treatment orders—suitability
Section 80T (1), note

omit

14 Custodial part of treatment orders
Section 80W (1) (a)

omit

at least 1 year but not more than 4 years

substitute

a term mentioned in section 12A (1) (b)

15 Section 80W (1) (b)

omit

fully suspends the sentence of imprisonment

substitute

suspends the sentence of imprisonment as mentioned in section 12A (3)

16 Treatment and supervision part of treatment orders
Section 80X (2) (b) (ii)

substitute

 (ii) if the court earlier cancels the order, or the treatment and supervision part of the order—on the day of cancellation.

17 Core conditions
New section 80Y (1) (da)

insert

 (da) must submit to alcohol and drug testing under the [Corrections Management Act 2007](http://www.legislation.act.gov.au/a/2007-15) when directed by a member of the treatment and supervision team for the treatment order; and

18 Treatment program conditions
Section 80Z (2) (f)

omit

19 Section 80Z (2) (g)

omit

under alcohol or drug testing

substitute

for alcohol or a drug

20 Division 5.4A.7 heading

substitute

Division 5.4A.7 Drug and alcohol treatment orders—breaches etc

21 Breach of treatment order—other than commission of offence
New section 80ZB (1) (d) (vii) and (viii)

insert

 (vii) undergo an assessment for admission to a residential rehabilitation program and, if found suitable, participate in the program;

 (viii) any other condition, not inconsistent with this Act or the [Crimes (Sentence Administration) Act 2005](http://www.legislation.act.gov.au/a/2005-59), that the court considers appropriate;

22 New section 80ZB (2A)

insert

 (2A) The court may make an order under subsection (1) (e) for longer than 14 days if satisfied that treatment appropriate to achieve the objects of the treatment order will only become available to the offender at the end of the longer period.

23 Section 80ZB (3)

omit

an order made under subsection (1) has breached the order

substitute

a condition of an order made under subsection (1) (d) has breached the condition

24 Breach of treatment order—commission of offence
Section 80ZD (1)

substitute

 (1) This section applies if—

 (a) an offender to whom a treatment order applies commits an offence against a law in force in Australia or elsewhere (a further offence) while subject to the order; and

 (b) the further offence is punishable by imprisonment; and

 (c) the court—

 (i) convicts the offender of the further offence; or

 (ii) is satisfied that the offender was convicted by another court, in the ACT or elsewhere, of the further offence.

25 Section 80ZD (2)

omit

sentence imposed on the offender for the further offence is not a sentence of imprisonment

substitute

offender is not subject to a sentencing order for the further offence

26 Section 80ZD (2) (d)

substitute

 (d) make an order cancelling the treatment order.

27 Section 80ZD (3)

substitute

 (3) If the offender is subject to a sentencing order for the further offence, the court must make an order cancelling the treatment order.

Note A sentence of imprisonment suspended under a treatment order is not part of a suspended sentence order (see s 12 (7)).

 (3A) If the court cancels a treatment order under subsection (2) (d) or (3), the court must either—

 (a) impose the sentence of imprisonment that was suspended under the custodial part of the treatment order; or

 (b) if the court considers it appropriate in the circumstances—resentence the offender for each offence in relation to which the treatment order was made and in any way in which the court could deal with the offender if it had convicted the offender of each offence at the time of resentencing, other than by making an order under section 12A (Drug and alcohol treatment orders).

28 New section 80ZD (8)

insert

 (8) In this section:

sentencing order—see section 12A (9).

29 Drug and alcohol treatment orders—review
Section 80ZH (4) (b)

omit

section 80ZD (2) (d) (i)

substitute

section 80ZD (3A) (a)

30 Section 80ZH (4) (c)

omit

section 80ZD (2) (d) (ii)

substitute

section 80ZD (3A) (b)

31 Application—pt 5.5
Section 81 (c)

substitute

 (c) the sentence of imprisonment is not—

 (i) fully suspended; or

 (ii) suspended under the custodial part of a drug and alcohol treatment order.

Endnotes

1 Presentation speech

 Presentation speech made in the Legislative Assembly on 31 August 2023.

2 Notification

 Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 2023.

3 Republications of amended laws

 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au/).

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