

2023

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

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

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Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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

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## **A Bill for**

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on  
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 **3 Legislation amended**

10 This Act amends the *Crimes (Sentence Administration) Act 2005* and  
11 the *Crimes (Sentencing) Act 2005*.

1 **Part 2** **Crimes (Sentence**  
2 **Administration) Act 2005**

3 **4 Application—pt 5A.3**  
4 **Section 82B (b)**

5 *omit*

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

7 *substitute*

8 section 80ZD (3A) (a)

9 **5 Section 82B (c)**

10 *omit*

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

12 *substitute*

13 section 80ZD (3A) (b)

1       **Part 3**                               **Crimes (Sentencing) Act 2005**

2       **6**               **Drug and alcohol treatment orders**  
3               **Section 12A (1) (b)**

4               *substitute*

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

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

9                     (ii) if the offender is convicted of more than 1 eligible  
10                        offence—a total period of at least 1 year but not more than  
11                        4 years; and

12       **7**               **Section 12A (2)**

13               *omit*

14               fully

15       **8**               **Section 12A (3)**

16               *substitute*

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

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

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



- 1 **9 Section 12A (4) (a) and (b)**
- 2 *substitute*
- 3 (a) the offender must not be subject to more than 1 treatment order
- 4 at any particular time; and
- 5 (b) a treatment order may apply to more than 1 eligible offence dealt
- 6 with in the same sentencing proceeding; and
- 7 **10 Section 12A (4) (c)**
- 8 *omit*
- 9 subsection (3)
- 10 *substitute*
- 11 subsection (1) (b)
- 12 **11 Section 12A (9), definition of *associated offence***
- 13 *omit*
- 14 **12 Section 12A (9), new definition of *treatment program***
- 15 *insert*
- 16 *treatment program*—see section 80Z (1) (a).
- 17 **13 Drug and alcohol treatment orders—suitability**
- 18 **Section 80T (1), note**
- 19 *omit*

- 1 **14 Custodial part of treatment orders**  
2 **Section 80W (1) (a)**
- 3 *omit*
- 4 at least 1 year but not more than 4 years
- 5 *substitute*
- 6 a term mentioned in section 12A (1) (b)
- 7 **15 Section 80W (1) (b)**
- 8 *omit*
- 9 fully suspends the sentence of imprisonment
- 10 *substitute*
- 11 suspends the sentence of imprisonment as mentioned in  
12 section 12A (3)
- 13 **16 Treatment and supervision part of treatment orders**  
14 **Section 80X (2) (b) (ii)**
- 15 *substitute*
- 16 (ii) if the court earlier cancels the order, or the treatment and  
17 supervision part of the order—on the day of cancellation.
- 18 **17 Core conditions**  
19 **New section 80Y (1) (da)**
- 20 *insert*
- 21 (da) must submit to alcohol and drug testing under the *Corrections*  
22 *Management Act 2007* when directed by a member of the  
23 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*, that the court  
considers appropriate;

- 1 **22 New section 80ZB (2A)**
- 2 *insert*
- 3 (2A) The court may make an order under subsection (1) (e) for longer than
- 4 14 days if satisfied that treatment appropriate to achieve the objects
- 5 of the treatment order will only become available to the offender at
- 6 the end of the longer period.
- 7 **23 Section 80ZB (3)**
- 8 *omit*
- 9 an order made under subsection (1) has breached the order
- 10 *substitute*
- 11 a condition of an order made under subsection (1) (d) has breached
- 12 the condition
- 13 **24 Breach of treatment order—commission of offence**
- 14 **Section 80ZD (1)**
- 15 *substitute*
- 16 (1) This section applies if—
- 17 (a) an offender to whom a treatment order applies commits an
- 18 offence against a law in force in Australia or elsewhere
- 19 (a *further offence*) while subject to the order; and
- 20 (b) the further offence is punishable by imprisonment; and
- 21 (c) the court—
- 22 (i) convicts the offender of the further offence; or
- 23 (ii) is satisfied that the offender was convicted by another
- 24 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).

Section 28

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- 1 **28** **New section 80ZD (8)**
- 2 *insert*
- 3 (8) In this section:
- 4 *sentencing order*—see section 12A (9).
- 5 **29** **Drug and alcohol treatment orders—review**
- 6 **Section 80ZH (4) (b)**
- 7 *omit*
- 8 section 80ZD (2) (d) (i)
- 9 *substitute*
- 10 section 80ZD (3A) (a)
- 11 **30** **Section 80ZH (4) (c)**
- 12 *omit*
- 13 section 80ZD (2) (d) (ii)
- 14 *substitute*
- 15 section 80ZD (3A) (b)
- 16 **31** **Application—pt 5.5**
- 17 **Section 81 (c)**
- 18 *substitute*
- 19 (c) the sentence of imprisonment is not—
- 20 (i) fully suspended; or
- 21 (ii) suspended under the custodial part of a drug and alcohol
- 22 treatment order.

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## Endnotes

**1 Presentation speech**

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

**2 Notification**

Notified under the [Legislation Act](#) 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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