



AUSTRALIAN CAPITAL TERRITORY

Supervised Injecting Place Trial Act 1999

No. 90 of 1999

CONTENTS

Section

PART 1—INTRODUCTORY

- 1 Name of Act
- 2 Commencement
- 3 Definitions
- 4 Object

PART 2—OPERATION OF THE FACILITY

- 5 Declaration of facility
- 6 Declaration of operators
- 7 Law enforcement protocol
- 8 Publication of law enforcement protocol
- 9 Approval of internal management protocol
- 10 Criteria for assessing the facility
- 11 Exemption of staff and other persons from certain criminal proceedings
- 12 Exemption of persons from certain civil proceedings
- 13 Directions to the DPP
- 14 Things not permitted by this Act
- 15 Provision of injecting equipment at facility
- 16 Provision of information about the facility
- 17 Excluding persons from the facility

PART 3—ADVISORY COMMITTEE

- 18 Advisory committee
- 19 Functions and powers of committee

Supervised Injecting Place Trial No 90, 1999

CONTENTS—continued

Section	
20	Constitution
21	Chairperson and deputy chairperson
22	Cancellation of appointment
23	Resignation
24	Covening meetings
25	Leave of absence
26	Procedure
27	Quorum
28	Administration
	PART 4—CONSULTATION WITH COMMITTEE
29	Minister must consult committee
30	Criteria for deciding place for facility
31	Review of the operation of scientific trial
	PART 5—MISCELLANEOUS
32	Regulation-making power
33	Expiry



AUSTRALIAN CAPITAL TERRITORY

Supervised Injecting Place Trial Act 1999

No. 90 of 1999

An Act to allow for a trial of a supervised injecting place for drug dependent persons

[Notified in ACT Gazette S65: 23 December 1999]

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

PART 1—INTRODUCTORY

1 Name of Act

This Act is the *Supervised Injecting Place Trial Act 1999*.

2 Commencement

This Act commences on the day it is notified in the Gazette.

3 Definitions

In this Act, the following definitions apply unless the contrary intention appears:

advisory committee means the advisory committee established by section 18.

chairperson means the chairperson of the advisory committee.

deputy chairperson means the deputy chairperson of the advisory committee.

drug dependent person—see the Drugs of Dependence Act, subsection 3 (1).

drug of dependence—see the Drugs of Dependence Act, subsection 3 (1).

Drugs of Dependence Act means the *Drugs of Dependence Act 1989*.

facility means the place that is declared under section 5 to be the facility.

internal management protocol means a protocol approved under section 9.

law enforcement protocol means a protocol approved under section 8.

newspaper means a daily newspaper published and circulating in the Territory.

operator, of the facility, means a person who is declared under section 5 to be the operator of the facility.

prohibited substance—see the Drugs of Dependence Act, subsection 3 (1).

staff, of the facility, includes the following persons:

- (a) the operator of the facility;
- (b) a manager of the facility;
- (c) a person engaged by the operator or manager of the facility to provide services at the facility, whether under a contract of employment or otherwise;
- (d) a person engaged by the operator or manager of the facility to provide voluntary assistance at the facility.

substance means a drug of dependence or a prohibited substance.

supervised injecting place means a place that provides—

- (a) a supervised and hygienic environment for the self-administration of substances by drug dependent persons; and
- (b) access to clean equipment for such self-administration, and safe facilities for disposing of the equipment; and
- (c) an opportunity for users of the facility to be referred to counselling, medical treatment, detoxification and similar services.

4 Object

The object of this Act is to allow the temporary operation of a supervised injecting place, for the purpose of an independently evaluated scientific trial of—

- (a) the public health benefits and risks of such places; and
- (b) other matters relating to the operation of a supervised injecting place.

PART 2—OPERATION OF THE FACILITY

5 Declaration of facility

(1) The Minister may, by notice in the Gazette, declare a place to be the facility for this Act.

(2) The Minister may declare a place to be the facility only if—

- (a) the Minister is satisfied the place is a hygienic environment suitable for use—
 - (i) to give drug dependent persons access to clean equipment to allow such a person to administer a substance to himself or herself at the place; and
 - (ii) to provide for the safe disposal of the equipment; and
- (b) a law enforcement protocol has been approved under section 7 and published as required by section 8; and
- (c) an internal management protocol has been approved under section 9; and
- (d) approved criteria for the scientific trial have been presented to the Assembly as required by section 10; and
- (e) the place to be declared as the facility is one that has been recommended by the advisory committee.

(3) A declaration takes effect—

- (a) on the day on which it is published in the Gazette; or
- (b) if a later day is stated in the declaration—on that day.

(4) The Minister must publish a copy of the declaration in a newspaper.

6 Declaration of operators

(1) The Minister may, after consultation with the advisory committee, by notice in the Gazette, declare a person to be the operator of the facility.

(2) The Minister shall not declare a non-government organisation to be the operator other than in accordance with a recommendation of the advisory committee.

7 Law enforcement protocol

(1) The Minister may, after consultation with the advisory committee, by instrument approve a protocol that deals with—

- (a) the detection, investigation and prosecution of offences by a person who self-administers a substance at the facility; and
- (b) anything else necessary or convenient to be dealt with to give effect to the object of this Act;

as the law enforcement protocol for this Act.

(2) The Minister must ensure that a protocol is approved under this section that will allow the facility to function in accordance with the object of this Act.

(3) The Minister must not approve a protocol that has the effect of exempting a member of the staff of the facility from the operation of a law in relation to the possession, use or dealing in substances.

8 Publication of law enforcement protocol

(1) As soon as practicable after making an instrument under section 7, the Minister must publish in a newspaper notice of the effect of the instrument.

(2) The notice must state the places where a copy of the law enforcement protocol may be bought or, at any reasonable time, inspected.

(3) The Minister must ensure that—

- (a) copies of the law enforcement protocol may be bought at each place stated for that purpose in the notice; and
- (b) a copy of the law enforcement protocol is, at any reasonable time, available for inspection at each place stated for that purpose in the notice.

9 Approval of internal management protocol

(1) The Minister may, by instrument, approve a protocol relating to the facility as the internal management protocol for this Act.

(2) An operator shall manage the facility in accordance with the internal management protocol.

(3) Before making an instrument under subsection (1), the Minister must be satisfied that the following requirements will be met:

- (a) the facility must be under the supervision of a supervisor;
- (b) the supervisor must have general oversight of the clinical operations of the facility and responsibility for ensuring that adequate clinical procedures are used in the facility;
- (c) each member of staff of the facility who directly supervises injection of substances at the facility must be a doctor or a nurse;
- (d) each member of staff of the facility who issues equipment at the facility for use in injection of substances at the facility must hold an approval under Part 7 of the Drugs of Dependence Act;
- (e) the facility must contain, or provide satisfactory access to—
 - (i) primary health care services (including medical consultation and medical assessment services); and
 - (ii) drug and alcohol counselling services; and
 - (iii) health education services; and
 - (iv) drug and alcohol detoxification and rehabilitation services; and
 - (v) services for testing for blood borne diseases;
- (f) the health and safety of staff and users of the facility must be protected, having regard to the design of, and services provided by, the facility;
- (g) any recommendations of the advisory committee concerning the operation of the facility must be given effect;
- (h) any regulations concerning the operation of the facility must be complied with.

10 Criteria for assessing the facility

(1) The Minister must consult the advisory committee on the appropriate criteria, and must attempt to agree with the committee on a set of criteria.

(2) If a set of criteria is agreed, the Minister must approve them.

(3) If agreement is not possible—

- (a) the advisory committee must set out its preferred criteria (*alternative criteria*); and

- (b) the Minister must approve a set of criteria and a statement of the reasons why they are approved instead of the alternative criteria (*Minister's reasons*).
- (4) The Minister must present a copy of the approved criteria, together with any alternative criteria and Minister's reasons, to the Legislative Assembly within 3 sitting days after the approval.
- (5) In this section—
 - criteria* means criteria by which the scientific trial of the effects of giving drug dependent persons a place to self-administer a substance is to be assessed.

11 Exemption of staff and other persons from certain criminal proceedings

- (1) This section applies to a person who is or has been—
 - (a) a Minister or public employee; or
 - (b) a member of the staff of the facility; or
 - (c) the owner or occupier of the premises where the facility is situated.
- (2) A proceeding for a criminal offence (including an offence against Part 8 of the *Crimes Act 1900*) does not lie against a person to whom this section applies in relation to an act—
 - (a) done in good faith by the person in the person's capacity as a person to whom this section applies; and
 - (b) that consists of participating, or being in any other way concerned, in the establishment of the facility or in its operation as a supervised injecting place; and
 - (c) done in accordance with the requirements (if any) prescribed under the regulations.

12 Exemption of persons from certain civil proceedings

A civil proceeding does not lie against the Territory or anyone else in relation to the death of, or any loss or injury sustained by, someone (the *affected person*) caused by, or arising out of—

- (a) the self-administration by the affected person of a substance at the facility; or
- (b) anything else done by the affected person, whether or not at the facility, in relation to the self-administration.

13 Directions to the DPP

(1) The Attorney-General must give such directions to the DPP under subsection 20 (1) of the *Director of Public Prosecutions Act 1990* as are necessary to ensure that drug dependent persons are not deterred by fear of prosecution for an offence from making use of the facility in accordance with the object of this Act.

(2) The directions for subsection (1) must include, but are not limited to, a direction specifying circumstances in which the DPP is restrained from prosecuting a person who administers a substance to himself or herself at the facility for an offence against section 169 or 171 of the *Drugs of Dependence Act*.

14 Things not permitted by this Act

This Act does not permit—

- (a) the members of the staff of the facility to sell or possess or use a substance in the facility; or
- (b) a drug dependent person to sell or supply a substance in the facility; or
- (c) a drug dependent person to possess in the facility more than 0.5 grams of a substance; or
- (d) a drug dependent person to possess a substance outside the facility.

15 Provision of injecting equipment at facility

Despite any other provision of this Act or of another law of the Territory, it is lawful for a member of the staff of the facility to provide, at the facility, sterile equipment to another person for use by the other person, at the facility, to self-administer a substance, if the other person—

- (a) agrees to return the equipment after use for safe disposal; and
- (b) unless the member of the staff knows, or reasonably believes, that the other person has previously administered a substance to himself or herself—the other person has been offered counselling or rehabilitation or medical services at the facility.

16 Provision of information about the facility

Despite any other provision of this Act or of another law of the Territory, it is lawful for a person to give, for the purposes of this Act, information about the operation of the facility to—

- (a) the Legislative Assembly or a committee of the Assembly; or
- (b) the Minister or a public employee acting in the course of his or her duties on behalf of a Minister; or
- (c) the advisory committee; or
- (d) a person appointed in writing by the Minister to review the effectiveness of the facility in meeting the relevant objectives of this Act.

17 Excluding persons from the facility

(1) The operator or the person for the time being in charge of the facility may exclude a person from the facility by telling the person orally that he or she is excluded under this Act for a stated period that is not longer than 3 days.

(2) The operator or the person for the time being in charge of the facility may exclude a person from the facility by telling the person in writing that he or she is excluded under this Act for a stated period, giving brief reasons for the exclusion.

(3) A person who has been told under subsection (1) or (2) that he or she is excluded—

- (a) must leave the facility immediately; and
- (b) must not enter the facility during the stated period.

Maximum penalty (subsection (3)): 10 penalty units.

PART 3—ADVISORY COMMITTEE

18 Advisory committee

An advisory committee, to be called the Supervised Drug Injection Trial Advisory Committee, is established.

19 Functions and powers of committee

(1) The functions of the advisory committee are—

- (a) to make written recommendations to the Minister about the matters mentioned in subsection 29 (1); and

- (b) to perform such other functions as are conferred on the advisory committee by this Act, the regulations or another law of the Territory.

(2) The advisory committee has the power necessary or convenient for the performance of its functions.

20 Constitution

(1) Subject to subsection (2), the advisory committee consists of members made up as follows:

- (a) the chief executive;
- (b) 1 person nominated by, and representing, each of the following persons or bodies:
 - (i) the Australian Federal Police;
 - (ii) the Director of Public Prosecutions;
 - (iii) the ACT Legal Aid Office;
 - (iv) the ACT Ambulance Service;
 - (v) the Australian Institute of Criminology;
 - (vi) the Australian Medical Association;
 - (vii) the Canberra City Heart Business Association;
 - (viii) the Women's Information Resources and Education on Drugs and Dependency (WIRED);
 - (ix) an association representing residents of an area where the facility is, or is to be, located;
 - (x) Assisting Drug Dependents Inc;
 - (xi) National Centre for Epidemiology and Health;
 - (xii) Canberra Injectors Network;
 - (xiii) Australian Intravenous League;
 - (xiv) Alcohol and other Drugs Council of Australia;
 - (xv) the Winnunga Nimmityjah Aboriginal Health Service;
 - (xvi) the Youth Coalition of the ACT.

(2) The regulations may reduce or extend the membership of the advisory committee.

(3) Each member of the advisory committee is appointed by the Minister, by instrument, for a term not exceeding 3 years, and may be reappointed.

- (4) A member holds office—
- (a) for the term stated in the instrument of appointment; and
 - (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are stated in the instrument of appointment.
- (5) The committee is duly constituted, and may (subject to any relevant provision of this Act) perform its functions, despite any vacancy in its membership.

21 Chairperson and deputy chairperson

The Minister must appoint in writing—

- (a) a member of the advisory committee to be chairperson of the advisory committee; and
- (b) a member of the advisory committee to be deputy chairperson of the advisory committee.

22 Cancellation of appointment

- (1) The Minister may cancel the appointment of a member because of the misbehaviour or physical or mental incapacity of the member.
- (2) The Minister must cancel the appointment of a member if the member—
- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is absent for 3 consecutive meetings; or
 - (c) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer.
- (3) For paragraph (2) (b), an absence on leave is to be disregarded.

23 Resignation

A member may resign his or her office by signed notice of resignation given to the Minister.

24 Convening meetings

- (1) The chairperson, or if the chairperson cannot do so, the deputy chairperson, must call such meetings of the advisory committee—
- (a) as the chairperson or the deputy chairperson considers necessary for the efficient performance of its functions; or

- (b) as the Minister directs, by written notice given to the chairperson or the deputy chairperson.

(2) The chairperson must call a meeting of the advisory committee if asked by 3 members.

25 Leave of absence

The advisory committee may grant leave of absence (either before, or at the earliest practicable time after, the absence occurs) to a member.

26 Procedure

(1) The chairperson presides at a meeting of the advisory committee when he or she is present.

(2) If the chairperson is not present, the deputy chairperson presides.

(3) If the chairperson and the deputy chairperson are both absent from a meeting, the members present must elect a member present to preside.

(4) The member presiding at a meeting may give directions in relation to the procedure to be followed for the meeting.

(5) The member presiding at a meeting has a deliberative vote and, if there is an equality of votes, a casting vote.

(6) The advisory committee must keep minutes of its proceedings.

(7) A meeting of the advisory committee may be called by telephone, television or any other device which permits instantaneous audio communication, with or without instantaneous visual communication.

27 Quorum

At a meeting of the advisory committee, a majority of the members for the time being of the advisory committee is a quorum.

28 Administration

The advisory committee may make arrangements with the chief executive for the provision of administrative or secretarial services to the advisory committee.

PART 4—CONSULTATION WITH COMMITTEE

29 Minister must consult committee

- (1) The Minister must consult the advisory committee about—
 - (a) any place to be declared to be the facility; and

- (b) the operation of the facility (including the hours of operation); and
 - (c) the conditions of access to the facility; and
 - (d) the terms and conditions on which persons under 18 may attend the facility; and
 - (e) the way in which, and the criteria by which, the effectiveness of the operation of the facility may be evaluated.
- (2) If the Minister decides not to give effect to a recommendation of the advisory committee about a matter mentioned in subsection (1), the Minister must—
- (a) give a written statement of the reasons to the chairperson within 14 days after making the decision; and
 - (b) present a copy of the statement to the Legislative Assembly, within 3 sitting days after making the decision.

30 Criteria for deciding place for facility

In deciding whether to recommend a place to the Minister as the facility, the advisory committee must have regard to—

- (a) the cost of setting up and maintaining the facility at the place; and
- (b) the capacity to maintain the place in a hygienic condition; and
- (c) the capacity of the place to meet the objective of giving drug dependent persons using the place access to counselling, medical treatment, detoxification and other health promotion services; and
- (d) the means of safe disposal of injecting equipment after use.

31 Review of the operation of scientific trial

- (1) The advisory committee must, as soon as practicable after the end of each 6 months following the date of effect of the declaration of the facility, give the Minister a report on—
- (a) the operation of the facility during the 6 months; and
 - (b) the views of the advisory committee about the scientific trial during the 6 months.
- (2) The advisory committee must, before the expiry of this Act—
- (a) arrange an assessment of the scientific trial against the criteria approved under section 10; and

- (b) give to the Minister a report containing the assessment together with a recommendation either that the scientific trial continue for a stated time, or that it cease.
- (3) The Minister must present a copy of each report to the Legislative Assembly within 6 sitting days after receiving the report.

PART 5—MISCELLANEOUS

32 Regulation-making power

The Executive may make regulations for this Act.

33 Expiry

This Act expires 2 years after the day when the first declaration is made under section 5.

Endnote

Penalty units

1 Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 25 November 1999]