

2019

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 2019

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# **Sentencing (Drug and Alcohol Treatment Orders) Legislation Amendment Bill 2019**

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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 2019*.

5 **2 Commencement**

6 (1) This Act commences on a day fixed by the Minister by written notice.

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

9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see [Legislation Act](#),  
11 s 77 (1)).

12 (2) If this Act has not commenced within 12 months beginning on its  
13 notification day, it automatically commences on the first day after that  
14 period.

15 (3) The [Legislation Act](#), section 79 (Automatic commencement of  
16 postponed law) does not apply to this Act.

17 **3 Legislation amended**

18 This Act amends the following legislation:

- 19 • [Bail Act 1992](#)
- 20 • [Births, Deaths and Marriages Registration Act 1997](#)
- 21 • [Corrections Management Act 2007](#)
- 22 • [Crimes \(Sentence Administration\) Act 2005](#)
- 23 • [Crimes \(Sentencing\) Act 2005](#)
- 24 • [Supreme Court Act 1933](#).

1 **Part 2** **Bail Act 1992**

2 **4 Entitlement to bail—breach of sentence obligations**  
3 **New section 8A (1) (aa)**

4 *insert*

5 (aa) a treatment order obligation under the *Crimes (Sentencing)*  
6 *Act 2005*; or

1  
2  
3  
4  
5  
6  
7  
8

**Part 3 Births, Deaths and Marriages  
Registration Act 1997**

**5 Definitions—div 3.2  
Section 22A, definition of *restricted person*, paragraph (a)**

*after*

intensive correction order

*insert*

, drug and alcohol treatment order

1 **Part 4** **Corrections Management**  
2 **Act 2007**

3 **6** **When test sample *positive***  
4 **Section 133 (1)**

5 *omit*

6 when directed under this Act or the *Crimes (Sentence Administration)*  
7 *Act 2005*

8 *substitute*

9 when directed under this Act, the *Crimes (Sentence Administration)*  
10 *Act 2005* or the *Crimes (Sentencing) Act 2005*

11 **7** **Section 133 (1) (d)**

12 *omit*

13 for a person serving a term of imprisonment by intensive correction—

14 *substitute*

15 for a person serving a term of imprisonment by intensive correction,  
16 or suspended under a drug and alcohol treatment order—

17 **8** **Section 133 (5), new definition of *drug and alcohol***  
18 ***treatment order***

19 *insert*

20 ***drug and alcohol treatment order***—see the *Crimes (Sentencing)*  
21 *Act 2005*, section 12A.

1 **Part 5** **Crimes (Sentence**  
2 **Administration) Act 2005**

3 **9** **New chapter 5A**

4 *insert*

5 **Chapter 5A** **Drug and alcohol treatment**  
6 **orders**

7 **Part 5A.1** **Preliminary**

8 **82** **Application—ch 5A**

9 This chapter applies if the Supreme Court makes a drug and alcohol  
10 treatment order in relation to an offender.

11 **82A** **Meaning of *drug and alcohol treatment order*—ch 5A**

12 In this chapter:

13 *drug and alcohol treatment order*—see the *Crimes (Sentencing)*  
14 *Act 2005*, section 12A.

15 **Part 5A.2** **Drug and alcohol treatment**  
16 **orders—undertaking treatment**

17 **82B** **Drug and alcohol treatment order—drug and alcohol tests**

18 (1) The responsible director-general may direct an offender, orally or in  
19 writing, to give a test sample during the term of the offender's drug  
20 and alcohol treatment order.

- 1 (2) The provisions of the *Corrections Management Act 2007* relating to  
2 alcohol and drug tests apply in relation to a direction under this  
3 section and any sample given under the direction.
- 4 (3) In this section:
- 5 *health director-general*—see the *Crimes (Sentencing) Act 2005*,  
6 dictionary.
- 7 *responsible director-general* means 1 or both of the following:
- 8 (a) the health director-general;
- 9 (b) the director-general responsible for this Act.

### 10 **Part 5A.3 Drug and alcohol treatment** 11 **orders—effect of cancellation**

#### 12 **82C Application—pt 5A.3**

13 This part applies to a decision made by the Supreme Court under the  
14 following provisions of the *Crimes (Sentencing) Act 2005*:

- 15 (a) section 80ZA (1) (e) provisionally cancelling the suspension of  
16 a sentence under a treatment order;
- 17 (b) section 80ZA (1) (f), section 80ZC (2) (d) (i) or section  
18 80ZD (2) (a) cancelling the treatment order;
- 19 (c) section 80ZA (1) (g), section 80ZC (2) (d) (ii) or section  
20 80ZD (2) (b) cancelling the treatment order and resentencing the  
21 offender.

#### 22 **82D Drug and alcohol treatment order—effect of cancellation**

- 23 (1) This section applies to a decision of the court to suspend or cancel the  
24 offender's drug and alcohol treatment order.



1 **82F** **Authorised person may access data**

2 The director-general—

3 (a) may authorise a person, in writing, to have access to the data  
4 mentioned in section 82E for research, analysis and evaluation  
5 of drug and alcohol treatment orders; but

6 (b) must not allow access to the data in any form that would allow  
7 the identity of anyone who is the subject of a drug and alcohol  
8 treatment order to be worked out.

9 **10** **Dictionary, new definition of *drug and alcohol treatment***  
10 ***order***

11 *insert*

12 *drug and alcohol treatment order*, for chapter 5A (Drug and alcohol  
13 treatment orders)—see the *Crimes (Sentencing) Act 2005*,  
14 section 12A.

1 **Part 6** **Crimes (Sentencing) Act 2005**

2 **11** **Meaning of *offender***  
3 **Section 8, definition of *offender*, paragraph (b)**

4 *substitute*

5 (b) for—

- 6 (i) part 4.2 (Pre-sentence reports)—see section 40; and  
7 (ii) part 4.2A (Intensive correction assessments)—see  
8 section 46B; and  
9 (iii) a treatment order provision—see section 46I.

10 **12** **New section 8 (2)**

11 *insert*

12 (2) In this section:

13 ***treatment order provision*** means the following:

- 14 (a) section 12A (Drug and alcohol treatment orders);  
15 (b) part 4.2B (Drug and alcohol treatment assessments);  
16 (c) part 5.4A (Drug and alcohol treatment orders).

17 **13** **Suspended sentences**  
18 **New section 12 (7)**

19 *insert*

20 (7) To avoid doubt, a sentence of imprisonment suspended under the  
21 custodial part of a drug and alcohol treatment order is not a suspended  
22 sentence order.

**14 New section 12A**

*in part 3.2, insert*

**12A Drug and alcohol treatment orders**

(1) This section applies if—

(a) an offender pleads guilty to an eligible offence; and

*Note* A reference to an offender in this section does not include a young offender (see s 8 (b)).

(b) the Supreme Court convicts the offender of the offence and imposes a sentence of imprisonment of at least 1 year but not more than 4 years; and

(c) the offender is not subject to a sentencing order for another offence.

(2) The court may make an order (a *drug and alcohol treatment order*) that fully suspends a sentence of imprisonment for an eligible offence on condition that the offender agrees to complete a treatment program, but only if—

(a) the court is satisfied on the balance of probabilities that—

(i) the offender is dependent on alcohol or a controlled drug; and

(ii) the offender's dependency substantially contributed to the commission of the offence; and

(iii) the offender will live in the ACT for the term of the sentence; and

- 1 (b) the court considers the order appropriate, taking into account—
- 2 (i) the relevant sentencing considerations applying to the
- 3 offender; and
- 4 (ii) any information given to the court relating to the concerns
- 5 of a victim about the victim's safety or welfare; and
- 6 (iii) the matters set out under section 80O; and
- 7 *Note* Section 80O sets out the object of a drug and alcohol treatment
- 8 order.
- 9 (c) the offender gives informed consent to the order being made
- 10 after the offender is given—
- 11 (i) a clear explanation of the treatment order that contains
- 12 sufficient information to enable the offender to make a
- 13 balanced judgement about whether or not to consent to
- 14 serve the sentence under the order; and
- 15 (ii) an opportunity to ask any questions about the order, and
- 16 those questions have been answered and the offender
- 17 appears to have understood the answers.
- 18 (3) A treatment order may be made in relation to more than 1 eligible
- 19 offence for which an offender is convicted.
- 20 (4) However, if the court makes a treatment order in relation to more than
- 21 1 offence, the offender must not be subject to more than 1 treatment
- 22 order at any particular time.
- 23 (5) The court must not impose a lesser sentence of imprisonment on the
- 24 offender than the circumstances of the offence would ordinarily
- 25 require only to allow the court to make a treatment order.
- 26 (6) If the court makes a treatment order, the court must, as soon as
- 27 practicable after the order is made, ensure that written notice of the
- 28 order, together with a copy of the order, is given to the offender.

1 (7) Failure to comply with subsection (6) does not invalidate the  
2 treatment order.

3 (8) This section is subject to part 5.4A (Drug and alcohol treatment  
4 orders).

5 *Note* A treatment order may not be made in relation to an offender who is under  
6 18 years old (see s 46I).

7 (9) In this section:

8 ***eligible offence*** means an offence that is not—

9 (a) a serious violence offence; or

10 (b) a sexual offence.

11 ***sentencing order*** means any of the following:

12 (a) an order for imprisonment by full-time detention;

13 (b) a suspended sentence order;

14 (c) an intensive correction order;

15 (d) a deferred sentence order;

16 (e) a parole order;

17 (f) an order under a law in force in Australia that corresponds to an  
18 order mentioned in paragraphs (a) to (e).

19 ***serious violence offence*** means an offence against any of the  
20 following provisions of the *Crimes Act 1900*:

21 (a) section 12 (Murder);

22 (b) section 15 (Manslaughter);

23 (c) section 19 (Intentionally inflicting grievous bodily harm);

24 (d) section 20 (Recklessly inflicting grievous bodily harm).

25 ***sexual offence*** means an offence against the *Crimes Act 1900*, part 3.

1 **15 Section 22**

2 *substitute*

3 **22 Application—pt 3.4**

4 This part applies if a court makes any of the following orders for an  
5 offender in relation to an offence:

- 6 (a) an intensive correction order;  
7 (b) a drug and alcohol treatment order;  
8 (c) a good behaviour order.

9 **16 Non-association and place restriction orders—maximum  
10 period  
11 Section 24 (1) (a) (i)**

12 *after*

13 intensive correction order

14 *insert*

15 or a drug and alcohol treatment order

**17 New part 4.2B***insert***Part 4.2B Drug and alcohol treatment assessments****46H Meaning of assessor—pt 4.2B**

In this part:

*assessor* means—

- (a) a public servant whose functions include preparing drug and alcohol treatment assessments; or
- (b) a person with similar functions under the law of a State.

*Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).**46I Application—pt 4.2B**

(1) This part applies if—

- (a) either of the following applies to a person who is an adult (the *offender*):
  - (i) the offender pleads guilty to an offence;
  - (ii) the offender indicates to the court an intention to plead guilty to an offence; and
- (b) the offence is an eligible offence.

(2) In this section:

*eligible offence*—see section 12A (9).

- 1     **46J       Drug and alcohol treatment assessments—order**
- 2             (1) This section applies if the court is considering whether to make a drug
- 3                 and alcohol treatment order for an offender.
- 4             (2) The court may—
- 5                 (a) order an assessment of the offender (a *drug and alcohol*
- 6                     *treatment assessment*); and
- 7                 (b) adjourn the proceeding for the assessment to be prepared; and
- 8                 (c) order the responsible director-general to provide a copy of the
- 9                     assessment to the court or any other person.
- 10            (3) However, the court must order the responsible director-general to
- 11                 prepare the drug and alcohol treatment assessment before making a
- 12                 drug and alcohol treatment order.
- 13            (4) The responsible director-general must arrange for an assessor to
- 14                 prepare a drug and alcohol treatment assessment ordered by the court.
- 15            (5) The drug and alcohol treatment assessment must address the matters
- 16                 mentioned in section 46K.
- 17            (6) In this section:
- 18                 *responsible director-general* means 1 or both of the following:
- 19                     (a) the health director-general;
- 20                     (b) the director-general responsible for this Act.

1 **46K Drug and alcohol treatment assessments—drug and**  
 2 **alcohol treatment assessment matters**

3 For section 46J (5), the matters for assessing the offender’s suitability  
 4 to comply with a drug and alcohol treatment order are the matters  
 5 mentioned in table 46K, column 2.

**Table 46K Assessment of suitability—drug and alcohol treatment order**

column 1 item	column 2 matter	column 3 indication of unsuitability
1	degree of dependence on alcohol or a controlled drug	major problem with alcohol or a controlled drug unlikely to change under drug and alcohol treatment order
2	psychiatric or psychological condition	major psychiatric or psychological disorder likely to prevent compliance with a drug and alcohol treatment order
3	medical condition	medical condition likely to prevent compliance with a drug and alcohol treatment order
4	criminal record and response to previous court orders	serious criminal record or substantial noncompliance with previous court orders
5	employment and personal circumstances	potential impracticability of compliance with a drug and alcohol treatment order
6	participation and degree of compliance with drug and alcohol treatment assessment	substantial noncompliance with assessment
7	living circumstances of the offender	inability or refusal to live in ACT member of offender’s household does not consent to living with the offender while the offender is subject to a drug and alcohol treatment order

- 1 **46L Drug and alcohol treatment assessments—powers of**  
2 **assessors**
- 3 (1) In preparing the drug and alcohol treatment assessment for the  
4 offender, the assessor may—
- 5 (a) investigate any matter the assessor considers appropriate; and  
6 (b) ask any of the following to provide information for the purpose  
7 of the assessment:
- 8 (i) an administrative unit;  
9 (ii) a territory authority;  
10 (iii) a statutory office-holder;  
11 (iv) for an assessment for an offender to be sentenced for a  
12 family violence offence—an approved crisis support  
13 organisation under the *Domestic Violence Agencies*  
14 *Act 1986*;  
15 (v) a victim of the offence;  
16 (vi) any other entity.
- 17 (2) If an entity mentioned in subsection (1) (b) (i), (ii) or (iii) is asked to  
18 provide information, the entity must comply with the request as soon  
19 as practicable.
- 20 (3) If an entity gives information honestly and with reasonable care in  
21 response to a request under subsection (1), the giving of the  
22 information is not—
- 23 (a) a breach of confidence, professional etiquette, ethics or a rule of  
24 professional misconduct; or  
25 (b) a ground for a civil proceeding for defamation, malicious  
26 prosecution or conspiracy.

1 (4) This section does not limit any other power of the assessor to obtain  
2 information for the purpose of the drug and alcohol treatment  
3 assessment.

4 (5) A regulation may make provision in relation to the preparation and  
5 provision of drug and alcohol treatment assessments.

6 (6) In this section:  
7 *information* includes a document.

8 **46M Drug and alcohol treatment assessments—provision to**  
9 **court**

10 The drug and alcohol treatment assessment may be given to the court  
11 either orally or in writing.

12 **46N Drug and alcohol treatment assessments—**  
13 **cross-examination**

14 (1) The prosecutor and the defence may cross-examine the assessor who  
15 prepared the drug and alcohol treatment assessment given to the  
16 court.

17 (2) In this section:  
18 *defence* means—

19 (a) any lawyer representing an offender; or

20 (b) if the offender is not legally represented—the offender.

21 **18 Application—pt 5.2**  
22 **Section 64 (2), definition of *excluded sentence of***  
23 ***imprisonment*, new paragraph (aa)**

24 *insert*

25 (aa) a sentence of imprisonment suspended under the custodial part  
26 of a drug and alcohol treatment order; or

**19** **New part 5.4A***insert***Part 5.4A** **Drug and alcohol treatment orders****Division 5.4A.1** **Preliminary****80M** **Definitions—pt 5.4A**

In this part:

*core conditions*, of a treatment order—see section 80X.*member* means—

- (a) in relation to the treatment and supervision team—an entity included in the team; and
- (b) in relation to the treatment order team—an entity included in the team.

*treatment and supervision team* means the following entities:

- (a) the court;
- (b) the health director-general;
- (c) the director-general responsible for this Act;
- (d) an entity prescribed by regulation.

*treatment order obligations*, of an offender subject to a treatment order—see section 80P.*treatment order team* means the following entities:

- (a) the court;
- (b) the director-general;

- 1 (c) the health director-general;  
 2 (d) the director of public prosecutions;  
 3 (e) the legal aid commission;  
 4 (f) the chief police officer;  
 5 (g) an entity the court considers necessary to include in the team for  
 6 a particular treatment order;  
 7 (h) an entity prescribed by regulation.

8 **Examples of entity for par (g)**

- 9 1 the director-general responsible for the *Housing Assistance Act 2007*  
 10 2 an Aboriginal and Torres Strait Islander representative  
 11 3 an entity that administers or provides services in relation to drug and  
 12 alcohol treatment assessments or treatment orders  
 13 4 if the offender subject to a treatment order is legally represented other  
 14 than as a result of a grant of legal aid—the lawyer representing the  
 15 offender

16 *treatment program conditions*, of a treatment order—see  
 17 section 80Y.

18 **80N Application—pt 5.4A**

19 This part applies if the court is considering making, or makes, a  
 20 treatment order for an offender.

21 **80O Objects of drug and alcohol treatment orders**

22 The objects of making a treatment order in relation to an offender is  
 23 to—

- 24 (a) facilitate the rehabilitation of the offender by providing a  
 25 judicially supervised, therapeutically oriented and integrated  
 26 treatment regime; and  
 27 (b) reduce the offender's dependency on alcohol or a controlled  
 28 drug; and

- 1 (c) reduce the health risks associated with the offender's  
2 dependency on alcohol or controlled drugs; and
- 3 (d) assist with the offender's integration into the community; and
- 4 (e) promote community safety by reducing the level of criminal  
5 activity caused by alcohol or controlled drug dependence in  
6 offenders.

7 **Division 5.4A.2 Drug and alcohol treatment orders—**  
8 **general**

9 **80P Drug and alcohol treatment orders—offender obligations**

10 The obligations of an offender subject to a treatment order (the  
11 *treatment order obligations*) are to comply with—

- 12 (a) the core conditions and treatment program conditions of the  
13 order; and
- 14 (b) an obligation created by any other order made by the court in  
15 relation to the treatment order.

16 **80Q Court may make ancillary orders to achieve object of**  
17 **treatment order**

- 18 (1) The court may make any order that is not inconsistent with this Act  
19 or the *Crimes (Sentence Administration) Act 2005*, that the court  
20 considers appropriate to achieve the object of a treatment order.
- 21 (2) Without limiting subsection (1), the court may make an order—
- 22 (a) rewarding the offender in 1 or more of the following ways:
- 23 (i) decreasing how often the offender must undergo  
24 counselling, treatment or other supervision under the  
25 treatment order;

- 1 (ii) decreasing how often the offender must be tested for  
2 alcohol or drugs under the treatment order;
- 3 (iii) another way prescribed by regulation; or
- 4 (b) sanctioning the offender in 1 or more of the following ways:
- 5 (i) increasing how often the offender must undergo  
6 counselling, treatment or other supervision under the  
7 treatment order;
- 8 (ii) increasing how often the offender must be tested for  
9 alcohol or drugs under the treatment order;
- 10 (iii) another way prescribed by regulation.

11 **Division 5.4A.3 Drug and alcohol treatment orders—**  
12 **eligibility and suitability**

13 **80R Application—div 5.4A.3**

14 This division applies if the court is considering whether to make a  
15 treatment order when sentencing an offender for an offence.

16 **80S Drug and alcohol treatment orders—eligibility**

17 The court must not make a treatment order for an offender unless  
18 satisfied that—

- 19 (a) a treatment order is suitable for the offender under section 80T;  
20 and
- 21 (b) it is appropriate for the offender to serve a sentence suspended  
22 in accordance with a treatment order; and
- 23 (c) appropriate arrangements for the administration of a treatment  
24 order are practicable.

25 *Note* A treatment order may not be made for a young offender (see s 8 and  
26 s 12A)

- 1 **80T Drug and alcohol treatment orders—suitability**
- 2 (1) The court must not make a treatment order for an offender unless the
- 3 court has considered—
- 4 (a) a pre-sentence report, if any, prepared for the offender in the
- 5 proceeding; and
- 6 (b) a drug and alcohol treatment assessment for the offender.
- 7 *Note* The court cannot make a treatment order if the court sentences the
- 8 offender to a term of imprisonment of less than 1 year or more than
- 9 4 years (see s 12A).
- 10 (2) In deciding whether to make a treatment order for the offender, the
- 11 court must consider the following:
- 12 (a) any recommendations in the drug and alcohol treatment
- 13 assessment;
- 14 (b) any medical report about the offender given to the court;
- 15 (c) any evidence given by an assessor who prepared the drug and
- 16 alcohol treatment assessment;
- 17 (d) any evidence given, or submission made, by a member of the
- 18 treatment order team about the offender.
- 19 (3) Subsection (2) does not limit the matters that the court may consider.
- 20 (4) In considering the drug and alcohol treatment assessment, the court
- 21 must consider any indicators of unsuitability mentioned in table 46K,
- 22 column 3 that are stated in the assessment to apply to the offender.
- 23 (5) The court may make, or decline to make, a treatment order for the
- 24 offender despite—
- 25 (a) any recommendation in the drug and alcohol treatment
- 26 assessment; or
- 27 (b) any evidence given by the person who prepared the drug and
- 28 alcohol treatment assessment; or

- 1 (c) any evidence given, or submission made, by a member of the  
2 treatment order team.
- 3 (6) The court must record reasons for its decision to make, or decline to  
4 make, a treatment order for the offender if the drug and alcohol  
5 treatment assessment recommends that the offender—
- 6 (a) is suitable but the court decides not to make a treatment order  
7 for the offender; or
- 8 (b) is not suitable but the court decides to make a treatment order  
9 for the offender.
- 10 (7) Failure to comply with subsection (6) does not invalidate the  
11 treatment order.

## 12 **Division 5.4A.4 Drug and alcohol treatment orders—** 13 **content**

### 14 **80U Content of treatment orders**

15 A treatment order must—

- 16 (a) state the offence to which the order relates; and
- 17 (b) record the offender's conviction for the offence; and
- 18 (c) state the total period for which the order is in force; and
- 19 (d) include—
- 20 (i) a custodial part; and
- 21 (ii) a treatment and supervision part; and
- 22 (e) require the offender to sign an undertaking to comply with the  
23 order and any other obligations under the *Crimes (Sentence*  
24 *Administration) Act 2005* for the period the order is in force.

1 **Division 5.4A.5 Drug and alcohol treatment orders—**  
2 **custodial part**

3 **80V Custodial part of treatment orders**

- 4 (1) A treatment order must include a part (the *custodial part*) that—
- 5 (a) imposes a sentence of imprisonment of at least 1 year but not  
6 more than 4 years; and
- 7 (b) fully suspends the sentence of imprisonment, unless the court  
8 under this part either provisionally cancels the suspension or  
9 cancels the treatment order.
- 10 (2) Despite section 65 (Nonparole periods—court to set), the court must  
11 not set a nonparole period for a sentence of imprisonment imposed on  
12 an offender under the custodial part of the treatment order.
- 13 (3) A sentence of imprisonment suspended under the custodial part is to  
14 be served by full-time detention at a correctional centre only if the  
15 court makes an order under this part cancelling the treatment order  
16 and imposing the sentence of imprisonment.
- 17 *Note* The court may cancel a treatment order and sentence an offender to full-  
18 time detention or decide to resentence an offender to a different sentence  
19 including full-time detention (see s 80ZA, s 80ZC and s 80ZD).
- 20 (4) If the court makes an order under this part cancelling the treatment  
21 order and imposing a sentence of imprisonment, the court—
- 22 (a) must state when the period of full-time detention starts and ends;  
23 and
- 24 (b) despite section 65, may set a nonparole period for the period of  
25 full-time detention if the period of full-time detention is more  
26 than 30 days.

- 1 (5) Part 5.2 (Imprisonment—nonparole periods) applies to a nonparole  
2 period set under paragraph (4) (b) as if the nonparole period had been  
3 set under that part.

4 *Note* Pt 5.2 deals with setting and review of nonparole periods.

5 **Division 5.4A.6 Drug and alcohol treatment orders—**  
6 **treatment and supervision part**

7 **80W Treatment and supervision part of treatment orders**

- 8 (1) A treatment order must include a part (the *treatment and supervision*  
9 *part*) that imposes the order's—  
10 (a) core conditions; and  
11 (b) treatment program conditions.
- 12 (2) The treatment and supervision part of a treatment order is in force for  
13 the period that—  
14 (a) starts when the treatment order is made; and  
15 (b) ends—  
16 (i) on a day stated by the court; or  
17 (ii) if the order is earlier cancelled by the court under this  
18 part—on the day the court cancels the order.
- 19 (3) However, the treatment and supervision part of a treatment order must  
20 not end later than the day the custodial part of the order ends.

21 **80X Core conditions**

- 22 (1) The *core conditions*, of a treatment order, while the treatment and  
23 supervision part of the order is in force, are that an offender subject  
24 to the order—  
25 (a) must not commit another offence against a law in force in  
26 Australia or elsewhere; and

- 1 (b) if the offender is charged with an offence against a law in force  
2 in Australia or elsewhere—must tell the responsible  
3 director-general about the charge as soon as possible, but within  
4 2 days after the day the offender becomes aware of the charge;  
5 and
- 6 (c) must report to a member of the treatment and supervision team  
7 for the treatment order at the places and times directed by a  
8 member of the team; and
- 9 (d) must receive visits from a member of the treatment and  
10 supervision team for the treatment order at the times directed by  
11 a member of the team; and
- 12 (e) must not return a positive test sample under alcohol and drug  
13 testing; and
- 14 (f) if the offender’s contact details change—must tell the  
15 responsible director-general about the change as soon as  
16 possible, but not later than 1 day after the day the offender  
17 becomes aware of the change of details; and
- 18 (g) must not—
- 19 (i) leave or stay outside the ACT without the permission of  
20 the court for a continuous period of more than 24 hours;  
21 and
- 22 (ii) if the court grants the offender permission to leave or stay  
23 outside the ACT—fail to comply with any condition of the  
24 court’s permission; and
- 25 (h) must—
- 26 (i) appear before the court at the times directed by the court;  
27 and
- 28 (ii) comply with the directions of the court; and

- 1 (i) must comply with any other reasonable direction of—
- 2 (i) a member of the treatment and supervision team for the
- 3 order; or
- 4 (ii) a person prescribed by regulation.
- 5 (2) The court must not amend a condition mentioned in subsection (1).
- 6 (3) In this section:
- 7 *contact details*, of an offender, means the offender's—
- 8 (a) home address or phone number; and
- 9 (b) work address or phone number; and
- 10 (c) mobile phone number.
- 11 *positive*, for a test sample—see the *Corrections Management*
- 12 *Act 2007*, dictionary.
- 13 *responsible director-general* means 1 or both of the following:
- 14 (a) the health director-general;
- 15 (b) the director-general responsible for this Act.
- 16 **80Y Treatment program conditions**
- 17 (1) The *treatment program conditions* of a treatment order, while the
- 18 treatment and supervision part of the order is in force, are that an
- 19 offender subject to the order—
- 20 (a) must complete a program of treatment in relation to the alcohol
- 21 or drug dependency of the offender (a *treatment program*); and
- 22 (b) must comply with any other condition imposed by the court as
- 23 necessary to achieve the purpose of the treatment program.

- 1           (2) Without limiting subsection (1) (b), the court may impose 1 or more  
2           of the following conditions, requiring the offender to:
- 3           (a) submit to medical, psychiatric or psychological treatment that is  
4           relevant to the offender's alcohol or drug dependency;
- 5           (b) submit to detoxification at a stated facility that is not a  
6           correctional centre;
- 7           (c) participate in counselling or programs for treatment relevant  
8           to—
- 9                 (i) the offender's alcohol or drug dependency; or  
10                (ii) the offending behaviour of the offender;
- 11           (d) attend meetings with a stated person or class of person for the  
12           treatment order;
- 13           (e) participate in vocational, educational or employment programs  
14           or courses;
- 15           (f) submit to alcohol and drug testing;
- 16           (g) wear a device that detects alcohol or drug usage by the offender;
- 17           (h) install a device or equipment at the offender's home address;
- 18           (i) live at a stated place for a stated period.

19           **80Z           Good behaviour order to apply after treatment and**  
20           **supervision part ends**

21           If the treatment and supervision part of a treatment order ends before  
22           the end of the sentence of imprisonment suspended under the  
23           custodial part, the court must make a good behaviour order that—

- 24           (a) begins on the day after the treatment and supervision part ends;  
25           and
- 26           (b) ends on the day the custodial part ends.

1 **Division 5.4A.7 Drug and alcohol treatment orders—**  
2 **breaches**

3 **80ZA Breach of treatment order—other than commission of**  
4 **offence**

- 5 (1) If the court is satisfied on the balance of probabilities that an offender  
6 subject to a treatment order has breached a condition of the treatment  
7 order, other than by the commission of an offence, the court must  
8 make 1 or more of the following orders:
- 9 (a) confirming the treatment and supervision part of the order with  
10 no further action to be taken on the breach;
  - 11 (b) give the offender a warning about the need to comply with the  
12 offender's treatment order obligations;
  - 13 (c) amending the treatment and supervision part in accordance with  
14 subsection (2);
  - 15 (d) requiring the offender to comply with 1 or more of the following  
16 conditions:
    - 17 (i) stay at a stated place, other than a correctional centre, for  
18 a stated period of up to 14 days;
    - 19 (ii) stay at the stated place between stated hours for a stated  
20 period;
    - 21 (iii) surrender a firearm in the offender's possession or control;
    - 22 (iv) not acquire a firearm;
    - 23 (v) not consume alcohol or take drugs;
    - 24 (vi) not drive a motor vehicle under particular circumstances,  
25 or at all;

- 1 (e) provisionally cancelling the suspension of the sentence of  
2 imprisonment under the custodial part, for a period of at least 3  
3 days but not more than 14 days, and reinstating the suspension  
4 at the end of the period;
- 5 (f) cancelling the treatment order and imposing, in full or in part,  
6 the sentence of imprisonment that was suspended under the  
7 custodial part of the treatment order;
- 8 (g) cancelling the treatment order and resentencing the offender for  
9 each offence in relation to which the treatment order was made  
10 in any way in which the court could deal with the offender if, at  
11 the time of resentencing, it had convicted the offender of each  
12 offence, other than by making an order under section 12A (Drug  
13 and alcohol treatment orders).
- 14 (2) The treatment and supervision part of the order may be amended by  
15 adding or removing treatment program conditions.
- 16 **Examples—treatment program condition**
- 17 1 frequency of treatment
- 18 2 degree of supervision
- 19 3 frequency of drug and alcohol testing
- 20 (3) If the court is satisfied on the balance of probabilities that an offender  
21 who is subject to an order made under subsection (1) has breached the  
22 order, the court must—
- 23 (a) confirm or amend the order; or
- 24 (b) cancel the order and make another order under subsection (1).
- 25 (4) The court may make an order under this section on its own initiative  
26 or on application by—
- 27 (a) the offender; or
- 28 (b) the director of public prosecutions; or

- 1 (c) a member of the treatment and supervision team; or  
2 (d) a person prescribed by regulation.
- 3 (5) If the court makes an order under this section, the court must, as soon  
4 as practicable after the order is made, ensure that written notice of the  
5 order, together with a copy of the order, is given to—
- 6 (a) the offender; and  
7 (b) any other person who the court considers should receive the  
8 notice.
- 9 (6) Failure to comply with subsection (5) does not invalidate the  
10 treatment order.
- 11 (7) In this section:
- 12 *firearm*—see the *Firearms Act 1996*, section 6.  
13 *motor vehicle*—see the *Road Transport (General) Act 1999*,  
14 dictionary.
- 15 **80ZB Provisional breach of treatment order—offender in**  
16 **custody**
- 17 (1) This section applies if the court is satisfied that an offender to whom  
18 a treatment order applies—
- 19 (a) has been charged with an offence against a law in force in  
20 Australia or elsewhere; and  
21 (b) is in custody waiting for criminal proceedings for the offence to  
22 be decided.
- 23 (2) The court must make an order provisionally suspending the treatment  
24 and supervision part of the order until—
- 25 (a) the offender is no longer in custody for the offence; or  
26 (b) the court makes an order under this division cancelling the  
27 treatment order.

- 1           (3) Time served by the offender on remand for the offence counts toward  
2           the sentence imposed under the custodial part of the treatment order.
- 3           *Note*     The court may review a treatment order at any time and for any reason if  
4           it is in the interests of justice (see s 80ZG).
- 5           (4) In this section:
- 6           *in custody* means—
- 7           (a) remanded in custody under a law in force in Australia or  
8           elsewhere; or
- 9           (b) detained at a place under the *Mental Health Act 2015*, or a  
10          corresponding law in force in Australia or elsewhere.

11   **80ZC     Breach of treatment order—commission of offence**

- 12          (1) This section applies if the court—
- 13           (a) convicts an offender subject to a treatment order of an offence  
14           punishable by imprisonment (a *further offence*); or
- 15           (b) is satisfied that an offender subject to a treatment order was  
16           convicted by another court, in the ACT or elsewhere, of an  
17           offence punishable by imprisonment (also a *further offence*).
- 18          (2) If the sentence imposed on the offender for the further offence is not  
19          a sentence of imprisonment, the court may—
- 20           (a) make no order in relation to the treatment order; or
- 21           (b) give the offender a warning about the need to comply with the  
22           offender's treatment order obligations; or
- 23           (c) make an order amending the treatment and supervision part of  
24           the order; or

- 1 (d) make an order cancelling the treatment order and either—
- 2 (i) impose the sentence of imprisonment that was suspended
- 3 under the custodial part of the treatment order; or
- 4 (ii) if the court considers it appropriate in the circumstances—
- 5 resentence the offender for each offence in relation to
- 6 which the treatment order was made and in any way in
- 7 which the court could deal with the offender if it had
- 8 convicted the offender of each offence at the time of
- 9 resentencing, other than by making an order under
- 10 section 12A (Drug and alcohol treatment orders).
- 11 (3) If the sentence imposed on the offender for the further offence is a
- 12 sentence of imprisonment, the court must make an order cancelling
- 13 the treatment order and imposing the sentence of imprisonment that
- 14 was suspended under the custodial part of the treatment order.
- 15 (4) If the court orders the imposition of a sentence of imprisonment under
- 16 this section, the court—
- 17 (a) must order that the offender serve all or part of the sentence by
- 18 full-time detention at a correctional centre; and
- 19 (b) may reduce the sentence by any period served in custody under
- 20 the treatment and supervision part of the treatment order, taking
- 21 into account the extent to which the offender complied with that
- 22 part of the order.
- 23 (5) The court may make an order under this section on its own initiative
- 24 or on application by—
- 25 (a) the offender; or
- 26 (b) the director of public prosecutions; or
- 27 (c) a member of the treatment and supervision team; or
- 28 (d) a person prescribed by regulation.

- 1           (6) If the court makes an order under this section, the court must, as soon  
2           as practicable after the order is made, ensure that written notice of the  
3           order, together with a copy of the order, is given to—
- 4           (a) the offender; and
- 5           (b) any other person the court considers should receive the notice.
- 6           (7) Failure to comply with subsection (6) does not invalidate the  
7           treatment order.

8           **80ZD       Cancellation of treatment order—unsatisfactory**  
9           **circumstances**

- 10          (1) The court may cancel a treatment order if it is satisfied on the balance  
11          of probabilities that—
- 12          (a) before the order was made, inaccurate or misleading information  
13          about the offender or the offender's circumstances was given to  
14          the court or an assessor who prepared a drug and alcohol  
15          treatment assessment in relation to the offender, and as a result  
16          of the information, the making of the order was inappropriate;  
17          or
- 18          (b) the offender will not be able to comply with a condition of the  
19          offender's treatment order because the circumstances of the  
20          offender have materially changed since the order was made; or
- 21          (c) the offender is unwilling or unlikely to comply with a condition  
22          of the offender's treatment order; or
- 23          (d) the continuation of the treatment and supervision part of the  
24          order is not likely to achieve the objects of the order; or
- 25          (e) the offender withdraws the offender's consent to the treatment  
26          order; or
- 27          (f) the offender poses an unacceptable risk to the safety or welfare  
28          of a person.

- 1 (2) If the court decides to cancel a treatment order under subsection (1)  
2 the court must make an order cancelling the treatment order and,  
3 taking into account the extent to which the offender has complied  
4 with the treatment and supervision part of the order, either—
- 5 (a) impose the sentence of imprisonment that was suspended under  
6 the custodial part of the treatment order; or
- 7 (b) if the court considers it appropriate in the circumstances—  
8 resentence the offender for each offence in relation to which the  
9 treatment order was made and in any way in which the court  
10 could deal with the offender if it had convicted the offender of  
11 each offence at the time of resentencing, other than by making  
12 an order under section 12A (Drug and alcohol treatment orders).
- 13 (3) If the court orders the imposition of a sentence of imprisonment under  
14 this section, the court—
- 15 (a) must order whether the offender is to serve all or part of the  
16 sentence by full-time detention at a correctional centre; and
- 17 (b) may reduce the sentence by any period served in custody under  
18 the treatment and supervision part of the treatment order, taking  
19 into account the extent to which the offender complied with that  
20 part of the order.
- 21 (4) The court may make an order under this section on its own initiative  
22 or on application by—
- 23 (a) the offender; or  
24 (b) the director of public prosecutions; or  
25 (c) a member of the treatment and supervision team; or  
26 (d) a person prescribed by regulation.
- 27 (5) This section applies in addition to section 80ZA and section 80ZC.

- 1           (6) If the court makes an order under this section, the court must, as soon  
2           as practicable after the order is made, ensure that written notice of the  
3           order, together with a copy of the order, is given to—
- 4           (a) the offender; and
- 5           (b) any other person the court considers should receive the notice.
- 6           (7) Failure to comply with subsection (6) does not invalidate the order.
- 7       **80ZE       Cancellation of treatment order—satisfactory**  
8       **circumstances**
- 9           (1) The court may, on its own initiative, make an order cancelling the  
10          treatment and supervision part of a treatment order if it is satisfied on  
11          the balance of probabilities that—
- 12          (a) the offender has fully or substantially complied with the  
13          conditions of the offender’s treatment order; and
- 14          (b) the continuation of the treatment order is no longer necessary to  
15          achieve the objects of the order.
- 16          (2) To avoid doubt, a treatment order that is only made up of a custodial  
17          part because of an order of the court under subsection (1) is taken to  
18          be a treatment order for this part.
- 19          (3) If the court makes an order under this section, the court must, as soon  
20          as practicable after the order is made, ensure that written notice of the  
21          order, together with a copy of the order, is given to the offender.
- 22          (4) Failure to comply with subsection (3) does not invalidate the order.

1 **Division 5.4A.8 Drug and alcohol treatment orders—**  
2 **review by court**

3 **80ZF Application—pt 5.4A.8**

4 This division applies to the review of a treatment order.

5 **80ZG Drug and alcohol treatment orders—review**

6 (1) The court may review a treatment order for an offender at any time  
7 and for any reason if it is satisfied the review is in the interests of  
8 justice.

9 *Note* The court may also review the offender's bail at any time, see the *Bail*  
10 *Act 1992*, s 41A.

11 (2) The court may review a treatment order—

12 (a) on its own initiative; or

13 (b) on application by—

14 (i) the defence; or

15 (ii) any other member of the treatment order team.

16 (3) The court may carry out a review under this division in any way it  
17 considers appropriate.

18 (4) However, the court must conduct a hearing for a review in which the  
19 court is considering making an order under—

20 (a) section 80ZA (1) (e) provisionally cancelling the suspension of  
21 a sentence under a treatment order; or

22 (b) section 80ZA (1) (f), section 80ZC (2) (d) (i) or section  
23 80ZD (2) (a) cancelling the treatment order; or

24 (c) section 80ZA (1) (g), section 80ZC (2) (d) (ii) or section  
25 80ZD (2) (b) cancelling the treatment order and resentencing the  
26 offender.

- 1 (5) An entity mentioned in subsection (2) (b) may appear at a hearing of  
2 the review.
- 3 (6) In this section:
- 4 *defence* means—
- 5 (a) any lawyer representing an offender; or
- 6 (b) if the offender is not legally represented—the offender.
- 7 **80ZH Drug and alcohol treatment orders—notice of review**
- 8 (1) The court must, as far as practicable, give written notice of a proposed  
9 review of the offender’s treatment order to the defence and the other  
10 members of the treatment order team.
- 11 (2) The notice must set out—
- 12 (a) the reasons for the review; and
- 13 (b) if a hearing for the review is to be conducted—the time and  
14 place for the review.
- 15 (3) Failure to comply with this section does not invalidate the review.
- 16 (4) In this section:
- 17 *defence* means—
- 18 (a) any lawyer representing an offender; or
- 19 (b) if the offender is not legally represented—the offender.

1 **Division 5.4A.9 Drug and alcohol treatment orders—**  
2 **miscellaneous**

3 **80ZI Arrest warrant—breach of treatment order obligations**

- 4 (1) A judge may issue an arrest warrant if satisfied, by information on  
5 oath, that an offender subject to a treatment order has failed to  
6 comply, or will fail to comply, with the offender's treatment order  
7 obligations.
- 8 (2) The warrant must—
- 9 (a) be in writing signed by the judge; and
- 10 (b) be directed to all police officers or a named police officer; and
- 11 (c) state briefly the matter on which the information is based; and
- 12 (d) order the offender's arrest and bringing the offender before the  
13 court.
- 14 (3) A police officer who arrests the offender under the warrant must, as  
15 soon as practicable, bring the offender before the court.

16 **80ZJ Arrest without warrant—breach of treatment order**  
17 **obligations**

- 18 (1) This section applies if a police officer believes, on reasonable  
19 grounds, that—
- 20 (a) an offender has failed to comply, or will fail to comply, with any  
21 of the offender's treatment order obligations; and
- 22 (b) it is not practicable under the circumstances for the officer to  
23 obtain a warrant under section 80ZI.
- 24 (2) The police officer may arrest the offender without a warrant.
- 25 (3) If the police officer arrests the offender, the police officer must, as  
26 soon as practicable, bring the offender before the court.

- 1 **80ZK Drug and alcohol treatment orders—outstanding**  
2 **warrants**
- 3 (1) This section applies if a warrant is issued for an offender’s arrest  
4 under this division.
- 5 (2) Any period for which the warrant is outstanding and the offender is  
6 not in custody does not count toward the sentence imposed under the  
7 custodial part of the order.
- 8 (3) In this section:  
9 *in custody* means—
- 10 (a) remanded in custody under a law in force in Australia or  
11 elsewhere; or
- 12 (b) detained at a place under the *Mental Health Act 2015*, or a  
13 corresponding law in force in Australia or elsewhere.
- 14 **80ZL Immunity from criminal liability**
- 15 (1) An offender’s admission of guilt in relation to a relevant drug offence  
16 is not admissible in evidence in a proceeding in relation to that  
17 offence if the admission was made during—
- 18 (a) the preparation of a drug and alcohol treatment assessment of  
19 the offender; or
- 20 (b) administering a treatment order for the offender.
- 21 (2) The admission, and any evidence obtained as a result of the  
22 admission, is not admissible in a criminal proceeding against the  
23 offender for the relevant drug offence.
- 24 (3) However, subsections (1) and (2) do not prevent a criminal  
25 proceeding against the offender for the relevant drug offence if  
26 evidence of the offence exists in a form other than the admission made  
27 by the offender or the evidence obtained as a result of the admission.

- 1 (4) In this section:  
2 *relevant drug offence* means the following offences:  
3 (a) an offence against the *Drugs of Dependence Act 1989*,  
4 section 162, 164, 169 or 171;  
5 (b) an offence prescribed by regulation.

6 **80ZM No appeal against particular decisions**

- 7 (1) No appeal may be made against a decision of the court—  
8 (a) not to order a drug and alcohol treatment assessment; or  
9 (b) not to make a treatment order; or  
10 (c) that an offender breached a condition of a treatment order; or  
11 (d) to amend the treatment and supervision part of a treatment order.  
12 (2) Subsection (1) applies despite any other territory law.

13 **80ZN Evidentiary certificates**

- 14 (1) A certificate that appears to be signed by or for any of the following  
15 and which states any matter relevant to anything done or not done  
16 under this part in relation to a person, is evidence of the matter:  
17 (a) the director-general;  
18 (b) the health director-general;  
19 (c) the director-general responsible for the *Corrections*  
20 *Management Act 2007*;  
21 (d) an analyst.  
22 (2) The court must accept a certificate mentioned in subsection (1) as  
23 proof of the matters stated in it if there is no evidence to the contrary.

1 (3) The director-general may appoint analysts for this part.

2 *Note* For the making of appointments (including acting appointments), see the  
3 [Legislation Act](#), pt 19.3.

4 (4) An appointment under subsection (3) is a notifiable instrument.

5 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

6 (5) In this section:

7 *analyst* means a person who is appointed as an analyst under  
8 subsection (3).

9 **80ZO Information exchanges—treatment order team**

10 (1) This section applies to personal information about an offender held  
11 by a member of the treatment order team that was obtained as a result  
12 of a drug and alcohol treatment assessment, or the administration or  
13 making of a treatment order for the offender.

14 (2) A member of the treatment order team may give the information to  
15 another member of the treatment order team for the purposes of the  
16 other member.

17 (3) This section is additional to any other Act that provides for  
18 information to be given by, or to, a member of the treatment order  
19 team.

20 *Note* A reference to an Act includes a reference to the statutory instruments  
21 made or in force under the Act, including any regulation (see [Legislation](#)  
22 [Act](#), s 104).

23 (4) In this section:

24 *personal information*, about an offender, means any information or  
25 opinion relating to the offender, whether true or not, and whether  
26 recorded in a document or not.

1 **80ZP Review of drug and alcohol treatment order provisions**

- 2 (1) The Minister must—
- 3 (a) review the operation and effectiveness of provisions of this Act  
4 and any other territory law relating to drug and alcohol treatment  
5 orders, as soon as practicable after the end of 3 years after this  
6 section commences; and
- 7 (b) present a report of the review to the Legislative Assembly before  
8 the end of the section's 4th year of operation.
- 9 (2) This section expires 5 years after the day it commences.

10 **20 Dictionary, definition of *assessor*, new paragraph (c)**

11 *insert*

- 12 (c) for part 4.2B (Drug and alcohol treatment assessments)—see  
13 section 46H.

14 **21 Dictionary, new definition of *core conditions***

15 *insert*

16 *core conditions*, of a treatment order, for part 5.4A (Drug and alcohol  
17 treatment orders)—see section 80X.

18 **22 Dictionary, definition of *court***

19 *substitute*

20 *court* means—

- 21 (a) for this Act generally, if a *court* has sentenced an offender, made  
22 an order or given a direction—the same court, however  
23 constituted; and
- 24 (b) for part 4.2B (Drug and alcohol treatment assessments) and  
25 part 5.4A (Drug and alcohol treatment orders)—the Supreme  
26 Court.

**23 Dictionary, new definitions**

1 *insert*

2 *custodial part*, of a treatment order—see section 80V.

3 *drug and alcohol treatment assessment*—see section 46J.

4 *drug and alcohol treatment order*—see section 12A.

5 *health director-general* means the director-general responsible for  
6 the *Health Records (Privacy and Access) Act 1997*.

7 *member*—

8 (a) in relation to the treatment and supervision team, for part 5.4A  
9 (Drug and alcohol treatment orders)—see section 80M; and

10 (b) in relation to the treatment order team, for part 5.4A (Drug and  
11 alcohol treatment orders)—see section 80M.

12 *treatment and supervision part*, of a treatment order—see  
13 section 80W.

14 *treatment and supervision team*, for part 5.4A (Drug and alcohol  
15 treatment orders)—see section 80M.

16 *treatment order*, means a drug and alcohol treatment order.

17 *treatment order obligations*, of an offender subject to a treatment  
18 order, for part 5.4A (Drug and alcohol treatment orders)—see  
19 section 80P.

20 *treatment order team*, for part 5.4A (Drug and alcohol treatment  
21 orders)—see section 80M.

22 *treatment program*, for part 5.4A (Drug and alcohol treatment  
23 orders)—see section 80Y.

24 *treatment program conditions*, of a treatment order, for part 5.4A  
25 (Drug and alcohol treatment orders)—see section 80Y.  
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## Part 7 Supreme Court Act 1933

### 24 Exercise of jurisdiction by associate judge New section 9 (1) (c)

*insert*

(c) the jurisdiction of the court under part 2AA (Drug and alcohol treatment order jurisdiction).

### 25 New part 2AA

*insert*

## Part 2AA Drug and alcohol treatment order jurisdiction

### 37SA Definitions—pt 2AA

In this part:

*drug and alcohol treatment order*—see the [Crimes \(Sentencing\) Act 2005](#), section 12A.

*member*—

(a) in relation to the treatment and supervision team—see the [Crimes \(Sentencing\) Act 2005](#), section 80M; and

(b) in relation to the treatment order team—see the [Crimes \(Sentencing\) Act 2005](#), section 80M.

*treatment and supervision team*—see the [Crimes \(Sentencing\) Act 2005](#), section 80M.

1            *treatment order judge* means a judge exercising the jurisdiction of  
2            the court under this part.

3            *treatment order team*—see the *Crimes (Sentencing) Act 2005*,  
4            section 80M.

5            **37SB      Drug and alcohol treatment order jurisdiction**

6            (1) The court has jurisdiction under this part to hear and decide all matters  
7            relating to a drug and alcohol treatment order in relation to an  
8            offender.

9            (2) Without limiting subsection (1), a matter relating to an offender's  
10           drug and alcohol treatment order includes the following:

11           (a) the making of the order;

12           (b) the conditions of the order;

13           (c) an amendment of the order;

14           (d) the offender's compliance with the order;

15           (e) the cancellation or suspension of the order;

16           (f) any matter reasonably necessary for the proper administration,  
17           operation of, or compliance with, the order.

18           **37SC      Court not bound by rules of evidence**

19           When exercising its jurisdiction under this part, the court is not bound  
20           by the rules of evidence and may inform itself of anything in a manner  
21           it thinks appropriate.

1     **37SD     Treatment order judge may convene case conference**

- 2             (1) The treatment order judge may, from time to time, convene a case  
3             conference with the treatment order team or the treatment and  
4             supervision team in relation to any matter relating to a drug and  
5             alcohol treatment order, including the following:
- 6                 (a) the making, amending or cancelling the order;
- 7                 (b) giving directions that are reasonably necessary to achieve the  
8                 object of the order;
- 9                 (c) consulting with other members of the treatment and supervision  
10                team or members of the treatment order team;
- 11                (d) monitoring the progress of the offender subject to the order;
- 12                (e) managing the work of the court in relation to drug and alcohol  
13                treatment orders.
- 14             (2) It is not a requirement of a case conference under this section that the  
15             offender or the offender's lawyer be present unless the court directs  
16             otherwise.

17     **26     Dictionary, new definitions**

18             *insert*

19             ***drug and alcohol treatment order***, for part 2AA (Drug and alcohol  
20             treatment order jurisdiction)—see the *Crimes (Sentencing) Act 2005*,  
21             section 12A.

22             ***member***, for part 2AA (Drug and alcohol treatment order  
23             jurisdiction)—

- 24                 (a) in relation to the treatment and supervision team—see the  
25                 *Crimes (Sentencing) Act 2005*, section 80M; and
- 26                 (b) in relation to the treatment order team—see the *Crimes*  
27                 *(Sentencing) Act 2005*, section 80M.

- 1            *treatment and supervision team*, for part 2AA (Drug and alcohol  
2            treatment order jurisdiction)—see the *Crimes (Sentencing) Act 2005*,  
3            section 80M.
- 4            *treatment order*, for part 2AA (Drug and alcohol treatment order  
5            jurisdiction)—see the *Crimes (Sentencing) Act 2005*, dictionary.
- 6            *treatment order judge*, for part 2AA (Drug and alcohol treatment  
7            order jurisdiction)—see section 37SA.
- 8            *treatment order team*, for part 2AA (Drug and alcohol treatment  
9            order jurisdiction)—see the *Crimes (Sentencing) Act 2005*,  
10           section 80M.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 6 June 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 2019.

**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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