



# Community Drug Management Youth Act 2018

## **Youth Act No. 3 of 2018**

**A Youth Act to amend the *Drugs Misuse Act 1986*, the *Drugs Misuse Regulation 1987* and the *Penalties and Sentencing Act 1992* to manage the use, provision, sale and supply of drugs within the community, and to provide safe and just rehabilitative and deterrent penalties for offenders under the Act**

**[Assented to 26 October 2018]**





# Community Drug Management Youth Act 2018

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The Parliament of Queensland enacts—

## Part 1 Preliminary

### 1 Short title

This Youth Act may be cited as the *Community Drug Management Youth Act 2018*.

### 2 Commencement

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

### 3 Main purpose of Youth Act

The main purpose of this Youth Act is to provide guidelines as to acceptable and lawful drug use, implement effective, fair and deterring penalties, assist the community through rehabilitative options and decriminalise the use of cannabis.

### 4 Definitions

In this Youth Act—

*affected by bankruptcy action* means the individual, in any jurisdiction—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

*cannabis* means the plant *Cannabis Sativa*.

*centre* means a medically supervised injecting centre.

*child* means persons under 18 years of age.

*client* means a person who is approved to attend a licensed medically supervised injecting centre to inject a permitted quantity of a supervised injecting centre drug.

*convicted of an offence* means that a person has been found guilty of the offence by a Court or tribunal, on a plea of guilty or otherwise, irrespective of whether a conviction was recorded.

*cultivation or manufacturing of drugs* means the chemical and/or physical production of a drug.

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**director** means a registered medical practitioner appointed to supervise a licensed medically-supervised injecting centre, subject to this Act.

**dispensary** means a government approved, pharmacist run, retail store which provides public access to cannabis and cannabis products, both for medicinal and recreational purposes under this Act.

**follow up** means an appointment scheduled by administrative staff at an injecting centre, following a period of 30 days or more after the conclusion of a rehabilitative service, to ensure the effectiveness of said rehabilitation.

**illegal substance** means any substance or drug that is illegal under Australian Law, to use, produce or sell.

**Injection** means to introduce an injecting centre drug into a body with a syringe.

**injecting centre** means a licensed, medically-supervised facility where the injecting of injecting centre drugs is permitted.

**injecting centre drug** means a drug of dependence, or a drug listed at Part 6 of this Act.

**licensee** means a registered medical practitioner who has been appointed by the Chief Executive as holder of an injecting centre license.

**license** means the license issued to a licensee.

**opioid treatment program** means the current drug therapy protocol as specified in *Health (Drugs and Poisons) Regulation 1996 - Pharmacist Opioid Treatment Program*.

**permitted quantity** means a prescribed amount of an injecting centre drug.

**permitted site** means a lot approved by the Chief Executive.

**personal use** means, in relation to a quantity of cannabis, an acceptable quantity of cannabis for use by an individual, specifically 10 grams or less.

**possession** means having physical ownership of any drug in a volume that does not exceed the threshold amount specified.

**prosecution information notice** means a written notice that informs a person that a claim is intended to be brought in a Court or tribunal to the effect that—

- (a) a substance was a controlled substance; or
- (b) specified equipment was used in the production of a relevant dangerous drug; or
- (c) a substance was a medicine or poison or veterinary chemical product.



## Division 2 Tax Provisions

### 8 Act amended

This part amends the *Drugs Misuse Regulation 1987*.

### 9 Insertion of taxation rates for Cannabis

After section 30(2)

*Insert—*

Excise rates for cannabis will be half of those of tobacco products as outlined in the Excise Tariff Act 1921 (Cth).

- (1) The tax revenue from sale of cannabis will be used—
  - (a) 60% for drug rehabilitation; and
  - (b) 40% for Roadside Random Drug Testing.

### 10 Transitional provision for Drugs Misuse Act 1986

After section 31(2)

*Insert—*

to remove doubt, it is declared that sections 5 to 8A inclusive of the *Drugs Misuse Regulations 1987* continues to apply in relation to trafficking, supplying, and producing cannabis.

## Division 3 Insertion of Cannabis for Personal Use

### 11 Act amended

This part amends the *Drugs Misuse Act 1986*.

### 12 Insertion of Cannabis for Personal Use clause

At 9(1)(d) (Possessing dangerous drugs)

*omit, insert—*

- (d) in any other case where the dangerous drug is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1 or 2 – 15 years imprisonment, with the exceptions of—
  - (i) if the thing specified is the controlled substance cannabis, cannabinoids or THC, and the quantity does not exceed that of personal use – no penalty; and



- (ii) if the thing specified is the controlled substance cannabis, cannabinoids or THC, and the quantity exceeds that of personal use – 3 years imprisonment.

**13 Unlawful Distribution of Cannabis**

- (1) A person who is found to be illegally selling cannabis will receive a penalty of a 12-month license suspension and a fine of \$5,000.
- (2) Illegally selling cannabis is—
  - (a) violating the conditions of a Cannabis Distribution License
  - (b) distributing Cannabis in any matter that violates the Drugs Misuse Act (1987)

**Division 4 Certified Licensing for Sale of Cannabis for Personal Use**

**14 Licensed Vendors Requirements**

- (1) all licensed cannabis vendors are required to comply with the sections outlined in part 5A (Information requirements for controlled substances and controlled things) of the *Drugs Misuse Act 1986* (Qld).

**15 Unlawful growing of Cannabis**

- (1) A person who is found to be actively growing cannabis plants is guilty of unlawful growing, unless—
  - (a) they are a licensed grower as outlined in part 5A of the *Drugs Misuse Act 1986*.

**Division 5 Dispensaries**

**16 Persons Authorised to Enter**

- (1) All persons
  - (a) Over the age of 18; or
  - (b) With the supervision of an adult;may enter a dispensary.
- (2) Dispensary staff may request to inspect photo identification or any person within the dispensary at any time

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- (3) Dispensary staff have the right to refuse sale to any person, on the basis of compliance with section 104 of this Act
- (4) Dispensaries must have a duress alert system in place to—
  - (a) Notify Queensland Police Service
  - (b) Ensure greater safety for staff members

**17 Approval under Public Health (Medicinal Cannabis) Act 2016 (Qld)**

- (1) dispensaries must be operated by an appropriately qualified and approved pharmacist
  - (a) the pharmacist must be granted dispensing approval from the chief executive under the *Public Health (Medicinal Cannabis) Act 2016* (Qld) and have proof of such approval, for example—
    - (i) a certificate of approval; or
    - (ii) a government issued dispenser identity card

**18 Lawful Sale Limits**

- (1) if a person intends to purchase cannabis or a cannabis product and cannot provide evidence of a medicinal cannabis licence, the lawful sale limit is 300 grams
- (2) if a person is able to provide evidence of a medicinal cannabis license, the lawful sale is determined by that person's prescription

**19 Sale Register**

- (1) for each sale of cannabis or cannabis product, a dispensary must record—
  - (a) the date of purchase; and
  - (b) the details of the product/s purchased; and
  - (c) the name and address of the purchaser; and
  - (d) a copy of the receipt.
- (2) To purchase any cannabis product, a person must provide photo identification
- (3) A dispensary must request photo identification for all persons who appear to be under the age of 25  
Maximum penalty – 250 units

**20 Right to Refuse Sale**

- (1) dispensary staff may refuse sale if a person appears to be—
  - (a) intoxicated; or

- (b) aggressive; or
- (c) threatening; or
- (d) dangerous; or
- (e) a public nuisance

## **21 Protections from Liability**

- (1) providing the chief executive is satisfied that all duties under—
  - (a) this Act; and
  - (b) the *Public Health (Medicinal Cannabis) Act 2016* (Qld); and
  - (c) the *Public Health (Medicinal Cannabis) Regulation 2017* (Qld)have been discharged and that no negligence has occurred, a dispensary will not be liable for any damage, illness, injury or death that may occur as a result of consumption of cannabis or cannabis products purchased from that dispensary.

## **Division 5 Retailing Laws**

### **22 Storing of Cannabis**

- (1) All Cannabis product must be kept out of sight of customers and be concealed by an opaque covering; and
- (2) Only one point of sale is allowed at a retail outlet; and
- (3) Cannabis products must only be kept at a retail outlet on the seller's side of the point of sale, or in a room or other place not accessible by customers.

### **23 Drop in Audits**

- (1) Retailers will be subject to random audits by police officers to ensure they are in keeping with retailing provisions.
- (2) If a retailer is found to be in breach the retailing provisions, they will be provided with 7 days to rectify the problem.
- (3) If a retailer is still found to be in breach following subsection 2, the retailer will have their license revoked.

### **24 Unlawful Interference with Cannabis**

- (1) All Cannabis must undergo mandatory testing to ensure that the Cannabis has not been laced or interfered with

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- (2) If a retailer is found to be selling cannabis that has been laced with a dangerous drug, the retailer will have their license revoked and face a \$15,000 fine.
- (3) If a person, not including a licensed retailer, has interfered with, or laced cannabis, they will face a \$15,000 fine
- (4) Lacing is—
  - (a) embedding a dangerous drug into cannabis, regardless of the user's knowledge of this occurrence
- (5) Interfering with Cannabis is—
  - (a) altering the Cannabis in a manner that violates the *Drugs Misuse Act 1987* or the *Drugs Misuse Regulation Act 1987*
  - (b) altering the Cannabis without properly notifying the user

## **Division 6 Driving Under the Influence of Cannabis**

- (1) It is unlawful to drive within 24 hours of ingesting cannabis
- (2) A person found with cannabis in their system, who is operating a motor vehicle, commits an offence
- (3) The penalty is for driving under the influence of cannabis is—
  - (a) a minimum of 6-month rehabilitation period and a minimum fine of \$360; and
  - (b) a maximum of 12-month rehabilitation period and a maximum fine of \$5000
- (4) Additionally, the accused will face—
  - (a) a minimum of 2 demerit points can be added to any license
  - (b) a maximum of 6 demerit points if on an open licence; or
  - (c) a maximum of 4 demerit points if on a Provisional licence

## **Part 3 Legislation enabling the trial or permanent establishment of medically supervised injecting centres**

### **25 Act amended**

This part amends the *Drugs Misuse Act 1986*.

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**26 Insertion of the medically supervised injecting centres**

After Part 7 section 147

*insert—*

**148 Licensing for medically supervised injecting centres**

- (1) Responsible authorities assigned by the Attorney General may issue a license to an entity for the purposes of operating a medically supervised injecting centre facility at a permitted site.
- (2) A centre may not be established without a license which permits a centre to be established at that site by that entity.
- (3) The license for a medically supervised injecting centre license must not be issued unless—
  - (a) the aforementioned delegated authority has approved, internal management protocols for the proposed licensee; and
  - (b) the delegate is satisfied that all other prescribed requirements have been satisfied.
- (4) The delegate is permitted to refuse to issue the medically supervised injecting centre license to an entity based on criteria determined by the Chief Executive.
- (5) The delegate may impose any conditions on the license which they see fit, as long as these conditions were also approved by the agency assigned with the task by the Attorney General.
- (6) When submitting a proposal, the proposed licensee, or an entity on their behalf, must submit their drafted internal management protocols. These protocols include but are not limited to—
  - (a) The positions of medical supervisors at the clinic and their qualifications;
  - (b) The limit for each kind of drug that can be injected which is to be determined by the chief executive utilising to up-to-date scientific research for safe limits;
  - (c) A list of the safe and clean injection equipment that will be available to clientele;
  - (d) Information regarding the staff to clientele ratio;

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- (e) An outline of the clinics proposed administration and record keeping systems to ensure it meets standards determined by the chief executive;
  - (f) An outline of the typical clientele experience from their entry to exit point of the clinic;
  - (g) Specific procedures for clients that staff believe may be pregnant. These procedures must abide by best practice principles as outlined by Queensland Health; and
- (7) Specific procedures for clients that staff identify as under the age of 18. These procedures must abide by best practice principles as outlines by Queensland Health.
  - (8) For the purposes of determining whether to issue the medically supervised injecting centre licence, the delegate must consider whether to approve the draft internal management protocols.
  - (9) The delegate may approve the draft internal management protocols if satisfied that they are sufficient in supporting the issuance of the medically supervised injecting centre license.
  - (10) The delegate may only approve the medically supervised injecting centre license if the draft protocols would require that they abide to subsection 7 of this Part.
  - (11) Internal management protocols may only be amended with the delegate's written permission.
  - (12) If a license is issued, its validity commences on the day specified on the license.
  - (12) An issued license remains valid until the day of which the first of the following occurs—
    - (a) the day specified on the licence
    - (b) the license is surrendered by the licensee
      - (i) The licensee may be required to surrender their license if there is proven malpractice at the clinic, current investigations or reasons determined by the chief executive.
    - (c) the license is revoked by the delegate.
      - (i) After consultation with the delegate, written or otherwise, the licensee may surrender the medically supervised injecting centre license at any time of their choice.

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**149 Internal management protocols**

- (1) All centres must have a director.
  - (a) the director must be a practitioner appointed by the licensee to—
    - (i) oversee the centre’s operations; and
    - (ii) ensure compliance with this Section; and
    - (iii) ensure compliance with license conditions.
  - (b) apart from the director, no other registered medical practitioner can be appointed by the licensee to undertake this role.
  - (c) a director may not also be a supervisor.
- (2) All centres must have supervisors.
  - (a) a supervisor must be a practitioner appointed by the licensee to;
    - (i) oversee the centre’s clinical operations; and
    - (ii) ensure the adequacy of the clinical procedures used at the centre; and
    - (iii) assess whether all practitioners at the centre which they supervise undertake the appropriate procedures outlined in this Part.
- (3) The role of a supervisor or director may be reallocated in their absence.
  - (a) any references in this section to the Director or a supervisor of a licensed medically supervised injection centre also includes a reference to any individual acting in that role; these individuals must be medical practitioners who fulfil the role of a director or supervisor in only the following circumstances—
    - (i) during the absence of a person appointed to that role including but not limited to illness, maternity or paternity leave, or compassionate leave; or
    - (ii) while there is a vacancy in that role.
  - (b) all acting directors and supervisors of a centre must be a member of the staff for that centre or another accredited centre.

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- (4) The centre must be operated so as to facilitate access or referrals of their clientele to services which have a rehabilitation focus.
  - (a) the centre must serve as a gateway for clients to all of the following facilities—
    - (i) primary health care services in sectors such as mental health, medical consultation and medical assessment;
    - (ii) drug and alcohol treatment services such as rehabilitation centres;
    - (iii) health education services;
    - (iv) opioid treatment programs;
    - (v) services for testing for blood-borne diseases and sexually transmissible diseases;
    - (vi) services which involve a needle and syringe exchange program.
- (5) Official protocol must exist that ensures that all staff ascertain whether a person seeking entry to the centre is a child.
- (6) The health and safety of the centre's staff and clientele must be protected, having regard to the centre's design and services.
- (7) Procedures must be established to ensure the ability for the centre's staff to comply with the requirements of the license conditions and internal management protocols.
- (8) All staff working in the centre must have completed a Working with Children Check; and
- (9) obtain a Blue Card.

## **150 License conditions**

- (1) The medically supervised injecting centre license is subject to the following conditions—
  - (a) A child's use of the centre must be limited to—
    - (i) only those aged 15 years and over are permitted to use the centre for injecting purposes;
    - (ii) anyone aged under 17 using the centres for injecting purposes are to be monitored closely to ensure that they are using only permissible quantities of permissible drugs for children; and



- (iii) any person over 13 is permitted to access informational facilities such as health education services, mental health services and medical consultations.
- (b) the internal management protocols must be observed at all times; and
- (c) the licensee must be notified of any conditions revoked, implemented or altered by the responsible authorities; and
- (d) the location of the centre must abide to the following conditions—
  - (i) to not be within a kilometre from a school, child care institution, kindergarten etc.
  - (ii) to abide to the protocol for medical establishments as implemented by Queensland Health.

## **151 Penalties**

- (1) This section is applicable if—
  - (a) a condition imposed on a medically supervised injecting centre license has been contravened; or
  - (b) the internal management protocols have been contravened; or
  - (c) the director of the centre is not a fit person to be concerned in the management of the centre; or
  - (d) the responsible authorities are satisfied that the premises are not fit for the centre; or
  - (e) the responsible authorities are satisfied that the license holder is not a fit or proper entity (person or corporation) to hold the license.
- (2) By written notice to the licensee, if a condition specified in subsection 1 has been met, the responsible authorities may:
  - (a) issue a warning or reprimand to the licensee; or
  - (b) suspend the medically supervised injecting centre license for a specified period or until further notice. Note, suspension does not alter the original license expiration date; or
  - (c) impose a new condition on the licence; or

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(d) require the internal management protocols to be amended or replaced; or

(e) amend the license.

## **152 Decriminalisation of possession for clients in the local vicinity**

- (1) A person who is a client of the licensed medically supervised injecting centre who uses, possesses or administers a drug of dependence that is an injecting centre drug, in a permitted quantity, in the centre is exempt from liability for an offence against Part 2 Section 9 of the *Drugs Misuse Act 1986* which is constituted by that use, supply or administration of that drug of dependence.
- (2) If using the centre as a gateway to rehabilitation services, a person will not be prosecuted for possessing drugs if—
  - (a) They are seen to be following a strict rehabilitation program;
  - (b) They consent to check ups and follow up appointments; and
- (3) Rehabilitation staff are satisfied that the person is no longer a user outside of the centre.
- (4) The exemption outlined in subsection (1) does not apply for the supply of drugs whether or not it was an approved injecting centre drug.
- (5) A person referred to in subsection (1) must be authorised by this Act to carry out that activity.
- (6) Nothing in this Section exempts a person from any condition or obligation imposed by or under any court or tribunal order.

## **153 Liability of staff and amendments to the Criminal Code (Qld)**

- (1) Exemptions from criminal liability of the licensee and staff
  - (a) The licensee and each member of the staff of the licensed medically supervised injecting centre, including the director and supervisors, is exempt from liability for an offence against Part 2 Section 6 and Section 9 of the *Drugs Misuse Act 1986* when the action was constituted by the supply or possession of a drug of dependence in the centre if the supply or

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possession occurs in the operation of the centre, whether or not the drug of dependence is an injecting centre drug in a permitted quantity of that injecting centre drug.

- (b) A person referred to in subsection 1(a) is taken for the purposes of this Act to be authorised to carry out that supply or possession.
  - (b) this provision does not make a staff member exempt from being prosecuted under the Criminal Code if they are suspected to be guilty of malpractice, including but not limited to—
    - (i) the incorrect use of administration and recording keeping systems;
    - (ii) the deliberate disregard of the approved internal protocol;
  - (c) the staff member is under investigation following a client overdose.
  - (d) The licensee, each member of the staff at the permitted site (other than a member of the staff of the centre), the owner of the permitted site and each occupier of the permitted site is exempt from liability for an offence against the *Drugs Misuse Act 1986* or the *Drugs Misuse Regulation 1987* that is constituted by the possession of a drug of dependence at the site if the possession—
    - (i) arises by operation of Section 7; and
    - (ii) occurs in the operation of the centre, regardless of whether the drug of dependence is an injecting centre drug in a permitted quantity.
  - (d) Legislation for the safe storage of drugs and the disposal of syringes always applies as stated in the *Drugs Misuse Regulation 1987*.
- (2) Police discretions are not affected
- (a) Nothing in Part 3 affects any discretion a police officer may exercise in relation to not charging a person with an offence against the *Drugs Misuse Act 1986* for possession of a drug of dependence which is or not an injecting centre drug in a permitted quantity of an injecting centre drug when a person—
    - (i) is not travelling to or from the licensed medically supervised injecting centre for the purposes of

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- attending the centre and holding valid identification identifying the person as a client of a centre; or
- (ii) is not in the vicinity of the licensed medically supervised injecting centre for the purposes of attending the centre
- (b) A person referred to in subsection (c) is taken for the purposes of this act to be authorised to carry out that supply or possession.
- (c) Legislation for the safe storage of drugs and the disposal of syringes always applies as stated in the *Drugs Misuse Regulation 1987*.
- (3) Police discretions are not affected
  - (a) Nothing in Part 3 affects any discretion a police officer may exercise in relation to not charging a person with an offence against the *Drugs Misuse Act 1986* for possession of a drug of dependence which is or not an injecting centre drug in a permitted quantity of an injecting centre drug when a person—
    - (i) is not travelling to or from the licensed medically supervised injecting centre for the purposes of attending the centre; or
    - (ii) is not in the vicinity of the licensed medically supervised injecting centre for the purposes of attending the centre
- (4) Exemptions from civil liability
  - (a) This section applies to:
    - (i) The licensee of the licensed medically supervised injecting centre; or
    - (ii) a member of the staff at the permitted site; or
    - (iii) the land or building owner of the permitted site; or
    - (iv) an occupant of the permitted site; or
    - (v) a trustee or member of a committee of management or of a board.
  - (b) a person to whom this section applies is not subject to any civil liability for doing or omitting to do a thing in—

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- (i) carrying out any duty or function in relation to the operation of the licensed medically supervised injecting centre; and
  - (ii) accordance with this Act, internal protocols or imposed regulations.
- (c) subsection b) applies to an act or omission that—
- (i) relates to the supply or possession of a drug of dependence in the licensed medically supervised injecting centre, regardless of whether the drug of dependence is an injecting centre drug in a permitted quantity of that injecting centre drug; and
  - (ii) satisfies (b)(i) and (ii).
- (d) Without limiting subsection (b), a member of the staff at the permitted site who acts, or fails to act, under this Part or the regulations made for the purposes of this Part in the reasonable belief that the act or omission is in accordance with this Part or those regulations do not commit:
- (i) unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law; or
  - (ii) a breach of professional etiquette or ethics or any other code of conduct.
- (e) Subsections (b), (c), and (d) do not apply if the action done or omitted was due to negligence.
- (f) Nothing in this section affects any rights or obligations between a member of the staff at the permitted site and the person who engages the person for that role (whether by employment or otherwise), nor does it affect or limit any crown immunity.

## **154 Criminalisation of interference**

- (1) Civilians who interfere with the productivity of the licensed medically supervised injection centre shall be punished under criminal law.
  - (a) Punishable sentences include;
    - (i) Blocking clients and/or staff from entering the centre;

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- (ii) Publicising actions performed by the clientele or staff including but not limited to the publishing of photographic or videography material; or
- (iii) Protesting within 50m of the centre entrance. Protesting cannot include hate speech, destruction of property, violence, physical and mental abuse, or any activity that will stop clients from visiting the centre.
- (b) For all offences listed under Section 12, sentencing is as follows—
- (i) First time offenders will have entrance rights permanently revoked, except in cases of written permission by the director or licensee.
- (ii) Second time offenders will be fined a maximum penalty of \$2000.
- (iii) Third time or higher offenders will receive a maximum 12 penalty of 2 years imprisonment.

## Part 4                      **Mandatory and effective follow ups from drug rehabilitation centres**

### **27           Act amended**

This part amends the *Penalties and Sentencing Act 1992*.

### **28           Insertion of the medically supervised injecting centres**

After Part 8A, subdivision 4, section 151Q

*insert—*

#### **151QA   Discretion and responsibility of involved persons**

- (1) All participants in drugs of dependence rehabilitation are responsible for actively caring for their own health and are expected to attend appointments and follow medical advisory.
- (2) Responsible authorities assigned by the Attorney General must regulate all cases and specifics of all participants.
- (3) It is the responsibility of all rehabilitation centres or service providers to, if they do not already have existing staff filling such roles, employ a professional of a qualification elected by aforementioned delegated authorities, who is responsible for recording and accessing

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information relevant to the cases of each participant so that they may make informed decisions for treatment.

- (4) It is the responsibility of these record keeping, advisory staff to make, or assist in the making of informed decisions pertaining to the cases of each participant.
- (5) It is left to the discretion of rehabilitation centres or service providers to employ an appropriate amount of these record keeping, advisory staff.

### **151QB Mandatory follow-ups**

- (1) All state provided or funded rehabilitation clinics and services, at the end of the term of participation, or successful rehabilitation of all participants, must schedule follow up appointments to check the progress and health of participants after their rehabilitation.
- (2) These follow ups must be in person and the participants may request for a referral to have their follow up appointments at another centre or service provider at any time until a week before the date of their appointment
- (3) Participants may request for their appointment to be postponed at any time, this request is left to the discretion of the centre or the service provider, to—
  - (a) Postpone the participants follow up appointment by a maximum of a week;
  - (b) If a participant fails to appear more than twice for a scheduled appointment without warning they will be charged a maximum penalty of \$100 and the appointment will be rescheduled.
- (4) Participants may request for their appointment to be postponed at any time, this request is left to the discretion of the centre or service provider.
- (5) Delegates chosen by the Attorney General must specify the responsibilities of all state funded and provided drugs of dependence rehabilitation centres and services, however all centres and services must conform to the minimum standards of—
  - (a) follow up appointments must be no less often than one month apart; and
  - (b) follow up appointments must include testing the participant's system for drugs deemed relevant by record keeping, advisory staff; and

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- (c) follow up appointments must continue for a three-month period after rehabilitation has concluded; and
  - (d) participants must have mandatory yearly follow ups for the next 3 years, after the three-month period; and
  - (e) follow up appointments must be conducted or advised by the staff responsible for each participant's case material and information, so that participants may receive relevant treatment; and
  - (f) a psychological assessment of the participant's wellbeing.
- (6) With permission from the delegates appointed by the Attorney General, rehabilitation centres and service providers may, change the terms of all their follow up appointments by—
- (a) making them more regular than once monthly; and
  - (b) extending the three-month period of regular appointments.
- (7) With permission from and at the discretion of the record keeping, advisory staff employed at the centre or service provider, those responsible for the case of a participant in question may change the terms of the follow up appointments of that individual patient, by—
- (a) making them more regular than once monthly; and
  - (b) extending the three-month period of regular appointments.
- (8) With information gathered from follow up appointments, those responsible for the cases of individual participants may request those delegated by the Attorney General for the participants rehabilitation to recommence with justification including, but not limited to—
- (a) the presence of relevant drugs in the participant's system; or
  - (b) a psychological analysis confirming the risk of harm, or any dangers to the participant in question or others in the participant's life; or
  - (c) a request for the recommencement of rehabilitation by the participant.



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## Part 5 Sentencing and Penalties

### 29 Act amended

This part amends the *Penalties and Sentencing Act 1992*.

### 30 Insertion of the medically supervised injecting centres

After Part 2, section 9

*insert—*

#### 9A Sentencing

- (1) Despite all references to other sections in this act, and all other acts, it is intended that this section will now dictate sentencing with regards to drug offences.
- (2) Classification of schedule drugs
  - (a) Schedule 1 drugs:
    - (i) Crack cocaine;
    - (ii) Ecstasy (MDMA);
    - (iii) Heroin;
    - (iv) LSD;
    - (v) Psilocybin;
    - (vi) Methadone;
    - (vii) Methamphetamine (crystal meth).
  - (b) Schedule 2 drugs:
    - (i) Amphetamines;
    - (ii) Barbiturates;
    - (iii) Codeine;
    - (iv) Ketamine;
    - (v) Methylphenidate (Ritalin);
    - (vi) Synthetic cathinones (mephedrone, methoxetamine).
  - (c) Schedule 3 drugs:
    - (i) Anabolic steroids;
    - (ii) Benzodiazepines (diazepam);
    - (iii) Hydroxybutyrate (GHB);
    - (iv) Gamma-butyrolactone (GBL);

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(v) Piperazines (BZP);

(vi) Khat.

## **9B Penalties**

- (1) Despite all references to other sections in this act, and all other acts, it is intended that this section will now dictate penalties with regards to drug offences.
- (2) Unlawful sale and supply of drugs
  - (a) Schedule 1 drugs—the maximum penalties are—
    - (i) 10 years imprisonment; or
    - (ii) a fine of \$2000 for every 5 grams exceeding the indicated amount stipulated in subclause 4, Section 22, subsection 9B (penalties).
    - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
  - (b) Schedule 2 drugs—the maximum penalties are—
    - (i) 7 Years imprisonment and/or
    - (ii) a fine of \$1000 for every 10 grams exceeding the amount stipulated in subclause 4, Section 22, subsection 9B (penalties).
    - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
  - (c) Schedule 3 drugs—the maximum penalties are—
    - (i) 5 Years imprisonment and/or
    - (ii) A person found in possession of a Schedule 3 drug in a volume exceeding that indicated in penalties section 4 a will be fined \$500 for every 15 grams exceeding the amount stipulated in subclause 4, Section 22, subsection 9B (penalties).

- (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
- (3) Unlawful intent to sell or supply drugs
  - (a) Schedule 1 drugs: the maximum penalties are—
    - (i) 5 years; and/or
    - (ii) A person found in possession of a Schedule 1 drug in a volume exceeding that indicated in penalties subclause 4, Section 22, subsection 9B (penalties) will be fined \$1,500 for every 5 grams exceeding the indicated amount
    - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
  - (b) Schedule 2 drugs—the maximum penalties are—
    - (i) 3 years imprisonment and/or
    - (ii) A person found in possession of a Schedule 2 drug in a volume exceeding that indicated in penalties subclause 4, Section 22, subsection 9B (penalties) will be fined \$850 for every 10 grams exceeding the amount stipulated in section 4.
    - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
  - (c) Schedule 3 drugs—the maximum penalties are—
    - (i) 12-months imprisonment and/or
    - (ii) A person found in possession of a Schedule 3 drug in a volume exceeding that indicated in penalties subclause 4, Section 22, subsection 9B

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(penalties) will be fined \$500 for every 10 grams exceeding the amount stipulated in section 4.

(iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.

(4) Aggravations for subsection 3 of this part

(a) If a person is found in possession of a drug, the charge will be aggravated to subsection 3 of this Act of unlawful intent to sell or supply drugs if—

(i) A person is found in possession of a Schedule 1 drug in a volume exceeding:

(A) For crack cocaine - 2.0 grams

(B) For cocaine - 2.0 grams

(C) For ecstasy (MDMA) - 2.0 grams

(D) For heroin - 2.0 grams

(E) For LSD - 0.004 grams

(F) For psilocybin - 0.10. grams

(G) For methadone - 2.0 grams

(H) For methamphetamine (crystal meth) - 2.0 grams

(ii) A person is found in possession of a Schedule 2 drug in a volume exceeding:

(A) For amphetamines - 2.0 grams

(B) For barbiturates - 50.0 grams

(C) For codeine - 10.0 grams

(D) For ketamine - 2.0 grams

(E) For methylphenidate (Ritalin) - 5.0 grams

(F) For synthetic cathinones - 1.0 gram

(iii) A person is found in possession of a Schedule 3 drug in a volume exceeding:

(A) For anabolic steroids - 2.0 grams

(B) For benzodiazepines (diazepam) - 1.5 grams

(C) For gamma hydroxybutyrate (GHB) - 3.0 grams

- (D) For gamma-butyrolactone (GBL) - 3.0 grams
  - (E) For piperazines (BZP) - 4.0 grams
  - (F) For khat - 200.0 grams
- (b) Intent to sell or supply drugs under Section 3 of this Part may also be found where the drugs, when confiscated, have been prepared for commercial distribution, such as by—
- (i) cutting drugs into small portions; or
  - (ii) preparing portable bags
- (5) Cultivation, production or manufacturing of drugs
- (a) schedule 1 drugs: the maximum penalties are—
- (i) 12 years imprisonment; and/or
  - (ii) A person found in possession of a Schedule 1 drug in a volume exceeding that indicated in penalties subclause 4, Section 22, subsection 9B (penalties) will be fined \$3,500 for every 5 grams exceeding the indicated amount.
  - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
- (b) schedule 2 drugs—the maximum penalties are —
- (i) 10 years imprisonment; and/or
  - (ii) A person found in possession of a Schedule 2 drug in a volume exceeding that indicated in penalties subclause 4, Section 22, subsection 9B (penalties) will be fined \$2,000 for every 10 grams exceeding the amount stipulated in section 4.
  - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
- (c) Schedule 3 drugs—the maximum penalties are—

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- (i) 8 years imprisonment; and/or
  - (ii) A person found in possession of a Schedule 3 drug in a volume exceeding that indicated in penalties section 4 a will be fined \$1,000 for every 10 grams exceeding the amount stipulated in subclause 4, Section 22, subsection 9B (penalties).
  - (iii) A person charged with this offence must partake in 12 months of community service in conjunction with the initial fine. If they are unable to pay the fine they are required to partake in the 12 months of community service with an additional term of community service equal to the amount stipulated in the fine they received.
- (6) Threshold for contravention of subsection 5 of this Part
  - (a) a person has engaged in unlawful cultivation, production or manufacturing of drugs if:
    - (i) they are found in possession of equipment used for drug production beyond reasonable doubt; or
    - (ii) The substance is in the process of production and can reasonably be assessed as an illicit drug, or
    - (iii) The substance has been manufactured and is in a scientifically recognisable state.
- (7) Possession of drugs
  - (a) a person found to be in possession of a drug not in excess of the amount stipulated in Section 4 of this Part will be subject to—
  - (b) if the drug under their possession is for personal use, and not for commercial use, they must attend a dissociation commission meeting towards rehabilitation.
  - (c) schedule 1 drugs: the maximum penalties are—
    - (i) up to 14 years' imprisonment; and/or
    - (ii) monetary fine limited at maximum value of estimated 'street' value of drugs.
  - (d) schedule 2 drugs: the maximum penalties are—
    - (i) up to 8 years' imprisonment; and/or
    - (ii) monetary fine limited at maximum value of estimated 'street' value of drugs.
  - (e) schedule 3 drugs: the maximum penalties are—

- (i) up to 4 years' imprisonment; and/or
- (ii) monetary fine at maximum value of estimated 'street' value of drugs.