



Queensland

Drug Court Act 2000

Drug Court Regulation 2006

Reprinted as in force on 29 October 2010

Reprint No. 1D

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This regulation is reprinted as at 29 October 2010. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

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Queensland

Drug Court Regulation 2006

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Drug Court Regulation 2006

[as amended by all amendments that commenced on or before 29 October 2010]

1 Short title

This regulation may be cited as the *Drug Court Regulation 2006*.

2 Commencement

This regulation commences on 3 July 2006.

3 Criteria for definition *eligible person in the Act*

- (1) The purpose of this section is to prescribe criteria for section 6(1)(d) of the Act for a person appearing before a drug court charged with an offence.
- (2) The criteria the person must satisfy are as follows—
 - (a) that, at the time the person is referred for an indicative assessment, the person resides in a location with a postcode mentioned in schedule 1, column 2 or schedule 2;
 - (b) that, at the time the person is referred for an assessment, the person resides in a location with a postcode mentioned in schedule 1, column 2 or schedule 2;
 - (c) that—
 - (i) at the time an intensive drug rehabilitation order is made for the person, the person resides in a location with a postcode stated in schedule 1, column 2 for the drug court stated in schedule 1, column 1 before which the person is appearing; and

- (ii) the person intends to reside in a location mentioned in subparagraph (i) while the person is subject to the order.

4 Other offences for definition *relevant offence* in the Act

For section 8(1)(d) of the Act, an offence against a provision of the Criminal Code mentioned in schedule 3 punishable by a term of not more than 7 years imprisonment is a relevant offence.

5 Prescription for definition *prescribed drug offence* in schedule of the Act

For the schedule of the Act, definition *prescribed drug offence*, paragraph (b), an offence against a provision of the *Drugs Misuse Act 1986* mentioned in schedule 4 is a prescribed drug offence.

6 Declaration of drug courts

For section 9(1) of the Act, the Magistrates Courts at Beenleigh, Cairns, Ipswich, Southport and Townsville are declared to be drug courts.

6A Prescription of Magistrates Courts from which a person may be referred for indicative assessment

A Magistrates Court in a Magistrates Court district mentioned in the *Justices Regulation 2004*, schedule 1 that includes a location with a postcode mentioned in schedule 1, column 2 or schedule 2 of this regulation is a Magistrates Court for section 12A(a) of the Act.

7 Matter that may be considered when deciding about referring a person for indicative assessment

In making a decision mentioned in section 12A(d) of the Act, a person may appear to a magistrate to be an eligible person if

at the time of the decision the person resides in a location with a postcode mentioned in schedule 1, column 2 or schedule 2.

8 Matters that may be considered when referring a person for indicative assessment

In making a decision mentioned in section 12B of the Act, a magistrate may have regard to—

- (a) the maximum number of active intensive drug rehabilitation orders as prescribed under section 10; and
- (b) any advice from the person appointed as the court coordinator for drug courts by the chief executive about whether the maximum number has been exceeded.

9 Matter that may be considered when deciding about referring a person for assessment

In making a decision mentioned in section 15(1) of the Act, a person may appear to a magistrate to be an eligible person if at the time of the decision the person resides in a location with a postcode mentioned in schedule 1, column 2 or schedule 2.

10 Maximum number of active intensive drug rehabilitation orders

For sections 12A(e), 15(2)(c) and 19(g) of the Act, the maximum number of active intensive drug rehabilitation orders is as follows—

- (a) for the Magistrates Court at Cairns—40;
- (b) for the Magistrates Court at Townsville—40;
- (c) for the Magistrates Courts at Beenleigh, Ipswich and Southport—a total of 141.

11 Guidelines for facilities for the supervision and control of offenders

- (1) For section 19(h) of the Act, the following are prescribed as guidelines about the availability for allocating to an offender

facilities to supervise and control the offender's participation in a rehabilitation program—

- (a) the entity providing the facilities is willing to accept the offender;
 - (b) it is reasonably likely the facilities will be available to the offender when they are needed;
 - (c) the facilities are of a suitable standard;
 - (d) the chief executive (corrective services) has received advice about the treatment proposed to be provided to the offender at the facility and is satisfied the treatment is appropriate.
- (2) The Chief Magistrate, in consultation with a drug court magistrate, may develop a policy for deciding whether a facility is of a suitable standard.

12 Matters that may be considered in delaying suspended sentence if offender needs detoxification

- (1) This section applies if—
- (a) a drug court magistrate is exercising a power mentioned in section 21(a) of the Act about an offender; and
 - (b) the magistrate considers the offender needs detoxification but a detoxification facility is not immediately available.
- (2) The drug court magistrate may consider—
- (a) if a prison facility is available, whether the prison facility will provide alternative accommodation to the watch-house where the offender is being held; or
 - (b) otherwise, whether the watch-house will provide suitable detoxification treatment.
- (3) For deciding whether the standard of a facility is a suitable standard, the drug court magistrate must apply the criteria stated in the policy developed by the Chief Magistrate under section 11(2).

13 Prescription of person for definition *prescribed person* in the Act

For section 39(3) of the Act, definition *prescribed person*, each of the persons mentioned in schedule 5 is prescribed.

14 Way of providing information to drug court magistrate

For section 39 of the Act, compliance information given to a drug court magistrate by a prescribed person—

- (a) may be given to the magistrate by giving it to the clerk of the court of the relevant drug court or to the person appointed as the court coordinator for drug courts by the chief executive—
 - (i) personally; or
 - (ii) by use of email, fax or other electronic transmission; and
- (b) if not given in writing, must be confirmed in writing within 24 hours, unless the magistrate considers it unnecessary.

15 Protection of personal information about offenders

- (1) For section 39C(5) of the Act, definition *personal information document*, a document about an offender that is given to a drug court is prescribed to be a document to which section 39C of the Act applies.

Examples—

- a report by a member of a treatment team
 - a medical, psychiatric or psychological report
 - a document provided by the offender or by friends or family of the offender
- (2) While an offender is subject to an intensive drug rehabilitation order, each personal information document stored on the offender's file must be clearly identified as a drug court document.

- (3) After an intensive drug rehabilitation order ends, each personal information document about the offender must be stored on the offender's file in a sealed envelope marked 'not to be disclosed, other than to the offender, without order of the court'.

16 Guidelines for drug courts

For section 43(3) of the Act, schedule 6 states guidelines for drug courts.

17 Minimum frequency for drug testing

- (1) For section 43(5) of the Act, the minimum frequency with which offenders must be drug tested under the offenders' intensive drug rehabilitation orders is as follows—
 - (a) during phase 1 of rehabilitation under the order—5 times in any fortnight;
 - (b) during phase 2 of rehabilitation under the order—3 times in any fortnight;
 - (c) during phase 3 of rehabilitation under the order—2 times in any fortnight.
- (2) In this section—

phase 1 of rehabilitation means the period of rehabilitation during which the aim is to get the offender free of unlawful drugs.

phase 2 of rehabilitation means the period of rehabilitation during which the aim is stabilising the offender as free of unlawful drugs.

phase 3 of rehabilitation means the period of rehabilitation during which the aim is to reintegrate the offender into the community after phase 2 of rehabilitation.

18 Repeal

The Drug Rehabilitation (Court Diversion) Regulation 2000 SL No. 104 is repealed.

Schedule 1 Eligible persons—location postcodes for drug courts

sections 3(2), 6A, 7 and 9

| Column 1 | Column 2 |
|-------------------|---|
| Drug court | Location postcodes |
| Beenleigh | 4059, 4108, 4109, 4110, 4112, 4113, 4114, 4115, 4116, 4117, 4118, 4119, 4123, 4124, 4125, 4127, 4128, 4129, 4130, 4131, 4132, 4133, 4156, 4157, 4163, 4164, 4165, 4184, 4205, 4207, 4208, 4209, 4270, 4280 |
| Cairns | 4865, 4868, 4869, 4870, 4878, 4879 |
| Ipswich | 4059, 4069, 4070, 4073, 4074, 4075, 4076, 4077, 4078, 4106, 4108, 4110, 4124, 4163, 4300, 4301, 4303, 4304, 4305, 4306, 4307, 4340, 4346 |
| Southport | 4059, 4163, 4209, 4210, 4211, 4212, 4213, 4214, 4215, 4216, 4217, 4218, 4219, 4220, 4221, 4223, 4224, 4225, 4226, 4227, 4228, 4229, 4230, 4271, 4272 |
| Townsville | 4810, 4811, 4812, 4813, 4814, 4815, 4817, 4818, 4819 |

Schedule 2 Other postcodes

sections 3(2), 6A, 7 and 9

Part 1

4000, 4005, 4006, 4007, 4008, 4009, 4010, 4011, 4012, 4013, 4014, 4017, 4018, 4029, 4030, 4031, 4032, 4034, 4035, 4036, 4037, 4051, 4052, 4053, 4054, 4055, 4060, 4061, 4064, 4065, 4066, 4067, 4068, 4072, 4101, 4102, 4103, 4104, 4105, 4107, 4111, 4120, 4121, 4122, 4151, 4152, 4153, 4154, 4155, 4158, 4159, 4160, 4161, 4169, 4170, 4171, 4172, 4173, 4174, 4178, 4179, 4183, 4222, 4275, 4285, 4500, 4501, 4520, 4860, 4861, 4877, 4880, 4881, 4882, 4883, 4884, 4885

Part 2

4871, 4872, 4873—if the person's place of residence is within a 100km radius of the Magistrates Court at Cairns

**Schedule 3 Other offences for definition
*relevant offence in Act***

section 4

Criminal Code

section 328A(2) (Dangerous operation of a vehicle)

section 398(1) (Punishment of stealing)

section 408C(1) (Fraud)

section 408D(2) (Computer hacking and misuse)

section 414 (Demanding property with menaces with intent to steal)

section 427A(1) (Obtaining property by passing valueless cheques)

section 433(1) (Receiving stolen property etc.)

section 469 (Wilful damage), if the offence is not punishable as a special case or, if the offence is punishable as a special case, the offence is punishable under section 469, item 9(1) (Graffiti) or 10(1) (Educational institutions)

section 488(1) (Forgery and uttering)

section 493 (Obliterating crossings on cheques)

section 494 (Making documents without authority)

section 514(1) (Personation in general)

Schedule 4 Prescribed drug offences

section 5

Drugs Misuse Act 1986

section 8 (Producing dangerous drugs), if the offence is punishable under paragraph (b)(i), (c) or (d) of the penalty for the offence

section 8A(1) (Publishing or possessing instructions for producing dangerous drugs), if the offence is punishable under paragraph (b) of the penalty for the offence

section 9 (Possessing dangerous drugs), if the offence is punishable under paragraph (b)(i) or (c) of the penalty for the offence

Schedule 5 Prescribed persons

section 13

1 Prescribed persons

- (1) The following persons are prescribed—
- (a) persons acting for the Alcohol Tobacco and Other Drug Services in the Cairns and Hinterland Health Service District, the Townsville Health Service District or the West Moreton South Burnett Health Service District, Queensland Health and appointed by the chief executive (health) as prescribed persons for section 39 of the Act;
 - (b) persons acting for the Scientific Services, Queensland Health and appointed by the chief executive (health) as prescribed persons for section 39 of the Act;
 - (c) persons acting for TAFE institutes or statutory TAFE institutes and appointed by the chief executive (vocational education and training) as prescribed persons for section 39 of the Act;
 - (d) corrective services officers appointed by the chief executive (corrective services) as prescribed persons for section 39 of the Act;
 - (e) persons acting for the Commonwealth Services Delivery Agency (Centrelink) and appointed by the chief executive officer of the Agency as prescribed persons for section 39 of the Act.

Note to paragraph (e)—

The Commonwealth Services Delivery Agency and the position of chief executive officer are established by the *Commonwealth Services Delivery Agency Act 1997* (Cwlth), section 6.

- (2) In this section—

chief executive (vocational education and training) means the chief executive of the department in which the *Vocational Education, Training and Employment Act 2000* is administered.

Schedule 6 Guidelines for drug courts

section 16

1 Definitions for sch 6

In this schedule—

court review means a review by a drug court requiring the attendance of an offender who is subject to an intensive drug rehabilitation order.

interested entity see section 36A(3) of the Act.

relevant drug court team, for an offender, means the persons who—

- (a) act for an interested entity; and
- (b) attend a court review, or any preliminary hearing, about the offender.

2 Frequency of court reviews

- (1) The minimum frequency of attendances required before a drug court magistrate by an offender who is subject to an intensive drug rehabilitation order, whether the attendances are ordered by a drug court magistrate or directed by an authorised corrective services officer, is once in any month, unless a drug court magistrate otherwise directs.

Example of when a drug court magistrate may otherwise direct—

If the offender returns a positive drug test, a drug court magistrate may direct the offender to attend weekly for a month to assess whether the offender is satisfactorily complying with the offender's intensive drug rehabilitation order.

- (2) Also, an authorised corrective services officer may direct more frequent attendances if—
 - (a) the officer alleges the offender is not satisfactorily complying with the offender's intensive drug rehabilitation order; or

Example of an allegation for paragraph (a)—

an allegation based on a positive drug test returned by the offender

- (b) there has been a change in the offender's circumstances that requires the offender's rehabilitation program to be reviewed.

Example of change in circumstances for paragraph (b)—

the offender's eviction from accommodation

3 Court reviews

- (1) Before a court review, a drug court magistrate may conduct a preliminary hearing in the offender's absence to decide the ambit of the court review and the material the magistrate wishes to have produced.
- (2) In addition to a member of the relevant drug court team for an offender, the magistrate may allow other persons to take part in the court review and any preliminary hearing.

4 Treatment team

- (1) The persons mentioned in schedule 5, section 1(1)(d) and health professionals whom the chief executive (health) decides are appropriately qualified to perform the functions mentioned in paragraphs (a) and (b) are responsible for—
- (a) assessing an offender's compliance with the offender's intensive drug rehabilitation order, including the offender's participation in the offender's rehabilitation program; and
- (b) providing support, treatment and help relevant to the order, as required by the offender.
- (2) The persons mentioned in subsection (1) are the *treatment team*.
- (3) Unless there are special circumstances, the treatment team must give a document to be used at a court review for an offender to a member of the proposed relevant drug court team for the offender at least 2 days before the review.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 October 2010. Future amendments of the Drug Court Regulation 2006 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|---------|---|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amdt | = amendment | prov | = provision |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No. [X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renum | = renumbered |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro) | = retrospectively |
| notfd | = notified | rv | = revised edition |
| num | = numbered | s | = section |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2002 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |
| prev | = previous | | |

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments included | Effective | Notes |
|-------------|---------------------|-----------------|-------|
| 1 | none | 3 July 2006 | |
| 1A | 2006 SL No. 316 | 1 January 2007 | |
| 1B | 2008 SL No. 81 | 1 April 2008 | |
| 1C | 2008 SL No. 198 | 1 July 2008 | |
| 1D | 2010 SL No. 302 | 29 October 2010 | |

5 List of legislation

Drug Court Regulation 2006 SL No. 165

made by the Governor in Council on 29 June 2006

notfd gaz 30 June 2006 pp 1060–7

ss 1–2 commenced on date of notification

remaining provisions commenced 3 July 2006 (see s 2)

exp 1 September 2016 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

State Penalties Enforcement and Other Legislation Amendment Regulation (No. 1) 2006 SL No. 316 pts 1–2

notfd gaz 15 December 2006 pp 1861–5

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2007 (see s 2)

Vocational Education, Training and Employment and Other Legislation Amendment Regulation (No. 1) 2008 SL No. 81 pts 1, 4

notfd gaz 28 March 2008 pp 1721–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 April 2008 (see s 2)

Drug Court Amendment Regulation (No. 1) 2008 SL No. 198

notfd gaz 27 June 2008 pp 1268–78

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2008 (see s 2)

Drug Court Amendment Regulation (No. 1) 2010 SL No. 302

notfd gaz 29 October 2010 pp 591–2

commenced on date of notification

6 List of annotations

Criteria for definition “eligible person” in the Act

s 3 amd 2008 SL No. 198 s 4

Prescription of Magistrates Courts from which a person may be referred for indicative assessment

s 6A ins 2008 SL No. 198 s 5

Maximum number of active intensive drug rehabilitation orders

s 10 amd 2008 SL No. 198 s 6

Protection of personal information about offenders

s 15 amd 2008 SL No. 198 s 7

SCHEDULE 1—ELIGIBLE PERSONS—LOCATION POSTCODES FOR DRUG COURTS

sch hdg amd 2008 SL No. 198 s 8

sch 1 amd 2010 SL No. 302 s 3

SCHEDULE 2—OTHER POSTCODES

sub 2008 SL No. 198 s 9

amd 2010 SL No. 302 s 4

SCHEDULE 5—PRESCRIBED PERSONS

Prescribed persons

s 1 amd 2008 SL No. 81 s 28; 2008 SL No. 198 s 10

SCHEDULE 6—GUIDELINES FOR DRUG COURTS

Treatment team

s 4 amd 2006 SL No. 316 s 4