



Queensland

# Drug Court Regulation 2006

## Subordinate Legislation 2006 No. 165

made under the

*Drug Court Act 2000*

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**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)<sup>1</sup> 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) at the time the person was assessed under a referral for an indicative assessment—the person resided in a location with a postcode mentioned in schedule 1, column 2 or schedule 2;
  - (b) at the time the person was assessed under a referral, made under section 15<sup>2</sup> of the Act, for an assessment—the person resided in a location with a postcode mentioned in schedule 1, column 2 or schedule 2;
  - (c) that, if an intensive drug rehabilitation order is made for the person, while the person is subject to the order he or she will reside 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.

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

For section 8(1)(d)<sup>3</sup> of the Act, an offence against a provision of the Criminal Code mentioned in schedule 3 punishable by a

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1 Section 6 (Who is an *eligible person*) of the Act

2 Section 15 (Deciding whether to refer for assessment) of the Act

3 Section 8 (What is a *relevant offence*) of the Act

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)<sup>4</sup> of the Act, the Magistrates Courts at Beenleigh, Cairns, Ipswich, Southport and Townsville are declared to be drug courts.

**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.

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<sup>4</sup> Section 9 (Drug courts) of the Act

**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 15(2)(c) and 19(g)<sup>5</sup> 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.

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<sup>5</sup> Sections 15 (Deciding whether to refer for assessment) and 19 (Making of order) of the Act

- (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)<sup>6</sup> 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)<sup>7</sup> 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—

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6 Section 21 (Delaying suspension of sentence) of the Act

7 Section 39 (Disclosure of compliance and related information) of the Act

- (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)<sup>8</sup> of the Act, definition *personal information documents*, 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'.

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8 Section 39C (Protection of personal information about offenders) of the Act

**16 Guidelines for drug courts**

For section 43(3)<sup>9</sup> 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.

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9 Section 43 (Regulation-making power) of the Act

## Schedule 1      Eligible persons—location postcodes for drug courts

section 3(2), 7 and 9

<b>Column 1</b>	<b>Column 2</b>
<b>Drug court</b>	<b>Location postcodes</b>
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, 4271, 4272
Townsville	4810, 4811, 4812, 4813, 4814, 4815, 4817, 4818, 4819

**Schedule 2      Other postcodes**

section 3(2), 7 and 9

4101, 4102, 4103, 4104, 4105, 4106, 4107, 4111, 4120, 4121, 4122, 4151,  
4152, 4153, 4154, 4155, 4156, 4158, 4159, 4160, 4161, 4169, 4170, 4171,  
4172, 4173, 4174, 4178, 4179

## **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, Cairns, Logan, Gold Coast, Townsville or West Moreton District, Queensland Health and appointed by the chief executive (health) as prescribed persons for section 39<sup>10</sup> 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 colleges and appointed by the chief executive (State colleges) 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 (State colleges)*** means the chief executive of the department in which the *Vocational Education, Training and Employment Act 2000* is administered.

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10 Section 39 (Disclosure of compliance and related information) of the Act

## 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)<sup>11</sup> 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—

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11 Section 36A (Drug court magistrate must consider views of drug court team) of the Act

### Schedule 6 (continued)

- (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)(e) 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*.

**Schedule 6 (continued)**

- (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.
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**ENDNOTES**

- 1 Made by the Governor in Council on 29 June 2006.
- 2 Notified in the gazette on 30 June 2006.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.