



Queensland

*Drug Rehabilitation (Court Diversion) Act 2000*

# Drug Rehabilitation (Court Diversion) Regulation 2000

Reprinted as in force on 29 August 2005

Reprint No. 1F revised edition

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

# Information about this reprint

This regulation is reprinted as at 29 August 2005. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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.**

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic 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 a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.



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# Drug Rehabilitation (Court Diversion) Regulation 2000

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## **Drug Rehabilitation (Court Diversion) Regulation 2000**

[as amended by all amendments that commenced on or before 29 August 2005]

### **1 Short title**

This regulation may be cited as the *Drug Rehabilitation (Court Diversion) Regulation 2000*.

### **2 Commencement**

This regulation commences on the day the Act, section 43,<sup>1</sup> commences.

### **3 Who is an *eligible person***

For the Act, section 6(1)(d), the person must be charged before a pilot program court specified in schedule 1, column 1 and reside in a location with a postcode specified in schedule 1, column 2 for the pilot program court.

### **4 Relevant offences**

For the Act, section 8(1)(d), an offence against any of the provisions of the Criminal Code specified in schedule 2 punishable by a term of not more than 7 years imprisonment is a relevant offence.

### **5 Prescribed drug offences**

For the Act, schedule, definition *prescribed drug offence*, paragraph (b), an offence against any of the provisions of the *Drugs Misuse Act 1986* specified in schedule 3 is a prescribed drug offence.

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<sup>1</sup> The Act, section 43 (Regulation-making power)

## **6 Delaying suspended sentence where offender needs detoxification**

In deciding whether to delay commencement of a suspended sentence under the Act, section 21, a pilot program magistrate who considers that the offender requires detoxification, at a time when a detoxification facility is not immediately available—

- (a) must take into account—
  - (i) whether a prison facility can provide alternative accommodation to the watch-house where the offender is being detained; and
  - (ii) if a prison facility is not available, whether the watch-house can provide suitable detoxification treatment; and
- (b) must also apply the criteria, for the minimum standard for facilities and rehabilitation programs, decided by the Chief Magistrate under section 9(2).

## **7 Who is a *prescribed person***

For the Act, section 39(5), definition *prescribed person*, the persons specified in schedule 4 are prescribed.

## **8 Pilot program courts**

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

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**8A Maximum number of active intensive drug rehabilitation orders**

For the Act, sections 15(2)(c) and 19(g),<sup>2</sup> 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.

**8B Guidelines for Magistrates Courts at Cairns and Townsville—Act, s 43(3)**

Guidelines for the Magistrates Courts at Cairns and Townsville are in schedule 5.

**9 Guidelines for facilities for the supervision and control of offenders**

- (1) For the Act, section 19(h), the following guidelines are prescribed—
  - (a) the entity providing the facilities is willing to accept the offender;
  - (b) it is reasonably likely that the facilities will be available to the offender when they are needed;
  - (c) the facilities are of a suitable standard;
  - (d) the corrective services' chief executive has received advice about the treatment proposed to be provided to the offender at the facility and is satisfied that the treatment is appropriate.
- (2) The Chief Magistrate, in consultation with a pilot program magistrate, may develop a policy for deciding whether a facility is of a suitable standard.

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<sup>2</sup> The Act, sections 15 (Deciding whether to refer for assessment) and 19 (Making of order)

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**10 Means of providing information to pilot program magistrate**

For the Act, section 39, information given to a pilot program magistrate by a prescribed person—

- (a) may be given to the magistrate by giving it to the clerk of the court of the relevant pilot program court or to the person appointed as the court coordinator for pilot program courts by the chief executive—
  - (i) personally; or
  - (ii) by use of a facsimile or other electronic transmission; and
- (b) if provided otherwise than in writing, must be confirmed in writing within 24 hours, unless the magistrate considers it unnecessary.

**11 Transitional provision for Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 2) 2002**

Schedule 1,<sup>3</sup> as in force immediately before the commencement of this section, continues to apply in relation to a person for an offence if—

- (a) the person was referred for assessment for the offence under the Act, section 16<sup>4</sup> before the commencement of this section; or
- (b) an intensive drug rehabilitation order was made for the person for the offence under the Act, section 19<sup>5</sup> before the commencement of this section.

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3 Schedule 1 (Eligible persons)

4 The Act, section 16 (Referral for assessment)

5 The Act, section 19 (Making of order)



## **Schedule 1      Eligible persons**

section 3

<b>Column 1</b>	<b>Column 2</b>
<b>Pilot program 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, 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, 4300, 4301, 4303, 4304, 4305, 4306, 4307, 4340, 4346
Southport	4059, 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      Relevant offences**

### **section 4**

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 (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 3      Prescribed drug offences**

### **section 5**

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 4      Prescribed persons

### section 7

1(1) The following persons are prescribed—

- (a) persons acting for the Alcohol Tobacco and Other Drug Services, Logan, Gold Coast or West Moreton District, Queensland Health and appointed by the chief executive (health) as prescribed persons for the Act, section 39;
- (aa) persons acting for the Alcohol Tobacco and Other Drug Services, Cairns or Townsville District, Queensland Health and appointed by the chief executive (health) as prescribed persons for the Act, section 39;
- (b) persons acting for the Scientific Services, Queensland Health and appointed by the chief executive (health) as prescribed persons for the Act, section 39;
- (c) persons acting for TAFE colleges and appointed by the chief executive (State colleges) as prescribed persons for the Act, section 39;
- (d) persons acting for the Commonwealth Service Delivery Agency (Centrelink)<sup>6</sup> and appointed by the chief executive officer of the Agency as prescribed persons for the Act, section 39;
- (e) corrective services officers appointed by the corrective services' chief executive as prescribed persons for the Act, section 39.

(2) In subitem (1)—

***chief executive (health)*** means the chief executive of the department within which the *Health Act 1937* is administered.

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

Schedule 4 (continued)

*chief executive (State colleges)* means the chief executive of the department within which the *Vocational Education, Training and Employment Act 2000* is administered.

## **Schedule 5      Guidelines for Magistrates Courts at Cairns and Townsville**

section 8B

### **1      Frequency of court reviews**

- (1) The maximum frequency of attendances required before a pilot program magistrate of an offender subject to an intensive drug rehabilitation order, whether the attendances are ordered by a pilot program magistrate or directed by an authorised corrective services officer, is once in any 30 day period.
- (2) However, a pilot program magistrate may order more frequent or less frequent attendances if the magistrate considers that there are special circumstances.

*Example—*

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

- (3) Also, an authorised corrective services officer may direct more frequent attendances if—
  - (a) the officer alleges that the offender is not satisfactorily complying with the offender's intensive drug rehabilitation order; or
  - (b) there has been a change in the offender's circumstances that requires the offender's rehabilitation program to be reviewed.

*Example of an allegation for paragraph (a)—*

An allegation based on a positive drug test returned by the offender.

*Example of change in circumstances for paragraph (b)—*

The offender's eviction from accommodation.

## Schedule 5 (continued)

### 2 Court reviews

- (1) Before a court review, a pilot program magistrate may conduct a preliminary hearing in the offender's absence to decide the ambit of the review and the material the magistrate wishes to have produced at the review.
- (2) The pilot program magistrate may give notice to an interested entity asking that a person acting for the entity attend before a pilot program magistrate for the court review, including any preliminary hearing.
- (3) The magistrate may allow a person, other than a member of the drug court team, to participate in the court review, including any preliminary hearing.
- (4) In this section—

***court review*** means an attendance required before a pilot program magistrate of an offender subject to an intensive drug rehabilitation order.

***drug court team*** means the persons attending a court review, including any preliminary hearing, who act for an interested entity given notice by a pilot program magistrate under subsection (2) in relation to the court review.

***interested entity*** means any of the following—

- Legal Aid (Queensland)
- the Queensland Police Service
- the department in which the *Corrective Services Act 2000* is administered
- the department in which the *Health Act 1937* is administered.

### 3 Treatment team

- (1) The persons mentioned in schedule 4, item 1(1)(aa) or (e) (the ***treatment team***) are responsible for—
  - (a) assessing an offender's compliance with the offender's intensive drug rehabilitation order, including the

**Schedule 5 (continued)**

offender's participation in the offender's rehabilitation program; and

- (b) providing support, treatment and assistance relevant to the order, as required by the offender.
- (2) The treatment team must, unless there are special circumstances, give any document to be used at a court review in relation to the offender to a member of the proposed drug court team at least 2 days before the review.

**4 Frequency of drug testing**

The maximum frequency of drug testing of an offender subject to an intensive drug rehabilitation order is 5 times in any 2 week period.



## 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 August 2005. Future amendments of the Drug Rehabilitation (Court Diversion) Regulation 2000 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
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 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.

## 5 List of legislation

### **Drug Rehabilitation (Court Diversion) Regulation 2000 SL No. 104**

made by the Governor in Council on 8 June 2000

notfd gaz 9 June 2000 pp 456–9

ss 1–2 commenced on date of notification

remaining provisions commenced 13 June 2000 (see s 2)

lap 31 December 2006 (lap 2000 No. 3 s 47(1) as amd 2002 No. 23 s 45; 2003 SL No. 181 s 5; 2004 No. 43 s 43)

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

amending legislation—

### **Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 1) 2002 SL No. 288**

notfd gaz 1 November 2002 pp 759–62

ss 1–2 commenced on date of notification

remaining provisions commenced 1 November 2002 (see s 2)

### **Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 2) 2002 SL No. 369**

notfd gaz 20 December 2002 pp 1359–63

ss 1–2 commenced on date of notification

remaining provisions commenced 31 December 2002 (see s 2)

### **Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 1) 2003 SL No. 181**

notfd gaz 15 August 2003 pp 1312–13

ss 1–2 commenced on date of notification

remaining provisions commenced 22 August 2003 (see s 2)

### **Training Reform Act 2003 No. 63 ss 1, 2(2), 60 sch**

date of assent 13 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 293)

### **Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 1) 2004 SL No. 260**

notfd gaz 3 December 2004 pp 1117–9

ss 1–2 commenced on date of notification

remaining provisions commenced 3 December 2004 (see s 2 and 2004 SL No. 263)

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**Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 1) 2005 SL No. 214**

notfd gaz 26 August 2005 pp 1477–8

ss 1–2 commenced on date of notification

remaining provisions commenced 29 August 2005 (see s 2)

## **6 List of annotations**

**Who is an “eligible person”**

s 3            amd 2002 SL No. 288 s 4; 2005 SL No. 214 s 4

**Delaying suspended sentence where offender needs detoxification**

s 6            amd 2002 SL No. 288 s 5

**Pilot program courts**

s 8            amd 2002 SL No. 288 s 6

**Maximum number of active intensive drug rehabilitation orders**

s 8A          ins 2002 SL No. 288 s 7

sub 2003 SL No. 181 s 4

**Guidelines for Magistrates Courts at Cairns and Townsville—Act, s 43(3)**

s 8B          ins 2002 SL No. 288 s 7

**Guidelines for facilities for the supervision and control of offenders**

s 9            amd 2002 SL No. 288 s 8

**Transitional provision for Drug Rehabilitation (Court Diversion) Amendment Regulation (No. 2) 2002**

s 11          ins 2002 SL No. 369 s 4

**Deferral of expiry of Act—Act, s 47**

s 12          ins 2003 SL No. 181 s 5

om 2004 SL No. 260 s 4

**SCHEDULE 1—ELIGIBLE PERSONS**

amd 2002 SL No. 288 s 9; 2002 SL No. 369 s 5; 2003 SL No. 181 s 6

**SCHEDULE 2—RELEVANT OFFENCES**

amd 2002 SL No. 288 s 10

**SCHEDULE 4—PRESCRIBED PERSONS**

amd 2002 SL No. 288 s 11; 2003 SL No. 181 s 7; 2003 No. 63 s 60 sch

**SCHEDULE 5—GUIDELINES FOR MAGISTRATES COURTS AT CAIRNS AND TOWNSVILLE**

ins 2002 SL No. 288 s 12