

## QUICK GUIDE TO COMPULSORY DRUG TREATMENT CORRECTIONAL CENTRE (CDTCC)

<b>GENERAL OVERVIEW</b>	The <i>Compulsory Drug Treatment Correction Centre Act 2004</i> (CDTCCA) amends certain sections of the <i>Drug Court Act 1998</i> , <i>Crimes (Sentencing Procedure) Act 1999</i> (C(SP)Act) and the <i>Crimes (Administration of Sentences) Act 1999</i> (Crimes (A of S) Act).
<b>RERERRAL</b>	The <b>compulsory</b> aspect of the CDTCCA is found in the new s18B of the <i>Drug Court Act</i> . This places a “duty” on a sentencing court to: <ul style="list-style-type: none"> <li>- ascertain whether the Drug Court might find a person eligible; and</li> <li>- if so, refer the person to the Drug Court to determine if the person should be subject to a compulsory drug treatment order.</li> </ul>
<b>ELIGIBILITY</b>	“Eligible Convicted Person” is defined in the new s5A of the <i>Drug Court Act</i> . The criteria are: <ol style="list-style-type: none"> <li>1. Prison sentence by way of full time imprisonment - the unexpired non-parole period is <ul style="list-style-type: none"> <li>• At the time of sentence: at least 18 months</li> <li>• At the time the Drug Court is considering whether to make an Order: no more than 3 years (s5A(1)(b)).</li> </ul> </li> <li>2. In the 5 years preceding the sentence, the person has been convicted of at least 2 offences (not arising from same circumstances) that resulted in “any one or more” of the following penalties: imprisonment (including s12 suspended), CSO, Good Behaviour Bond (s5A(1)(c)).</li> <li>3. The person has a long term drug dependency (s5A(1)(d)).</li> <li>4. The referred charge and criminal record (and any other information) indicate the offence was related to the person’s long term drug dependency (s5A(1)(e)).</li> <li>5. Person is not eligible if at any time they have been convicted of the offences listed in s5A(2) – eg murder, attempt murder, sexual assault, offence involving “serious violence”, offence involving the “use” of a firearm.</li> <li>6. Person is not an eligible convicted person if, in the opinion of the Drug Court, they are suffering from a mental illness or disorder that is “serious” or “leads to the person being violent” and the illness or condition could prevent or restrict their participation in a drug treatment program.</li> </ol>
<b>MAKING AN ORDER</b>	Once referred to the Drug Court, the initial assessment of eligibility will be made by a “multi-disciplinary team” (defined in the new s18A of the <i>Drug Court Act</i> ). The team prepares a report for the Drug Court which addresses the eligibility criteria above, suitability and appropriateness (see s18D and 18E of the <i>Drug Court Act</i> ). The Drug Court cannot make a compulsory drug treatment order without this report. Relevant issues as to an offenders “suitability” are contained in s18E(2) – motivation and attitude, drug treatment history, history of domestic violence offences. The Drug Court can decline to make a compulsory drug treatment order for “any reason it considers sufficient” and there is no appeal against the Drug Court’s decision either way (s18D (3) & (4)).
<b>EFFECT OF AN ORDER</b>	The following occurs as a result of the Drug Court making a compulsory drug treatment order: <ol style="list-style-type: none"> <li>1. Any Parole order made under s50 of the C(SP)Act is revoked.</li> <li>2. The Court revokes the original committal warrant and issues a fresh warrant for the committal of the offender to the Compulsory Drug Treatment Correctional Centre.</li> <li>3. A compulsory drug treatment personal plan is prepared which sets out the goals and conditions of the offenders program. This is prepared by the Commissioner and comes into operation when approved by the Drug Court (see s106F C(A of S)Act)</li> </ol>
<b>COMPULSORY DRUG TREATMENT PROGRAMS</b>	All Programs have three stages (s106D and s106M C(A of S) Act): <ol style="list-style-type: none"> <li>1. Closed Detention - minimum 6 months duration.</li> <li>2. Semi-open Detention – minimum 6 months duration.</li> <li>3. Community Custody – minimum 6 months duration.</li> </ol> The Drug Court has the power to make a progression order (moving up a stage) or a regression order (moving back a stage) (s106M C(A of S) Act). The Commissioner has the power make a regression order. Such a decision must be reviewed by the Drug Court within 21 days (s106P C(A of S) Act but contrast with 106I(1)(3) which places a mandatory obligation on the Commissioner to refer the matter to the Drug Court if they are of the opinion that an offender’s program should be the subject of a regression order). If an offender is convicted and sentenced for an offence that occurred before the compulsory drug treatment order was made, the sentencing court is to refer the offender to the Drug Court (s106W).
<b>REVOCATION</b>	The Drug Court may revoke an offender’s compulsory drug treatment order for any reason it sees fit. These reasons include (see s106Q C(A of S) Act): <ol style="list-style-type: none"> <li>1. If the offender is in breach of the order (breach must be of a “serious nature”) and the Drug Court is also satisfied that the offender is unlikely to make further progress or is an unacceptable risk to the community or poses a significant risk to others or him or herself.</li> <li>2. If the non-parole period for the offenders sentence has expired or is about to expire and the offender has reached stage 1 or 2.</li> <li>3. If the offender ceases to be an eligible convicted person.</li> </ol> No appeal lies against the Drug Court’s decision to revoke a treatment order. When the Drug Court makes a revocation order, it is to issue a warrant committing the offender to a correctional centre for the remainder of the sentence (s106S). Section 106E states that an offender’s compulsory drug treatment order expires at the end of the term of the sentence or when the offender is released on parole. When a CDTCC participant becomes eligible for parole, the Drug Court becomes the authority that may make a parole order in relation to an offender in exactly the same way as the Parole Board does under Part 6 of the C (A of S) Act. After the participant is granted parole, Part 7 applies as normal, ie the Parole Board is responsible for breaches and revocation of Parole.

