

TASMANIA

SENTENCING AMENDMENT BILL 2007

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SENTENCING AMENDMENT BILL 2007

(Brought in by the Minister for Justice and Workplace Relations, the Honourable Steven Kons)

A BILL FOR

An Act to amend the *Sentencing Act 1997*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Sentencing Amendment Act 2007*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Sentencing Act 1997** is referred to as the Principal Act.

*No. 59 of 1997

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4. Section 7 amended (Sentencing orders)

Section 7 of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) if the court is constituted by a magistrate, record a conviction and make a drug treatment order under Part 3A in respect of the offender; or

5. Part 3A inserted

After section 27 of the Principal Act, the following Part is inserted:

PART 3A – DRUG TREATMENT ORDERS

27A. Interpretation of Part

In this Part, unless the contrary intention appears –

“**case manager**” means a person appointed or authorised under section 27X as a case manager for the purposes of this Part;

“**core conditions**” of a drug treatment order – see sections 27E and 27G;

“**court**” means a court constituted by a magistrate;

“**court diversion officer**” means a person appointed or authorised

under section 27X as a court diversion officer for the purposes of this Part;

“custodial part”, of a drug treatment order – see sections 27E and 27F;

“drug treatment order assessment report” or “report” means a report under section 27D;

“family violence order” means a family violence order within the meaning of the *Family Violence Act 2004*;

“imprisonable offence” means an offence that is punishable by a sentence of imprisonment;

“interim family violence order” means an interim family violence order within the meaning of the *Family Violence Act 2004*;

“police family violence order” means a police family violence order within the meaning of the *Family Violence Act 2004*;

“program conditions” of a drug treatment order – see sections 27E and 27H;

“sexual offence” means –

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- (a) a crime under section 122, 124, 125, 125A, 126, 127, 127A, 129, 133 or 185 of the *Criminal Code*; or
- (b) a crime under section 298, 299 or 300 of the *Criminal Code* relating to a crime specified in paragraph (a); or
- (c) an offence under section 35(3) of the *Police Offences Act 1935*;

“treatment and supervision part”, of a drug treatment order – see section 27E.

27B. Court may make drug treatment order

- (1) A court may make a drug treatment order in respect of an offender if –
 - (a) it finds the offender guilty of one or more imprisonable offences other than –
 - (i) sexual offences; or
 - (ii) offences involving the infliction of actual bodily harm that, in the court’s opinion, was not minor harm; and

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- (b) it is satisfied on the balance of probabilities that –
 - (i) the offender has a demonstrable history of illicit drug use; and
 - (ii) illicit drug use contributed to the commission of the imprisonable offence or offences; and
- (c) it considers that, were it not making the drug treatment order –
 - (i) it would have sentenced the offender to a term of imprisonment; and
 - (ii) it would not have suspended the sentence, either in whole or in part; and
- (d) it has received and considered a drug treatment order assessment report on the offender; and
- (e) the offender is not subject to –
 - (i) a sentencing order of the Supreme Court; or
 - (ii) a parole order under the *Corrections Act 1997*; or

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- (iii) another drug treatment order; and
- (f) no proceedings are pending against the offender, in any court, for –
 - (i) sexual offences; or
 - (ii) offences involving the infliction of actual bodily harm.
- (2) The court may make the drug treatment order regardless of whether –
 - (a) the offender's illicit drug use contributed to the offender breaching, on one or more previous occasions, a sentencing order or bail conditions; or
 - (b) the offender has been previously sentenced to one or more terms of imprisonment.
- (3) However, the court must not make the drug treatment order unless –
 - (a) it is satisfied in all the circumstances that it is appropriate to do so; and
 - (b) it is satisfied that the facilities likely to be used for the treatment and supervision part of the order

are reasonably accessible to the offender; and

- (c) the offender agrees in writing to the making of the order and to comply with the treatment and supervision part of the order.

27C. Purpose of drug treatment order

A drug treatment order is a sentencing order that aims to do one or more of the following in respect of an offender with a demonstrable history of illicit drug use:

- (a) provide an alternative sanction to imprisonment;
- (b) through an integrated, supervised and reviewable treatment regime, facilitate the offender's rehabilitation and reintegration into the community;
- (c) reduce the incentive for the offender to resort to criminal activity;
- (d) reduce risks to the offender's health and well-being.

27D. Drug treatment order assessment report

- (1) A court that is considering making a drug treatment order in respect of a defendant must –
 - (a) order a drug treatment order assessment report on the defendant; and
 - (b) adjourn the proceedings to enable a court diversion officer to provide the report.
- (2) The purpose of the report is to establish whether the defendant is a suitable subject for a drug treatment order, and, if so, make recommendations to the court on what program conditions to attach to the treatment and supervision part of the order.
- (3) The report may set out such of the following matters as, on investigation, appear to its authors to be relevant to its purpose and are readily ascertainable:
 - (a) the age of the defendant;
 - (b) the social history and background of the defendant;
 - (c) the defendant's history of drug use;
 - (d) the defendant's medical, psychological and psychiatric

- history and condition, including details of any treatment the defendant has undergone for drug or alcohol dependency;
- (e) the defendant's educational background;
 - (f) the defendant's employment history;
 - (g) the circumstances of any other offences, known to the court, of which the defendant has been found guilty;
 - (h) the extent of the defendant's compliance with any sentence currently in force in respect of the defendant;
 - (i) the defendant's financial circumstances;
 - (j) any special needs of the defendant.
- (4) The report is to include such other matters, relevant to the defendant, as the court may direct.
- (5) Also, if the authors of the report consider that the defendant may be a suitable subject for a drug treatment order, the report is to advise on programs, courses and treatments that may be able to

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- address the defendant's drug use problem and other social needs.
- (6) The authors of the report must file it with the court within such time as the court directs.
- (7) Within a reasonable time after the report is filed, and before the drug treatment order is made, the court must ensure that a copy of the report is given to –
- (a) the prosecutor; and
 - (b) the defendant's legal representative or, if the defendant is not legally represented, the defendant.
- (8) The prosecution or defence may dispute all or any part of the report.
- (9) If the whole or any part of the report is disputed, the court must not take the disputed report or disputed part into consideration in making the drug treatment order unless the disputing party has been given the opportunity to –
- (a) cross-examine the authors of the report on the disputed matters; and
 - (b) lead evidence on the disputed matters.

- (10) If the court grants the defendant bail on an adjournment under subsection (1)(b), it must, for the purpose of facilitating the provision of the report, impose a condition of bail requiring the defendant to –
- (a) report to a court diversion officer, or to a specified person or body, within a specified period; and
 - (b) comply with any requirements of the court diversion officer or specified person or body.

27E. Parts of drug treatment order

- (1) A drug treatment order has –
- (a) a custodial part; and
 - (b) a treatment and supervision part.
- (2) The custodial part consists of the sentence of imprisonment imposed under section 27F.
- (3) The treatment and supervision part consists of –
- (a) the core conditions attached under section 27G; and
 - (b) the program conditions attached under section 27H.

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- (4) The treatment and supervision part operates until it is cancelled under section 27L, 27O or 27Q.
- (5) However, section 27R applies if the treatment and supervision part is not, within 2 years after the making of the drug treatment order, cancelled under section 27L, 27O or 27Q.

27F. Custodial part of drug treatment order and its activation

- (1) A court that is making a drug treatment order must impose on the offender the sentence of imprisonment it would have imposed were it not making the order.
- (2) The sentence of imprisonment so imposed is the custodial part of the drug treatment order.
- (3) However, the offender is not required to serve all or any of the custodial part of the drug treatment order unless it is activated by some other order under this Part.
- (4) The court must not fix a non-parole period for the sentence of imprisonment imposed under subsection (1).

27G. Core conditions of drug treatment order

- (1) A court that is making a drug treatment order must attach the following conditions to the treatment and supervision part of the order:
 - (a) the offender must not, in Tasmania or elsewhere, commit another imprisonable offence;
 - (b) the offender must attend the court whenever it directs;
 - (c) the offender must report to a court diversion officer at a specified place within 2 clear working days after the order is made;
 - (d) the offender must undergo such treatment for the offender's illicit drug use problem as is specified in the order or from time to time specified by the court;
 - (e) the offender must report to, and accept visits from –
 - (i) the offender's case manager; or
 - (ii) court diversion officers;
 - (f) the offender must, unless there are special circumstances, give the offender's case manager at

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- least 2 clear working days' notice
before any change of address;
- (g) the offender must not leave Tasmania except with the permission, granted either generally or in a particular case, of the court;
 - (h) the offender must comply with all lawful directions of the court;
 - (i) the offender must comply with all reasonable directions of the offender's case manager and court diversion officers concerning the core conditions and program conditions of the order.
- (2) Also, if the offence in respect of which the drug treatment order is made is a family violence offence, the court must attach the following additional conditions to the order:
- (a) the offender must not commit another family violence offence;
 - (b) the offender must comply with any family violence order, interim family violence order or police family violence order;
 - (c) the offender must attend and undergo assessment for, and treatment under, rehabilitation

programs as directed by court diversion officers;

- (d) the offender, if directed to undergo any rehabilitation programs, must attend and satisfactorily complete those programs and comply with the reasonable directions of the persons employed or engaged to conduct them.
- (3) Conditions attached to the drug treatment order under subsection (1) or (2) are the core conditions of the order.
- (4) While the treatment and supervision part of the drug treatment order is operating, the offender must comply with its core conditions.
- (5) The court may issue a warrant for the arrest of the offender if, on any occasion, he or she fails to comply with the condition referred to in subsection (1)(b).

27H. Program conditions of drug treatment order

- (1) A court that is making a drug treatment order may attach one or more of the following conditions to the treatment and supervision part of the order:
 - (a) the offender must submit to drug testing as specified in the order;

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- (b) the offender must submit to detoxification or other treatment, whether or not residential in nature, as specified in the order;
- (c) the offender must attend vocational, educational, employment, rehabilitation or other programs specified in the order;
- (d) the offender must submit to medical, psychiatric or psychological treatment specified in the order;
- (e) the offender must not associate with persons or classes of persons specified in the order;
- (f) the offender must reside at such place, and for such period, as is specified in the order;
- (g) the offender must do or not do anything else that the court considers necessary or appropriate concerning –
 - (i) the offender's illicit drug use; or
 - (ii) the personal factors that the court considers contributed to the offender's criminal behaviour.

- (2) Conditions attached to the drug treatment order under subsection (1) are the program conditions of the order.
- (3) The court must attach at least one program condition to the drug treatment order but not more than it considers necessary to achieve the purpose for which the order is made.
- (4) While the treatment and supervision part of the drug treatment order is operating, the offender must comply with its program conditions.

27I. Case conferences

- (1) A court may convene a case conference from time to time to find out how an offender subject to a drug treatment order is progressing.
- (2) The case conference –
 - (a) may be held in such place as the court considers suitable; but
 - (b) is not to be held by way of, or as part of, proceedings in an open court.
- (3) The following persons may attend the case conference:
 - (a) the offender's legal representative;

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- (b) the offender's case manager;
 - (c) a prosecutor;
 - (d) any court diversion officer who has had dealings with the offender in connection with the order;
 - (e) at the request of or with the consent of the court, any other person.
- (4) The court, by whatever means it considers most suitable, may direct the offender or any other person to attend the case conference and the offender or other person must comply with that direction.
- (5) Where proceedings for any offence are being heard by a magistrate, no objection can be taken to the magistrate on the ground that he or she has previously convened a case conference in relation to the offender.

27J. Variation of drug treatment order on assessment of progress

- (1) A court may from time to time vary the treatment and supervision part of a drug treatment order if it considers it appropriate to do so based on its assessment of the offender's progress.

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- (2) The court may act under subsection (1) on its own motion or on the application of –
 - (a) the offender or the offender’s legal representative; or
 - (b) a police officer or prosecutor; or
 - (c) a court diversion officer.
- (3) When acting under subsection (1), the court must ensure that the offender is present.
- (4) Under subsection (1), the court may do any one or more of the following:
 - (a) add or remove program conditions;
 - (b) vary core or program conditions, other than the core condition attached under section 27G(1)(a), for example to adjust –
 - (i) the frequency of treatment; or
 - (ii) the degree of supervision; or
 - (iii) the frequency of drug testing; or
 - (iv) the type or frequency of vocational, educational, employment or other

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programs that the
offender must attend;

- (c) add, if applicable, core conditions of the kind referred to in section 27G(2).

27K. Compliance reward

- (1) A court, on its own motion, may from time to time confer a reward on an offender who has been fully or substantially complying with the conditions of a drug treatment order by doing one or more of the following:
- (a) varying the treatment and supervision part of the order;
 - (b) varying or cancelling an order under section 27M(1)(c);
 - (c) making an order that some or all of a period for which the custodial part of the drug treatment order is activated under section 27M(1)(d), but which the offender is yet to serve in a prison, is no longer activated;
 - (d) conferring on the offender any other reward that the court considers appropriate.
- (2) Under subsection (1)(a), the court may do one or more of the following:

- (a) add or remove program conditions;
- (b) vary core or program conditions, other than the core condition attached under section 27G(1)(a), for example to reduce –
 - (i) the frequency of treatment; or
 - (ii) the degree of supervision; or
 - (iii) the frequency of drug testing.

27L. Cancellation reward

- (1) A court, on its own motion, may cancel a drug treatment order as a reward if it is satisfied that –
 - (a) the offender has been fully or substantially complying with the conditions of the order; and
 - (b) the continuation of the order is no longer necessary to meet the purposes for which it was made; and
 - (c) the period of imprisonment that the offender would have had to serve had the order been fully

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activated at the time of
sentencing has expired.

- (2) To avoid doubt, if a drug treatment order is cancelled under this section, any earlier orders activating the custodial part of the order cease to have effect forthwith.

27M. Contravention of order

- (1) If a court is satisfied that an offender has failed to comply with a condition of a drug treatment order, other than by committing an offence punishable by a term of imprisonment exceeding 12 months, the court must take one of the following actions:
- (a) confirm the treatment and supervision part of the drug treatment order;
 - (b) vary the treatment and supervision part of the drug treatment order;
 - (c) make an order requiring the offender to perform up to 20 hours of community work under the supervision of the offender's case manager;
 - (d) subject to section 27N, order that the custodial part of the drug

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treatment order is activated for a specified period, of not less than one day and not more than 7 days, to be served in prison.

- (2) In deciding which action to take under subsection (1), the court must –
 - (a) consider each of the actions in the order in which they appear; and
 - (b) only take the first action that it considers to be appropriate in the circumstances.
- (3) However, the court may only act under subsection (1)(d) if it is satisfied beyond reasonable doubt that the offender has failed to comply with the relevant condition.
- (4) To act under subsection (1)(a), (b) or (c), the court need only be satisfied on the balance of probabilities that the offender has failed to comply with the relevant condition.
- (5) Under subsection (1)(b), the court may do one or more of the following:
 - (a) add or remove program conditions;
 - (b) vary core or program conditions, other than the core condition attached under section 27G(1)(a), for example to increase –

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- (i) the frequency of treatment; or
 - (ii) the degree of supervision; or
 - (iii) the frequency of drug testing;
- (c) add, if applicable, core conditions of the kind referred to in section 27G(2).
- (6) If the court is satisfied on the balance of probabilities that an offender who is subject to an order under subsection (1)(c) has failed to comply with the order, the court may take any action under subsection (1).
- (7) The court may act under subsection (1) or (6) on its own motion or on the application of –
 - (a) a police officer or prosecutor; or
 - (b) a court diversion officer.

27N. Imprisonment

- (1) An offender is only required to serve a period of imprisonment pursuant to an order under section 27M(1)(d) once the total of the custodial periods activated under all such orders in respect of the offender, and which he or she is yet to

serve, exceeds 13 days exclusive of any de-activated parts of those custodial periods.

(2) If a court makes an order under section 27M(1)(d) that will have the effect of activating the accumulated custodial periods of a drug treatment order, it may, to give effect to the order under section 27M(1)(d), issue a warrant for the imprisonment of the offender.

(3) In this section –

“custodial period”, of a drug treatment order, means the period, of imprisonment, for which the custodial part of the order is activated under section 27M(1)(d);

“de-activated part”, of a custodial period of a drug treatment order, means such part of the custodial period as is no longer activated because of an order under section 27K(1)(c).

27O. Commission of certain offences

(1) If a court is satisfied beyond reasonable doubt that an offender has failed to comply with a condition of a drug treatment order by committing an offence

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punishable by a term of imprisonment exceeding 12 months, the court must –

- (a) take one of the actions under section 27M(1) as though the offender had failed to comply with any other condition of the order; or
- (b) cancel the treatment and supervision part of the order and, after taking into account the extent of the offender's compliance with that part –
 - (i) make an order activating some or all of the custodial part of the drug treatment order; or
 - (ii) cancel the custodial part of the drug treatment order and, other than by making an order under section 7(a), deal with the offender for each offence in respect of which the drug treatment order was made in any way in which it could deal with the offender had it just found the offender guilty of each such offence.

- (2) The court may act under subsection (1) on its own motion or on the application of –
 - (a) a police officer or prosecutor; or
 - (b) a court diversion officer.
- (3) Before the court cancels the treatment and supervision part of the drug treatment order under subsection (1), whether or not it also cancels the custodial part, it must give the offender an opportunity to make a submission on the matter.
- (4) To avoid doubt, if under this section the court cancels the treatment and supervision part or custodial part of the drug treatment order, any earlier orders activating the custodial part of the drug treatment order cease to have effect forthwith.

27P. Hearing and determining certain offences

- (1) This section applies if an offender subject to a drug treatment order is charged with an offence, whether committed before or after the making of the order, and –
 - (a) a court finds the offender guilty of the offence; and

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- (b) for the offence, the court imposes a sentence of imprisonment on the offender; and
 - (c) the court does not suspend the sentence, either in whole or in part; and
 - (d) the length of the sentence is less than the remaining length of the custodial part of the drug treatment order; and
 - (e) the offence is one for which the court could have made a drug treatment order if the offender were not already subject to such an order.
- (2) The court, in imposing the sentence, may order that it is subsumed within the custodial part of the drug treatment order.
- (3) However, unless subsection (2) applies, the court must cancel the treatment and supervision part of the drug treatment order under paragraph (b) of section 27O(1) and take an action under subparagraph (i) or (ii) of that paragraph.

27Q. Cancellation

- (1) A court may cancel the treatment and supervision part of a drug treatment order

if it is satisfied on the balance of probabilities that –

- (a) before the order was made, the offender's circumstances were not accurately presented to the court or the authors of the relevant drug treatment order assessment report; or
 - (b) the offender will be unable to comply with a condition of the order because his or her circumstances have materially changed since it was made; or
 - (c) the offender is no longer willing to comply with one or more conditions of the order; or
 - (d) the continuation of the treatment and supervision part of the order is unlikely to achieve one or more of the purposes for which the order was made.
- (2) When cancelling the treatment and supervision part of the order under subsection (1), the court, after taking into account the extent of the offender's compliance with that part, must –
- (a) make an order activating some or all of the custodial part of the drug treatment order; or

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- (b) cancel the custodial part of the drug treatment order and, other than by making an order under section 7(a), deal with the offender for each offence in respect of which the drug treatment order was made in any way in which it could deal with the offender had it just convicted him or her of each such offence.
- (3) The court may act under subsection (1) or (2) on its own motion or on the application of –
 - (a) the offender; or
 - (b) a police officer or prosecutor; or
 - (c) a court diversion officer.
- (4) Before the court cancels the treatment and supervision part of the drug treatment order, whether or not it also cancels the custodial part, it must give the offender an opportunity to make a submission on the matter.
- (5) When making an order under subsection (2)(a), the court may fix a non-parole period for the sentence of imprisonment, or partial sentence of imprisonment, activated by the order.
- (6) Subsection (5) has effect notwithstanding any other provision of this Part.

- (7) To avoid doubt, if under this section the court cancels the treatment and supervision part or custodial part of the drug treatment order, any earlier orders activating the custodial part of the drug treatment order cease to have effect forthwith.

27R. Second anniversary review

- (1) This section applies if the treatment and supervision part of a drug treatment order is not cancelled under section 27L, 27O or 27Q within the 2-year period immediately following the making of the order.
- (2) As soon as practicable after the 2-year period, the court that made the order must review the treatment and supervision part to determine whether, notwithstanding any other provision of this Part, it should continue to operate.
- (3) The court may conduct the review in the same manner as a case conference convened under section 27I and, if it does so, subsections (2), (3) and (4) of that section apply, with necessary modifications, to the review.
- (4) On completion of the review, the court must cancel the treatment and supervision part of the order and exercise its powers under section 27Q(2).

27S. Motions to review

- (1) On the hearing of a motion to review a sentencing order made by a court constituted by a magistrate, the Supreme Court cannot itself make a drug treatment order.
- (2) For a sentencing order made by a court constituted by a magistrate, Part XI of the *Justices Act 1959* applies with the following modifications:
 - (a) a motion to review does not lie against –
 - (i) a refusal to make a drug treatment order; or
 - (ii) a finding that an offender has failed to comply with a condition of a drug treatment order; or
 - (iii) the variation of the treatment and supervision part of a drug treatment order; or
 - (iv) the cancellation of the treatment and supervision part, or the custodial part, of a drug treatment order;
 - (b) if a motion to review concerns the custodial part of a drug treatment order, and not its treatment and

supervision part, the motion does not operate as a stay of the treatment and supervision part of the order unless the Supreme Court so orders.

- (3) For the purposes of section 7, an order under this Part activating some or all of the custodial part of a drug treatment order is taken to be a sentencing order.
- (4) If, on the hearing of a motion to review a sentencing order made by a court constituted by a magistrate, the Supreme Court considers that the making of a drug treatment order may be appropriate, it may, with or without directions, refer the matter to that court to consider the making of such an order.
- (5) If a court to which a matter is referred under subsection (4) determines not to make a drug treatment order, it must remit the matter to the Supreme Court for the making of an order under section 7.
- (6) If a court to which a matter is referred under subsection (4) makes a drug treatment order –
 - (a) the order has effect for section 7 as if it were a sentencing order made by the Supreme Court on the hearing of the motion to review; but

- (b) for all other purposes has effect as an order made by a magistrate.

27T. Immunity from prosecution for certain drug offences

- (1) A person is not liable to be prosecuted for an offence involving controlled drugs within the meaning of the *Misuse of Drugs Act 2001* –
 - (a) as a result of any admission made in connection with any assessment of the eligibility of the person for the making of a drug treatment order; or
 - (b) as a result of any admission made in connection with the assessment by a court, or at a case conference convened by that court under section 27I, of the person's progress under a drug treatment order.
- (2) However, subsection (1) does not prevent a prosecution for any offence involving controlled drugs within the meaning of the *Misuse of Drugs Act 2001* if there is evidence, other than the admission or evidence obtained as a result of the admission, to support a charge.
- (3) The admission, and any evidence obtained as a result of the admission, is

not admissible against the person in a prosecution referred to in subsection (2).

27U. Information sharing

A person who is a personal information custodian within the meaning of the *Personal Information Protection Act 2004* is not taken to contravene that Act by reason only of collecting, using or disclosing or otherwise dealing with personal information for the purposes of this Part.

27V. Random drug testing

If a drug treatment order includes a program condition relating to the requirement for random drug testing, the offender's case manager may decide when and where the offender is to report from time to time for such testing.

27W. Disclosure of compliance information

- (1) A magistrate, court diversion officer or case manager may request any person to disclose any compliance information in the person's possession and the person must comply with that request.

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- (2) Subsection (1) has effect notwithstanding the *Personal Information Protection Act 2004* or any legislation relating to the confidentiality or privacy of information.
- (3) Where a person discloses compliance information in good faith under this section –
 - (a) the person does not, by reason of that disclosure, incur any criminal, civil or administrative liability; and
 - (b) the person is not, by reason of that disclosure –
 - (i) taken to have breached any rule of law of practice that would otherwise prohibit the person from disclosing the compliance information; or
 - (ii) taken to have broken any professional or other oath, or breached any professional or other code, standard or guideline of ethics or etiquette that might otherwise bar the person from, or condemn the person for, disclosing the compliance information; or

(iii) liable to condemnation or disciplinary action by any professional body or other person.

(4) In this section –

“compliance information” means information about an offender’s compliance with the conditions of a drug treatment order.

27X. Court diversion officers and case managers

(1) The Secretary may –

(a) appoint a State Service officer or State Service employee employed in the Department to be a court diversion officer or case manager for the purposes of this Part; and

(b) with the consent of the Head of another State Service Agency, appoint a State Service officer or State Service employee employed in that Agency to be a court diversion officer or case manager for the purposes of this Part.

(2) A person appointed as a court diversion officer or case manager under this section may hold that office in conjunction with State Service employment.

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- (3) The Secretary may authorise a person who is not a State Service officer or State Service employee to perform the functions and exercise the powers of a court diversion officer or case manager for the purposes of this Part.

27Y. Expiry of operation of Part

Notwithstanding section 7(ab), a court must not make a drug treatment order under this Part after 31 May 2008 or, if a later date is prescribed before 31 May 2008, after that prescribed later date.