



New South Wales

Drug Summit Legislative Response Amendment (Trial Period Extension) Bill 2007

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

Part 2A of the *Drug Misuse and Trafficking Act 1985* (*the Principal Act*) currently permits the operation and use, under licence, of a single medically supervised injecting centre, but restricts the period during which such a licence can have effect to a trial period that started on 1 May 2001 and finishes on 31 October 2007.

The object of this Bill is to amend the Principal Act:

- (a) to extend the trial period so that it will finish on 31 October 2011, and
- (b) to require a review of the economic viability of a licensed injecting centre in certain circumstances.

The Bill makes a consequential amendment to the *Drug Misuse and Trafficking Regulation 2006*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendment to the *Drug Misuse and Trafficking Regulation 2006* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Drug Misuse and Trafficking Act 1985

Schedule 1 [1] amends section 36A (1) of the Principal Act so as to extend the trial period for which that section allows a licence to be issued under Part 2A. The trial period will now end on 31 October 2011 rather than on 31 October 2007.

Schedule 1 [2] amends section 36B of the Principal Act to require that a review of the extended trial period be completed by 1 May 2011.

Schedule 1 [3] substitutes section 36K of the Principal Act which currently provides for ongoing or periodical reviews of any licensed injecting centre. The proposed section provides that, in addition to ongoing and periodical reviews of any licensed injecting centre that may be carried out, the responsible authorities must arrange a review of the economic viability of a licensed injecting centre if its service activity level drops below 75 per cent of the level prescribed by the regulations. The responsible authorities may revoke a licence if satisfied, after considering the results of such a review of economic viability, that the licensed injecting centre has ceased to be economically viable.

Schedule 1 [4] amends section 36T of the Principal Act to provide that the licence currently in force under Part 2A is extended for the whole of the extended trial period, and may not be challenged or called into question before any court or tribunal as a consequence of its term having been so extended.

Schedule 2 Amendment of Drug Misuse and Trafficking Regulation 2006

Schedule 2 amends the *Drug Misuse and Trafficking Regulation 2006* to prescribe, for the purposes of section 36K (2) of the Principal Act, a level of service activity for the licensed injecting centre that is an average of at least 208 client visits per day in each month.



New South Wales

Drug Summit Legislative Response Amendment (Trial Period Extension) Bill 2007

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Drug Misuse and Trafficking Act 1985 No 226	2
4 Amendment of Drug Misuse and Trafficking Regulation 2006	2
5 Repeal of Act	2
Schedule 1 Amendment of Drug Misuse and Trafficking Act 1985	3
Schedule 2 Amendment of Drug Misuse and Trafficking Regulation 2006	4



New South Wales

Drug Summit Legislative Response Amendment (Trial Period Extension) Bill 2007

No. , 2007

A Bill for

An Act to amend the *Drug Misuse and Trafficking Act 1985* so as to extend the trial period established under Part 2A of that Act for the operation and use of the injecting centre licensed under that Part; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Drug Summit Legislative Response Amendment (Trial Period Extension) Act 2007</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Drug Misuse and Trafficking Act 1985 No 226	7
The <i>Drug Misuse and Trafficking Act 1985</i> is amended as set out in Schedule 1.	8 9
4 Amendment of Drug Misuse and Trafficking Regulation 2006	10
The <i>Drug Misuse and Trafficking Regulation 2006</i> is amended as set out in Schedule 2.	11 12
5 Repeal of Act	13
(1) This Act is repealed on the day following the day on which this Act commences.	14 15
(2) The repeal of this Act does not, because of operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

Schedule 1	Amendment of Drug Misuse and Trafficking Act 1985	1
		2
	(Section 3)	3
[1]	Section 36A Limited operation of Part 2A	4
	Omit “31 October 2007” from section 36A (1).	5
	Insert instead “31 October 2011”.	6
[2]	Section 36B Review during trial period	7
	Omit section 36B (2). Insert instead:	8
	(2) The review is to commence as soon as practicable after the date of assent to the <i>Drug Summit Legislative Response Amendment (Trial Period Extension) Act 2007</i> and is to be completed by 1 May 2011.	9 10 11 12
[3]	Section 36K	13
	Omit the section. Insert instead:	14
36K	Reviews of licence	15
	(1) The responsible authorities may arrange for the ongoing or periodical review of any licensed injecting centre.	16 17
	(2) The responsible authorities must arrange for the review of the economic viability of a licensed injecting centre if they are satisfied that the service activity level of the centre has dropped below 75 per cent of the service activity level prescribed by the regulations.	18 19 20 21 22
	(3) Regulations referred to in subsection (2) may express the level of service activity as a specified number of client visits in any period or may express that level in any other manner.	23 24 25
	(4) The responsible authorities may revoke a licence if, after considering the results of a review under subsection (2), they are of the opinion that the licensed injecting centre has ceased to be economically viable.	26 27 28 29
[4]	Section 36T Effect of extension of trial period	30
	Omit “ <i>Drug Summit Legislative Response Amendment (Trial Period Extension) Act 2003</i> ” from section 36T (1).	31 32
	Insert instead “ <i>Drug Summit Legislative Response Amendment (Trial Period Extension) Act 2007</i> ”.	33 34

Schedule 2	Amendment of Drug Misuse and Trafficking Regulation 2006	1
		2
	(Section 4)	3
Clause 19A		4
Insert before clause 20:		5
19A Prescribed service activity level for licensed injecting centre		6
(1) For the purposes of section 36K (2) of the Act, the prescribed service activity level for the licensed injecting centre is an average of at least 208 client visits per day in each month.		7 8 9
(2) Subclause (1) applies only in relation to a month beginning after the commencement of this clause.		10 11