

# **Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017**

## **Introduction Print**

### **EXPLANATORY MEMORANDUM**

#### **Clause Notes**

##### **Part 1—Preliminary**

- Clause 1 sets out the purposes of the Bill.
- The Bill will amend the **Drugs, Poisons and Controlled Substances Act 1981** to enable the licencing and operation of a medically supervised injecting centre for a trial period of 18 months.
- Clause 2 provides for the Bill to commence on a day or days to be proclaimed.
- Clause 3 provides that for the purpose of the Bill, the **Drugs, Poisons and Controlled Substances Act 1981** is the Principal Act.

##### **Part 2—Amendment of the Drugs, Poisons and Controlled Substances Act 1981**

- Clause 4 inserts Part VIAB of the **Drugs, Poisons and Controlled Substances Act 1981**.

##### **Division 1—Preliminary**

Division 1 provides for preliminary matters, including definitions, the limited operation of this Part, the objects of this Part, data collection and review, and expiry of this Part.

New section 98A inserts the following definitions into Part VIAB of the **Drugs, Poisons and Controlled Substances Act 1981**—

- **director**, in relation to a licensed injecting centre, means a medical practitioner appointed as director of the centre, and includes any other medical practitioner appointed to act as director of the centre during the illness or absence of the director or during a vacancy in the office of the director;
- **internal management protocols**, in relation to a licensed injecting centre, means the protocols finalised for the centre as referred to in section 98G or, if the protocols are amended or replaced as referred to in section 98M, the protocols as so amended or replaced;
- **licence** means a licence in force under this Part;
- **licensed injecting centre** means the premises that are the subject of a licence;
- **responsible authority** means the Secretary and the Chief Commissioner of Police;
- **staff**, in relation to a licensed injecting centre, includes—
  - (a) all persons engaged to provide services at the centre, whether under a contract of employment or otherwise; and
  - (b) all persons authorised to provide voluntary assistance at the centre in accordance with the centre's licence conditions and internal management protocols.

The employer of a person referred to in paragraph (a) or (b) is the person by or on whose behalf the person so referred to is engaged to provide services or authorised to provide voluntary assistance, as the case requires;

- **supervisor**, in relation to a licensed injecting centre, means the director of the centre or a registered medical practitioner nominated by the director to supervise the centre;
- **trial period** means the trial period of 18 months from a date to be fixed by proclamation as the commencement;

It is intended that the powers of the responsible authority be exercised jointly by the Secretary and Chief Commissioner of Police, or their delegates.

It is intended that a *medical practitioner* or *registered medical practitioner* means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student).

New section 98B limits the duration and ambit of Part VIAB and provides oversight to the responsible authority.

The responsible authority may issue only one licence, in respect of only one premises, to have effect only during a trial period of 18 months starting on a day to be fixed by proclamation. It is intended that the date fixed as the commencement date of the 18 month trial period will be the date that the medically supervised injecting centre opens for operation.

The responsible authority can issue a further licence, so long as the earlier licence has been revoked or has otherwise ceased to have effect.

New section 98C outlines the objects of the medically supervised injecting centre. These are—

- to reduce the number of deaths from drug overdoses;
- to provide a gateway to health and social assistance for clients of the licensed injecting centre, including drug treatment, health care and counselling;
- to reduce drug overdose related ambulance attendances;
- to reduce the number of discarded needles and syringes and the incidence of drug injecting in public places;
- to improve the amenity of the neighbourhood for residents and traders in the vicinity of the licensed injecting centre;
- to assist in reducing the spread of blood-borne diseases, including but not limited to HIV infection or Hepatitis C.

New section 98D sets out a requirement for the collection of data and the conduct of a review of the medically supervised injecting centre by the responsible authority.

The review is to examine the operation and use of the medically supervised injecting centre and the extent to which the objects of Part VIAB have been met.

The review will determine what, if any amendments to Part VIAB are required. Should the review demonstrate that the objects of the Part have been advanced, this will assist any legislated expansion of the trial, or the establishment of permanent medically supervised injecting centres.

The review of the licenced injecting centre must commence as soon as practicable after the completion of six months of the trial period. It does not limit the data set for the review to six months.

A report of the conclusions and recommendations of the review is to be tabled in each House of Parliament as soon as practicable after its completion.

The responsible authority is to arrange for the collection of all data sufficient for the conduct of the review. This section is framed broadly so as not to limit the responsible authority.

### **Division 2—Licensing of injecting centres**

Division 2 provides for the licensing of the medically supervised injecting centre.

New section 98F permits the responsible authority to issue a licence for a medically supervised injecting centre.

New section 98G sets out restrictions on the issue of a licence. A licence cannot be issued without finalised internal management protocols and without the responsible authority having regard to relevant matters, including health and safety, and the Building Code of Australia.

New section 98H provides that a licence has effect for the period specified in it, unless sooner surrendered or revoked.

New section 98I provides that a licence is subject to conditions as may be imposed from time to time by the responsible authority, either in the licence or a separation order in writing. No conditions may be added without prior consultation with the licence holder. This section permits the responsible authority to be responsive in its ongoing oversight of the centre.

New section 98J provides the following statutory conditions of a licence—

- no child is to be admitted to that part of the centre that is used for the purposes of the administration of any drug of dependence;
- the centre's internal management protocols are to be observed at all times.

New section 98K provides for the contravention of Part VIAB or the regulations. The responsible authority may deal with a contravention by way of a warning or reprimand, a fine, the suspension of a licence, or the revocation of a licence.

### **Division 3—Internal management protocols**

Division 3 provides for matters relevant to the establishment of internal management protocols for the medically supervised injecting centre.

New section 98L provides that the centre must be under the supervision of a registered medical practitioner at all times.

The centre must provide access or referral to—

- primary health care, including mental health care services;
- drug and alcohol counselling services;
- health education;
- drug and alcohol detoxification and rehabilitation services;
- the services of an opioid substitution provider;
- testing for blood-borne and sexually transmitted diseases; and
- a needle or syringe exchange program.

It is intended that the medically supervised injecting centre be a gateway to health and social assistance, which will assist clients of the centre to address dependence and addiction issues and any underlying or co-occurring health or mental health issues.

Internal management protocols are to be established to ensure that children are not admitted to the part of the centre used for the purposes of the administration of a drug of dependence.

Internal management protocols are to be established to ensure that the health and safety of staff and users of the centre is protected.

Internal management protocols are to be established to ensure that services are available and procedures established to ensure compliance with the requirements of Part VIAB, the regulations and the centre's licence conditions.

#### **Division 4—Exemptions from liability**

Division 4 provides for exemptions from criminal liability for users of the medically supervised injecting centre, and for exemptions from criminal and civil liability for persons engaged in the conduct of the medically supervised injecting centre.

New section 98N provides exemptions from criminal liability to users of the medically supervised injecting centre. The exemptions apply to the offences of possessing (other than for supply) and using a small quantity of a drug of dependence, at the centre.

These exemptions do not operate to affect the conditions of any sentence, or the conditions of bail or parole, to which a person is subject. For example, a person who is granted bail on the condition that they do not use a drug of dependence, will be in breach of that condition of bail, if they use a drug of dependence at the medically supervised injecting centre.

It remains an offence to possess a drug of dependence outside of the medically supervised injecting centre. The successful operation of the centre is therefore contingent on the appropriate exercise of police discretion. Subsection 98N(4) addresses the exercise of police discretion in not charging persons travelling to or from the medically supervised injecting centre, or persons in the vicinity of the medically supervised injecting centre for the purposes of attendance at the centre.

It is intended that Victoria Police formulate a written policy and/or guidelines to address the exercise of police discretion in relation to users of the medically supervised inject centre.

New section 98O provides exemptions from extended criminal liability for persons engaged in the conduct of the medically supervised injecting centre.

New section 98P provides exemptions from civil liability for persons engaged in the conduct of the medically supervised injecting centre.

### **Division 5—Miscellaneous**

Division 5 provides for miscellaneous matters relevant to the medically supervised injecting centre.

New section 98Q provides an exception from any requirement to obtain a planning permit in relation to the use of land as a medically supervised injecting centre.

New section 98R provides for the certification of evidence in certain circumstances in legal proceedings under Part VIAB of the Principal Act.

New section 98S provides for the making of regulations in relation to the medically supervised injecting centre, namely—

- the standards for a medically supervised injecting centre, including the elaboration of internal management protocols for a licensed injecting centre;
- the provisions to be observed in the operation of a medically supervised injecting centre;
- the rules of conduct to be observed by persons using a medically supervised injecting centre;
- the qualifications of persons engaged in the conduct of a medically supervised injecting centre; and
- the functions of persons engaged in the conduct of a medically injecting centre.