

BREAKING BREAKING THE CYCLE

breaking the cycle of alcohol abuse,
violence and anti-social
behaviour

Fact Sheet 1 Alcohol Court Bill 2005

Key features of the Bill:

- Establishes an Alcohol Court that has specific powers in relation to offenders who are dependent on alcohol;
- Introduces a new form of intensive sentence – alcohol intervention orders – to address the underlying behaviour of offenders dependent on alcohol;
- Reforms the law in relation to prohibition orders that can prohibit or limit the consumption of alcohol by an offender, or compel them to undergo treatment.

Alcohol Court

The Alcohol Court, constituted by a Magistrate, will be able to make alcohol intervention orders, prohibition orders and other sentencing orders against eligible offenders. The Court can only deal with adult offenders who could otherwise be dealt with by the Magistrates' Court – offenders who must be sentenced by the Supreme Court for offences such as rape, murder or armed robbery etc cannot be referred to the Alcohol Court.

Offenders referred to the Alcohol Court will be assessed by court clinicians to determine whether they are dependent on alcohol, and provide advice to the Court regarding treatment. The clinicians and the Court will monitor the progress of offenders while they undergo treatment.

Alcohol intervention orders: eligibility, conditions and enforcement

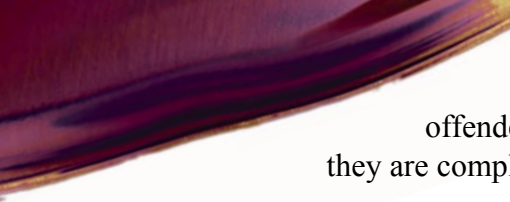
An offender is eligible for referral to the Alcohol Court when they plead guilty to an offence, or indicate an intention to plead guilty, it is likely that they will be sentenced to a period of actual imprisonment and the person appears to be dependant on alcohol. The offender will also have to consent to the referral.

After referral to the Court the offender will be assessed by a court clinician. The Alcohol Court may make an alcohol intervention order if satisfied that the offender is dependent on alcohol, and the dependency contributed to the commission of the offence.

An alcohol intervention order consists of two components: a term of imprisonment of up to 2 years that is suspended partially or fully, and a period of supervision and treatment of up to 12 months.

During the period of supervision and treatment the offender will be required to comply with core conditions imposed by the legislation, including that the offender must not commit an offence in the Territory or elsewhere punishable by imprisonment, must not consume alcohol, must undergo specified





treatment and must report to and obey the directions of the Alcohol Court, the Director of Correctional Services or a court clinician. The offender can be required to undertake breath and blood tests to determine whether they are complying with the order.

In addition, the Court can impose additional conditions on an offender such as a restriction on where the offender can live, a curfew and a requirement to undertake education or rehabilitation programs.

The Court can monitor the progress of the offender throughout the supervision and treatment period, and vary the conditions of the order, to impose a reward for compliance (by reducing or relaxing a condition) or impose more stringent conditions.

If an offender contravenes an alcohol intervention order the Court may order the person be committed to prison for up to 14 days, or revoke the treatment and supervision component of the order and order that the offender serve all or part of the period of imprisonment suspended as part of the order, or revoke the alcohol intervention order and resentence the offender.

Where an offender is committed to prison for up to 14 days they will continue to serve the treatment and supervision component on release from prison.

Prohibition orders: eligibility, conditions and enforcement

Prohibition orders are available for lower level offending where the offender will not be sentenced to a period of imprisonment, and is therefore not eligible for an alcohol intervention order.

An offender is eligible for referral to the Alcohol Court for an assessment for a prohibition order when they have been found guilty of an offence, or pleaded guilty to an offence, or indicated an intention to plead guilty and they appear to be dependent on alcohol. The Court may be satisfied that the person is dependent on alcohol if they have been taken into protective custody at least 6 times in the last 3 months.

The offender will be assessed by a court clinician and the Alcohol Court may make a prohibition order if satisfied that the offender is dependent on alcohol and would benefit from withdrawal from alcohol, or a reduction in the consumption of alcohol, or treatment. In addition the Court must be satisfied that the order is necessary to protect the offender from severe harm, or to prevent the offender from causing a serious risk to the health and safety of others because of their regular and excessive consumption of alcohol.

When making a prohibition order the Court can also take into account the number of times the offender has been taken into protective custody, the offender's criminal history and whether alcohol was a contributing factor in the commission of those offences.

A prohibition order may prohibit or restrict the consumption of alcohol by the offender, and prohibit or restrict their access to licensed premises. A prohibition order may also require the offender to undergo specified treatment.

If the Alcohol Court makes a prohibition order it must then sentence the person for the offence for which they are before the Court.

The existing provisions of the *Sentencing Act*, and *Bail Act*, will permit the Alcohol Court to incorporate into a sentence, or bail undertaking, a requirement to comply with the conditions of a prohibition order. When the Court incorporates a prohibition order into a sentencing order, or a bail undertaking, the terms of the prohibition order will be enforceable as a breach of the sentencing order, or bail undertaking.

The existing rules regarding appeals from decisions of Magistrates will also apply to decisions made by the Alcohol Court.

