

Authorised Version

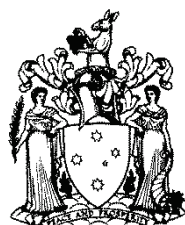
Drugs, Poisons and Controlled Substances Amendment (Medically Supervised Injecting Centre) Act 2017

No. 66 of 2017

TABLE OF PROVISIONS

<i>Section</i>		<i>Page</i>
1	Purpose	1
2	Commencement	2
3	Principal Act	2
4	Definitions	2
5	Secretary may authorize person to carry out functions of authorized officer	3
6	Inspections	3
7	New Part IIA inserted	4
8	List of licences and permits	23
9	Evidentiary	23
10	Regulations	24
11	General regulations	24
12	Repeal of amending Act	24
<hr/>		
Endnotes		25
1	General information	25

Authorised Version



Victoria

**Drugs, Poisons and Controlled
Substances Amendment (Medically
Supervised Injecting Centre) Act 2017[†]**

No. 66 of 2017

[Assented to 19 December 2017]

The Parliament of Victoria enacts:

1 Purpose

The purpose of this Act is to amend the **Drugs, Poisons and Controlled Substances Act 1981** to provide for the licensing, for a trial period and at a single specified site, of the operation of a single medically supervised injecting centre for certain kinds of drugs of dependence.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 31 October 2018, it comes into operation on that day.

3 Principal Act

In this Act, the **Drugs, Poisons and Controlled Substances Act 1981** is called the Principal Act.

4 Definitions

In section 4(1) of the Principal Act **insert** the following definitions—

"child, in Part IIA, means a person under 18 years of age;

director, in relation to the licensed medically supervised injecting centre, has the meaning given in section 55B;

injecting centre drug means a drug of dependence, or a class of drug of dependence, prescribed as an injecting centre drug;

internal management protocols, in Part IIA, means the protocols approved under section 55E by the Secretary, as in force from time to time;

licensed medically supervised injecting centre means the facility for which the medically supervised injecting centre licence is issued;

medically supervised injecting centre licence means the licence issued under section 55C;

permitted quantity of injecting centre drug means a prescribed amount of an injecting centre drug;

permitted site means the land described in
Vol. 09195 Fol. 045;

staff means—

- (a) in relation to the licensed medically supervised injecting centre, the persons engaged (whether under contracts of employment, or as volunteers, or otherwise) to provide services for the centre; and
- (b) in relation to the permitted site, the persons engaged (whether under contracts of employment, or as volunteers, or otherwise), to provide services for any facility that is located at the permitted site, including at the licensed medically supervised injecting centre;

supervisor, in relation to the licensed medically supervised injecting centre, has the meaning given in section 55B;"

5 Secretary may authorize person to carry out functions of authorized officer

After section 41(4) of the Principal Act **insert**—

"(5) Without limiting subsection (1), an authority under that subsection may be limited to the exercise and performance of powers, duties, and functions of an authorized officer for the purposes of Part IIA and any regulations made for the purposes of that Part."

6 Inspections

Before section 42(1)(b) of the Principal Act **insert**—

"(ad) if a medically supervised injecting centre licence has been issued, enter upon the permitted site and the licensed medically

supervised injecting centre to ascertain whether Part IIA, the regulations made for the purposes of that Part, the medically supervised injecting centre licence and the internal management protocols are being complied with and exercise any powers under this section;

Note

See also section 50 in relation to immunity of authorized officers."

7 New Part IIA inserted

After Part II of the Principal Act **insert**—

"Part IIA—Trial of medically supervised injecting centre

Division 1—Preliminary

55A Object

The object of this Part is to provide for the trial of a medically supervised injecting centre as part of a scheme that aims—

- (a) to reduce the number of avoidable deaths and the harm caused by overdoses of drugs of dependence; and
- (b) to deliver more effective health services for clients of the licensed medically supervised injecting centre by providing a gateway to health and social assistance which includes drug treatment, rehabilitation support, health care, mental health treatment and support and counselling; and

- (c) to reduce attendance by ambulance services, paramedic services and emergency services and attendances at hospitals due to overdoses of drugs of dependence; and
- (d) to reduce the number of discarded needles and syringes in public places and the incidence of injecting of drugs of dependence in public places in the vicinity of the licensed medically supervised injecting centre; and
- (e) to improve the amenity of the neighbourhood for residents and businesses in the vicinity of the licensed medically supervised injecting centre; and
- (f) to assist in reducing the spread of blood-borne diseases in respect of clients of the licensed medically supervised injecting centre including, but not limited to, HIV and hepatitis C.

55B Meaning of *director* and *supervisor* of licensed medically supervised injecting centre

- (1) For the purposes of this Act, a registered medical practitioner is the *director* of the licensed medically supervised injecting centre if—
 - (a) the practitioner is appointed by the licensee to—
 - (i) oversee the centre's operations generally; and
 - (ii) ensure compliance with the internal management protocols; and

- (iii) ensure compliance with the conditions imposed on the medically supervised injecting centre licence; and
 - (b) no other registered medical practitioner is appointed by the licensee to perform that role; and
 - (c) the practitioner is not a supervisor.
- (2) For the purposes of this Act, a registered medical practitioner is a *supervisor* of the licensed medically supervised injecting centre—
 - (a) if the practitioner is appointed by the licensee or the director to—
 - (i) oversee the centre's clinical operations (but not the centre's operations generally); and
 - (ii) ensure the adequacy of the clinical procedures used at the centre; and
 - (b) whether or not the practitioner undertakes (and does not only oversee) any clinical activities at the centre; and
 - (c) whether or not any other registered medical practitioner is appointed by the licensee or the director to perform that role.
- (3) A reference to the *director* or a *supervisor* of the licensed medically supervised injecting centre includes a reference to a registered medical practitioner acting in that role—
 - (a) during any illness or other absence of a person appointed to that role; or
 - (b) while there is a vacancy in that role.

- (4) The director, and each supervisor, of the licensed medically supervised injecting centre is taken to be a member of the staff of the licensed medically supervised injecting centre.

Division 2—Medically supervised injecting centre licence

55C Medically supervised injecting centre may be licensed for trial period

- (1) The Secretary may issue to an entity a licence for the purposes of this Part for a facility at the permitted site.
- (2) The medically supervised injecting centre licence must not be issued unless—
- (a) the Secretary has approved, under section 55E, internal management protocols for the proposed licensee; and
 - (b) the Secretary is satisfied that any other prescribed requirements have been satisfied.
- (3) The Secretary may refuse to issue the medically supervised injecting centre licence to an entity for any reason the Secretary thinks fit.
- (4) In issuing the medically supervised injecting centre licence, the Secretary may impose on the licence any conditions that the Secretary thinks fit.
- (5) The functions and powers of the Secretary under this section are not delegable.

55D Only one licence may be issued

Only one medically supervised injecting centre licence may be issued.

55E Internal management protocols

- (1) For the purposes of determining whether to issue the medically supervised injecting centre licence for a facility at the permitted site, the Secretary must consider whether to approve draft internal management protocols that are given to the Secretary by or on behalf of that entity.
- (2) The Secretary may approve the draft internal management protocols if satisfied that they are sufficient to support the issuing of the medically supervised injecting centre licence.
- (3) In determining whether to approve the draft internal management protocols, the Secretary must have regard to whether, if the medically supervised injecting centre licence were issued for the facility, the draft protocols would require—
 - (a) that the centre must have a director; and
 - (b) that the centre must be under the supervision of a supervisor at all times; and
 - (c) that the centre must be operated so as to facilitate access or referrals to the following—
 - (i) primary health care services including, but not limited to, mental health services, medical consultation and medical assessment services;
 - (ii) drug and alcohol treatment services;
 - (iii) health education services;

- (iv) opioid substitution treatment services;
 - (v) services for testing for blood-borne diseases and sexually transmissible diseases;
 - (vi) services involving a needle and syringe exchange program; and
- (d) that procedures must be established to enable staff of the centre to ascertain, in appropriate cases, whether a person seeking entry to the centre is a child; and
- (e) that the health and safety of staff of the centre and persons attending the centre must be protected, having regard to the design of the centre and the services of the centre; and
- (f) that services must be available and procedures must be established to ensure compliance, or the ability to comply, at or in connection with the centre with the requirements of—
- (i) this Part and the regulations made for the purposes of this Part; and
 - (ii) the licence conditions; and
 - (iii) the internal management protocols.
- (4) With the written approval of the Secretary, the internal management protocols may be amended or replaced from time to time.
- (5) The internal management protocols are subject to this Part, the regulations made for the purposes of this Part and the licence conditions and, in the case of any

inconsistency, this Part, the regulations and the licence conditions prevail.

55F Trial period for licensed medically supervised injecting centre

- (1) The medically supervised injecting centre licence—
 - (a) commences on a day specified in the licence; and
 - (b) remains in force until a day specified in the licence unless it is sooner—
 - (i) surrendered by the licensee; or
 - (ii) revoked by the Secretary.
- (2) The day specified under subsection (1)(b) must not be more than 24 months after the day specified under subsection (1)(a).
- (3) If satisfied that extending the period of the medically supervised injecting centre licence would further the object of this Part, the Secretary may do so by amending the licence to change the day specified under subsection (1)(b) to a day that is not later than 36 months after the day previously specified under that provision.
- (4) The period may be extended under subsection (3) only once.
- (5) The licensee may surrender the medically supervised injecting centre licence at any time after consultation with the Secretary.

55G Notices regarding licence

- (1) On issuing the medically supervised injecting centre licence, the Secretary must publish in the Government Gazette a notice that states—

- (a) that the licence has been issued; and
 - (b) the day specified under section 55F(1)(a) as the day on which the licence commences; and
 - (c) the day specified under section 55F(1)(b) as the day until which the licence remains in force.
- (2) On extending the period of the medically supervised injecting centre licence under section 55F(3), the Secretary must publish in the Government Gazette a notice that states—
- (a) that the period of the licence has been extended; and
 - (b) the day specified in the licence in accordance with section 55F(3) as the new day until which the licence remains in force.
- (3) On suspending the medically supervised injecting centre licence under section 55I, or revoking the licence under section 55J, the Secretary must publish in the Government Gazette a notice that states—
- (a) that the licence is suspended or revoked (as the case requires); and
 - (b) the day of the suspension or revocation; and
 - (c) if the licence is suspended, either—
 - (i) the period of the suspension set out in the notice referred to in section 55I(2)(b); or
 - (ii) that the licence is suspended until further notice.

- (4) On reinstating the medically supervised injecting centre licence following a suspension of the licence, the Secretary must publish in the Government Gazette a notice that states—
- (a) that the licence is reinstated; and
 - (b) the day of the reinstatement.

55H Conditions of medically supervised injecting centre licence

- (1) The medically supervised injecting centre licence is subject to the following conditions—
- (a) no child is to be admitted to any part of the licensed medically supervised injecting centre that is used for the purpose of the administration of any injecting centre drug;
 - (b) the internal management protocols must be observed at all times;
 - (c) the licensed medically supervised injecting centre must be operated in accordance with this Part and the regulations made for the purposes of this Part;
 - (d) any other prescribed licence conditions;
 - (e) any other conditions imposed by the Secretary under section 55C(4) or 55I(2)(c).
- (2) The Secretary may vary a condition imposed under section 55C(4) or 55I(2)(c) with the agreement of the licensee.

- (3) The Secretary may revoke a condition imposed under section 55C(4) or 55I(2)(c) with or without the agreement of the licensee.

55I Disciplinary action for contravening licence condition or internal management protocols

- (1) This section applies if the Secretary is satisfied, whether as a result of the review under section 55P or otherwise, that—
- (a) a condition imposed on a medically supervised injecting centre licence has been contravened; or
 - (b) the internal management protocols have been contravened.
- (2) The Secretary may, as the Secretary considers appropriate, do all or any of the following—
- (a) issue a written warning or reprimand to the licensee;
 - (b) by written notice to the licensee, suspend the medically supervised injecting centre licence for a specified period or until further notice;
 - (c) by written notice to the licensee, impose a new condition on the licence;
 - (d) require the internal management protocols to be amended or replaced in accordance with a direction of the Secretary;
 - (e) amend the licence;

- (f) vary a condition imposed under section 55C(4) or paragraph (c).

Note

The Secretary may also revoke the medically supervised injecting centre licence in these circumstances—see section 55J.

- (3) The suspension of the medically supervised injecting centre licence does not alter the day on which the licence ceases to be in force under section 55F(1)(b).

55J Secretary's power to revoke licence

The Secretary may revoke the medically supervised injecting centre licence—

- (a) if the Secretary is satisfied, whether as a result of the review under section 55P or otherwise, that—
 - (i) the licensee is not a fit and proper person to hold the licence; or
 - (ii) the director or another person concerned in the management of the licensed medically supervised injecting centre is not a fit and proper person to be concerned in the management of the centre; or
 - (iii) a condition imposed on a medically supervised injecting centre licence has been contravened; or
 - (iv) the internal management protocols have been contravened; or
 - (v) for any other reason, it is appropriate to revoke the licence in the circumstances; or

- (b) by agreement with the licensee; or
- (c) for a prescribed reason.

Division 3—Miscellaneous

55K Exemptions from criminal liability and authorizations for clients of centre

- (1) A person who is a client of the licensed medically supervised injecting centre who uses, supplies, possesses or administers a drug of dependence that is an injecting centre drug in a permitted quantity of injecting centre drug in the centre is exempt from liability for an offence against Part V or the regulations which is constituted by that use, supply, possession or administration of that drug of dependence.
- (2) A person referred to in subsection (1) is taken, for the purposes of Part V, to be authorized by this Act to carry out that activity.
- (3) Nothing in this section exempts a person referred to in subsection (1), or affects any condition or obligation imposed on a person referred to in subsection (1), by or under any court order, tribunal order or by or under any other Act or law, including, but not limited to—
 - (a) any sentencing order under the **Sentencing Act 1991**; or
 - (b) any parole condition or bail condition; or
 - (c) any order under the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; or

- (d) any supervision order or detention order (including any interim supervision order or interim detention order) under the **Serious Sex Offenders (Detention and Supervision) Act 2009**; or
- (e) any other prescribed law.

55L Exemptions from criminal liability and authorizations for licensee and staff

- (1) The licensee and each member of the staff of the licensed medically supervised injecting centre is exempt from liability for an offence against Part V or the regulations constituted by the supply or possession of a drug of dependence in the centre if the supply or possession occurs in the operation of the centre, whether or not the drug of dependence is an injecting centre drug in a permitted quantity of that injecting centre drug.
- (2) A person referred to in subsection (1) is taken, for the purposes of Part V, to be authorized by this Act to carry out that supply or possession.
- (3) The licensee, each member of the staff at the permitted site (other than a member of the staff of the licensed medically supervised injecting centre), the owner of the permitted site and each occupier of the permitted site is exempt from liability for an offence against Part V constituted by the possession of a drug of dependence at the site if the possession—
 - (a) arises by operation of section 5; and

- (b) occurs in the operation of the centre, whether or not the drug of dependence is an injecting centre drug in a permitted quantity of that injecting centre drug.
- (4) A person referred to in subsection (3) is taken, for the purposes of Part V, to be authorized by this Act to carry out that possession.

55M Police discretions not affected

Nothing in section 55K affects any discretion a police officer may exercise in relation to not charging a person with an offence against Part V for possession of a drug of dependence which is an injecting centre drug in a permitted quantity of injecting centre drug when a person—

- (a) is travelling to or from the licensed medically supervised injecting centre for the purposes of attending the centre; or
- (b) is in the vicinity of the licensed medically supervised injecting centre for the purposes of attending the centre.

55N Exemption from civil liability

- (1) This section applies to the following—
 - (a) the licensee of the licensed medically supervised injecting centre;
 - (b) a member of the staff at the permitted site;
 - (c) the owner of the permitted site;
 - (d) an occupier of the permitted site;

- (e) a trustee or a member of a committee of management or of a board (however described) of—
 - (i) the licensee; or
 - (ii) the owner of the permitted site;
 - (iii) an occupier of the permitted site.
- (2) A person to whom this section applies is not subject to any civil liability for doing or omitting to do a thing—
 - (a) in good faith; and
 - (b) in carrying out any duty or function in relation to the operation of the licensed medically supervised injecting centre; and
 - (c) in the case of an act or omission that is subject to this Part or regulations made for the purposes of this Part, in accordance with this Part or those regulations.
- (3) Without limiting subsection (2), that subsection applies to an act or omission that—
 - (a) relates to the supply or possession of a drug of dependence in the licensed medically supervised injecting centre, whether or not the drug of dependence is an injecting centre drug in a permitted quantity of that injecting centre drug; and
 - (b) satisfies the requirements set out in subsection (2)(a), (b) and (c).

- (4) Without limiting subsection (2), a member of the staff at the permitted site who acts, or fails to act, under this Part or the regulations made for the purposes of this Part in the reasonable belief that the act or omission is in accordance with this Part or those regulations does not commit—
- (a) unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law; or
 - (b) a breach of professional etiquette or ethics or any other code of conduct.
- (5) Subsections (2), (3) and (4) do not apply if the thing done or omitted to be done was due to negligence.
- (6) Nothing in this section affects any rights or obligations between a member of the staff at the permitted site and the person who engages (whether by employment or otherwise) the person for that role.
- (7) Nothing in this section affects or limits any Crown immunity that applies to a person who exercises a power or function under this Part.

550 Planning permit not required

Nothing in a planning scheme or a planning amendment under the **Planning and Environment Act 1987** is to be taken to require a planning permit in relation to the operation of the licensed medically supervised injecting centre.

55P Review of this Part and licensing of medically supervised injecting centre for trial period

- (1) The Minister must arrange for a review to be conducted of—
 - (a) the operation and use of the licensed medically supervised injecting centre; and
 - (b) the extent to which the object of this Part has been advanced during the period of the medically supervised injecting centre licence; and
 - (c) how this Part and any regulations made for the purposes of this Part have operated and whether they require amendment.
- (2) The review—
 - (a) must be commenced no later than 12 months after the day on which the medically supervised injecting centre licence commences; and
 - (b) may be completed before or after the licence ceases to have effect.
- (3) The Minister is authorised to access, collect, use and disclose any data or information required to complete the review subject to—
 - (a) in the case of health information within the meaning of the **Health Records Act 2001**, the access, collection, use and disclosure being in accordance with that Act and the Health Privacy Principles; and

- (b) in the case of personal information within the meaning of the **Privacy and Data Protection Act 2014**, the access, collection, use and disclosure being in accordance with that Act and the Information Privacy Principles.
- (4) The Minister must cause a copy of the review to be tabled before each House of the Parliament as soon as practicable after the review is completed.

55Q Regulations for this Part

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) prescribing standards for the operation of the licensed medically supervised injecting centre;
 - (b) prescribing the content and use of internal management protocols;
 - (c) prescribing a drug of dependence, or a class of drug of dependence, as an injecting centre drug;
 - (d) prescribing permitted quantities of injecting centre drugs;
 - (e) prescribing matters relating to the use, supply, possession or administration of injecting centre drugs and permitted quantities of injecting centre drugs;
 - (f) qualifications or experience of persons engaged in the operation of the licensed medically supervised injecting centre, including, but not limited to, staff of the centre;

- (g) functions of persons engaged in the operation of the licensed medically supervised injecting centre, including, but not limited to, staff of the centre;
 - (h) prescribing any other matter or thing required to be prescribed by this Part or necessary to be prescribed to give effect to this Part.
- (2) Regulations made under this section—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstance; and
 - (c) may confer powers or discretions or impose duties on any person or other entity or on a specified person or other entity or class of persons or other entities; and
 - (d) may provide in a specified case or class of cases for the exemption of persons, other entities or things or a class of persons, other entities or things from any of the provisions of the regulations—
 - (i) whether unconditionally or on specified conditions; and
 - (ii) either wholly or to the extent specified in the regulations.

55R Repeal of this Part and related amendments

- (1) This Part is repealed on the sixth anniversary of its commencement.

- (2) On the repeal of this Part, the medically supervised injecting centre licence is revoked, if it is still in force on that repeal.
- (3) On the repeal of this Part—
- (a) in section 4(1), the definitions of *child*, *director*, *injecting centre drug*, *internal management protocols*, *licensed medically supervised injecting centre*, *medically supervised injecting centre licence*, *permitted quantity of injecting centre drug*, *permitted site*, *staff* and *supervisor* are **repealed**;
 - (b) section 41(5) is **repealed**;
 - (c) section 42(1)(ad) is **repealed**;
 - (d) section 118(8) is **repealed**;
 - (e) section 119(eb) is **repealed**;
 - (f) section 129(1)(ea) is **repealed**;
 - (g) section 132(ua) is **repealed**.

8 List of licences and permits

After section 118(7) of the Principal Act **insert**—

- "(8) This section does not apply to a medically supervised injecting centre licence under Part IIA."

9 Evidentiary

After section 119(ea) of the Principal Act **insert**—

- "(eb) a certificate signed by the Secretary that a facility specified in a certificate was or was not the licensed medically supervised injecting centre at a specified date or that an entity specified in the certificate was or was not operating the licensed medically supervised injecting centre on a specified

date is prima facie evidence of the facts
stated in the certificate;".

10 Regulations

After section 129(1)(e) of the Principal Act
insert—

"(ea) without limiting section 55Q, any matter or
thing required to be prescribed for the
purposes of Part IIA;".

11 General regulations

After section 132(u) of the Principal Act **insert—**

"(ua) without limiting section 55Q, any matter or
thing required to be prescribed for the
purposes of Part IIA;".

12 Repeal of amending Act

This Act is **repealed** on 31 October 2019.

Note

The repeal of this Act does not affect the continuing operation
of the amendments made by it (see section 15(1) of the
Interpretation of Legislation Act 1984).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 1 November 2017

Legislative Council: 21 November 2017

The long title for the Bill for this Act was "A Bill for an Act to amend the **Drugs, Poisons and Controlled Substances Act 1981** to provide for the licensing, for a trial period and at a single specified site, of the operation of a single medically supervised injecting centre for certain kinds of drugs of dependence and for other purposes."