

Amendments to the *Sentencing Act 1991* *Disability Act 2006*

Introduction

The *Disability Act 2006* ('the Act') becomes fully operational from 1 July 2007.

The Act provides the framework for a whole-of-government and whole-of-community approach to enable people with a disability to actively participate in the life of the community. The Act provides the framework for delivery of more flexible provision of supports based on maximum choice and a person's individual requirements.

What are the amendments to the *Sentencing Act 1991*?

Amendments have been made to sections 80-83 of the *Sentencing Act*, that provide special conditions for offenders with an intellectual disability.

The amendments enable the Secretary of the Department of Human Services to provide an option of compulsory treatment in a residential treatment facility where a person is suitable for admission to the facility as per the provisions in the Act (see *Information sheet 17*).

In this circumstance, section 80 (2)(b) of the *Sentencing Act* makes provisions for a court to place a person with an intellectual disability on a residential treatment order to be undertaken within a residential treatment facility.

Another significant amendment to the *Sentencing Act* is that the Secretary of the Department of Human Services will now provide a 'statement of intellectual disability' to a court instead of a 'declaration of eligibility', when a plan of available services is requested.

What is a residential treatment order?

The *Disability Act 2006* makes consequential amendments to the *Sentencing Act* to provide for a new criminal order.

A person with an intellectual disability who has pleaded guilty or been found guilty of an offence and who meets the admission criteria for treatment at a residential treatment facility can be sentenced with a residential treatment order. The order cannot be undertaken in a facility other than a residential treatment facility (see *Information sheet 17*).

Key points:

- Under section 80 of the *Sentencing Act*, courts can now request a 'plan of available services' from Disability Services in relation to a person who has an intellectual disability.
- This request comes after the person with an intellectual disability has pleaded guilty or been found guilty of an offence. These requests will be sent to regional Disability Client Services for the development of either a justice plan or an assessment for treatment at a residential treatment facility.
- The provisions within the *Sentencing Act* regarding justice plans have not been altered, except for a minor amendment which allows the Secretary of the Department of Human Services to return a justice plan to court for review if a person is not complying with the plan or their needs are no longer being met by the plan.

Where can I obtain practice instructions for supporting a person with a disability involved in the criminal justice system?

The Disability Services', *Criminal Justice Practice Manual* has been updated to reflect the Disability Act 2006, as well as other new legislation and trends within the criminal justice system, and is available on the publications page of the Disability Services website.

For more information about the *Disability Act 2006*

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