

House of Representatives

Supplementary Order Paper

Thursday, 31 March 2016

**Drug and Alcohol Testing of Community-based Offenders, Bailees,
and Other Persons Legislation Bill**

Proposed amendments

Hon Judith Collins, in Committee, to move the following amendments:

Clause 15: new sections 16A and 16C

In *clause 15, new section 16A(2)*, replace “defendant” (page 17, line 10) with “offender”.

In *clause 15, new section 16C(2)(b)*, replace “defendant’s” (page 18, line 31) with “offender’s”.

New Part 5

After *clause 38* (page 43, after line 21), insert:

Part 5
Amendments to Returning Offenders (Management and Information) Act 2015

39 Principal Act

This **Part** amends the Returning Offenders (Management and Information) Act 2015 (the **principal Act**).

40 Section 4 amended (Interpretation)

In section 4(1), insert in its appropriate alphabetical order:

drug or alcohol condition means a special condition under **section 15(3)(ba)** of the Parole Act (as that provision is applied with all necessary modifications by sections 26(4), 27, and 34 of this Act)

41 Section 26 amended (Returning prisoner must comply with special conditions imposed by court)

After section 26(5)(b), insert:

- (c) a drug or alcohol condition, **sections 16A to 16D, 71A, 72A, and 74A to 74C**, and any rules made under **section 74A**, of the Parole Act apply with all necessary modifications.

42 Schedule 1 amended

In Schedule 1, after Part 1, insert the Part 2 set out in **Schedule 4** of this Act.

New Schedule 4

After *Schedule 3* (page 49, after line 7), insert:

**Schedule 4
 New Part 2 inserted into Schedule 1**

s 42

Part 2

Provisions relating to Part 5 of the Drug and Alcohol Testing of Community-based Offenders, Bailees, and Other Persons Legislation Act 2014

2 Interpretation

In this Part,—

commencement date means the date on which **Part 5 of the Drug and Alcohol Testing of Community-based Offenders, Bailees, and Other Persons Legislation Act 2014** comes into force

pre-commencement drug or alcohol condition means a condition—

(a) that is imposed before the commencement date under section 26(1), 27(1), or 33(1); and

(b) that prohibits a returning offender from doing 1 or more of the following:

(i) using (as defined in section 4(1) of the Parole Act) a controlled drug;

(ii) using a psychoactive substance;

(iii) consuming alcohol.

- 3 Testing and monitoring of returning offender subject to pre-commencement drug or alcohol condition**
- (1) This clause applies if a returning offender is subject to a pre-commencement drug or alcohol condition.
 - (2) On and from the commencement date, **sections 16B to 16D, 71A, 72A, 74A, and 74B**, and any rules made under **section 74A**, of the Parole Act apply in respect of the returning offender—
 - (a) as if the pre-commencement drug or alcohol condition were a drug or alcohol condition imposed by a court on or after the commencement date; and
 - (b) as if the court had complied with **section 16A(3)** of the Parole Act in respect of the condition.

Explanatory note

This Supplementary Order Paper sets out amendments to the Drug and Alcohol Testing of Community-based Offenders, Bailees, and Other Persons Legislation Bill. The amendments insert a *new Part 5* and *new Schedule 4* into the Returning Offenders (Management and Information) Act 2015 (the **principal Act**) and make other minor and technical drafting changes to *new sections 16A and 16C* of the Parole Act 2002.

New clause 40 inserts a definition of drug or alcohol condition into the principal Act, which mirrors the definition of drug or alcohol condition inserted by this Bill into the Parole Act 2002.

New clause 41 amends section 26 of the principal Act, which, together with sections 27 and 34 of that Act, gives the District Court the power to impose special conditions on returning offenders. The special conditions under the principal Act include special conditions of the kind that the Parole Board may impose under section 15 of the Parole Act 2002 on offenders released on parole. *New clause 41* applies the provisions of the Parole Act 2002 that relate to drug or alcohol conditions to returning offenders.

New clause 42 and *new Schedule 4* insert transitional provisions into the principal Act. The transitional provisions ensure that the Parole Act 2002 provisions relating to drug or alcohol testing and monitoring apply, prospectively only, to any conditions relating to drugs or alcohol that the District Court has imposed on a returning offender.

Departmental disclosure statement

The Department of Corrections considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.