

# Severe Substance Dependence Treatment Act 2010

## A summary

### Key message

The Act provides for a brief period of detention and treatment of people with severe substance dependence in a treatment centre.

It only applies to people with the most severe substance dependence who urgently require treatment to save their life or prevent serious damage to their health.

The Act provides a critical intervention that will give the person time out from their substance dependence, access to medically assisted withdrawal, a chance to recover their capacity and the opportunity to engage in voluntary treatment.

It is a last resort treatment option for a very small group of persons who without this life saving intervention would most likely become permanently disabled or die.

Detention and treatment is limited to a maximum of 14 days.

The Act is not targeted to people who are capable of making choices about their substance use, including refusing treatment.

### Background

The *Severe Substance Dependence Treatment Act 2010* (the Act) came into effect in Victoria on 1 March 2011.

The Act repeals and replaces the *Alcoholics and Drug-dependent Persons Act 1968* (ADDPA).

### Introduction

The Act provides for a brief period of detention (up to 14 days) and compulsory treatment of people with severe substance dependence in a treatment centre.

The Act is targeted to those people with the most severe substance dependence who urgently require treatment to save their life or prevent serious damage to their health. Detention must be the only means by which treatment can be provided and there must be no less restrictive means reasonably available to ensure the treatment.

The person must have lost capacity to make decisions about their substance use and personal health, welfare and safety due primarily to their substance dependence. Without intervention these people are likely to become permanently disabled or die.

The Act has been developed as a last resort for a very small group of people affected by severe substance dependence. Research has shown that for this very small group of people a brief period of detention and treatment can be beneficial and lifesaving.

The Act provides a critical intervention that will give the person time out from their substance dependence, access to medically assisted withdrawal, a chance to recover their capacity and the opportunity to engage in voluntary treatment.

### How is an application for a detention and treatment order made?

Any person over the age of eighteen years can apply to the Magistrates' Court for a person to be placed on a detention and treatment order (except the medical practitioner making the recommendation for the order). Typically the person who applies for the order will be a family member, member of the police, or a health or welfare officer.

The *Application for a Detention and Treatment Order* form can be downloaded and printed from <[www.health.vic.gov.au/ssdta](http://www.health.vic.gov.au/ssdta)>.

An application must be accompanied by a medical certificate known as a 'recommendation' completed by a 'prescribed registered medical practitioner'. The purpose of the recommendation is to provide evidence to the court that all the criteria for detention and treatment apply to the person.

The *Recommendation for a detention and treatment order* form can be downloaded and printed from <[www.health.vic.gov.au/ssdta](http://www.health.vic.gov.au/ssdta)>.

## Who is a prescribed registered medical practitioner?

The Severe Substance Dependence Treatment Regulations 2011 prescribe the following groups to be prescribed registered medical practitioners—

- Fellows or affiliates of the Royal Australian and New Zealand College of Psychiatrists (psychiatrists)
- Fellows of the Chapter of Addiction Medicine (addiction medicine specialists)
- Medical practitioners engaged by Victoria Police to provide medical care to persons in police custody (custodial medical officers).

## What are the criteria for making a detention and treatment order?

The criteria for making a detention and treatment order are:

1. The person has a 'severe substance dependence'. A person is considered to have a *severe substance dependence* if—
  - the person has a tolerance to the substance; and
  - the person shows withdrawal symptoms when the person stops using, or reduces the level of use of, the substance; and
  - the person is incapable of making decisions about his or her substance use and personal health, welfare and safety due primarily to the person's dependence on the substance; and
2. Because of the person's severe substance dependence, immediate treatment is necessary as a matter of urgency to save the person's life or prevent serious damage to the person's health; and
3. The treatment can only be provided to the person through the admission and treatment of the person in a treatment centre; and
4. There is no less restrictive means reasonably available to ensure the person receives the treatment.

## What is the role of the prescribed registered medical practitioner?

The role of the prescribed registered medical practitioner is to provide a clinical opinion as to whether all the criteria for detention and treatment (the criteria) apply to the person.

The practitioner must personally examine the person to form this opinion.

Before the examination commences, the practitioner must explain the purpose of the examination to the person and answer any questions.

If following the examination the practitioner is satisfied that all the criteria apply, they must then consult with the senior clinician of the treatment centre before making a recommendation. The senior clinician is an addiction medicine specialist.

If following the consultation with the senior clinician the practitioner is satisfied that all the criteria apply to the person, they may complete a recommendation.

## What is the process for making a detention and treatment order?

Once the application and recommendation have been completed, these must be lodged at the Magistrates' Court closest to where the person lives.

The applicant must provide a copy of the application (and all supporting documents) to the person within 24 hours. The applicant must also provide copies of the application to the manager of the treatment centre where it is proposed to detain the person and the person's guardian (if they have one).

The Court must list the application for hearing within 72 hours of the application being lodged.

The person has the right to attend the court and have legal representation.

At the hearing, the applicant must satisfy the court that each of the criteria for detention and treatment apply to the person. The Magistrate will decide the application based on the available evidence.

If the Court makes a detention and treatment order, the applicant must make the necessary arrangements (in consultation with the treatment centre) for the person to be taken and admitted to the treatment centre.

## What happens when the person is admitted to the declared treatment centre?

When the person arrives at the treatment centre, they will be admitted and given treatment for their severe alcohol or drug dependence.

Within the first 24 hours the senior clinician of the treatment centre must examine the person to decide whether all the criteria for detention and treatment continue to apply. If the senior clinician believes that all of the criteria apply to the person, they must confirm the order.

## About program management circulars

The information provided in this circular is intended as general information about the Severe Substance Dependence Treatment Act and Regulations and not as legal advice.

If individuals or service providers have queries about their obligations under the Act they should obtain independent legal advice.

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If the senior clinician finds that one or more of the criteria do not apply, they must discharge the person from the detention and treatment order.

### Safeguards

The Act includes a number of important safeguards when the person is admitted to the treatment centre.

The person must be given and have explained a statement of their rights and entitlements under the Act, including the right to seek legal advice and obtain a second medical opinion. A copy of the statement of rights can be downloaded and printed from [www.health.vic.gov.au/ssdta](http://www.health.vic.gov.au/ssdta).

The person will be asked to nominate someone of their choice to protect their interests while they are in the treatment centre and to be consulted about treatment and discharge options.

Within the first 24 hours, the nominated person, the person's guardian (if they have one) and the Public Advocate will be told that the person has been admitted to the treatment centre. The Public Advocate must visit the person as soon as practicable to provide advice and assistance.

If at any time the criteria no longer apply to the person, the senior clinician must discharge the person from the order.

The person has the right to apply at any time to the Magistrates' Court for the order to be revoked.

### Treatment

The Act provides for compulsory treatment of the person's substance dependence. Compulsory treatment is limited to anything done in the course of the exercise of professional skills to provide medically assisted withdrawal from a severe substance dependence or to lessen the ill effects, or the pain and suffering, of the withdrawal.

The senior clinician will develop a treatment plan in consultation with the person, their nominated person and the guardian (if they have one).

The person has the right to obtain a second medical opinion at any time about the treatment provided and whether the criteria still apply.

### Discharge from the treatment centre

The detention and treatment order ends when it expires after 14 days or if it is revoked by the senior clinician or by the court following an application (see above). The senior clinician will prepare a discharge plan in consultation with the person.

Following discharge from the detention and treatment order the person will be encouraged to continue treatment in a voluntary capacity. The person will be offered ongoing case management support for up to six months following discharge.

## Further information

Severe Substance Dependence Treatment Act website at [www.health.vic.gov.au/ssdta](http://www.health.vic.gov.au/ssdta)