

**Drugs, Poisons and Controlled Substances  
Amendment (Pill Testing Pilot for Drug Harm  
Reduction) Bill**

**Exposure Draft**

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Victoria

# **Drugs, Poisons and Controlled Substances Amendment (Pill Testing Pilot for Drug Harm Reduction) Bill**

## **Exposure Draft**

### **1 Purposes**

The purposes of this Act are—

- (a) to amend the **Drugs, Poisons and Controlled Substances Act 1981** to provide for a pilot of pill-testing services for the purposes of drug harm reduction; and
- (b) to make consequential amendments.

## 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 2020, 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—

- (a) in the definition of *child*, for "Part IIA," **substitute** "Parts IIA and IIB,";
- (b) for the definition of *director substitute*—  
*director*—
  - (a) in relation to the licensed medically supervised injecting centre, has the meaning given in section 55B; and
  - (b) in relation to pill-testing services, has the meaning given in section 55U(1);"
- (c) for the definition of *internal management protocols substitute*—  
*internal management protocols* means—
  - (a) in Part IIA, the protocols approved under section 55E by the Secretary, as in force from time to time; and

(b) in Part IIB, protocols that set out how a pill-testing licensee, or an applicant for a pill-testing licence, intends to manage the provision of pill-testing services;"

(d) **insert** the following definitions—

*"amnesty bin* has the meaning given by section 55ZJ;

*approved internal management protocols* means, in relation to a pill-testing licence, the internal management protocols approved under section 55ZB in relation to that licence, as amended or replaced from time to time;

*Chief Health Officer* has the same meaning as it has in the **Public Health and Wellbeing Act 2008**;

*fixed premises pill-testing employee* means a pill-testing employee engaged by the fixed premises pill-testing licensee;

*fixed premises pill-testing licence* means a licence—

(a) to engage in the activities referred to in section 55V; and

(b) in which the Secretary has specified, under section 55ZG(1), the premises at which pill-testing services are to be provided;

*fixed premises pill-testing licensee* means the person who holds a fixed premises pill-testing licence;

*mobile pill-testing employee* means a pill-testing employee engaged by the mobile pill-testing licensee;

***mobile pill-testing facility*** means a trailer or vehicle suitably fitted out or containing equipment and apparatus for—

- (a) performing the analysis required in the provision of pill-testing services; and
- (b) destroying substances analysed in the provision of pill-testing services;

***mobile pill-testing licence*** means a licence—

- (a) to engage in the activities referred to in section 55W; and
- (b) in which the Secretary has specified, under section 55ZG(1), the mobile pill-testing facility that is to be used in the provision of pill-testing services;

***mobile pill-testing licensee*** means the person who holds a mobile pill-testing licence;

***pill-testing employee*** means a person who is—

- (a) engaged by a pill-testing licensee (whether under a contract of employment, or as a volunteer, or otherwise) to participate in the provision of the licensee's pill-testing services; or
- (b) the director of a pill-testing licensee;

***pill-testing licence*** means—

- (a) a fixed premises pill-testing licence; or
  - (b) a mobile pill-testing licence;
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*pill-testing licensee* means a person who holds a pill-testing licence;

*pill-testing place* has the meaning given in section 4B;

*pill-testing service* has the meaning given in section 4C;"

## 5 New sections 4B and 4C inserted

After section 4A of the Principal Act insert—

### "4B Meaning of *pill-testing place*

- (1) For the purposes of this Act, the *pill-testing place* for a fixed premises pill-testing licence is the premises specified in the licence under section 55ZG(1).
- (2) For the purposes of this Act, the *pill-testing place* for a mobile pill-testing licence—
  - (a) is the mobile pill-testing facility specified in the licence under section 55ZG(1); and
  - (b) when the facility is stationary and set up to be operated, includes—
    - (i) each of the facility's ancillary structures within the meaning of subsection (3); and
    - (ii) the areas between each ancillary structure and the facility.
- (3) A structure is an *ancillary structure* of a mobile pill-testing facility if the structure is—
  - (a) a temporary structure; and

#### Examples

- 1 A marquee.
- 2 A fabric structure.

- (b) erected—
  - (i) for the purposes of the provision of pill-testing services; and
  - (ii) within a prescribed distance of the facility.

#### **4C Meaning of *pill-testing service***

- (1) For the purposes of this Act, a ***pill-testing service*** is the service of—
  - (a) receiving a substance (in pill form or in any other form) from a person; and
  - (b) analysing the substance or any part of it to determine its composition, including determining whether it is or contains—
    - (i) a poison or controlled substance; or
    - (ii) a drug of dependence; and
  - (c) unless the substance was supplied in accordance with section 55ZK, providing information about the composition of the substance to the person who supplied it.

#### **Note**

Section 55ZK provides that, in certain circumstances, the mobile pill-testing licensee may supply a substance to the fixed premises pill-testing licensee for pill-testing. Section 55V(2)(c) provides for the provision of information in relation to these substances.

- (2) Despite subsection (1), none of the following is a ***pill-testing service***—
    - (a) anything done by an authorised police employee under section 44B;
    - (b) anything done under or for the purposes of a poppy cultivation licence;
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- (c) examination or testing of anything taken in accordance with Part IVA or Part IVB;
- (d) analysis of a sample of a thing taken—
  - (i) in execution of a warrant; or
  - (ii) under section 91(2);
- (e) analysis carried out for the purpose of any legal proceedings for an offence against this Act."

**6 Secretary may authorize person to carry out functions of authorised officer**

After section 41(5) of the Principal Act **insert—**

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

**7 Inspections**

After section 42(1)(ad) of the Principal Act **insert—**

- "(ae) if a pill-testing licence has been issued, enter the pill-testing place to ascertain whether Part IIB, the regulations made for the purposes of that Part, the pill-testing licence and the approved internal management protocols are being complied with and exercise any powers under this section;"



## **8 Repeal of Part IIA and related amendments**

For section 55R(3)(a) of the Principal Act  
**substitute—**

- '(a) in section 4(1), in the definition of *child*, for "Parts IIA and IIB," **substitute** "Part IIB,";
- (ab) in section 4(1), in the definition of *director*, paragraph (a) is **repealed**;
- (ac) in section 4(1), in the definition of *internal management protocols*, paragraph (a) is **repealed**;
- (ad) in section 4(1), the definitions of *injecting centre drug*, *licensed medically supervised injecting centre*, *medically supervised injecting centre licence*, *permitted quantity of injecting centre drug*, *permitted site*, *staff* and *supervisor* are **repealed**;'.

## **9 New Part IIB inserted**

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

### **"Part IIB—Trial of pill-testing services**

#### **Division 1—Preliminary**

##### **55S Definitions**

- (1) In this Part—

*serious offence* means an indictable offence involving dishonesty, fraud or cultivation or trafficking in drugs of dependence where the maximum penalty exceeds 3 months of imprisonment.

- (2) For the purposes of this Part, a person is an **associate** of an applicant for a pill-testing licence if the person—
- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the business of the applicant to which the licence relates, and by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of the business to which the licence relates; or
  - (b) holds or will hold any relevant position, whether in right of the person or on behalf of any other person in the business of the applicant to which the licence relates; or
  - (c) is a relative of the applicant.
- (3) In subsection (2)—
- relative** means spouse (including de facto spouse), parent, child or sibling (whether of the full or half blood);
- relevant financial interest**, in relation to a business, means—
- (a) any share in the capital of the business; or
  - (b) any entitlement to receive any income derived from the business;
- relevant position**, in relation to a business, means the position of director, manager or other executive position or secretary, however that position is designated;
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***relevant power*** means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

### **55T Object**

The object of this Part is to provide for the trial of pill-testing services as part of a scheme that aims—

- (a) to reduce the number of avoidable deaths caused by using substances that are, or that contain, poisons, controlled substances or drugs of dependence; and
- (b) to provide for users and potential users of those substances to receive information that reduces the harm caused by using those substances; and
- (c) to facilitate users and potential users of those substances accessing other health and social assistance which includes drug treatment, rehabilitation support, health care, mental health treatment and support and counselling; and
- (d) to reduce attendance by ambulance services, paramedic services and emergency services and attendances at hospitals due to the use of those substances; and

- (e) to provide a safe way to dispose of substances that are, or that contain, poisons, controlled substances or drugs of dependence; and
- (f) to reduce the potential for harm by providing for the following persons to be notified if analysis carried out in the course of a pill-testing service yields a prescribed result—
  - (i) the Chief Health Officer;
  - (ii) the Secretary;
  - (iii) the Chief Commissioner of Police.

**55U Meaning of *director***

- (1) For the purposes of this Act, a person is the *director* of a pill-testing licensee if—
  - (a) the person is engaged by the licensee to—
    - (i) oversee the provision of pill-testing services by the licensee; and
    - (ii) ensure compliance with the approved internal management protocols; and
    - (iii) ensure compliance with the conditions imposed on the pill-testing licence; and
  - (b) no other person is engaged by the licensee to perform that role.

- (2) A reference to the *director* of a pill-testing licensee includes a reference to a person acting in that role—
- (a) during any illness or other absence of the person engaged for that role; or
  - (b) while there is a vacancy in that role.

### **Division 2—Pill-testing licence**

#### **55V What may be done under a fixed premises pill-testing licence?**

- (1) A fixed premises pill-testing licence authorises the licensee, and each of the licensee's pill-testing employees, to do the following things at the pill-testing place—
- (a) receive a substance (in pill form or in any other form) from a person (the *supplier*);
  - (b) determine, or agree with the supplier, how much of that substance is to be retained for pill-testing;
  - (c) retain that amount (the *retained substance*) and supply the remainder back to the supplier;
  - (d) analyse the retained substance or any part of it to determine its composition, including determining whether it is or contains—
    - (i) a poison or controlled substance;  
or
    - (ii) a drug of dependence;
  - (e) after that analysis is complete, provide the supplier with information about the composition of the retained substance;

- (f) destroy supplied and retained substances as required by section 55ZN.
- (2) Additionally, a fixed premises pill-testing licence authorises the licensee, and each of the licensee's pill-testing employees, to do the following additional things at the pill-testing place—
  - (a) receive a substance supplied under section 55ZK by—
    - (i) the mobile pill-testing licensee; or
    - (ii) a mobile pill-testing employee;
  - (b) analyse the substance or any part of it to determine its composition, including determining whether it is or contains—
    - (i) a poison or controlled substance; or
    - (ii) a drug of dependence;
  - (c) after that analysis is complete—
    - (i) determine whether it is necessary or appropriate to provide information about the composition of the retained substance to any person; and
    - (ii) if so, provide that information to that person;
  - (d) destroy the substance as required by section 55ZN.

- (3) A fixed premises pill-testing employee who is permitted by subsection (1) or (2) to do a thing in respect of a substance is also permitted to supply that substance to another fixed premises pill-testing employee at the pill-testing place so that the other employee may do that thing.
- (4) An authorisation referred to in this section is subject to—
  - (a) this Part; and
  - (b) the regulations made for the purposes of this Part; and
  - (c) the conditions of the pill-testing licence.

**55W What may be done under a mobile pill-testing licence?**

- (1) A mobile pill-testing licence authorises the licensee, and each of the licensee's pill-testing employees, to do the following things at the pill-testing place—
  - (a) receive a substance (in pill form or in any other form) from a person (the *supplier*);
  - (b) determine, or agree with the supplier, how much of that substance is to be retained for analysis;
  - (c) retain that amount (the *retained substance*) for analysis and supply the remainder back to the supplier;

- (d) analyse the retained substance or any part of it to determine its composition, including determining whether it is or contains—
    - (i) a poison or controlled substance; or
    - (ii) a drug of dependence;
  - (e) after that analysis is complete—
    - (i) provide the supplier with information about the composition of the retained substance; and
    - (ii) decide, under section 55ZK, whether to transfer any part of the retained substance to the fixed premises pill-testing licensee;
  - (f) destroy supplied and retained substances as required by section 55ZO.
- (2) Additionally, a mobile pill-testing licence authorises the licensee, and each of the licensee's pill-testing employees, to do the following things if a decision is made under section 55ZK to transfer a substance—
- (a) transport the substance or any part of it to the fixed premises pill-testing licensee's pill-testing place; and
  - (b) at that place, supply the transported substance to the fixed premises pill-testing licensee for pill-testing.
- (3) A mobile pill-testing employee who is authorised under subsection (1) or (2) to do a thing in respect of a substance is also authorised to supply that substance to another mobile pill-testing employee so that the other employee may do that thing.
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- (4) An authorisation referred to in this section is subject to—
- (a) this Part; and
  - (b) the regulations made for the purposes of this Part; and
  - (c) the conditions of the pill-testing licence.

**55X Limit on number of pill-testing licences**

- (1) There must not be more than one fixed premises pill-testing licence in force at the same time.
- (2) There must not be more than one mobile pill-testing licence in force at the same time.
- (3) A decision to issue or vary a pill-testing licence in contravention of subsection (1) or (2) is invalid.

**55Y Application for pill-testing licence**

- (1) A person may apply to the Secretary for a pill-testing licence.
- (2) An application under subsection (1) must—
  - (a) be in writing; and
  - (b) be accompanied by the prescribed application fee; and
  - (c) set out why the applicant is a fit and proper person to hold a pill-testing licence; and
  - (d) specify either—
    - (i) the premises at which the person wants to be licensed to provide pill-testing services; or

(ii) the mobile pill-testing facility the person wants to be licensed to use to provide pill-testing services; and

(e) be accompanied by the internal management protocols that the applicant intends to apply.

**55Z Secretary may require applicant to take further steps**

The Secretary may require that an applicant for a pill-testing licence—

- (a) provide further information in relation to the application; or
- (b) facilitate an inspection by the Secretary of the premises or facility in relation to which the licence is sought; or
- (c) submit a recent police record check in respect of the applicant or an associate of the applicant; or
- (d) revise the internal management protocols and provide the revised protocols to the Secretary.

**55ZA Secretary must investigate application**

- (1) On receiving an application for a pill-testing licence, the Secretary must cause to be carried out all investigations and inquiries that the Secretary considers necessary to properly determine the application.
- (2) The Secretary may refer a copy of an application and any supporting documentation to the Chief Commissioner of Police.

- (3) The Chief Commissioner of Police must inquire into and report to the Secretary on any matters concerning the application that the Secretary requests.
- (4) The functions of the Secretary under this section are not delegable.

**55ZB Internal management protocols**

- (1) For the purposes of determining whether to issue a pill-testing licence, the Secretary must consider whether to approve the internal management protocols provided by the applicant.
  - (2) The Secretary may approve the internal management protocols if satisfied that they are sufficient to support the issuing of a pill-testing licence.
  - (3) In determining whether to approve the internal management protocols, the Secretary must have regard to whether, if the application were granted, the protocols would require—
    - (a) that the applicant must have a director; and
    - (b) that the pill-testing services provided by the applicant must be provided as part of operations that also 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; and
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- (c) that procedures must be established for circumstances in which any of the applicant's pill-testing employees reasonably suspects that a person attending the proposed pill-testing place requires medical attention; and
- (d) that procedures must be established to enable the applicant's pill-testing employees to determine whether a person seeking the provision of a pill-testing service is a child; and
- (e) that procedures must be established to govern how information about the composition of a substance is to be provided to the person who supplied that substance for pill-testing; and
- (f) that the health and safety of the applicant's pill-testing employees, and the persons to whom the applicant wants to be licensed to provide pill-testing services, must be protected, having regard to the design of the proposed pill-testing place; and
- (g) that procedures must be established providing for the disposal of the contents of each amnesty bin provided at the proposed pill-testing place; and
- (h) if a mobile pill-testing licence is sought, that procedures must be established to enable the applicant to decide whether to transport a substance in accordance with section 55ZK; and

**Note**

Section 55ZK provides that, in certain circumstances, the mobile pill-testing licensee may supply a substance to the fixed premises pill-testing licensee for pill-testing.

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- (i) that services must be available and procedures must be established to ensure compliance, or the ability to comply, 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 management protocols.
- (4) A pill-testing licensee may, with the written approval of the Secretary, amend or replace their approved internal management protocols from time to time.
- (5) Approved internal management protocols are subject to—
  - (a) this Part; and
  - (b) the regulations made for the purposes of this Part; and
  - (c) the conditions of the pill-testing licence—

and, in the case of any inconsistency, this Part, the regulations and the conditions prevail.

#### **55ZC Determination of application**

- (1) After considering an application for a pill-testing licence and any investigation under section 55ZA, the Secretary must, in accordance with section 55ZD, determine the application by either—
  - (a) issuing a pill-testing licence; or
  - (b) refusing to issue a pill-testing licence.

- (2) In issuing a pill-testing licence, the Secretary may impose on the licence any conditions that the Secretary thinks fit.
- (3) The Secretary must notify the applicant in writing of the decision under subsection (1).
- (4) The functions of the Secretary under this section are not delegable.

**55ZD When Secretary must, or may, refuse to issue pill-testing licence**

- (1) In order to prevent criminal activity in the provision of pill-testing services, the Secretary must not issue a pill-testing licence unless the Secretary is satisfied that—
    - (a) neither the applicant nor any of the applicant's associates has been found guilty of a serious offence in Victoria or elsewhere on or after the day that is 10 years before the application is made; and
    - (b) the applicant and each of the applicant's associates is a fit and proper person to be concerned in or associated with pill-testing services; and
    - (c) the proposed pill-testing place is suitable in relation to location and proposed security arrangements.
  - (2) For the purposes of subsection (1)(b), the Secretary may consider whether—
    - (a) the applicant and each associate of the applicant is of good repute, having regard to character, honesty and integrity; and
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- (b) in the case of an applicant that is not a natural person, the applicant has a satisfactory ownership, trust or corporate structure; and
  - (c) the applicant is of sound and stable financial background; and
  - (d) the applicant has any business association with any person or body who or which, in the opinion of the Secretary, is not of good repute, having regard to character, honesty and integrity; and
  - (e) each director, partner, trustee, executive officer and secretary and any other person determined by the Secretary to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity.
- (3) Additionally, the Secretary must not issue a pill-testing licence unless the Secretary has approved the internal management protocols provided by the applicant.
- (4) The Secretary may refuse to issue a pill-testing licence for any reason the Secretary thinks fit.

**55ZE Period of pill-testing licence**

- (1) A pill-testing licence—
  - (a) commences on a day specified in the licence; and

- (b) remains in force until a day specified in the licence unless, before that day, it is—
  - (i) surrendered by the licensee; or
  - (ii) revoked by the Secretary.
- (2) The day specified under subsection (1)(b) must not be more than 2 years after the day specified under subsection (1)(a).
- (3) If satisfied that extending the period of a pill-testing 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 4 years after the day previously specified under that provision.
- (4) A pill-testing licensee may surrender a pill-testing licence at any time after consultation with the Secretary.

**55ZF Notices regarding pill-testing licence**

- (1) On issuing a pill-testing 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 55ZE(1)(a) as the day on which the licence commences; and
  - (c) the day specified under section 55ZE(1)(b) as the day until which the licence remains in force.



- (2) On extending the period of a pill-testing licence under section 55ZE(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 55ZE(3) as the new day until which the licence remains in force.
  - (3) On suspending a pill-testing licence under section 55ZH, or revoking the licence under section 55ZI, 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 55ZH(2)(b); or
      - (ii) that the licence is suspended until further notice.
  - (4) On reinstating a pill-testing 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.
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**55ZG Terms and conditions of pill-testing licence**

- (1) A pill-testing licence must specify either—
    - (a) the premises at which the pill-testing services are to be provided; or
    - (b) the mobile pill-testing facility that is to be used in the provision of the pill-testing services.
  - (2) A pill-testing licence is subject to the following conditions—
    - (a) the licensee must not provide pill-testing services to a child;
    - (b) the approved internal management protocols must be observed at all times;
    - (c) the licensee and the licensee's operations must comply 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 55ZC(2) or 55ZH(2)(c).
  - (3) A mobile pill-testing licence is subject to a condition that the licensee must not provide a pill-testing service other than—
    - (a) at or adjacent to a place where a concert, festival, dance party or similar event is being held; and
    - (b) while the event is being held.
  - (4) The Secretary may vary a condition imposed under section 55ZC(2) or 55ZH(2)(c) with the agreement of the licensee.
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- (5) The Secretary may revoke a condition imposed under section 55ZC(2) or 55ZH(2)(c) with or without the agreement of the licensee.

**55ZH Disciplinary action for contravening licence condition or approved internal management protocols**

- (1) This section applies if the Secretary is satisfied, whether as a result of the review under section 55ZV or otherwise, that—
- (a) a condition imposed on a pill-testing licence has been contravened; or
  - (b) a pill-testing licensee's approved 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 pill-testing licensee;
  - (b) by written notice to the licensee, suspend the pill-testing licence for a specified period or until further notice;
  - (c) by written notice to the licensee, impose a new condition on the pill-testing licence;
  - (d) require the licensee's approved internal management protocols to be amended or replaced in accordance with a direction of the Secretary;
  - (e) amend the pill-testing licence;

- (f) vary a condition imposed under section 55ZC(2) or paragraph (c).

**Note**

The Secretary may also revoke a pill-testing licence in these circumstances—see section 55ZI.

- (3) The suspension of a pill-testing licence does not alter the day on which the licence ceases to be in force under section 55ZE(1)(b).

**55ZI Secretary's power to revoke licence**

The Secretary may revoke a pill-testing licence—

- (a) if the Secretary is satisfied, whether as a result of the review under section 55ZV 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 licensee's operations is not a fit and proper person to be concerned in the provision of pill-testing services; or
  - (iii) a condition imposed on the licence has been contravened; or
  - (iv) the licensee's approved 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.

**55ZJ Amnesty bin at pill-testing place**

- (1) At all times that a pill-testing licensee is providing or offering to provide a pill-testing service at a pill-testing place, the licensee must provide an amnesty bin for use by any person who attends the place.
- (2) A person who places a substance into an amnesty bin at a pill-testing place is not taken to be supplying that substance to any other person.
- (3) A substance placed into an amnesty bin is taken not to be in the possession of any person.
- (4) In this section—  
*amnesty bin* means a receptacle—
  - (a) into which can be placed substances in pill form or in any other form; and
  - (b) containing a mechanism or substance for destroying the substances that are placed into it.

**55ZK Transfer of substances from mobile facility to fixed premises**

- (1) This section applies if—
    - (a) a person supplies a substance for pill-testing to the mobile pill-testing licensee at the pill-testing place; and
    - (b) the mobile pill-testing licensee decides that, for the purpose specified in subsection (2), it is appropriate that the substance should be analysed by the fixed premises pill-testing licensee.
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- (2) The specified purpose is the purpose of reducing the harm caused by the use of substances that are, or that contain, poisons, controlled substances or drugs of dependence.
- (3) The mobile pill-testing licensee may—
  - (a) transport the substance or any part of it to the fixed premises pill-testing licensee's pill-testing place; and
  - (b) at that place, supply the transported substance to the fixed premises pill-testing licensee for pill-testing.

**55ZL Pill-testing licensee must share information**

A pill-testing licensee must—

- (a) keep records of the prescribed information in relation to the pill-testing services provided by the licensee; and
- (b) provide that information to the Secretary at the prescribed times and in the prescribed manner.

**55ZM Pill-testing licensee must notify if analysis yields prescribed result**

- (1) A pill-testing licensee must notify the persons specified in subsection (3) as soon as practicable after an analysis carried out in the course of a pill-testing service provided by the licensee yields a prescribed result.

- (2) The regulations may prescribe a result for the purposes of subsection (1) by reference to—
  - (a) the detection of—
    - (i) a specified substance; or
    - (ii) a substance of a specified kind; or
  - (b) the amount or purity of a substance detected in the analysis.
- (3) The persons whom a pill-testing licensee must notify under subsection (1) are—
  - (a) the Chief Health Officer; and
  - (b) the Secretary; and
  - (c) the Chief Commissioner of Police.

**55ZN Destruction of substances following pill-testing—fixed premises pill-testing licence**

- (1) This section—
    - (a) applies to a substance supplied—
      - (i) for pill-testing; and
      - (ii) to the mobile pill-testing licensee or a mobile pill-testing employee; and
      - (iii) at the pill-testing place; and
    - (b) does not apply to the part of that substance (if any) that is returned as described in section 55V(1)(c).
  - (2) The fixed premises pill-testing licensee must destroy the substance in accordance with the regulations as soon as practicable after the licensee has analysed the substance.
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**55ZO Destruction of substances following  
pill-testing—mobile pill-testing licence**

- (1) This section—
    - (a) applies to a substance supplied—
      - (i) for pill-testing; and
      - (ii) to the mobile pill-testing licensee or a mobile pill-testing employee; and
      - (iii) at the pill-testing place; and
    - (b) does not apply to the part of that substance (if any) that is returned as described in section 55W(1)(c).
  - (2) The mobile pill-testing licensee must destroy the substance in accordance with the regulations as soon as practicable after the licensee has—
    - (a) analysed the substance; and
    - (b) decided not to transport the substance or any part of it to the fixed premises pill-testing licensee under section 55ZK.
  - (3) Subject to subsection (4), if the mobile pill-testing licensee decides to transport the substance or any part of it to the fixed premises pill-testing licensee under section 55ZK, the mobile pill-testing licensee—
    - (a) is not required to destroy the substance that is to be transported; and
    - (b) must destroy any remainder of the substance as soon as practicable after making the decision.
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- (4) If the mobile pill-testing licensee—
- (a) decides to transport a substance to the fixed premises pill-testing licensee under section 55ZK; and
  - (b) later decides that the substance is no longer to be transported under section 55ZK—

the licensee must destroy the substance as soon as practicable after deciding not to transport it.

### **Division 3—Miscellaneous**

#### **55ZP Exemptions and authorizations for pill-testing clients**

- (1) A person (the *supplier*) who, at a pill-testing place, supplies a pill-testing employee with a substance for pill-testing is exempt from liability for an offence against this Act or the regulations constituted by—
  - (a) possessing, at the pill-testing place, a poison, controlled substance or drug of dependence that is, or is contained in, the supplied substance (including any of that substance that is returned to the supplier by the employee); or
  - (b) supplying to the pill-testing employee a poison, controlled substance or drug of dependence that is, or is contained in, the supplied substance.
- (2) The supplier is taken, for the purposes of this Act and the regulations, to be authorised by this Act to possess and supply a poison, controlled substance or drug of dependence as described in subsection (1).

- (3) Nothing in this section exempts the supplier, or affects any condition or obligation imposed on the supplier, 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 Offenders Act 2018**; or
  - (e) any other prescribed law.

**55ZQ Exemptions and authorizations for pill-testing licensees and employees**

- (1) For the purposes of this Act, each pill-testing licensee, and each of the licensee's pill-testing employees, is authorised to do the following things—
- (a) when doing anything authorised by section 55V or 55W in respect of a substance, possess each poison, controlled substance or drug of dependence that is, or is contained in, that substance;

- (b) when supplying a substance as authorised by section 55V or 55W, supply each poison, controlled substance or drug of dependence that is, or is contained in, that substance.
- (2) A person who, under subsection (1), is authorised to possess a poison, controlled substance or drug of dependence when doing a thing authorised by section 55V or 55W, is exempt from liability for an offence against this Act or the regulations constituted by the possession of a poison, controlled substance or drug of dependence while doing that thing.
- (3) A person who, under subsection (1), is authorised to supply a poison, controlled substance or drug of dependence when doing a thing authorised by section 55V or 55W, is exempt from liability for an offence against this Act or the regulations constituted by the supply of a poison, controlled substance or drug of dependence while doing that thing.

**55ZR Exemptions and authorizations relating to possession under section 5**

- (1) Each of the persons specified in subsection (2) is exempt from liability for an offence against this Act or the regulations constituted by the possession of a poison, controlled substance or drug of dependence if the possession—
  - (a) arises by operation of section 5; and
  - (b) occurs in the course of a person doing a thing authorised by section 55V or 55W.

- (2) The specified persons are—
  - (a) the pill-testing licensee; and
  - (b) each of the licensee's pill-testing employees; and
  - (c) each occupier of the land or premises where the possession occurs; and
  - (d) each person who uses, enjoys or controls the land or premises where the possession occurs.
- (3) A person who, under subsection (1), is exempted from liability for an offence constituted by possessing a poison, controlled substance or drug of dependence, is taken, for the purposes of this Act, to be authorised by this Act to possess a poison, controlled substance or drug of dependence as described in that subsection.

**55ZS Police discretions not affected**

Nothing in section 55ZP affects any discretion a police officer may exercise in relation to not charging a person with an offence against this Act or the regulations for possession of a poison, controlled substance or drug of dependence when a person is travelling to or from a pill-testing place, or is in the vicinity of a pill-testing place, for the purpose of—

- (a) being provided with a pill-testing service; or
  - (b) placing a substance into an amnesty bin.
-

**55ZT Exemption from civil liability**

- (1) This section applies to the following—
    - (a) a pill-testing licence;
    - (b) each of the licensee's pill-testing employees;
    - (c) each occupier, and each person who uses, enjoys or controls, the following premises—
      - (i) the premises specified in the fixed premises pill-testing licence;
      - (ii) the premises on which the mobile pill-testing licence is stationary and set up to be operated;
    - (d) 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; or
      - (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 provided for by this Part; 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.
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- (3) Without limiting subsection (2), that subsection applies to an act or omission that—
  - (a) relates to the supply or possession of a poison, controlled substance or drug of dependence at a pill-testing place; and
  - (b) satisfies the requirements set out in subsection (2)(a), (b) and (c).
- (4) Without limiting subsection (2), a pill-testing employee 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 pill-testing employee 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.

**55ZU 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 provision of pill-testing services or the provision of an amnesty bin at a pill-testing place.

**55ZV Review of this Part and licensing for pill-testing services**

- (1) The Minister must arrange for a review to be conducted of—
  - (a) pill-testing services provided by pill-testing licensees; and
  - (b) the extent to which the object of this Part has been advanced during the period for which pill-testing licences have been in force; 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 first pill-testing 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.

**55ZW Regulations for this Part**

- (1) The Governor in Council may make regulations for or with respect to—
    - (a) standards for the provision of pill-testing services;
    - (b) the content and use of internal management protocols;
    - (c) the supply, possession or transport of a poison, controlled substance or drug of dependence for the purposes of pill-testing services;
    - (d) amnesty bins;
    - (e) the destruction of a substance supplied for pill-testing;
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- (f) qualifications or experience of pill-testing employees;
  - (g) functions of pill-testing employees;
  - (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.

**55ZX 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, each pill-testing licence that is still in force at that time is revoked.
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- (3) On the repeal of this Part—
- (a) in section 4(1), the definitions of *amnesty bin*, *approved internal management protocols*, *Chief Health Officer*, *child*, *director*, *fixed premises pill-testing employee*, *fixed premises pill-testing licence*, *fixed premises pill-testing licensee*, *internal management protocols*, *mobile pill-testing employee*, *mobile pill-testing facility*, *mobile pill-testing licence*, *mobile pill-testing licensee*, *pill-testing employee*, *pill-testing licence*, *pill-testing licensee*, *pill-testing place* and *pill-testing service* are **repealed**;
  - (b) sections 4B and 4C are **repealed**;
  - (c) section 41(6) is **repealed**;
  - (d) section 42(1)(ae) is **repealed**;
  - (e) section 118(9) is **repealed**;
  - (f) section 119(ec) is **repealed**;
  - (g) section 129(1)(eb) is **repealed**;
  - (h) section 132(ub) is **repealed**."

#### **10 List of licences and permits**

After section 118(8) of the Principal Act **insert**—

- "(9) This section does not apply to a pill-testing licence under Part IIB."

## 11 Evidentiary

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

"(ec) a certificate signed by the Secretary that a pill-testing licence was in force in respect of premises or a facility specified in the certificate at a specified date, or that an entity specified in the certificate was or was not a pill-testing licensee on a specified date, is prima facie evidence of the facts stated in the certificate;"

## 12 Regulations

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

"(eb) without limiting section 55ZW, any matter or thing required to be prescribed for the purposes of Part IIB;"

## 13 General regulations

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

"(ub) without limiting section 55ZW, any matter or thing required to be prescribed for the purposes of Part IIB;"

## 14 Repeal of this Act

This Act is **repealed** on 31 October 2021.

### 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**).

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Drugs, Poisons and Controlled Substances Amendment (Pill Testing Pilot for  
Drug Harm Reduction) Bill  
Exposure Draft

Endnotes

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.