



New South Wales

Intoxicated Persons Amendment Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Intoxicated Persons Act 1979* to revise the procedures relating to the care and detention of intoxicated persons and to extend that Act to persons affected by drugs.

At present, under the *Intoxicated Persons Act 1979*:

- (a) a number of government and non-government facilities are proclaimed as places to which persons found intoxicated in a public place may be taken by police officers, and
- (b) persons conducting any such proclaimed place are authorised to detain the intoxicated person at that place, and
- (c) police officers may release an intoxicated person into the care of a responsible person or may detain the intoxicated person at a police station if the intoxicated person is violent, there is no accommodation available at a proclaimed place or it is otherwise in the interests of the intoxicated person.

The principal changes to the procedures under the Act are as follows:

- (a) the provisions for the proclamation of government and non-government facilities and the power of those conducting the facilities to detain intoxicated persons are removed from the Act,
- (b) a person found intoxicated in a public place will only be able to be detained by a police officer, who will be required to release the person into the care of a responsible person (whether a friend or family member or staff of a government or non-government organisation or facility providing services for the care of intoxicated persons),
- (c) if a responsible person cannot be found and it is impracticable to return the intoxicated person home, the intoxicated person may be detained at a police station or at an approved juvenile detention centre.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Intoxicated Persons Act 1979* set out in Schedule 1.

Clause 4 repeals the *Intoxicated Persons Regulation 1999* as a consequence of the transfer of its remaining operative provisions to the Act.

Schedule 1 [1] replaces the existing definitions of words and expressions for the purposes of the proposed Act. In particular:

- (a) the definition of *intoxicated person* refers to persons apparently seriously affected by alcohol or other drugs,
- (b) the definition of *authorised place of detention* is limited to police stations and juvenile detention centres approved by the Minister,
- (c) the definition of a *responsible person* includes a friend or family member or a member of staff of a government or non-government organisation or facility.

Schedule 1 [2] replaces section 5 for the purposes of providing for the revised procedures relating to the care and detention of intoxicated persons outlined above.

Schedule 1 [3]–[6] make consequential amendments to the Act.

Schedule 1 [7] makes provisions of a savings or transitional nature.

First print



New South Wales

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New South Wales

Intoxicated Persons Amendment Bill 2000

No. , 2000

A Bill for

An Act to amend the *Intoxicated Persons Act 1979* to revise the procedures relating to the care and detention of intoxicated persons, to extend that Act to persons affected by drugs and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Intoxicated Persons Amendment Act 2000</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Intoxicated Persons Act 1979 No 67	7
The <i>Intoxicated Persons Act 1979</i> is amended as set out in Schedule 1.	8
4 Repeal of Intoxicated Persons Regulation 1999	9
The <i>Intoxicated Persons Regulation 1999</i> is repealed.	10

Schedule 1 Amendments

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(Section 3)

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[1] Section 3

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Omit the section. Insert instead:

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3 Definitions

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In this Act:

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authorised place of detention means:

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(a) a police station, or

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(b) a detention centre within the meaning of the *Children (Detention Centres) Act 1987* approved for the time being by the Minister as an authorised place of detention for the purposes of this Act.

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detention officer means a police officer, a correctional officer (within the meaning of the *Crimes (Administration of Sentences) Act 1999*) or a person in charge of or employed in a detention centre (within the meaning of the *Children (Detention Centres) Act 1987*).

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intoxicated person means a person who appears to be seriously affected by alcohol or another drug or a combination of drugs.

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public place means:

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(a) a place (whether or not covered by water or built on), or

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(b) a part of any premises (including a structure, building, vehicle or vessel),

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that is open to the public, or is used by the public, whether or not on payment of money or other consideration, whether or not the place is ordinarily so open or used, and whether or not the public to whom it is open consists of a limited class of persons, and includes a school (within the meaning of the *Summary Offences Act 1988*).

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responsible person includes any person who is capable of taking care of an intoxicated person, including:

- (a) a friend or family member, or
- (b) an official or member of staff of a government or non-government organisation or facility providing welfare or alcohol or other drug rehabilitation services.

[2] Section 5 7

Omit the section. Insert instead: 8

5 Detention of intoxicated persons 9

- (1) A police officer may detain an intoxicated person found in a public place who is: 10
 - (a) behaving in a disorderly manner or in a manner likely to cause injury to the person or another person or damage to property, or 12
 - (b) in need of physical protection because the person is intoxicated. 15
- (2) A police officer is not to detain a person under this section because of behaviour that constitutes an offence under any law. 17
- (3) An intoxicated person detained by a police officer under this section is to be taken to, and released into the care of, a responsible person willing immediately to undertake the care of the intoxicated person. 19
- (4) An intoxicated person detained by a police officer under this section may be taken to and detained in an authorised place of detention if: 23
 - (a) it is necessary to do so temporarily for the purpose of finding a responsible person willing to undertake the care of the intoxicated person, or 26
 - (b) a responsible person cannot be found to take care of the intoxicated person or the intoxicated person is not willing to be released into the care of a responsible person and it is impracticable to take the intoxicated person home, or 29

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| (c) | the intoxicated person is behaving or is likely to behave so violently that a responsible person would not be capable of taking care of and controlling the intoxicated person. | 1
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| (5) | An intoxicated person who is detained in an authorised place of detention under this section may be detained there by any detention officer. | 5
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| (6) | An intoxicated person who is detained in an authorised place of detention under this section: | 8
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| (a) | must be given a reasonable opportunity by the person in charge of that place to contact a responsible person, and | 10
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| (b) | must, as far as is reasonably practicable, be kept separately from any person detained at that place in connection with the commission or alleged commission of an offence, and | 12
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| (c) | if the intoxicated person is apparently under the age of 18 years—must, as far as is reasonably practicable, be kept separately from any person over that age detained at that place, and | 16
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| (d) | must not be detained in a cell at that place unless it is necessary to do so or unless it is impracticable to detain the person elsewhere at that place, and | 20
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| (e) | must be provided with necessary food, drink, bedding and blankets appropriate to the person’s needs, and | 23
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| (f) | must be released as soon as the person ceases to be an intoxicated person. | 25
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| (7) | An intoxicated person detained under this section may be detained under such reasonable restraint as is necessary to protect the intoxicated person and other persons from injury and property from damage. | 27
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| (8) | This section does not authorise a responsible person into whose care an intoxicated person is released to detain the intoxicated person. | 31
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[3] Section 6 Searching detained persons	1
Omit section 6 (1). Insert instead:	2
(1) A police officer or other detention officer by whom an intoxicated person is detained under section 5 may search the intoxicated person and may take possession of any personal belongings found in the person’s possession.	3 4 5 6
[4] Section 7 Records	7
Omit section 7 (1) (a) and (b). Insert instead:	8
(a) any police officer who detains an intoxicated person under section 5 and takes the person to an authorised place of detention, and	9 10 11
(b) the person in charge of an authorised place of detention where an intoxicated person is detained under section 5 (or a person authorised to do so by that person in charge), and	12 13 14 15
[5] Section 7 (1)	16
Omit “the prescribed record”.	17
Insert instead “the record approved by the Minister”.	18
[6] Section 8 Police officers and others not liable for certain acts or omissions	19 20
Omit “any member of the police force, any authorised person, any person engaged in the conduct of a proclaimed place” and “the member, the authorised person, the person so engaged”.	21 22 23
Insert instead, respectively, “any police officer, any detention officer” and “the police officer, detention officer”.	24 25
[7] Section 10	26
Insert after section 9:	27
10 Savings and transitional provisions	28
(1) In this section:	29
<i>amending Act</i> means the <i>Intoxicated Persons Amendment Act 2000</i> .	30 31

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| (2) A person who was detained under this Act immediately before the commencement of this section is to continue to be detained and dealt with as if this Act had not been amended by the amending Act. | 1
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| (3) Section 8 (as in force before its amendment by the amending Act) continues to apply in respect of anything done or omitted before the section was so amended. | 5
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| (4) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the amending Act. | 8
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