



AUSTRALIAN CAPITAL TERRITORY

Intoxicated Persons (Care and Protection) (Amendment) Act 1997

No. 71 of 1997

An Act to amend the *Intoxicated Persons (Care and Protection) Act 1994*

[Notified in ACT Gazette S350: 10 November 1997]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Intoxicated Persons (Care and Protection) (Amendment) Act 1997*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

3. In this Act, “Principal Act” means the *Intoxicated Persons (Care and Protection) Act 1994*.¹

Interpretation

4. Section 3 of the Principal Act is amended by omitting from subsection (1) the definitions of “carer” and “licensed place” and substituting respectively the following definitions:

“ ‘carer’ means a person who works with intoxicated persons at a licensed place;

‘licensed place’ means a place at which a licensee is licensed to provide a caring service;”.

Search of persons in custody

5. Section 5 of the Principal Act is amended—

(a) by omitting from subsections (1) and (2) “personal belongings” and substituting “articles”;

(b) by inserting in paragraph (a) of the definition of “search” in subsection (3) “, socks” after “shoes”.

Admission statement and other relevant information

6. Section 6 of the Principal Act is amended by omitting from paragraphs (2) (d) and (e) “belongings” and substituting “articles”.

Insertion

7. After section 6 of the Principal Act the following sections are inserted:

Power of carer to search intoxicated person

“6A. (1) A carer may search an intoxicated person at a licensed place where the carer believes on reasonable grounds that the intoxicated person does not object to the search.

“(2) In subsection (1)—

‘search’ means a search of a person or of articles in the possession of a person and includes—

(a) requiring the person to remove any overcoat, coat, jacket, gloves, shoes, socks or hat; and

(b) an examination of those items of clothing.

Safekeeping of articles in possession

“6B. A carer who is conducting a search under section 6A shall take possession of any articles found in the possession of the intoxicated person where the carer believes on reasonable grounds that—

- (a) the intoxicated person does not object; and
- (b) it is necessary for the protection of the intoxicated person or other persons at the licensed place or the security of those articles.

List of articles

“6C. (1) Where articles are taken from an intoxicated person under section 6B the carer who conducted the search shall prepare a list of those articles.

“(2) The carer who conducted the search shall sign each entry on the list and, if the intoxicated person is unable or unwilling to sign, arrange for another carer to sign if practicable.

Return of articles

“6D. (1) An intoxicated person from whom articles have been taken under section 6B is entitled to have those articles returned to him or her on his or her departure from the licensed place.

“(2) Where articles are returned to an intoxicated person, the carer who returned the articles shall make an appropriate entry on the list of each article that has been returned.

“(3) The carer who returned the articles shall sign each entry on the list and, if the intoxicated person is unable or unwilling to sign, arrange for another carer to sign if practicable.”.

Right to leave

8. Section 7 of the Principal Act is amended by omitting all the words from and including “A carer” to and including “inform” and substituting “The carer who admits an intoxicated person to a licensed place shall inform”.

Leaving in a dangerous condition

9. Section 9 of the Principal Act is amended by omitting “a carer” (last occurring) and substituting “the carer”.

Protection of carers, managers and licensees

10. Section 13 of the Principal Act is amended by inserting “, manager of a licensed place” after “licensee” (wherever occurring).

NOTE

Principal Act

1. Act No. 85, 1994.

[Presentation speech made in Assembly on 25 September 1997]

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