

1995

AUSTRALIAN CAPITAL TERRITORY

INTOXICATED PERSONS (CARE AND PROTECTION) ACT 1994

**CARE AND PROTECTION OF INTOXICATED PERSONS
STANDARD**

Explanatory Statement

NO. 38 OF 1995

CARE AND PROTECTION OF INTOXICATED PERSONS STANDARD

Explanatory Statement

The Care and Protection of Intoxicated Persons Standard ("the Standard") is made pursuant to section 31 of the *Intoxicated Persons (Care and Protection) Act 1994* ("the Act") to establish minimum requirements for the manner in which a person licensed to provide a caring service, pursuant to the Act, shall provide that service

The provisions of the Standard, other than paragraph 6.2(a), will commence upon notification of the Standard in the *Gazette*. Paragraph 6.2(a) will come into effect on 1 January 1996. The delayed commencement of this provision is to give persons licensed to provide a caring service time, where necessary, to modify facilities at the place where the service is provided so that the facilities comply with the Standard.

The principal purpose of the requirements is to maintain the dignity and privacy, and protect the health and safety, of persons admitted to a place licensed to provide a caring service. The requirements are also intended to protect the health and safety of carers working in such places.

The Standard imposes obligations on a licensee, that is, a person who is licensed under the Act to provide a caring service, and a manager of a licensed place. Failure to comply with the Standard may result in cancellation of the licence. The principal obligations created by the Standard are as described below.

Respect for clients

The Standard (*clause 5*) requires a licensee or manager to ensure that carers at a licensed place treat with respect intoxicated persons who are admitted to a licensed place and sets out a number of particular requirements in this regard.

Suitability, safety and security of facilities at a licensed place

A licensee is required to ensure that the design of a licensed place is suitable for use by intoxicated persons (*paragraph 6 2(a)*) While the design of the place should permit a person admitted to a licensed place ("a client") to attend to his or her toilet in private (*subclause 6 1*) the Standard also requires that lawful observation of a client for the purposes of the Act should be possible (*paragraph 6 2(b)*)

The Standard requires a licensee or the manager of a licensed place to ensure that facilities and equipment at the place are maintained, cleaned and safe for use by carers and clients (*subclause 6 3*)

The Standard requires a licensee to ensure that a licensed place provides adequate security for carers and clients and there are facilities at the place for the secure storage of their property. The licensee or manager of a licensed place is also required to ensure that safe working practices are observed in a licensed place and that working practices are monitored and reviewed (*subclause 6.5*).

Subclause 6.6 of the Standard sets out procedures to be followed in the safekeeping of a client's property at a licensed place.

Accidents at a licensed place are required to be reported by carers (*subclause 6.7*).

Care and monitoring of clients

The Standard sets out procedures relating to the care of clients. *Subclause 7.1* requires a licensee or the manager of a licensed place to ensure that on the admission of a client to the place a carer makes inquiries for the purpose of determining whether the client's condition may be attributable to factors other than alcohol or other drug induced intoxication. *Subclause 7 2* requires that a client's condition be monitored throughout the time he or she is at the licensed place and that medical attention is sought for a client where necessary or appropriate. In particular, it requires that a carer check every 15 minutes the extent to which a client who is asleep is capable of responding to stimulation.

Clients are also required to be provided with information on safer alcohol and drug use and offered referral to other relevant services (*subclause 7.3*).

Skills, qualifications and training of carers

A licensee is required to ensure that carers at a licensed place have appropriate skills and training to carry out their duties in accordance with the Standard(*subclause 8.1*).

Records

The Standard requires that records be kept in relation to particular information which may be acquired for the purposes of the Act (*subclause 9.1*) and in relation to the training of carers (*subclause 9.3*).

Confidentiality of information

The Standard requires a licensee to ensure that information provided to, or obtained by, a carer, in relation to a client, is treated confidentially. The provisions concerning confidentiality of information are consistent with the relevant privacy principles of the Commonwealth *Privacy Act 1988*.

- (e) the basic skills required by persons working with intoxicated persons at licensed places, and
- (f) the collection, use, storage and disclosure of information relating to the conduct of licensed places and persons admitted to them

5 **Disallowance**

32. A standard made under section 31 is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Publication in newspaper

10 33. (1) The Minister shall cause to be published in the principal daily newspaper circulating in the Territory, on or before the date on which a standard is made under section 31, notice of the making of the standard—

- (a) specifying the date on which the standard takes effect;
- (b) specifying the place or places at which copies of the standard may be purchased,
- 15 (c) containing a statement to the effect that a copy of the standard may be inspected by members of the public at the place or places specified in the notice; and
- (d) containing a statement to the effect that the standard is subject to disallowance by the Legislative Assembly under the *Subordinate Laws Act 1989*.

20 (2) The Minister shall ensure that—

- (a) a copy of the standard is made available for public inspection at the place or places so specified in the notice under subsection (1); and
- (b) copies of that standard are made available for purchase at the place or places so specified in the notice.

25 (3) In this section—

“standard” includes any document, or part of a document, the provisions of which are applied by a standard.

30 **PART VI—APPEALS TO ADMINISTRATIVE APPEALS TRIBUNAL**

Notice of decision

34. (1) Where the Minister makes a decision—

- (a) under subsection 16 (1) that he or she is not satisfied in relation to paragraph (a) or (b) of that subsection in relation to an applicant,

AUSTRALIAN CAPITAL TERRITORY INTOXICATED PERSONS (CARE AND PROTECTION) ACT.

Notice is hereby given of the making of a standard under Section 31 of the *Intoxicated Persons (Care and Protection) Act 1994*. The provisions of the standard, other than paragraph 6.2(a), take effect on... (specify date of gazettal). The provisions of paragraph 6.2(a) become effective on 1 January 1996.

Copies of the Standard may be inspected at, or obtained free of charge from, the Policy, Coordination and Development Section of the Department of Health and Community Care, 3rd Floor, Corner Moore and Alinga Streets, Canberra City.

The standard is subject to disallowance by the ACT Legislative Assembly under the Subordinate Laws Act 1989.