



Australian Capital Territory

# **Intoxicated People (Care and Protection) Act 1994**

**A1994-85**

**Republication No 10**

**Effective: 3 June 2006 – 15 November 2006**

Republication date: 3 June 2006

Last amendment made by A2005-54  
(republication for commenced expiry)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Intoxicated People (Care and Protection) Act 1994* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 3 June 2006. It also includes any amendment, repeal or expiry affecting the republished law to 3 June 2006.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Intoxicated People (Care and Protection) Act 1994

## Contents

---

|               | Page  |   |
|---------------|---|---|
| <b>Part 1</b> | <b>Preliminary</b>                                    |   |
| 1             | Name of Act   | 2 |
| 2             | Dictionary  | 2 |
| 3             | Notes   | 2 |
| 3A            | Offences against Act—application of Criminal Code etc | 3 |
| <b>Part 2</b> | <b>Intoxicated people</b>                             |   |
| 4             | Detention of intoxicated people                       | 4 |
| 5             | Search of people in custody                           | 5 |
| 6             | Admission statement and other relevant information    | 5 |
| 6A            | Admission to licensed place                           | 6 |
| 6B            | Safekeeping of possessions                            | 6 |
| 6C            | Power of carer to search intoxicated person           | 6 |

---

|                 |   |            |
|-----------------|---|------------|
| R10<br>03/06/06 | Intoxicated People (Care and Protection) Act 1994<br>Effective: 03/06/06-15/11/06 | contents 1 |
|-----------------|---|------------|

## Contents

---

|   | Page |
|---|------|
| 6D Leaving licensed place                                   | 7    |
| 7 Information to be given to intoxicated person             | 7    |
| 8 Contacting other people                                   | 8    |
| 9 Leaving in dangerous condition                            | 8    |
| 10 Transfer—medical treatment                               | 8    |
| 11 Remaining at licensed place                              | 8    |
| 12 Objection to care  | 8    |
| 13 Protection of carers, managers and licensees             | 8    |
| <br>  |      |
| <b>Part 3 Licences</b>                                      |      |
| <b>Division 3.1 Approval</b>                                |      |
| 14 Care services must be licensed                           | 9    |
| 15 Applications   | 9    |
| 16 Grant  | 11   |
| <b>Division 3.2 Conditions</b>                              |      |
| 17 Licence conditions                                       | 11   |
| 18 Employees  | 11   |
| 19 Insurance  | 12   |
| 20 Annual reports   | 12   |
| 21 Further conditions                                       | 12   |
| <b>Division 3.3 Suspension and cancellation of licences</b> |      |
| 22 Emergency suspension and cancellation                    | 13   |
| 23 Cancellation of licences                                 | 14   |
| 24 Requested cancellation                                   | 15   |
| 25 Return of licence on cancellation                        | 15   |
| <br>  |      |
| <b>Part 4 Inspection</b>                                    |      |
| 27 Inspectors   | 17   |
| 28 Identity cards   | 17   |
| 29 Powers of inspection                                     | 18   |
| 30 Failing to comply with requirement of inspector          | 18   |
| <br>  |      |
| <b>Part 5 Standards</b>                                     |      |
| 31 Making standards   | 19   |

|                   |   |           |
|-------------------|---|-----------|
|                   |   | Page      |
| 33                | Publication in newspaper                          | 19        |
| <b>Part 6</b>     | <b>Appeals to administrative appeals tribunal</b> |           |
| 34                | Notice of decision                                | 21        |
| 35                | Review by administrative appeals tribunal         | 22        |
| <b>Part 7</b>     | <b>Miscellaneous</b>                              |           |
| 36                | Secrecy   | 23        |
| 37                | Approval of first-aid providers                   | 24        |
| 38                | Approved forms                                    | 24        |
| 39                | Regulation-making power                           | 24        |
| <b>Dictionary</b> |   | <b>25</b> |
| <b>Endnotes</b>   |   |           |
| 1                 | About the endnotes                                | 27        |
| 2                 | Abbreviation key                                  | 27        |
| 3                 | Legislation history                               | 28        |
| 4                 | Amendment history                                 | 29        |
| 5                 | Earlier republications                            | 33        |





Australian Capital Territory

# **Intoxicated People (Care and Protection) Act 1994**

---

An Act to provide for the care and protection of intoxicated people, and for related purposes

---

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Intoxicated People (Care and Protection) Act 1994*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*prohibited substance*—see the *Drugs of Dependence Act 1989*, section 3.' means that the term 'prohibited substance' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.



**3A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Intoxicated people

### 4 Detention of intoxicated people

- (1) If a police officer believes, on reasonable grounds, that a person in a public place is intoxicated and is, because of that intoxication—
  - (a) behaving in a disorderly way; or
  - (b) behaving in a way likely to cause injury to himself, herself or another person, or damage to any property; or
  - (c) incapable of protecting himself or herself from physical harm;the officer may take the person into custody and detain the person.
- (2) The police officer may take the person into custody only if the officer is satisfied that there is no other reasonable alternative for the person's care and protection.
- (3) A person detained under subsection (1) must be released—
  - (a) when the person ceases to be intoxicated; or
  - (b) at the end of 8 hours after the person is detained;whichever is earlier.
- (4) A police officer must not allow a person detained under subsection (1) to remain at a police station where the person was detained for longer than 12 hours after the person is first detained.
- (5) This section does not prevent a police officer from releasing a person detained under subsection (1) if, in the police officer's opinion, it is reasonable to release the person.
- (6) For subsection (5), a police officer is taken to have acted reasonably if the officer releases a person detained under subsection (1) into the care of the manager of a licensed place.

**5 Search of people in custody**

- (1) A police officer may search a person who is taken into custody under section 4 (1) and may take possession of any articles found in the person's possession.
- (2) A person is entitled to the return of any articles taken from the person under subsection (1) when the person ceases to be detained under section 4.
- (3) In subsection (1):

*search* means a search of a person or of articles in the person's possession, which may include—

- (a) requiring the person to remove his or her overcoat, coat or jacket and any gloves, shoes, socks and hat; and
- (b) an examination of those items.

**6 Admission statement and other relevant information**

- (1) If a police officer releases a person from custody under section 4 into the care of the manager of a licensed place and the person enters that place, the officer must give the manager an admission statement relating to the intoxicated person.
- (2) An admission statement must be in writing and must contain the following:
  - (a) the full name of the intoxicated person (if known);
  - (b) the date of birth of the person (if known);
  - (c) the time and date when the person was detained by the officer;
  - (d) an itemised list of any articles taken from the person under section 5 (1);
  - (e) confirmation that the officer signing the statement has returned the listed articles to the person.

- (3) The police officer may release to the manager any further information relating to the intoxicated person that the officer believes, on reasonable grounds, will assist the manager in caring for the person.

#### **6A Admission to licensed place**

A carer must not admit an intoxicated person to a licensed place if the person—

- (a) refuses to give the carer the person's clothing and other possessions for safekeeping; or
- (b) refuses to undergo a search under section 6C when required to do so; or

*Note* Under s 6C, a search may be required before admission.

- (c) is found to be in possession of a prohibited substance.

#### **6B Safekeeping of possessions**

A carer must secure the clothing and other possessions of an intoxicated person who is admitted to a licensed place.

#### **6C Power of carer to search intoxicated person**

- (1) A carer may require an intoxicated person to undergo a frisk search in a licensed place before admitting the person.
- (2) The frisk search of an intoxicated person must, if practicable, be carried out by a person of the same sex as the intoxicated person.
- (3) If the intoxicated person is a transgender or intersex person, the person may ask that the frisk search be carried out by either a male or a female.

*Note 1* For the meaning of *transgender person*, see the Legislation Act, s 169A.

*Note 2* For the meaning of *intersex person*, see the Legislation Act, s 169B.

- (4) If the intoxicated person asks that the frisk search be carried out by a male, the person is taken, for this section, to be male.
- (5) If the intoxicated person asks that the frisk search be carried out by a female, the person is taken, for this section, to be female.
- (6) In this section:  
*frisk search*, of an intoxicated person, means a search in which light pressure is momentarily applied to the person over the person's outer clothing without contact being made with—
  - (a) the person's genital or anal areas; or
  - (b) for a female—the person's breasts.

#### **6D Leaving licensed place**

- (1) An intoxicated person who is admitted to a licensed place may leave the licensed place at any time.
- (2) An intoxicated person who is admitted to a licensed place is taken to have left the licensed place if the person goes outside the licensed place unsupervised by a carer.
- (3) A carer must return an intoxicated person's possessions to the person when the person leaves the licensed place.

#### **7 Information to be given to intoxicated person**

The carer who admits an intoxicated person to a licensed place must tell the person that—

- (a) the person may leave the licensed place at any time; and
- (b) if the person goes outside the licensed place unsupervised by a carer, the person will be taken to have left the licensed place; and
- (c) the person will be given adequate opportunity to contact a responsible person or other appropriate person.

**8 Contacting other people**

A licensee must ensure that an intoxicated person admitted to a licensed place has adequate opportunity to contact a responsible person or other appropriate person.

**9 Leaving in dangerous condition**

If an intoxicated person who, in the opinion of a carer, is a danger to himself, herself, another person or property leaves, or is about to leave, the licensed place, the carer must notify the police.

**10 Transfer—medical treatment**

If a carer at a licensed place is satisfied that an intoxicated person requires, or may require, medical treatment, the carer must arrange for the intoxicated person to be transferred to the emergency department of a hospital.

**11 Remaining at licensed place**

A licensee must not allow a person admitted to a licensed place to remain at the place for longer than 15 hours.

**12 Objection to care**

This Act does not authorise the provision of care to a person at a licensed place if the person objects to being provided with that care.

**13 Protection of carers, managers and licensees**

No action, suit or proceeding lies against a person who is or has been a licensee, manager of a licensed place or carer in relation to any act done or omitted to be done by that person as licensee, manager of a licensed place or carer in good faith for the exercise, or purported exercise, of a function for this Act or another territory law.

## **Part 3                      Licences**

### **Division 3.1              Approval**

#### **14                      Care services must be licensed**

- (1) A person commits an offence if—
  - (a) the person provides a caring service; and
  - (b) the person is not licensed under this Act to provide the service.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.

#### **15                      Applications**

- (1) A person may apply for a licence to provide a caring service.
- (2) An application under subsection (1) must—
  - (a) be in writing signed by the applicant; and
  - (b) specify the following:
    - (i) the name and address of the applicant;
    - (ii) the proposed name and address of each place where the applicant proposes to provide a caring service;
    - (iii) particulars of any experience the applicant has in dealing with intoxicated people or people with problems related to alcohol or other drugs; and
  - (c) be accompanied by—
    - (i) if the applicant is an individual—a written statement signed by the applicant stating that he or she has never been bankrupt, applied to take the benefit of any law for

the relief of bankrupt or insolvent debtors, compounded with creditors or made an assignment of remuneration for their benefit; or

- (ii) if the applicant is a corporation—a written statement signed on behalf of the corporation by an office-holder stating that as at the date of the application—
  - (A) a liquidator, receiver, official manager or receiver and manager has not been appointed in relation to the corporation, any of its assets or any part of its affairs or undertaking; and
  - (B) no compromise or arrangement of a kind mentioned in the Corporations Act, part 5.1 has been entered into or is proposed; and
  - (C) the corporation is solvent; or
- (iii) if the applicant is an incorporated association or any other kind of entity—a written statement signed on behalf of the association or entity by an office-holder stating that the association or entity can meet its debts.

(3) In this section:

***name and address***, of an applicant, means—

- (a) if the applicant is an individual—the individual’s full name and business address; or
- (b) in any other case—the full name and residential address of each office-holder of the applicant.

***office-holder*** means—

- (a) for a corporation—an executive officer; or
- (b) for an incorporated association—the president, secretary or public officer of the association; or



- (c) for any other entity—anyone with overall responsibility for the conduct of the entity.

## **16 Grant**

- (1) On receiving an application in accordance with section 15, the Minister may grant the applicant a licence to provide a caring service if satisfied that—
  - (a) the applicant has adequate experience in dealing with intoxicated people or people with problems related to alcohol or other drugs; and
  - (b) the applicant will provide a caring service at each place specified in the application in accordance with the Act and any standards.
- (2) A licence must specify—
  - (a) the full name and address of the person to whom it is granted; and
  - (b) the location of each place where a caring service may be provided under it.

## **Division 3.2 Conditions**

### **17 Licence conditions**

A licence is subject to the conditions imposed by or under this division.

### **18 Employees**

- (1) A licensee must ensure that every person employed by the licensee at a licensed place, including any volunteer, holds a current first-aid certificate.

- (2) In subsection (1):

*first-aid certificate* means a first-aid certificate issued by a provider approved under section 37.

## 19 Insurance

A licensee must maintain a prescribed policy or policies of insurance.

## 20 Annual reports

- (1) A licensee must give the Minister a written report in relation to each financial year, or part of a financial year, in which the licensee provides a service.
- (2) A report under subsection (1) must be given to the Minister no later than 30 September immediately following the financial year to which the report relates.
- (3) A report must specify the following:
- (a) in relation to any caring service provided by the licensee—the number of people admitted to the licensed place during the period to which the report relates, and the age and sex of each person so admitted (if known);
  - (b) whether, in the opinion of the licensee, the licensee has complied with the Act (including any standards);

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (c) if the licensee has not so complied—the particulars of any failure to comply.

## 21 Further conditions

- (1) The Minister may, by written notice, impose the further conditions on a licence that are necessary and reasonable for the care and protection of intoxicated people.

- (2) A condition under subsection (1) takes effect at the end of the period of 28 days after the date of the notice, or on such later date as is specified in the notice.

## **Division 3.3                      Suspension and cancellation of licences**

### **22                      Emergency suspension and cancellation**

- (1) If the Minister believes, on reasonable grounds, that there is an immediate risk of danger to the health or safety of people being cared for, or people providing care, at a licensed place, the Minister may suspend the licence in relation to that place.
- (2) A suspension under subsection (1) takes effect from the time when notice of the suspension is given to the licensee.
- (3) A notice under subsection (2) must—
- (a) state the facts and circumstances on which the Minister's belief is based; and
  - (b) specify the licensed places in relation to which the licence is suspended; and
  - (c) state that, while the licence is suspended, the licensee may not provide caring services at the places so specified; and
  - (d) invite the licensee, within 28 days after the date of the notice, to show cause why the licence should not be cancelled in relation to the places so specified.
- (4) After the end of the period of 28 days after the date of the notice, the Minister may cancel the licence in relation to any licensed place specified in the notice on the ground mentioned in subsection (1).
- (5) The cancellation of a licence under this section takes effect on—
- (a) the date when notice under section 34 (1) of the cancellation is given to the licensee; or

- (b) if a later date is specified in the notice—on the later date.

## **23 Cancellation of licences**

- (1) The Minister may, subject to this section, cancel a licence in relation to a licensed place on any of the following grounds:
  - (a) if the licensee is an individual—the licensee has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with creditors or made an assignment of remuneration for their benefit;
  - (b) if the licensee is a corporation—
    - (i) a liquidator, receiver, official manager or receiver and manager has been appointed in relation to the corporation, any of its assets or any part of its affairs or undertaking; or
    - (ii) a compromise or arrangement of a kind specified in the Corporations Act, part 5.1 has been entered into or is proposed; or
    - (iii) the corporation is insolvent;
  - (c) if the licensee is an incorporated association or a body established by or under a law of the Territory or elsewhere—that the association or body is unable to meet its debts;
  - (d) the licensee is no longer providing a caring service at the licensed place;
  - (e) the licensee has contravened this Act (including any standards);
  - (f) the licensee has breached a condition of the licence.
- (2) The Minister must not cancel a licence in relation to a licensed place unless the Minister has given written notice to the licensee of the proposal to do so—
  - (a) specifying the ground for the proposed cancellation;

- (b) setting out the facts and circumstances on which that ground is based;
  - (c) specifying the licensed places in relation to which the Minister proposes to cancel the licence; and
  - (d) inviting the licensee, within 28 days after the date of the notice, to show cause why the licence should not be so cancelled.
- (3) After the end of the period of 28 days after the date of the notice, the Minister may cancel the licence in relation to any licensed place specified in the notice on the ground specified in the notice.
- (4) The cancellation of a licence under this section takes effect on—
- (a) the date when notice under section 34 (1) of the cancellation is given to the licensee; or
  - (b) if a later date is specified in the notice—on the later date.

## **24 Requested cancellation**

- (1) A licensee may, by written notice, request the Minister to cancel the licensee's licence in relation to 1 or more licensed places.
- (2) On receiving a notice under subsection (1), the Minister must cancel the licence in accordance with the request and the cancellation takes effect immediately or on the later day that is specified in the notice.

## **25 Return of licence on cancellation**

- (1) A licensee commits an offence if—
  - (a) the licensee receives a notice under section 34 (1) of the cancellation of the licence for a place; and

- (b) the licensee does not return the licence to the Minister within 14 days after the day the licensee receives the notice.

Maximum penalty: 5 penalty units.

- (2) If the licence is for 2 or more places, and the licence is cancelled for some, but not all, of the places, the Minister must—
  - (a) amend any licence returned under subsection (1) to reflect the cancellation; and
  - (b) return the amended licence to the licensee.
- (3) An offence against this section is a strict liability offence.

## Part 4                      Inspection

### 27                      Inspectors

The chief executive may appoint a public servant as an inspector for this Act.

*Note 1*    For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2*    In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

### 28                      Identity cards

- (1) The chief executive must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

**29 Powers of inspection**

- (1) An inspector may, at any reasonable time, enter a licensed place and—
  - (a) inspect the place and any equipment used at the place in connection with the care of people admitted to the place; and
  - (b) inspect any books, documents or other records that are in the possession of the licensee, or to which the licensee has access, relating to the conduct of the licensed place; and
  - (c) require the licensee to give the inspector any information, books, documents or other records that are in the possession of the licensee, or to which the licensee has access, relating to the conduct of the licensed place.
- (2) An inspector who enters premises under subsection (1) is not authorised to remain on the premises if, when requested to do so by the licensee, the inspector does not show his or her identity card to the licensee.
- (3) A person is not required to give material to an inspector under subsection (1) (c) if, when requested to do so by the person, the inspector does not show his or her identity card to the person.
- (4) If an inspector enters premises under subsection (1), a reference in this section to the *licensee* includes a reference to the manager.

**30 Failing to comply with requirement of inspector**

- (1) A person must take all reasonable steps to comply with a requirement made of the person by an inspector under section 29 (1) (c).

Maximum penalty: 50 penalty units.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

- (2) An offence against this section is a strict liability offence.



## Part 5 Standards

### 31 Making standards

- (1) The Minister may, in writing, make standards for this Act.
- (2) A standard may make provision in relation to—
  - (a) the condition and maintenance of premises used as licensed places; and
  - (b) the condition and maintenance of equipment used at licensed places; and
  - (c) the operation of caring services, including the conduct of people providing care; and
  - (d) the training of people working with intoxicated people at licensed places; and
  - (e) the basic skills required by people working with intoxicated people at licensed places; and
  - (f) the collection, use, storage and disclosure of information relating to the conduct of licensed places and people admitted to them.
- (3) A standard is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### 33 Publication in newspaper

- (1) The Minister must publish in the principal daily newspaper circulating in the ACT, on or before the date a standard is made under section 31, notice of the making of the standard—
  - (a) specifying the date the standard takes effect; and

- (b) specifying the place or places where copies of the standard may be purchased; and
  - (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 Legislation Act.
- (2) The Minister must 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.
- (3) In this section:
- standard* includes any document, or part of a document, the provisions of which are applied by a standard.

## Part 6

# Appeals to administrative appeals tribunal

### 34 Notice of decision

- (1) If the Minister makes a decision—
- (a) under section 16 (1) that the Minister is not satisfied in relation to section 16 (1) (a) or (b) in relation to an applicant; or
  - (b) under section 21 (1) to impose a further condition on a licence; or
  - (c) under section 22 (1) suspending a licence; or
  - (d) under section 22 (4) or section 23 (1) cancelling a licence; or
  - (e) under section 37 to refuse to approve an entity as a provider of first-aid courses;
- the Minister must give written notice of the decision to the relevant person.
- (2) For subsection (1), the *relevant person* is—
- (a) in relation to a decision mentioned in subsection (1) (a)—the applicant; or
  - (b) in relation to a decision mentioned in subsection (1) (e)—the entity; or
  - (c) in any other case—the licensee.
- (3) A notice under subsection (1) must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

**35 Review by administrative appeals tribunal**

Application may be made to the administrative appeals tribunal for a review of a decision mentioned in section 34.

## Part 7                      Miscellaneous

### 36              Secrecy

- (1) In this section:

*divulge* includes communicate.

*person to whom this section applies* means anyone who is exercising, or has exercised, a function under this Act.

*protected information* means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

- (2) A person to whom this section applies commits an offence if—

(a) the person—

- (i) makes a record of protected information about someone else; and
- (ii) is reckless about whether the information is protected information about someone else; or

(b) the person—

- (i) does something that divulges protected information about someone else; and
- (ii) is reckless about whether—
  - (A) the information is protected information about someone else; and

- (B) doing the thing would result in the information being divulged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if the record is made, or the information is divulged—
- (a) under this Act or another territory law; or
  - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law.
- (4) Subsection (2) does not apply to the divulging of protected information about someone with the person's consent.

### **37 Approval of first-aid providers**

The Minister may, in writing, approve an entity as a provider of first-aid courses for this Act.

### **38 Approved forms**

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the form must be used for that purpose.

*Note* For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### **39 Regulation-making power**

The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

---

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- administrative appeals tribunal
- adult
- police officer
- under.

***carer*** means a person who works with intoxicated people at a licensed place.

***caring service*** means a service that provides immediate, short-term care for intoxicated people, but does not include a service provided at a hospital or other medical facility.

***inspector*** means an inspector under section 27.

***intoxicated*** means apparently under the influence of alcohol, another drug or substance, or a combination of alcohol, drugs or substances.

### Examples of substances

- 1 glue
- 2 petrol
- 3 another solvent

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

***licensed place*** means a place where a licensee is licensed to provide a caring service.

***licensee*** means a person who holds a licence under section 16.

***manager***, for a licensed place, means the person in charge of the place.

***prescribed*** includes prescribed by the standards.

***prohibited substance***—see the *Drugs of Dependence Act 1989*, section 3.

***public place*** means a place to which the public, or a section of the public, has access, whether by payment or not, and includes a school and any land or premises that belong to or are occupied or used in relation to a school.

***responsible person***, in relation to an intoxicated person, includes—

- (a) a relative, guardian or friend of the intoxicated person who is an adult; or
- (b) a lawyer acting on behalf of the intoxicated person.

***school*** means a government school (including a pre-school) or non-government school under the *Education Act 2004*.

***standard*** means a standard made under section 31.



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

|   |   |
|---|---|
| am = amended  | ord = ordinance   |
| amdt = amendment                                    | orig = original   |
| ch = chapter  | par = paragraph/subparagraph                                      |
| def = definition                                    | pres = present  |
| dict = dictionary                                   | prev = previous   |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously  |
| div = division                                      | pt = part   |
| exp = expires/expired                               | r = rule/subrule  |
| Gaz = gazette                                       | renum = renumbered  |
| hdg = heading                                       | reloc = relocated   |
| IA = Interpretation Act 1967                        | R[X] = Republication No   |
| ins = inserted/added                                | RI = reissue  |
| LA = Legislation Act 2001                           | s = section/subsection  |
| LR = legislation register                           | sch = schedule  |
| LRA = Legislation (Republication) Act 1996          | sdiv = subdivision  |
| mod = modified/modification                         | sub = substituted   |
| o = order   | SL = Subordinate Law  |
| om = omitted/repealed                               | <u>underlining</u> = whole or part not commenced or to be expired |

## Endnotes

3 Legislation history

---

### 3 Legislation history

The *Intoxicated People (Care and Protection) Act 1994* was originally the *Intoxicated Persons (Care and Protection) Act 1994*. It was renamed by the *Statute Law Amendment Act 2005* A2005-20 (see amdt 3.168).

#### **Intoxicated People (Care and Protection) Act 1994 No 85**

notified 15 December 1994 (Gaz 1994 No S280)

s 1, s 2 commenced 15 December 1994 (s 2 (1))

remainder commenced 15 June 1995 (s 2 (3))

as amended by

#### **Intoxicated Persons (Care and Protection) (Amendment) Act 1997 No 71**

notified 10 November 1997 (Gaz 1997 No S350)

commenced 10 November 1997 (s 2)

#### **Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch 1 commenced 1 June 1998 (s 2 (2))

#### **Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 198**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 198 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Crimes Legislation Amendment Act 2001 No 63 pt 7**

notified 10 September 2001 (Gaz 2001 No S66)

s 1, s 2 commenced 10 September 2001 (IA s 10B)

pt 7 commenced 27 September 2001 (s 2 (2) and CN 2001 No 3)

#### **Statute Law Amendment Act 2002 (No 2) No 49 pt 1.2**

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

pt 1.2 commenced 21 December 2002 (s 2 (3))

**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 2 pt 2.45**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.45 commenced 9 April 2004 (s 2 (1))

**Education Act 2004 A2004-17 sch 2 pt 2.4**

notified LR 8 April 2004  
s 1, s 2 commenced 8 April 2004 (LA s 75 (1))  
sch 2 pt 2.4 commenced 1 January 2005 (s 2)

**Intoxicated Persons (Care and Protection) Amendment Act 2004  
A2004-54**

notified LR 16 August 2004  
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))  
remainder commenced 17 August 2004 (s 2)

**Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.29**

notified LR 12 May 2005  
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))  
sch 3 pt 3.29 commenced 2 June 2005 (s 2 (1))

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.26**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.26 commenced 24 November 2005 (s 2)

## 4 Amendment history

**Name of Act**

s 1 sub A2005-20 amdt 3.168

**Dictionary**

s 2 om 2001 No 44 amdt 1.2268  
ins A2005-20 amdt 3.168

**Notes**

s 3 sub A2005-20 amdt 3.168  
def **admission statement** om A2005-20 amdt 3.168  
def **carer** sub 1997 No 71 s 4  
om A2005-20 amdt 3.168  
def **caring service** om A2005-20 amdt 3.168  
def **health practitioner** om A2005-20 amdt 3.168

## Endnotes

4 Amendment history

---

def **inspector** om A2005-20 amdt 3.168  
def **intoxicated** sub 2001 No 63 s 53  
om A2005-20 amdt 3.168  
def **legal representative** om 1997 No 96 sch 1  
def **licensed place** sub 1997 No 71 s 4  
om A2005-20 amdt 3.168  
def **licensee** om A2005-20 amdt 3.168  
def **manager** om A2005-20 amdt 3.168  
def **office-holder** om A2005-20 amdt 3.168  
def **prescribed** om A2005-20 amdt 3.168  
def **prohibited substance** ins A2004-54 s 4  
om A2005-20 amdt 3.168  
def **public place** om A2005-20 amdt 3.168  
def **responsible person** am 1997 No 96 sch 1  
om A2005-20 amdt 3.168  
def **school** sub A2004-17 amdt 2.9  
om A2005-20 amdt 3.168  
def **standard** om A2005-20 amdt 3.168

### **Offences against Act—application of Criminal Code etc**

s 3A ins A2005-54 amdt 1.173

### **Intoxicated people**

pt 2 hdg am A2005-20 amdt 3.179

### **Detention of intoxicated people**

s 4 hdg am A2005-20 amdt 3.179

s 4 am 2001 No 63 ss 54-56

### **Search of people in custody**

s 5 hdg am A2005-20 amdt 3.179

s 5 am 1997 No 71

### **Admission statement and other relevant information**

s 6 am 1997 No 71; A2005-20 amdt 3.169, amdt 3.170

### **Admission to licensed place**

s 6A ins 1997 No 71  
sub A2004-54 s 5

### **Safekeeping of possessions**

s 6B ins 1997 No 71  
sub A2004-54 s 5

### **Power of carer to search intoxicated person**

s 6C ins 1997 No 71  
sub A2004-54 s 5

### **Leaving licensed place**

s 6D ins 1997 No 71  
sub A2004-54 s 5

**Information to be given to intoxicated person**

s 7 am 1997 No 71  
sub A2004-54 s 5

**Contacting other people**

s 8 sub A2004-54 s 5

**Leaving in dangerous condition**

s 9 am 1997 No 71

**Remaining at licensed place**

s 11 am 2002 No 49 amdt 1.2

**Protection of carers, managers and licensees**

s 13 am 1997 No 71

**Approval**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R2 LA

**Care services must be licensed**

s 14 am 1998 No 54  
sub A2005-54 amdt 1.174

**Applications**

s 15 am A2005-20 amdt 3.171, amdt 3.172, amdt 3.179

**Grant**

s 16 am A2005-20 amdt 3.173, amdt 3.179

**Conditions**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R2 LA

**Annual reports**

s 20 am R7 LA; A2005-20 amdt 3.174, amdt 3.179

**Further conditions**

s 21 am A2005-20 amdt 3.179

**Suspension and cancellation of licences**

div 3.3 hdg (prev pt 3 div 1 hdg) renum R2 LA

**Emergency suspension and cancellation**

s 22 am A2005-20 amdt 3.179

**Cancellation of licences**

s 23 am A2005-20 amdt 3.175

**Return of licence on cancellation**

s 25 am 1998 No 54  
sub A2005-54 amdt 1.175

**Return of licence**

s 26 am 1998 No 54  
om A2005-54 amdt 1.176

## Endnotes

4 Amendment history

---

### Inspectors

s 27 sub A2005-20 amdt 3.176  
(2)-(4) exp 2 June 2006 (s 27 (4) (LA s 88 declaration applies))

### Identity cards

s 28 am 1998 No 54; A2005-20 amdt 3.177  
sub A2005-54 amdt 1.177  
(5)-(7) exp 24 November 2005 (s 28 (7))

### Powers of inspection

s 29 am A2005-20 amdt 3.179

### Failing to comply with requirement of inspector

s 30 hdg sub A2004-15 amdt 2.98  
s 30 am 1998 No 54; A2004-15 amdt 2.99, amdt 2.100  
sub A2005-54 amdt 1.178

### Making standards

s 31 am 2001 No 44 amdts 1.2269-1.2271; A2005-20 amdt 3.179

### Disallowance

s 32 om 2001 No 44 amdt 1.2272

### Publication in newspaper

s 33 am 2001 No 44 amdt 1.2273

### Secrecy

s 36 am 1998 No 54  
sub A2005-54 amdt 1.179

### Approved forms

s 38 sub 2001 No 44 amdt 1.2274

### Regulation-making power

s 39 ins 2001 No 44 amdt 1.2274

### Dictionary

dict ins A2005-20 amdt 3.178  
def **carer** ins A2005-20 amdt 3.178  
def **caring service** ins A2005-20 amdt 3.178  
def **inspector** ins A2005-20 amdt 3.178  
def **intoxicated** ins A2005-20 amdt 3.178  
def **licensed place** ins A2005-20 amdt 3.178  
def **licensee** ins A2005-20 amdt 3.178  
def **manager** ins A2005-20 amdt 3.178  
def **prescribed** ins A2005-20 amdt 3.178  
def **prohibited substance** ins A2005-20 amdt 3.178  
def **public place** ins A2005-20 amdt 3.178  
def **responsible person** ins A2005-20 amdt 3.178  
def **school** ins A2005-20 amdt 3.178  
def **standard** ins A2005-20 amdt 3.178

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to  | Republication date |
|------------------|----------------|--------------------|
| 1                | Act 1997 No 96 | 1 June 1998        |
| 2                | Act 2001 No 63 | 22 November 2001   |
| 3                | A2002-49       | 21 December 2002   |
| 4                | A2004-15       | 9 April 2004       |
| 5                | A2004-54       | 17 August 2004     |
| 6                | A2004-54       | 1 January 2005     |
| 7                | A2005-20       | 2 June 2005        |
| 8                | A2005-54       | 24 November 2005   |
| 9*               | A2005-54       | 25 November 2005   |

© Australian Capital Territory 2006