

1994—No. 423

**INTOXICATED PERSONS ACT 1979—REGULATION**

(Intoxicated Persons Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Intoxicated Persons Act 1979, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD  
Attorney General.

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**Citation**

**1.** This Regulation may be cited as the Intoxicated Persons Regulation 1994.

**Commencement**

**2.** This Regulation commences on 1 September 1994.

**Definitions**

**3. (1)** In this Regulation:

“**child**” means a person who is under the age of 18 years;

“**detained person**” means a person who is detained in a proclaimed place under section 5 of the Act;

“**the Act**” means the Intoxicated Persons Act 1979.

**(2)** In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

**Authorised persons: sec. 3**

**4. (1)** For the purposes of the definition of “authorised person” in section 3 (1) of the Act, the appointment of a person engaged in the conduct of a proclaimed place as an authorised person is to be by means

of a written instrument in Form 1 signed by the person for the time being in charge of the proclaimed place.

**(2)** This clause does not apply to the appointment of a person as an authorised person if the person is engaged in the conduct of a police station or a place that is a proclaimed place for the purpose only of the detention of children.

#### **Particulars with respect to intoxicated persons: sec. 5**

**5.** For the purposes of section 5 (2) of the Act, the instrument containing particulars with respect to an intoxicated person is to be in Form 2.

#### **Prescribed records: sec. 7**

**6.** For the purposes of section 7 of the Act:

- (a) the prescribed record to be made by a person referred to in section 7 (1) (a) or (b) of the Act is a written record in the part of Form 3 that is relevant to that person; and
- (b) the prescribed record to be made by a person referred to in section 7 (1) (c) of the Act is a written record of any money and other personal belongings taken from the person who is searched as referred to in that paragraph.

#### **Treatment of detained persons**

**7. (1)** A detained person is to be held separately from any person who is held in connection with the commission or alleged commission of an offence.

**(2)** A detained person who is a child is to be held separately from any detained person who is an adult.

**(3)** A detained person is to be provided with bedding, blankets and nourishment appropriate to the person's needs.

**(4)** The provisions of this clause are to be complied with to the extent to which compliance is reasonably practicable.

#### **Repeal**

**8. (1)** The Intoxicated Persons Regulation 1979 is repealed.

**(2)** Any act, matter or thing that, immediately before the repeal of the Intoxicated Persons Regulation 1979, had effect under that Regulation is taken to have effect under this Regulation.

**SCHEDULE 1—FORMS****Form 1**

(Cl. 4)

**AUTHORITY**

(Intoxicated Persons Act 1979)

I, ..... , being the person for the time being in charge of ..... , appoint ..... , a person engaged in the conduct of ..... to be an authorised person for the purposes of the Intoxicated Persons Act 1979.

.....  
(signature)

**Form 2**

(Cl. 5)

**INSTRUMENT CONTAINING PARTICULARS OF INTOXICATED PERSON**

(Intoxicated Persons Act 1979)

I. ..... of .....

.....  
(address)

certify that .....  
(name of intoxicated person)

of .....  
(place)

Sex ..... Date of Birth .....

was found intoxicated in a public place, namely .....

.....  
(place)

on ..... at ..... a.m./p.m.  
(date) (time)

And was

\*(a) behaving in a disorderly manner; or

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\*(b) behaving in a manner likely to cause injury to himself or herself or another person or damage to property; or

\*(c) in need of physical protection because of incapacity due to intoxication.

The abovenamed person was delivered to .....

..... on ..... at ..... am./p.m.  
*(proclaimed place)*                    *(date)*                    *(time)*

.....  
*(signature)*

.....  
*(designation)*

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\* *Strike out whichever does not apply.*

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### Form 3

(Cl. 6)

**RECORD OF RECEPTION OF INTOXICATED PERSON AT  
PROCLAIMED PLACE**

**(Intoxicated Persons Act 1979)**

..... (property docker number) (signature of receiving officer) (designation)

8. The abovenamed person was transferred to ..... Leave Blank ➤     
 (proclaimed place)

on ..... Day  Month  Year  
 (date)

at ..... Hours   Mins   a.m. p.m.  
 (time) (delete)

Signature ..... Designation .....  
 Receipt (if any) .....

9. The abovenamed person was released from custody on ..... Day  Month  Year  
 (date)     
 at ..... Hours   Mins   a.m. p.m.  
 (time) (delete)

as (tick appropriate box)

(a) the person had ceased to be intoxicated; or   
 (b) 8 hours had expired since the time of the person's reception; or   
 (c) the person was released into the care of the following person:

Name: .....  
 Address: .....  
 Signature: .....  
 Signature of releasing officer: ..... Designation .....

\* A person is to be regarded as an aboriginal if the person considers himself or herself to be an aboriginal.

## NOTES

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**SCHEDULE 1—FORMS**

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the Intoxicated Persons Regulation 1979 under the Intoxicated Persons Act 1979. The new Regulation deals with the following matters:

- (a) the manner of appointing authorised persons for the purposes of the Act, an authorised person being a person who is authorised to take intoxicated persons into custody and deliver them to certain centres (know as “proclaimed places”) for their safety (clause 4);
- (b) prescribing the particulars to be given to the person in charge of a proclaimed place when an intoxicated person is delivered to that place for detention there (clause 5);
- (c) prescribing the particulars to be recorded with respect to intoxicated persons who are detained under the Act (clause 6);
- (d) prescribing the rules as to segregation that apply to the detention of intoxicated persons, and requiring intoxicated persons to be provided with bedding and nourishment appropriate to their needs (clause 7);
- (e) making other provision of a minor, consequential or ancillary nature (clauses 1, 2, 3 and 8).

This Regulation is made under the Intoxicated Persons Act 1979, in particular section 9 (the general regulation making power) and sections 3, 5 and 7.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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