

INTOXICATED PERSONS (AMENDMENT) ACT 1985 No. 126

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 126, 1985

An Act to amend the Intoxicated Persons Act 1979 in relation to the proclamation of places for the purposes of that Act and other matters concerning the detention and care of intoxicated persons. [Assented to, 25th November, 1985.]

Intoxicated Persons (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Intoxicated Persons (Amendment) Act 1985".

Amendment of Act No. 67, 1979

2. The Intoxicated Persons Act 1979 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE INTOXICATED PERSONS ACT 1979

(1) Section 3 (3)—

After section 3 (2), insert:

(3) The Governor may, by proclamation, vary or revoke any proclamation made for the purposes of paragraph (a) or (b) of the definition of "proclaimed place" in subsection (1).

(2) (a) Section 5 (1) (b) (i)—

Omit "or".

Intoxicated Persons (Amendment) 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE INTOXICATED PERSONS ACT 1979—
continued

(b) Section 5 (1) (b) (ia)—

After section 5 (1) (b) (i), insert:

- (ia) the behaviour of the intoxicated person has become so violent as to warrant the removal of the intoxicated person from the proclaimed place; or

(c) Section 5 (1A), (1B)—

After section 5 (1), insert:

(1A) A member of the police force or an authorised person shall not take an intoxicated person to a proclaimed place, being a police station, for the purpose of detaining that person unless—

- (a) no other proclaimed place which has facilities adequate for the detention of the intoxicated person is close by;
- (b) it is impracticable by reason of distance or the unavailability of necessary resources to take the intoxicated person to the intoxicated person's home;
- (c) the intoxicated person has been refused entry into a proclaimed place, not being a police station; or
- (d) it is otherwise impracticable, for a reason similar to a reason specified in paragraph (a), (b) or (c), to take the intoxicated person to a proclaimed place other than a police station.

(1B) Nothing in this section prevents an intoxicated person from being taken to a police station temporarily for the purpose of ascertaining whether another proclaimed place in which the intoxicated person may be detained is available.

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SCHEDULE 1—*continued*AMENDMENTS TO THE INTOXICATED PERSONS ACT 1979—
continued

(d) Section 5 (3)—(3B)—

Omit section 5 (3), insert instead:

(3) Where an intoxicated person is detained under this Act at any proclaimed place, including a police station, the intoxicated person—

- (a) shall be informed by a member of the police force, an authorised officer or a person engaged in the conduct of the proclaimed place that a responsible person who is willing immediately to undertake the care of the intoxicated person may secure the intoxicated person's release; and
- (b) shall be given a reasonable opportunity to contact a person who is a friend or relative for the purpose of securing the release of the intoxicated person into the care of a responsible person.

(3A) A member of the police force or an authorised person by whom an intoxicated person is detained under subsection (1) or the person for the time being in charge of the proclaimed place in which an intoxicated person, taken thereto under subsection (1), is detained under subsection (2) shall, except as provided by subsection (3B), release the intoxicated person into the care of a responsible person willing immediately to undertake the care of the intoxicated person.

(3B) Where—

- (a) a responsible person—
 - (i) by reason of the intoxication of the responsible person or some other incapacity of the responsible person, is incapable of immediately undertaking the care of the intoxicated person; or
 - (ii) by reason of the violent behaviour of the intoxicated person, is incapable of immediately

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SCHEDULE 1—*continued*

AMENDMENTS TO THE INTOXICATED PERSONS ACT 1979—
continued

undertaking the care of, or controlling, the
intoxicated person; or

- (b) the intoxicated person is unwilling to be released into
the responsible person's care,

the intoxicated person shall not be released into the responsible
person's care.