



PUBLIC INTOXICATION ACT, 1984

No. 47 of 1984

SUMMARY OF PROVISIONS

PART I PRELIMINARY

Section

1. Short title
2. Commencement
3. Repeal of Alcohol and Drug Addicts (Treatment) Act, 1961, and transitional provisions
4. Interpretation
5. Administrative provisions
6. Application of Act

PART II APPREHENSION AND CARE OF PERSONS UNDER THE INFLUENCE OF A DRUG OR ALCOHOL

7. Apprehension of persons under the influence of a drug or alcohol
8. Application for declaration
9. Transfer of persons detained in sobering-up centres

PART III MISCELLANEOUS

10. Custody of persons detained
11. Offence of ill-treating or neglecting persons detained
12. Offence of removing or aiding escape of persons detained
13. Immunity from liability
14. Summary proceedings
15. Regulations



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 47 of 1984

An Act to provide for the apprehension and care of persons found in a public place under the influence of a drug or alcohol; to repeal the Alcohol and Drug Addicts (Treatment) Act, 1961; and to provide for other incidental matters.

[Assented to 24 May 1984]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I PRELIMINARY

1. This Act may be cited as the "Public Intoxication Act, 1984".

Short title.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commencement.

3. (1) The Alcohol and Drug Addicts (Treatment) Act, 1961, is repealed.

(2) All assets, rights and liabilities vested in the Board immediately prior to the commencement of this Act shall, upon that commencement, vest in the Council.

Repeal of Alcohol and Drug Addicts (Treatment) Act, 1961, and transitional provisions.

(3) A person who was an officer or employee of the Board immediately prior to the commencement of this Act shall, upon that commencement, become an officer or employee of the Council—

(a) without reduction in salary or wage;

and

(b) without interruption of or prejudice to his existing and accruing rights in respect of recreation leave, sick leave and long service leave.

(4) In this section—

“the Board” means the Alcohol and Drug Addicts Treatment Board established under the repealed Act:

“the Council” means the Drug and Alcohol Services Council, a health centre incorporated under the South Australian Health Commission Act, 1976:

“the repealed Act” means the Alcohol and Drug Addicts (Treatment) Act, 1961, repealed by this Act.

Interpretation.

4. In this Act, unless the contrary intention appears:

“authorized officer” means a person appointed as an authorized officer for the purposes of this Act:

“child” means a person under the age of eighteen years:

“drug” means any substance declared to be a drug for the purposes of this Act:

“officer in charge”, in relation to a police station, means the member of the police force for the time being in charge of the police station:

“person in charge”, in relation to a sobering-up centre, means the person for the time being in charge of the sobering-up centre:

“relative”, in relation to a person, means father, mother, stepfather, stepmother, guardian, spouse, son, daughter, grandparent, grandchild, brother, sister, stepbrother or stepsister of that person, or brother or sister of a parent of that person:

“sobering-up centre” means premises declared to be a sobering-up centre for the purposes of this Act:

“spouse”, in relation to a person, includes a person who is cohabiting with him as his husband or wife *de facto*.

Administrative provisions.

5. (1) The Governor may—

(a) by proclamation, declare any premises that have facilities for the care and treatment of persons under the influence of a drug or alcohol to be a sobering-up centre for the purposes of this Act;

or

(b) by regulation, declare any substance to be a drug for the purposes of this Act.

(2) The Governor may, by proclamation, vary or revoke any proclamation under this section.

(3) The Minister may, by instrument in writing, appoint such number of persons to be authorized officers for the purposes of this Act as he thinks necessary or desirable for the proper administration of this Act.

Application of Act.

6. This Act applies in relation to any person, whether child or adult.

PART II

APPREHENSION AND CARE OF PERSONS UNDER THE
INFLUENCE OF A DRUG OR ALCOHOL

7. (1) Where a member of the police force or an authorized officer has reasonable grounds to believe—

Apprehension of persons under the influence of a drug or alcohol.

(a) that a person who is in a public place is under the influence of a drug or alcohol;

and

(b) that by reason of that fact the person is unable to take proper care of himself,

the member of the police force or the authorized officer may apprehend that person.

(2) The member of the police force or authorized officer—

(a) may exercise such force as is reasonably necessary to apprehend a person under this section;

and

(b) may search the person apprehended for the purpose of removing any object that may be a danger to that person or to others and remove and take custody of any such object and any valuable object found on that person.

(3) Where a member of the police force or authorized officer has apprehended a person under subsection (1), he shall take that person as soon as reasonably practicable—

(a) to the place of residence, if any, at which the apprehended person is permanently or temporarily residing and there release him from custody;

(b) to a place for the time being approved by the Minister for the purposes of this paragraph and there release him from custody;

(c) to a police station;

or

(d) to a sobering-up centre for admission as a patient.

(4) Where a person apprehended under this section is taken to a police station pursuant to this section, the officer in charge of that station may detain the person and may give such directions to that person as are reasonably necessary for that purpose, but shall, before the expiration of the period of ten hours from the time of apprehension—

(a) discharge the person if the person has, in the opinion of the officer in charge, so recovered from the effects of the drug or alcohol as to be able to take care of himself;

or

(b) if not, cause the person to be transferred to a sobering-up centre for admission as a patient.

(5) Where a person apprehended under this section is taken to a sobering-up centre pursuant to this section and admitted as a patient, he may be detained at the centre by the person in charge of the centre, but shall be discharged—

(a) if the person has, in the opinion of the person in charge, so recovered from the effects of the drug or alcohol as to be able to take care of himself;

or

(b) in any case, before the expiration of the period of eighteen hours from the time of apprehension of the person.

(6) Where a person apprehended under this section is taken to a police station and detained there, or is taken to a sobering-up centre and admitted as a patient, any object removed from the apprehended person and taken into custody pursuant to subsection (2) shall be returned to the person on, or before, his discharge except where he indicates that he does not desire the return of any such object.

(7) Where a child is detained pursuant to this section, the person by whom he is detained shall, as soon as practicable after the commencement of the detention, notify a parent or other guardian of the child that the child has been so detained, unless—

(a) the whereabouts of every such parent or guardian is, after reasonable enquiries, unknown;

or

(b) it is not, in the circumstances of the case, reasonably practicable to give such a notification.

(8) Where a person (including a child) is detained pursuant to this section, the person by whom he is detained shall allow him a reasonable opportunity to communicate with a solicitor, relative or friend.

(9) Notwithstanding any other provision of this section, if—

(a) a solicitor acting on behalf of a person detained in a police station pursuant to this section, or a relative or friend of a person so detained, requests that he be discharged into the care of the solicitor, relative or friend;

and

(b) the officer in charge of the police station is satisfied that the solicitor, relative or friend is able and willing to care properly for that person,

that person shall be discharged into the care of the solicitor, relative or friend.

(10) Where a child is detained in a police station pursuant to this section, the officer in charge of the station shall take such steps as are reasonably practicable to keep the child from coming into contact with any adult person detained in the station.

(11) Nothing in this section prevents an officer in charge of a police station or a person in charge of a sobering-up centre from discharging at

any time a person detained pursuant to this section for the purpose of receiving medical attention or treatment.

8. (1) A person may, before the expiration of thirty days from the date of his discharge from a police station or, as the case may be, from a sobering-up centre, apply to a court of summary jurisdiction, constituted of a special magistrate, for a declaration that at the time of his detention he was not under the influence of a drug or alcohol.

Application for declaration.

(2) Where, in proceedings under this section, the court is satisfied that the applicant was not under the influence of a drug or alcohol at the time of his detention under this Part, it shall make a declaration accordingly.

(3) In any proceedings under this section, the person by whom the applicant was detained, and the person by whom the applicant was apprehended, shall be entitled to appear.

(4) A declaration made under this section in relation to the detention of a person does not establish that the detention was unlawful.

9. A person detained in a sobering-up centre pursuant to this Part may be transferred to another sobering-up centre during the course of his detention if the persons in charge of the centres mutually agree to the transfer.

Transfer of persons detained in sobering-up centres.

PART III

MISCELLANEOUS

10. (1) A person who has been detained shall, until he is discharged in accordance with this Act, be deemed to be in lawful custody—

Custody of persons detained.

(a) while he is kept in the police station or sobering-up centre pursuant to this Act;

or

(b) while he is in the custody of a person in whose charge he is placed by the officer in charge of the police station, or by the person in charge of the sobering-up centre, as the case may be.

(2) Where a member of the police force or an authorized officer has reasonable cause to believe that a person detained pursuant to this Act has escaped from lawful custody, he may apprehend that person at any time without warrant and return him to the place in which he was being detained.

11. (1) A person having the oversight, care or control of a person detained pursuant to this Act who ill-treats or wilfully neglects that person shall be guilty of an offence.

Offence of ill-treating or neglecting persons detained.

Penalty: Two thousand dollars or imprisonment for one year.

(2) Nothing in subsection (1) affects or prejudices the operation of any other Act or law in relation to a person who commits an offence against that subsection.

Offence of removing or aiding escape of persons detained.

12. A person who, without lawful excuse, removes a person detained pursuant to this Act from the place in which he is being detained, or from the lawful custody of any person, or who aids any person so detained unlawfully to escape from that place or that custody, shall be guilty of an offence.

Penalty: Two thousand dollars or imprisonment for one year.

Immunity from liability.

13. (1) No civil liability shall attach to any person for any act or omission on his part in good faith in the exercise or purported exercise of his powers, or the discharge or purported discharge of his duties, under this Act.

(2) A liability that would, but for subsection (1), lie against a person shall lie against the Crown.

Summary proceedings.

14. Proceedings for an offence against this Act shall be disposed of summarily.

Regulations.

15. The Governor may make such regulations as are contemplated by, or are necessary or expedient for the purposes of, this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor