

1992
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Moore)

Prostitution Bill 1992

A BILL
FOR
An Act to regulate certain aspects of prostitution

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I – PRELIMINARY

Short title

1. This Act may be cited as the *Prostitution Act 1992*.

Interpretation

2. (1) In this Act, unless the contrary intention appears –
"brothel" means premises used or to be used for the purpose of prostitution, but does not include premises—
 - (a) used by one prostitute only, or
 - (b) at which accommodation is normally provided on a commercial basis if the prostitution occurs pursuant to an arrangement initiated elsewhere;"child" means a person who has not attained the age of 18 years;
"commercial sexual services" means sexual services provided for monetary or material reward (irrespective of whether the reward is, or is to be, paid or given to the prostitute or another person);

"drug of dependence" means a drug of dependence or a prohibited substance as defined in the *Drugs of Dependence Act 1989*;

"escort agency" means a business of arranging prostitution, being a business carried on at premises other than a brothel;

"premises" includes a part of premises;

"prophylactic" means a condom or other device that is adequate to prevent the transmission of a sexually transmitted disease;

"prostitute" means a person who provides commercial sexual services;

"prostitution" means the provision of commercial sexual services;

"public place" means any street, road, public park within the meaning of the *Public Parks Act 1928*, reserve or any building, premises or other place which the public are entitled to use or which is open to, or used by, the public (whether on payment of money or otherwise);

"sexually transmitted disease" has the same meaning as in the *Sexually Transmitted Diseases Act 1956*;

(2) A reference in this Act to employing a prostitute shall be read as including a reference to entering into a contract for services with a prostitute for the provision of commercial sexual services.

Application of Act to escort agencies

3. (1) This Act applies in relation to an escort agency as if the premises on which the business is carried on were a brothel.

(2) For the purposes of the application of this Act by virtue of subsection (1) –

- (a) commercial sexual services provided as a consequence of arrangements made in the course of the business of the escort agency shall be taken to have been provided on the premises at which the business is carried on; and
- (b) a prostitute who provides commercial sexual services as a consequence of those arrangements shall be taken to be employed at the premises by the operator of the escort agency.

PART II – OFFENCES

Duress

4. (1) A person shall not, for the purpose of inducing a person to provide or to continue to provide commercial sexual services –

- (a) intimidate, assault or threaten to assault any person;

- (b) supply or offer to supply a drug of dependence to any person; or
- (c) make a false representation or otherwise act fraudulently.

(2) A person shall not –

- (a) intimidate, assault or threaten to assault a person; or
- (b) supply or offer to supply a drug of dependence to a person;

for the purpose of inducing any person to provide or continue to provide him or her with payment derived, directly or indirectly, from the provision of commercial sexual services.

Penalty: Imprisonment for 6 years.

Operating etc. a brothel

5. A person shall not operate or manage a brothel which is situated other than in –

- (a) the Division of Hume in Tuggeranong District;
- (b) the Division of Fyshwick in Canberra Central District;
- (c) the Division of Mitchell in Gunghalin District; or
- (d) any other prescribed Division.

Penalty: \$10,000 or imprisonment for 12 months.

Soliciting

6. (1) A person shall not, for the purpose of offering or procuring commercial sexual services, accost any person, or solicit or loiter, in a public place.

Penalty: \$2,000 or imprisonment for 4 months.

(2) A person shall not, for the purpose of offering or procuring commercial sexual services, accost a child in a public place.

Penalty: Imprisonment for 3 years.

Participation of minors

7. A person shall not cause or permit a child to provide commercial sexual services.

Penalty: Imprisonment for 7 years.

Proceeds of child prostitution

8. (1) A person shall not receive a payment that he or she knows, or could reasonably be expected to have known, is derived, directly or indirectly, from commercial sexual services provided by a child.

Penalty: Imprisonment for 7 years.

(2) Subsection (1) does not apply in relation to a payment received in the ordinary course of a business other than prostitution.

Age of child – burden of proof

9. A person is not guilty of an offence against subsection 6 (2), section 7 or subsection 8 (1) if he or she adduces evidence that he or she –

- (a) had taken all reasonable measures to find out the age of the child concerned; and
- (b) believed on reasonable grounds that the child had attained 18 years of age;

and that evidence is not rebutted by the prosecution.

Child on premises

10. The operator or manager of a brothel shall not, without reasonable excuse, permit a child to be in the brothel.

Penalty: \$2,000

Advertising

11. A person shall not publish, or cause to be published, an advertisement, in printed or electronic form, which offers employment as a prostitute, or the provision of sexual services, at a brothel or escort agency.

Penalty: \$2,000.

Infected persons

12. (1) The operator or manager of a brothel or escort agency shall not permit a prostitute infected with a sexually transmitted disease to provide commercial sexual services at the brothel or escort agency.

Penalty: \$2,000.

(2) It is a defence to a prosecution under subsection (1) if it is established that, at the time of the offence, the licensee believed on reasonable grounds –

- (a) that the prostitute had been undergoing regular medical examinations for the purposes of determining whether the prostitute was infected with a sexually transmitted disease; and
- (b) that the prostitute was not infected with a sexually transmitted disease.

(3) In paragraph (2) (a) –

"regular" means not less frequently than once in any two week period.

Medical examination

13. (1) The operator or manager of a brothel or escort agency shall take reasonable steps to ensure that the fact of a prostitute's attendance at a medical examination or the result of such an examination is not used for the purpose of inducing a person to believe that the prostitute is not infected with a sexually transmitted disease.

(2) A person shall not, for the purpose of prostitution, use his or her attendance at a medical examination or the result of such an examination for the purpose of inducing a person to believe that he or she is not infected with a sexually transmitted disease.

Penalty: \$2,000

Use of prophylactics

14. (1) The operator or manager of a brothel or escort agency shall take reasonable steps to ensure that no person provides or receives commercial sexual services at the brothel or escort agency, being service which involve vaginal, oral or anal penetration by any means, unless a prophylactic is used.

Penalty: \$5,000

(2) The operator or manager of a brothel shall not discourage the use of prophylactics at the brothel.

Penalty: \$7,500

(3) A person shall not provided or receive commercial sexual services at a brothel or escort agency, being services which involve vaginal, oral or anal penetration by any means, unless a prophylactic is used.

Penalty (for an offence against subsection (3)): \$5,000

PART III – MISCELLANEOUS

Regulations

15. (1) The Executive may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision in relation to –

- (a) the cleanliness of brothels;

- (b) the provision, use and laundering of towels and other items of linen;
- (c) hygiene standards for swimming pools, spa baths and sexual aids used in brothels;
- (d) provision of, and hygiene standards for, showers, washing and toilet facilities ~~on~~ in brothels;
- (e) the disposal of prophylactics used ~~on~~ in brothels;
- (f) the inspection of brothels for the purpose of ensuring compliance with this Act and the regulations;
- (g) the provision of information relating to sexually transmitted diseases to prostitutes employed at brothels and to clients;
- (h) safeguarding the health of clients and of prostitutes employed at brothels and escort agencies;
- (i) the provision of assistance to prostitutes in gaining access to job retraining, job skills improvement schemes and further education;
- (j) the size, form and content of advertisements relating to brothels and escort agencies; and
- (k) prescribing penalties not exceeding \$1,000 for offences against the regulations.