



Australian Capital Territory

Prostitution Act 1992 No 64

Republication No 2

Republication date: 12 September 2001

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Prostitution Act 1992* as in force on 12 September 2001. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

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):

- 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—

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

Amendments incorporated to
12 September 2001



Australian Capital Territory

Prostitution Act 1992

Contents

	Page	
Part 1	Preliminary	
1	Short title	2
3	Interpretation	2
4	Objects	4
Part 2	Registration	
5	Registrar of Brothels and Escort Agencies	5
6	Functions of registrar	5
7	Notices about operation	6
Part 3	Offences	
8	Duress	9

Contents

		Page
9	Operating a brothel	9
10	Soliciting	10
11	Participation of minors	10
12	Proceeds of child prostitution	10
13	Age of child—burden of proof	10
14	Child on premises	11
15	Infected persons	11
16	Knowingly infecting	11
17	Medical examination	11
18	Use of prophylactics	12
Part 4	Miscellaneous	
19	Evidentiary certificate	14
20	Entry by police	14
21	Determination of fees	14
22	Regulation-making power	15
Endnotes		
1	About the endnotes	16
2	Abbreviation key	16
3	Legislation history	17
4	Amendment history	18
5	Earlier republications	19

Amendments incorporated to
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Australian Capital Territory

Prostitution Act 1992

An Act to regulate certain aspects of prostitution

Part 1 Preliminary

1 Short title

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

3 Interpretation

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

brothel means premises used or to be used for the purpose of prostitution, but does not include premises 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.

medical examination includes the taking of a sample of tissue, blood, urine or other bodily material for medical testing.

operator in relation to a brothel or escort agency, includes the owner and the person in day-to-day control of the brothel or escort agency.

premises includes a part of premises.

premises used by 1 prostitute means premises used by not more than 1 prostitute other than—

- (a) premises adjacent to or, in the case of town houses, units or apartments, in the same block as, other premises that are used for prostitution; or
- (b) premises the provision of commercial sexual services at which is arranged by a person (other than the prostitute) who arranges clients for other prostitutes; or
- (c) premises to which clients are referred by other prostitutes, or from which clients are referred to other prostitutes.

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).

registrar means the Registrar of Brothels and Escort Agencies under section 5.

sexual services means—

- (a) an act of sexual intercourse as defined in the *Crimes Act 1900*, section 92; or
- (b) the masturbation of one person by another; or
- (c) any activity which involves the use of one person by another for his or her sexual gratification.

sexually transmitted disease means—

- (a) gonorrhoea, syphilis, chancroid, donovanosis (granuloma inguinale) and lymphogranuloma venereum; or
- (b) the acquired immune deficiency syndrome in any of its stages, including infection with human immunodeficiency virus.

- (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.

4 Objects

The objects of the Act are as follows:

- (a) to safeguard public health;
- (b) to promote the welfare and occupational health and safety of prostitutes;
- (c) to protect the social and physical environment of the community by controlling the location of brothels;
- (d) to protect children from exploitation in relation to prostitution.

Part 2 Registration

5 Registrar of Brothels and Escort Agencies

- (1) There shall be a Registrar of Brothels and Escort Agencies.
- (2) The chief executive shall create and maintain an office in the public service the duties of which include performing the functions of the Registrar of Brothels and Escort Agencies.
- (3) The registrar shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

6 Functions of registrar

- (1) The functions of the registrar are—
 - (a) to maintain a register of information provided under section 7 (1) and (3); and
 - (b) subject to subsection (2), to make the information available for public inspection.
- (1A) Nothing in subsection (1) (a) requires the registrar to include or keep in the register information about a brothel or escort agency in relation to which the registrar has received notice under section 7 (6).
- (2) The registrar shall not make available for public inspection information relating to the address of premises used by 1 prostitute if the prostitute normally resides on those premises.
- (3) Subsection (2) does not prevent inspection of information relating to the address of the premises by—
 - (a) a police officer; or
 - (b) a public servant; or

- (c) a prescribed person; or
- (d) a person in a prescribed class of persons;

if the registrar is satisfied that the person wishes to inspect information relating to the address in order to perform the functions of the person's office.

7 Notices about operation

- (1) The operator of a brothel or escort agency shall not, without reasonable excuse, fail to give written notice to the registrar, within 7 days after—
 - (a) the date of commencing operations; or
 - (b) the date of commencement of this section;whichever is later.
- (2) The registrar shall, not later than 28 days before the defined day, notify the operator of a brothel or escort agency that the operator is required to give written notice to the registrar no later than the defined day.
- (3) Where an operator receives a notice in accordance with subsection (2), the operator shall not, without reasonable excuse, fail to give written notice to the registrar no later than the next following defined day.
- (4) A notice to be provided by an operator under subsection (1) or (3) must contain the following particulars in relation to the brothel or escort agency:
 - (a) its business name (if any) and address;
 - (b) the name and home address of the person in day-to-day control of the business;
 - (c) if the owner is an individual—the owner's name and home address;
 - (d) if the owner is a corporation—

- (i) its name and business address; and
- (ii) the name and home address of each director and each shareholder.

Note A fee may be determined under s 21 (Determination of fees) for this section.

- (5) Where particulars provided in a notice given under subsection (1) or (3) become inaccurate, the operator of a brothel or escort agency shall not, without reasonable excuse, fail to give written notice to the registrar of the change in particulars within 7 days after the date on which the particulars become inaccurate.
- (6) Where a brothel or escort agency ceases to operate, the person who was the operator immediately before it so ceased shall notify the registrar in writing of the cessation within 7 days after the date of cessation.
- (7) A person shall not, without reasonable excuse, provide false or misleading information in a notice under subsection (1), (3), (5) or (6).
- (8) A person who contravenes subsection (1), (3), (5), (6) or (7) commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 2 years or both.

- (9) In this section:

defined day—

- (a) in the case of an operator who has given notice under subsection (1) 12 months or more before the commencement of this subsection—means—
 - (i) the day after the expiration of the period of 45 days commencing on the day on which this subsection commences; and
 - (ii) each anniversary of that day; or

- (b) in any other case—means—
 - (i) the day after the expiration of the period of 12 months commencing on the day on which the registrar received written notice from the operator in accordance with subsection (1); and
 - (ii) each anniversary of that day.

Part 3 Offences

8 Duress

- (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; or
 - (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.

Maximum penalty: imprisonment for 6 years.

9 Operating a brothel

- (1) A person shall not operate a brothel except in a prescribed location.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) Subsection (1) does not apply to an escort agency or premises used by 1 prostitute.

10 Soliciting

- (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.

Maximum penalty: 20 penalty units.

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

Maximum penalty: imprisonment for 3 years.

11 Participation of minors

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

Maximum penalty: imprisonment for 7 years.

12 Proceeds of child prostitution

- (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.

Maximum 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.

13 Age of child—burden of proof

It is a defence to a prosecution under section 10 (2) or 11 if it is established that the defendant—

- (a) took reasonable steps to ascertain the age of the child concerned; and
- (b) believed on reasonable grounds that the child had attained 18 years of age.

14 Child on premises

The operator of a brothel or escort agency shall not, without reasonable excuse, permit a child to be on the premises.

Maximum penalty: 20 penalty units.

15 Infected persons

The operator of a brothel or escort agency shall take reasonable steps to ensure that a prostitute does not provide commercial sexual services at the brothel or from the escort agency if the prostitute is infected with a sexually transmitted disease.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

16 Knowingly infecting

A person shall not, at a brothel or elsewhere, provide or receive commercial sexual services if the person knows, or could reasonably be expected to know, that he or she is infected with a sexually transmitted disease.

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

17 Medical examination

- (1) The operator 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.

Maximum penalty: 20 penalty units.

- (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.

Maximum penalty: 20 penalty units.

- (3) Subsections (1) and (2) do not preclude the use by the operator of a brothel or escort agency of an examination by a designated medical practitioner or the results of such an examination for the purpose of satisfying himself or herself that the prostitute is not infected with a sexually transmitted disease.

- (4) In subsection (3):

designated medical practitioner means a person registered as a medical practitioner under the *Medical Practitioners Act 1930* and nominated in writing by the chief health officer under the *Public Health Act 1997* for the purpose of this section.

18 Use of prophylactics

- (1) The operator 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 services which involve vaginal, oral or anal penetration by any means, unless a prophylactic is used.

Maximum penalty: 50 penalty units.

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

Maximum penalty: 100 penalty units.

- (3) A person shall not, at a brothel or elsewhere, provide or receive commercial sexual services that involve vaginal, oral or anal penetration by any means unless a prophylactic is used.

Maximum penalty: 50 penalty units.

- (4) A person shall not, at a brothel or elsewhere, while providing or receiving commercial sexual services that involve oral, anal or vaginal penetration—
- (a) misuse, damage or interfere with the efficacy of any prophylactic used; or
 - (b) continue to use a prophylactic that he or she knows, or could reasonably be expected to know, is damaged.

Maximum penalty: 50 penalty units.

Part 4 Miscellaneous

19 Evidentiary certificate

- (1) In proceedings for an offence against this Act, a certificate signed by the registrar stating that on a specified date a specified brothel or escort agency was or was not registered under part 2 is evidence of the matters so stated.
- (2) For the purposes of subsection (1), a certificate that purports to be signed by the registrar shall, unless the contrary is proved, be taken to have been so signed.

20 Entry by police

A police officer may enter a brothel or escort agency where the officer believes on reasonable grounds that—

- (a) an offence against section 11, 12 or 14 has been, is being or is likely to be committed on the premises; and
- (b) it is necessary to enter the premises for the purpose of preventing the commission or repetition of such an offence, investigating such an offence or apprehending an offender.

21 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

22 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to the following matters:
- (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 and washing and toilet facilities in brothels;
 - (e) the disposal of prophylactics used in brothels;
 - (f) the inspection of brothels and escort agencies to ensure compliance with this Act;
 - (g) the provision of information relating to sexually transmitted diseases to prostitutes employed at brothels or from escort agencies and to clients;
 - (h) safeguarding the health of clients and prostitutes employed at brothels and from 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.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Endnotes

1 About the endnotes

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 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 endnotes.

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.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

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

3 Legislation history

Prostitution Act 1992 No 64

notified 1 December 1992 (Gaz 1992 No S208)
s 1, s 2 commenced 1 December 1992 (s 2 (1))
remainder (ss 3-22) commenced 7 May 1993 (s 2 (2) and Gaz 1993 No S75)

as amended by

Statute Law Revision Act 1994 No 26 sch

notified 31 May 1994 (Gaz 1994 No S93)
commenced 31 May 1994 (s 2)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Prostitution (Amendment) Act 1997 No 9

notified 12 May 1997 (Gaz 1997 No S130)
commenced 12 May 1997 (s 2)

Public Health (Miscellaneous Provisions) Act 1997 No 70 sch 1, sch 3

notified 9 October 1997 (Gaz 1997 No S300)
ss 1-3 commenced 9 October 1997 (s 2 (1))
sch 1 commenced 13 August 1998 (Gaz 1998 No S185)
sch 3 commenced 10 July 2001 (Gaz 2001 No S45)

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 303

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 303 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

Endnotes

4 Amendment history

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.3311

Interpretation

s 3 am 1994 No 97 sch
def **registrar** ins 1994 No 97 sch pt 1
def **sexually transmitted disease** am 1997 No 70 sch 3

Registrar of Brothels and Escort Agencies

s 5 sub 1994 No 97 sch pt 1

Functions of registrar

s 6 am 1997 No 9 s 4

Notices about operation

s 7 am 1994 No 97 sch pt 1; 1994 No 26 sch; 1997 No 9 s 5; 2001 No 44 amdt 1.3312; R2 LA (see 2001 No 44 amdt 1.3313)

Operating a brothel

s 9 am 1998 No 54 sch

Soliciting

s 10 am 1998 No 54 sch

Child on premises

s 14 am 1998 No 54 sch

Infected persons

s 15 am 1998 No 54 sch

Knowingly infecting

s 16 am 1998 No 54 sch

Medical examination

s 17 1998 No 54 sch
def **designated medical practitioner** am 1994 No 26 sch;
1997 No 70 sch 1

Use of prophylactics

s 18 am 1994 No 26 sch; 1998 No 54 sch

Determination of fees

s 21 sub 2001 No 44 amdt 1.3314

Regulation-making power

s 22 am 1998 No 54 sch
sub 2001 No 44 amdt 1.3315

5 Earlier republications

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

Republication No	Amendments to	Republication date
1	1994 No 97	28 February 1995

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