



Australian Capital Territory

# **Prostitution Act 1992**

**A1992-64**

**Republication No 10 (RI)**

**Effective: 8 July 2004 – 5 March 2005**

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Last amendment made by A2004-30

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Prostitution Act 1992* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 8 July 2004. It also includes any amendment, repeal or expiry affecting the republished law to 8 July 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

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- 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 does not include 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 is—

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



Australian Capital Territory

# Prostitution Act 1992

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05/07/13

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Australian Capital Territory

# Prostitution Act 1992

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An Act to regulate certain aspects of prostitution

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Prostitution Act 1992*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition ‘*drug of dependence*—see the *Drugs of Dependence Act 1989*, section 3 (1) (Interpretation for Act).’ means that the expression ‘drug of dependence’ is defined in that subsection and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.



**3A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 20 (Causing child to provide commercial sexual services etc)
- s 26 (Medical tests and examinations).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**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

### Division 2.1                      Interpretation

#### 5                      Definitions for pt 2

In this part:

*annual notice*—see section 8.

*commercial brothel* means a brothel other than a sole operator brothel.

*commercial escort agency* means an escort agency other than a sole operator escort agency.

*commercial operator* means an operator of a commercial brothel or commercial escort agency.

*disqualifying offence*—see section 6.

*interested person*, in relation to a commercial brothel or commercial escort agency, means any of the following:

- (a) each operator;
- (b) each owner who is an individual;
- (c) each director of an owner that is a corporation.

*police report*, for a person, means a report by a police officer about the person's criminal record made on a form that—

- (a) contains a consent by the person to a police officer making inquiries about the person's criminal record; and
- (b) contains imprints of the fingers and palms of both hands of the person.

*Note*            If a form is approved under s 30 (Approved forms) for a police report, the form must be used.

*registration notice*—see section 7.

*required police report*, in relation to a commercial brothel or commercial escort agency, means a police report for each interested person in relation to the brothel or escort agency.

*sole operator* means a prostitute who—

- (a) solely owns and operates the business of a sole operator brothel; or
- (b) solely owns and operates a sole operator escort agency.

*sole operator brothel* means a brothel—

- (a) the premises of which are premises used by a single prostitute; and
- (b) the business of which is solely owned and operated by the single prostitute.

*sole operator escort agency* means an escort agency solely owned and operated by a single prostitute.

*the operator*, of a commercial brothel or commercial escort agency—

- (a) if there is only 1 operator of the brothel or escort agency—the operator; or
- (b) if there are 2 or more operators of the brothel or escort agency—each operator.

## **6 Meaning of *disqualifying offence***

- (1) In this part:

*disqualifying offence* means—

- (a) an offence against any of the following:
  - (i) a provision of the *Crimes Act 1900* mentioned in schedule 1;
  - (ii) a provision of this Act mentioned in schedule 2;
  - (iii) the *Crimes Act 1900*, section 114B (Money laundering);
  - (iv) the *Drugs of Dependence Act 1989*, section 164 (about sale or supply of a drug of dependence or a prohibited substance (other than cannabis));

(v) the *Drugs of Dependence Act 1989*, section 165 (about sale or supply of cannabis); or

*Note* A reference to an offence against a Territory law includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

(b) an offence against a law of the Commonwealth, a State or another Territory corresponding to an offence mentioned in paragraph (a); or

(c) an offence against a law of the Commonwealth, a State or another Territory corresponding to a provision of the Criminal Code, part 2.4 (Extensions of criminal responsibility) or the *Crimes Act 1900*, section 181 (Accessory after the fact) in relation to an offence mentioned in paragraph (a); or

(d) an offence against the *Migration Act 1958* (Cwlth), section 232A (Organising bringing groups of non-citizens into Australia), section 233 (1) (about bringing etc non-citizens into Australia in contravention of the Act) or section 233A (Other offences relating to groups of non-citizens etc); or

(e) an offence against a Commonwealth law corresponding to a provision of the Criminal Code, part 2.4 (Extensions of criminal responsibility) or the *Crimes Act 1900*, section 181 (Accessory after the fact) in relation to an offence mentioned in paragraph (d); or

(f) an offence against a law of a foreign country of a kind mentioned in schedule 3.

(2) To remove any doubt, this section applies to offences committed before or after the commencement of this section.

## 7 **Meaning of registration notice**

(1) In this part:

**registration notice**, in relation to a brothel or escort agency, means a written notice containing 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 each person in day-to-day control of the brothel or escort agency;
- (c) if the owner (or an owner) of the brothel or escort agency is an individual—the name and home address of each individual who is an owner;
- (d) if the owner (or an owner) of the brothel or escort agency is a corporation—the following for each corporation that is an owner:
  - (i) its name and business address;
  - (ii) the name and home address of each director and each shareholder.

*Note 1* A fee may be determined under s 29 (Determination of fees) for a notice under this section.

*Note 2* If a form is approved under s 30 (Approved forms) for a notice, the form must be used.

- (2) If the brothel or escort agency is a commercial brothel or commercial escort agency, the registration notice must also state, for each interested person in relation to the brothel or escort agency, whether or not the person has been convicted, or found guilty, of a disqualifying offence.

## **8** **Meaning of *annual notice***

- (1) In this part:

*annual notice*, in relation to a brothel or escort agency, means a written notice containing 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 each person in day-to-day control of the brothel or escort agency;
- (c) if the owner (or an owner) of the brothel or escort agency is an individual—the name and home address of each individual who is an owner;

(d) if the owner (or an owner) of the brothel or escort agency is a corporation—the following for each corporation that is an owner:

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

*Note 1* A fee may be determined under s 29 (Determination of fees) for a notice under this section.

*Note 2* If a form is approved under s 30 (Approved forms) for a notice, the form must be used.

- (2) If the brothel or escort agency is a commercial brothel or commercial escort agency, the annual notice must also state, for each interested person in relation to the brothel or escort agency, whether or not the person has been convicted, of found guilty, of a disqualifying offence.

## **Division 2.2 Registrar, register and notices**

### **9 Registrar of Brothels and Escort Agencies**

The chief executive must appoint a public servant as the Registrar of Brothels and Escort Agencies.

*Note 1* For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

### **10 Functions of registrar**

The functions of the registrar are—

- (a) to keep a register of information provided by operators of brothels and escort agencies, and to make the register available for public inspection, in accordance with this Act; and
- (b) to exercise any other function given to the registrar under this Act or any other Territory law.

## **11 Register**

- (1) The registrar must keep a register of information provided by operators of brothels and escort agencies in notices under this part.
- (2) Subsection (1) does not require the registrar to include or keep in the register information about a brothel or escort agency that has ceased to operate.
- (3) The registrar must make information in the register available for public inspection.
- (4) However, the registrar must not make the names or addresses of sole operators available for public inspection.
- (5) Subsection (4) does not prevent inspection of names or addresses of sole operators by an authorised person if the registrar is satisfied that the person wishes to inspect them in the exercise of the person's functions.
- (6) In this section:  
*authorised person* means—
  - (a) a police officer; or
  - (b) a public servant; or
  - (c) a person prescribed under the regulations.

## **12 Registration notice etc to be given to registrar**

- (1) The operator of a brothel or escort agency must not, without reasonable excuse, fail to give the registrar a registration notice for the brothel or escort agency and, if the operator is a commercial operator, the required police report at least 7 days before the brothel or escort agency begins to operate.  
Maximum penalty: 100 penalty units, imprisonment for 1 year or both.
- (2) If there are 2 or more operators of a commercial brothel or commercial escort agency, it is sufficient if 1 of them complies with subsection (1) in relation to the brothel or escort agency.

### 13 Annual notices

- (1) The operator of a brothel or escort agency must not, without reasonable excuse, fail to give the registrar an annual notice for the brothel or escort agency before 1 October in each year.

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

- (2) If there are 2 or more operators of a commercial brothel or commercial escort agency, it is sufficient if 1 of them complies with subsection (1) in relation to the brothel or escort agency in relation to a year.

### 14 Other notices to be given by operators and former operators

- (1) If any of the particulars in the notice (or last notice) given to the registrar under this part by the operator (or an operator) of a brothel or escort agency changes, the operator must not, without reasonable excuse, fail to give written notice to the registrar of the new particulars within 7 days after the day the particular changes.

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

- (2) If a brothel or escort agency ceases to operate, the person who was the operator immediately before it ceased to operate (a *former operator*) must not, without reasonable excuse, fail to give written notice to the registrar of the cessation within 7 days after the day of the cessation.

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

- (3) If there are 2 or more operators or former operators of a commercial brothel or commercial escort agency, it is sufficient if 1 of them complies with a requirement under this section in relation to the brothel or agency.

- (4) In this section:

*particulars* includes the statement required by section 7 (2) or 8 (2).



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## **Division 2.3 Interested people—offences**

### **15 Interested person—disqualifying offence**

- (1) A person who has been convicted or found guilty of a disqualifying offence must not—
- (a) become an interested person in relation to a commercial brothel or commercial escort agency; or
  - (b) continue to be an interested person in relation to a commercial brothel or commercial escort agency.

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

- (2) Any other interested person (the *other interested person*) in relation to a commercial brothel or commercial escort agency commits an offence if—
- (a) an interested person mentioned in subsection (1) becomes, or continues to be, an interested person in relation to the brothel or escort agency; and
  - (b) the other interested person knows that, or is reckless as to whether, a person who becomes, or continues to be, an interested person in relation to the brothel or escort agency is an interested person mentioned in subsection (1).

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

### **16 Police report to be given before person becomes interested person**

A person must not, without reasonable excuse, fail to give the registrar a police report for the person at least 7 days before the person becomes an interested person in relation to a brothel or escort agency.

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

## Part 3 Offences

### 17 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.

Maximum penalty: imprisonment for 6 years.

- (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.

### 18 Brothels—other than in prescribed location

- (1) A person must not operate a brothel other than in a prescribed location.

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

- (2) Each owner of a brothel that operates other than in a prescribed location commits an offence.

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

- (3) This section does not apply to an escort agency or premises used by a single prostitute.

**19 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.

**20 Causing child to provide commercial sexual services etc**

- (1) A person commits an offence if—

(a) the person causes, permits, offers or procures a child to provide commercial sexual services; and

(b) the child is under 12 years old.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

- (2) Absolute liability applies to subsection (1) (b).

- (3) A person commits an offence if—

(a) the person causes, permits, offers or procures a child to provide commercial sexual services; and

(b) the child is 12 years old or older.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (4) Strict liability applies to subsection (3) (b).

**21 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.

**22 Age of child—burden of proof**

It is a defence to a prosecution under section 19 (2) or 20 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.

**23 Child on premises**

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

Maximum penalty: 20 penalty units.

**24 Infected persons**

Each operator and owner 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.

**25 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.

**26 Medical tests and examinations**

- (1) A person commits an offence if—
- (a) the person is an operator or owner of a brothel or escort agency; and
  - (b) the person fails to take reasonable steps to ensure that 1 or more of the following is not used to induce someone else to believe that the prostitute is not infected with a sexually transmitted disease:
    - (i) the fact that a prostitute had a medical test;
    - (ii) the fact that a prostitute had a medical examination by a doctor or authorised nurse practitioner;
    - (iii) the result of a prostitute's medical test;
    - (iv) the result of a prostitute's medical examination by a doctor or authorised nurse practitioner.

Maximum penalty: 20 penalty units.

- (2) A prostitute commits an offence if—
- (a) the prostitute tells someone else—
    - (i) that the prostitute had a medical test; or
    - (ii) that the prostitute had a medical examination by a doctor or authorised nurse practitioner; or
    - (iii) the result of the prostitute's medical test; or
    - (iv) the result of the prostitute's medical examination by a doctor or authorised nurse practitioner; and
  - (b) the prostitute—
    - (i) intends the person to believe that the prostitute is not infected with a sexually transmitted disease; or
    - (ii) is reckless about whether the person believes that the prostitute is not infected with a sexually transmitted disease.

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (1) is a strict liability offence.
- (4) This section does not apply to an operator or owner of a brothel or escort agency if the operator or owner uses a prostitute's medical test, a prostitute's medical examination by a doctor or authorised nurse practitioner, or the result of a prostitute's medical test or medical examination by a doctor or authorised nurse practitioner, to satisfy himself or herself that the prostitute is not infected with a sexually transmitted disease.
- (5) In this section:  
*medical test* means the taking of a sample of tissue, blood, urine or other bodily material for medical testing.

## 27 Use of prophylactics

- (1) Each operator and owner 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) An operator or owner 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

### 28 Entry by police

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

- (a) an offence against section 20, 21 or 23 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.

### 29 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*.

### 30 Approved forms

- (1) The registrar may, in writing, approve forms for this Act.

*Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

- (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

### 32 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.

## Schedule 1 Disqualifying offences— Crimes Act 1900

(see s 6 (1), def *disqualifying offence*, par (a) (i))

| column 1 | column 2   | column 3  |
|----------|------------|---|
| item     | section    | description   |
| 1        | 12         | murder  |
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| 3        | 20         | recklessly inflicting grievous bodily harm                      |
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| 6        | 32 (2) (a) | make demand with threat to endanger health etc                  |
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| 14       | 55         | sexual intercourse with young person                            |
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| 25       | 80         | deceptive recruiting for sexual services                        |

## Schedule 2 Disqualifying offences—this Act

(see s 6 (1), def *disqualifying offence*, par (a) (ii))

| column 1 | column 2 | column 3   |
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| item     | section  | description  |
| 1        | 17       | duress used to induce person to provide commercial sexual services               |
| 2        | 18       | brothel operating other than in prescribed location                              |
| 3        | 19 (2)   | accost a child for the purpose of offering or getting commercial sexual services |
| 4        | 20       | cause or permit child to provide commercial sexual services                      |
| 5        | 21       | receive proceeds of child prostitution   |
| 6        | 23       | permit child on premises   |
| 7        | 24       | obligations when prostitute infected with sexually transmitted disease           |
| 8        | 26       | obligations in relation to medical test and medical examination of prostitute    |
| 9        | 27       | obligations about use of prophylactics   |

## Schedule 3 Disqualifying offences— foreign countries

(see s 6 (1), def *disqualifying offence*, par (f))

### 1 Kinds of offences

- (1) An offence that consists of or involves—
  - (a) murder; or
  - (b) torture, abduction or kidnapping; or
  - (c) sexual assault; or
  - (d) sexual servitude; or
  - (e) child pornography; or
  - (f) violence, intimidation or coercion related to prostitution; or
  - (g) causing serious physical harm to another person; or
  - (h) money laundering; or
  - (i) illegal immigration; or
  - (j) supplying illegal drugs.
- (2) An offence that consists of, or involves, in relation to an offence mentioned in subclause (1)—
  - (a) aiding and abetting the commission of the offence, or
  - (b) being an accessory after the fact; or
  - (c) attempting, inciting a person, or conspiring, to commit the offence.

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## Dictionary

(see s 2)

*Note 1* The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- chief health officer
- child
- doctor
- exercise
- function
- police officer.

***annual notice***, for part 2 (Registration)—see section 8.

***authorised nurse practitioner*** means a nurse practitioner who is the occupant of a nurse practitioner position acting within the scope of practice for the position.

***brothel*** means premises used or to be used for the purpose of prostitution, but does not include premises where accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

***commercial brothel***, for part 2 (Registration)—see section 5.

***commercial escort agency***, for part 2 (Registration)—see section 5.

***commercial operator***, for part 2 (Registration)—see section 5.

***commercial sexual services*** means sexual services provided for monetary consideration or any other form of consideration or material reward (regardless of whether the consideration or reward is, or is to be, paid or given to the prostitute or another person).

***disqualifying offence***, for part 2 (Registration)—see section 6.

***drug of dependence***—see the *Drugs of Dependence Act 1989*, section 3 (1).

**employed**—a prostitute is **employed** at a brothel or from an escort agency if the prostitute provides commercial sexual services at the brothel, or from the escort agency, under a contract of service or a contract for services.

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

**interested person**, for part 2 (Registration)—see section 5.

**nurse practitioner position**—see the *Health Act 1993*, section 37B (2).

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

**police report**, for part 2 (Registration)—see section 5.

**premises** includes a part of premises.

**premises used by a single prostitute** means premises used by not more than 1 prostitute other than—

- (a) premises adjacent to or, for 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, reserve, or any building, premises or other place that the public are entitled to use or that is open to, or used by, the public (whether on payment or otherwise).

**registrar** means the Registrar of Brothels and Escort Agencies under section 9.

**registration notice**, for part 2 (Registration)—see section 7.

**required police report**, for part 2 (Registration)—see section 5.

**sexual services** means—

- (a) an act of sexual intercourse as defined in the *Crimes Act 1900*, section 50; or
- (b) the masturbation of one person by another; or
- (c) any activity that involves the use of one person by another for his or her sexual gratification.

**sexually transmitted disease**—see the *Sexually Transmitted Diseases Act 1956*, section 4 (Interpretation).

*Note* Under the *Sexually Transmitted Diseases Act 1956*, s 4 a **sexually transmitted disease** is chancroid, chlamydial disease, donovanosis, gonorrhoea, HIV/AIDS, lymphogranuloma venereum, syphilis or a disease prescribed by regulations under that Act.

**scope of practice**—see the *Health Act 1993*, section 37B (2).

**sole operator**, for part 2 (Registration)—see section 5.

**sole operator brothel**, for part 2 (Registration)—see section 5.

**sole operator escort agency**, for part 2 (Registration)—see section 5.

**the operator**, for part 2 (Registration)—see section 5.

## Endnotes

1 About the endnotes

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## 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 and expiries 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 endnote.

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.

### 2 Abbreviation key

|  |  |
|--|--|
| am = amended   | ord = ordinance  |
| amdt = amendment                                       | orig = original  |
| ch = chapter   | par = paragraph/subparagraph   |
| cl = clause  | pres = present   |
| def = definition                                       | prev = previous  |
| dict = dictionary                                      | (prev...) = previously   |
| disallowed = disallowed by the Legislative<br>Assembly | pt = part  |
| div = division   | r = rule/subrule   |
| exp = expires/expired                                  | reg = regulation/subregulation                                       |
| Gaz = Gazette  | renum = renumbered   |
| hdg = heading  | reloc = relocated  |
| IA = Interpretation Act 1967                           | R[X] = Republication No  |
| ins = inserted/added                                   | RI = reissue   |
| LA = Legislation Act 2001                              | s = section/subsection   |
| LR = legislation register                              | sch = schedule   |
| LRA = Legislation (Republication) Act 1996             | sdiv = subdivision   |
| mod = modified/modification                            | sub = substituted  |
| o = order  | SL = Subordinate Law   |
| om = omitted/repealed                                  | <u>underlining</u> = whole or part not commenced<br>or to be expired |



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### 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 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 (s 2 (2) and Gaz 1998 No S185)  
sch 3 commenced 10 July 2001 (s 2 (2) and 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 see Gaz 2001  
No S65)

## Endnotes

4 Amendment history

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### **Statute Law Amendment Act 2002 No 30 pt 3.54**

notified LR 16 September 2002

s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))

pt 3.54 commenced 17 September 2002 (s 2 (1))

### **Prostitution Amendment Act 2002 No 35**

notified LR 8 October 2002

s 1, s 2 commenced 8 October 2002 (LA s 75 (1))

remainder commenced 16 December 2002 (s 2 and CN2002-15)

### **Criminal Code 2002 No 51 pt 1.14**

notified LR 20 December 2002

s 1, s 2 commenced 20 December 2002 (LA s 75 (1))

pt 1.14 commenced 1 January 2003 (s 2 (1))

### **Confiscation of Criminal Assets Act 2003 A2003-8 sch 1 pt 1.3**

notified LR 27 March 2003

s 1, s 2 commenced 27 March 2003 (LA s 75 (1))

sch 1 pt 1.3 commenced 15 August 2003 (s 2 and CN2003-7)

### **Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 8**

notified LR 19 March 2004

s 1, s 2 commenced 19 March 2004 (LA s 75 (1))

pt 8 commenced 27 May 2004 (s 2 and CN2004-9)

### **Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.72**

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.72 commenced 9 April 2004 (s 2 (1))

### **Crimes Legislation Amendment Act 2004 A2004-30 pt 3**

notified LR 7 July 2004

s 1, s 2 taken to have commenced 27 May 2004 (LA s 75 (2))

s 7 taken to have commenced 27 May 2004 (s 2 (2) and see Nurse Practitioners Legislation Amendment Act 2004 A2004-10, s 2 and CN2004-9))

pt 3 remainder commenced 8 July 2004 (s 2 (1))

## 4 Amendment history

### Name of Act

s 1 sub 2002 No 30 amdt 3.615

### Dictionary

s 2 om 2001 No 44 amdt 1.3311  
ins 2002 No 30 amdt 3.615

### Notes

s 3 am 1994 No 97 sch  
defs reloc to dict 2002 No 30 amdt 3.617  
om 2002 No 30 amdt 3.618  
def **child** om 2002 No 30 amdt 3.616  
def **drug of dependence** om 2002 No 30 amdt 3.616  
def **public place** om 2002 No 30 amdt 3.616  
pres s 3 ins 2002 No 30 amdt 3.615

### Offences against Act—application of Criminal Code etc

s 3A ins A2004-10 s 22  
am A2004-30 s 7

### Registration

pt 2 hdg sub 2002 No 35 s 4

### Interpretation

div 2.1 hdg ins 2002 No 35 s 4

### Definitions for pt 2

s 4A renum as s 5

### Meaning of *disqualifying offence*

s 4B renum as s 6

### Meaning of *registration notice*

s 4C renum as s 7

### Meaning of *annual notice*

s 4D renum as s 8

## Endnotes

### 4 Amendment history

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#### Definitions for pt 2

s 5 orig s 5 renum as s 9  
(prev s 4A) ins 2002 No 35 s 4  
def **annual notice** ins 2002 No 35 s 4  
def **commercial brothel** ins 2002 No 35 s 4  
def **commercial escort agency** ins 2002 No 35 s 4  
def **commercial operator** ins 2002 No 35 s 4  
def **disqualifying offence** ins 2002 No 35 s 4  
def **interested person** ins 2002 No 35 s 4  
def **police report** ins 2002 No 35 s 4  
def **registration notice** ins 2002 No 35 s 4  
def **required police report** ins 2002 No 35 s 4  
def **sole operator** ins 2002 No 35 s 4  
def **sole operator brothel** ins 2002 No 35 s 4  
def **sole operator escort agency** ins 2002 No 35 s 4  
def **the operator** ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

#### Meaning of *disqualifying offence*

s 6 orig s 6 renum as s 10  
(prev s 4B) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3  
am 2002 No 51 amdts 1.29-1.31; A2003-8 amdt 1.16

#### Register

s 6A renum as s 11

#### Registration notice etc to be given to registrar

s 6B renum as s 12

#### Meaning of *registration notice*

s 7 orig s 7 renum as s 13  
(prev s 4C) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

#### Other notices to be given by operators and former operators

s 7A renum as s 14

#### Interested person—disqualifying offence

s 7B renum as s 15

#### Police report to be given before person becomes interested person

s 7C renum as s 16

#### Meaning of *annual notice*

s 8 orig s 8 renum as s 17  
(prev s 4D) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

#### Registrar, register and notices

div 2.2 hdg ins 2002 No 35 s 4

**Registrar of Brothels and Escort Agencies**

s 9 orig s 9 renum as s 18  
(prev s 5) sub 1994 No 97 sch pt 1; 2002 No 30 amdt 3.619;  
2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Functions of registrar**

s 10 orig s 10 renum as s 19  
(prev s 6) am 1997 No 9 s 4; 2002 No 30 amdt 3.620; ss  
renum R3 LA  
sub 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Register**

s 11 orig s 11 renum as s 20  
(prev s 6A) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Registration notice etc to be given to registrar**

s 12 orig s 12 renum as s 21  
(prev s 6B) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Annual notices**

s 13 orig s 13 renum as s 22  
(prev 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)  
sub 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Other notices to be given by operators and former operators**

s 14 orig s 14 renum as s 23  
(prev s 7A) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Interested people—offences**

div 2.3 hdg ins 2002 No 35 s 4

**Interested people—disqualifying offences**

s 15 orig s 15 renum as s 24  
(prev s 7B) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

**Police report to be given before person becomes interested person**

s 16 orig s 16 renum as s 25  
(prev s 7C) ins 2002 No 35 s 4  
renum 2002 No 35 amdt 1.3

## Endnotes

### 4 Amendment history

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#### **Duress**

s 17 orig s 17 renum as s 26  
(prev s 8) am 2002 No 35 amdt 1.1  
renum 2002 No 35 amdt 1.3

#### **Brothels—other than in prescribed location**

s 18 orig s 18 renum as s 27  
(prev s 9) am 1998 No 54 sch  
sub 2002 No 35 s 5  
renum 2002 No 35 amdt 1.3

#### **Soliciting**

s 19 orig s 19 om 2002 No 35 s 12  
(prev s 10) am 1998 No 54 sch  
renum 2002 No 35 amdt 1.3

#### **Causing child to provide commercial sexual services etc**

s 20 orig s 20 renum as s 28  
(prev s 11) renum 2002 No 35 amdt 1.3  
sub A2004-30 s 8

#### **Proceeds of child prostitution**

s 21 orig s 21 renum as s 29  
(prev s 12) renum 2002 No 35 amdt 1.3

#### **Approved forms**

s 21A renum as s 30

#### **False or misleading information**

s 21B renum as s 31

#### **Age of child—burden of proof**

s 22 orig s 22 renum as s 32  
(prev s 13) renum 2002 No 35 amdt 1.3

#### **Child on premises**

s 23 (prev s 14) am 1998 No 54 sch; 2002 No 35 s 6  
renum 2002 No 35 amdt 1.3

#### **Infected persons**

s 24 (prev s 15) am 1998 No 54 sch; 2002 No 35 s 7  
renum 2002 No 35 amdt 1.3

#### **Knowingly infecting**

s 25 (prev s 16) am 1998 No 54 sch  
renum 2002 No 35 amdt 1.3

#### **Medical tests and examinations**

s 26 (prev s 17) am 1994 No 26 sch; 1998 No 54 sch; 2002 No 30  
amdt 3.621, amdt 3.622; 2002 No 35 s 8, s 9  
renum 2002 No 35 amdt 1.3  
sub A2004-10 s 23

**Use of prophylactics**

s 27 (prev s 18) am 1994 No 26 sch; 1998 No 54 sch; 2002 No 35 s 10, s 11  
renum 2002 No 35 amdt 1.3

**Entry by police**

s 28 (prev s 20) renum 2002 No 35 amdt 1.3

**Determination of fees**

s 29 (prev s 21) sub 2001 No 44 amdt 1.3314  
renum 2002 No 35 amdt 1.3

**Approved forms**

s 30 (prev s 21A) ins 2002 No 35 s 13  
renum 2002 No 35 amdt 1.3

**False or misleading information**

s 31 (prev s 21B) ins 2002 No 35 s 13  
renum 2002 No 35 amdt 1.3  
om A2004-15 amdt 2.149

**Regulation-making power**

s 32 (prev s 22) am 1998 No 54 sch  
sub 2001 No 44 amdt 1.3315  
renum 2002 No 35 amdt 1.3

**Transitional—registration notices etc for existing commercial brothels and commercial escort agencies**

s 33 (prev s 23) ins 2002 No 35 s 14  
renum 2002 No 35 amdt 1.3  
exp 16 June 2003 (s 33 (3), (4))

**Disqualifying offences—Crimes Act 1900**

sch 1 ins 2002 No 35 s 15

**Disqualifying offences—this Act**

sch 2 ins 2002 No 35 s 15  
am A2004-10 s 24

**Disqualifying offences—foreign countries**

sch 3 ins 2002 No 35 s 15

## Endnotes

4 Amendment history

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### Dictionary

dict

ins 2002 No 30 amdt 3.623  
def **annual notice** ins 2002 No 35 s 16  
def **authorised nurse practitioner** ins A2004-10 s 25  
def **brothel** reloc from s 3 2002 No 30 amdt 3.617  
def **commercial brothel** ins 2002 No 35 s 16  
def **commercial escort agency** ins 2002 No 35 s 16  
def **commercial operator** ins 2002 No 35 s 16  
def **commercial sexual services** reloc from s 3 2002 No 30 amdt 3.617  
sub A2004-30 s 9  
def **disqualifying offence** ins 2002 No 35 s 16  
def **drug of dependence** ins 2002 No 30 amdt 3.623  
def **employed** ins 2002 No 35 s 17  
def **employing** ins 2002 No 30 amdt 3.623  
om 2002 No 35 s 17  
def **escort agency** reloc from s 3 2002 No 30 amdt 3.617  
def **interested person** ins 2002 No 35 s 18  
def **medical examination** reloc from s 3 2002 No 30 amdt 3.617  
om A2004-10 s 26  
def **nurse practitioner position** ins A2004-10 s 27  
def **operator** reloc from s 3 2002 No 30 amdt 3.617  
sub 2002 No 35 s 19  
def **police report** ins 2002 No 35 s 20  
def **premises** reloc from s 3 2002 No 30 amdt 3.617  
def **premises used by a single prostitute** reloc from s 3 2002 No 30 amdt 3.617  
am 2002 No 35 amdt 1.2  
def **prophylactic** reloc from s 3 2002 No 30 amdt 3.617  
def **prostitute** reloc from s 3 2002 No 30 amdt 3.617  
def **prostitution** reloc from s 3 2002 No 30 amdt 3.617  
def **public place** ins 2002 No 30 amdt 3.623  
def **registrar** ins 1994 No 97 sch pt 1  
reloc from s 3 2002 No 30 amdt 3.617  
sub 2002 No 35 s 21  
def **registration notice** ins 2002 No 35 s 22  
def **required police report** ins 2002 No 35 s 22  
def **scope of practice** ins A2004-10 s 27  
def **sexual services** reloc from s 3 2002 No 30 amdt 3.617  
def **sexually transmitted disease** am 1997 No 70 sch 3  
reloc from s 3 2002 No 30 amdt 3.617  
sub 2002 No 35 s 23  
def **sole operator** ins 2002 No 35 s 24  
def **sole operator brothel** ins 2002 No 35 s 24  
def **sole operator escort agency** ins 2002 No 35 s 24  
def **the operator** ins 2002 No 35 s 24



## 5 Earlier republications

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

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to  | Republication date |
|------------------|----------------|--------------------|
| 1                | Act 1994 No 97 | 28 February 1995   |
| 2                | Act 2001 No 44 | 12 September 2001  |
| 3                | Act 2002 No 30 | 17 September 2002  |
| 4                | Act 2002 No 35 | 16 December 2002   |
| 5                | Act 2002 No 51 | 1 January 2003     |
| 6                | <u>A2003-8</u> | 17 June 2003       |
| 7*               | A2003-8        | 15 August 2003     |
| 8                | A2004-15       | 9 April 2004       |
| 9 (RI) ††        | A2004-15       | 5 July 2013        |
| 9 (RI No 2) ††   | A2004-15 †     | 5 July 2013        |

† reissue for retrospective amendment by A2004-30 s 7

†† reissue for textual correction (s 4)

## 6 Renumbered provisions

as made by the *Prostitution Amendment Act 2002* and under the *Legislation Act 2001*.

| previous number | provision heading                       | renumbered or inserted as |
|-----------------|---|---------------------------|
| 4A              | Definitions for pt 2                    | 5                         |
| 4B              | Meaning of <i>disqualifying offence</i> | 6                         |
| 4C              | Meaning of <i>registration notice</i>   | 7                         |
| 4D              | Meaning of <i>annual notice</i>         | 8                         |

## Endnotes

### 6 Renumbered provisions

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| <b>previous number</b> | <b>provision heading</b>  | <b>renumbered or inserted as</b> |
|------------------------|---|----------------------------------|
| 5                      | Registrar of Brothels and Escort Agencies   | 9                                |
| 6                      | Functions of registrar  | 10                               |
| 6A                     | Register  | 11                               |
| 6B                     | Registration notice etc to be given to registrar  | 12                               |
| 7                      | Annual notices  | 13                               |
| 7A                     | Other notices to be given by operators and former operators   | 14                               |
| 7B                     | Interested person—disqualifying offence   | 15                               |
| 7C                     | Police report to be given before person becomes interested person                                     | 16                               |
| 8                      | Duress  | 17                               |
| 9                      | Brothels—other than in prescribed location  | 18                               |
| 10                     | Soliciting  | 19                               |
| 11                     | Participation of children   | 20                               |
| 12                     | Proceeds of child prostitution  | 21                               |
| 13                     | Age of child—burden of proof  | 22                               |
| 14                     | Child on premises   | 23                               |
| 15                     | Infected persons  | 24                               |
| 16                     | Knowingly infecting   | 25                               |
| 17                     | Medical examination   | 26                               |
| 18                     | Use of prophylactics  | 27                               |
| 20                     | Entry by police   | 28                               |
| 21                     | Determination of fees   | 29                               |
| 21A                    | Approved forms  | 30                               |
| 21B                    | False or misleading information   | 31                               |
| 22                     | Regulation-making power   | 32                               |
| 23                     | Transitional—registration notices etc for existing commercial brothels and commercial escort agencies | 33                               |

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