

2018

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Justice, Consumer Affairs and Road Safety)

Prostitution Amendment Bill 2018

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(Minister for Justice, Consumer Affairs and Road Safety)

Prostitution Amendment Bill 2018

A Bill for

An Act to amend the *Prostitution Act 1992*, and for other purposes

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

- 1 **1 Name of Act**
- 2 This Act is the *Prostitution Amendment Act 2018*.
- 3 **2 Commencement**
- 4 This Act commences on the day after its notification day.
- 5 *Note* The naming and commencement provisions automatically commence on
- 6 the notification day (see [Legislation Act](#), s 75 (1)).
- 7 **3 Legislation amended**
- 8 This Act amends the *Prostitution Act 1992*.
- 9 *Note* This Act also amends other legislation (see sch 1).
- 10 **4 Legislation repealed**
- 11 The *Prostitution Regulation 1993* (SL1993-19) is repealed.
- 12 **5 Long title**
- 13 *substitute*
- 14 An Act to regulate certain aspects of sex work
- 15 **6 Section 1**
- 16 *substitute*
- 17 **1 Name of Act**
- 18 This Act is the *Sex Work Act 1992*.

1 **7 Offences against Act—application of Criminal Code etc**
2 **Section 3A, note 1**

3 *insert*

- 4 • s 12 (Registration notice etc to be given to commissioner—
5 commercial operators)
- 6 • s 13 (Annual notice to be given to commissioner—commercial
7 operators)
- 8 • s 14 (Other notices to be given to commissioner—commercial
9 operators and former commercial operators)
- 10 • s 26A (Commercial operator must provide health and safety
11 equipment).

12 **8 Objects**
13 **Section 4 (b)**

14 *omit*

15 prostitutes

16 *substitute*

17 sex workers

18 **9 Section 4 (d)**

19 *omit*

20 exploitation in relation to prostitution

21 *substitute*

22 sexual exploitation

- 1 **10** **Definitions for pt 2**
2 **Section 5, definitions**
- 3 *omit the definitions of*
4 *annual notice*
5 *commercial operator*
6 *registration notice*
7 *sole operator*
- 8 **11** **Section 5, definitions of sole operator brothel and sole**
9 **operator escort agency**
- 10 *omit*
11 prostitute
12 *substitute*
13 sex worker
- 14 **12** **Sections 7 and 8**
- 15 *omit*
- 16 **13** **Register**
17 **Section 11 (1)**
- 18 *omit*
19 brothels and escort agencies
20 *substitute*
21 commercial brothels and commercial escort agencies

- 1 **14 Section 11 (2)**
- 2 *omit*
- 3 brothel or escort agency
- 4 *substitute*
- 5 commercial brothel or commercial escort agency
- 6 **15 Section 11 (4) to (6)**
- 7 *omit*
- 8 **16 Sections 12 to 14**
- 9 *substitute*
- 10 **12 Registration notice etc to be given to commissioner—**
- 11 **commercial operators**
- 12 (1) A person commits an offence if—
- 13 (a) the person is an operator of a commercial brothel or
- 14 commercial escort agency; and
- 15 (b) both of the following are not given to the commissioner at least
- 16 7 days before the day the brothel or escort agency begins to
- 17 operate:
- 18 (i) a registration notice;
- 19 (ii) a required police report in relation to the brothel or escort
- 20 agency.
- 21 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 22 both.

- 1 (2) In this section:
- 2 *registration notice*, in relation to a commercial brothel or
3 commercial escort agency, means a written notice containing the
4 following particulars in relation to the brothel or escort agency:
- 5 (a) its business name (if any) and address;
- 6 (b) the name and home address of each person in day-to-day
7 control of the brothel or escort agency;
- 8 (c) if the owner (or an owner) of the brothel or escort agency is an
9 individual—the name and home address of each individual
10 who is an owner;
- 11 (d) if the owner (or an owner) of the brothel or escort agency is a
12 corporation—the following for each corporation that is an
13 owner:
- 14 (i) its name and business address;
- 15 (ii) the name and home address of each director and each
16 shareholder;
- 17 (e) for each interested person in relation to the brothel or escort
18 agency—a statement about whether or not the person has been
19 convicted, or found guilty, of a disqualifying offence.

20 *Note 1* If a form is approved under s 30 for a notice, the form must be used.

21 *Note 2* A fee may be determined under s 29 for a notice under this section.

22 **13 Annual notice to be given to commissioner—commercial**
23 **operators**

- 24 (1) A person commits an offence if—
- 25 (a) the person is an operator of a commercial brothel or
26 commercial escort agency; and

1 (b) an annual notice for the year for the brothel or escort agency is
2 not given to the commissioner before 1 October of that year.

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

5 (2) In this section:

6 **annual notice**, in relation to a commercial brothel or commercial
7 escort agency, means a written notice containing the following
8 particulars in relation to the brothel or escort agency:

9 (a) its business name (if any) and address;

10 (b) the name and home address of each person in day-to-day
11 control of the brothel or escort agency;

12 (c) if the owner (or an owner) of the brothel or escort agency is an
13 individual—the name and home address of each individual
14 who is an owner;

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

18 (i) its name and business address;

19 (ii) the name and home address of each director and each
20 shareholder;

21 (e) for each interested person in relation to the brothel or escort
22 agency—a statement about whether or not the person has been
23 convicted, or found guilty, of a disqualifying offence.

24 *Note 1* If a form is approved under s 30 for a notice, the form must be used.

25 *Note 2* A fee may be determined under s 29 for a notice under this section.

- 1 **14 Other notices to be given to commissioner—commercial**
2 **operators and former commercial operators**
- 3 (1) A person commits an offence if—
- 4 (a) the person is an operator of a commercial brothel or
5 commercial escort agency; and
- 6 (b) any information given to the commissioner in a notice under
7 this division changes; and
- 8 (c) written notice of the new information is not given to the
9 commissioner within 7 days after the day the information
10 changes.
- 11 Maximum penalty: 100 penalty units, imprisonment for 1 year or
12 both.
- 13 (2) A person commits an offence if—
- 14 (a) the person is an operator of a commercial brothel or
15 commercial escort agency; and
- 16 (b) the brothel or escort agency stops operating; and
- 17 (c) written notice that the brothel or escort agency stopped
18 operating is not given to the commissioner within 7 days after
19 the last day the brothel or escort agency operated.
- 20 Maximum penalty: 100 penalty units, imprisonment for 1 year or
21 both.

- 1 **17 Police report to be given before person becomes**
- 2 **interested person**
- 3 **Section 16**
- 4 *omit*
- 5 brothel or escort agency
- 6 *substitute*
- 7 commercial brothel or commercial escort agency
- 8 **18 Brothels—other than in prescribed location**
- 9 **Section 18 (3)**
- 10 *omit*
- 11 prostitute
- 12 *substitute*
- 13 sex worker
- 14 **19 Soliciting**
- 15 **New section 19 (3)**
- 16 *insert*
- 17 (3) In this section:
- 18 ***public place*** means any street, road, public park, reserve, or any
- 19 building, premises or other place that the public are entitled to use or
- 20 that is open to, or used by, the public (whether on payment or
- 21 otherwise).

1	20	Causing child to provide commercial sexual services etc
2		Section 20 (4)
3		<i>omit</i>
4		Strict
5		<i>substitute</i>
6		Absolute
7	21	Section 21 heading
8		<i>substitute</i>
9	21	Proceeds of commercial sexual services by child
10	22	Section 21 (2)
11		<i>omit</i>
12		prostitution
13		<i>substitute</i>
14		sex work
15	23	Sections 24 and 25
16		<i>omit</i>
17	24	Medical tests and examinations
18		Section 26
19		<i>omit</i>
20		authorised nurse practitioner
21		<i>substitute</i>
22		nurse practitioner

1 **25 Section 26**

2 *omit*
3 prostitute
4 *substitute*
5 sex worker

6 **26 Section 26**

7 *omit*
8 prostitute's
9 *substitute*
10 sex worker's

11 **27 New section 26A**

12 *insert*

13 **26A Commercial operator must provide health and safety**
14 **equipment**

- 15 (1) A person commits an offence if the person—
16 (a) is the operator of a commercial brothel or commercial escort
17 agency; and
18 (b) fails to provide a sex worker employed at the brothel, or from
19 the escort agency, prophylactics in sufficient quantity to allow
20 the sex worker to comply with section 27 (3).

21 Maximum penalty: 40 penalty units.

- 22 (2) A person commits an offence if the person—
23 (a) is the operator of a commercial brothel or commercial escort
24 agency; and

- 1 (b) fails to—
- 2 (i) provide a sex worker employed at the brothel, or from the
- 3 escort agency, personal protective equipment; and
- 4 (ii) take reasonable steps to ensure the sex worker uses the
- 5 personal protective equipment to minimise the risk to the
- 6 sex worker’s health or safety.

7 Maximum penalty: 40 penalty units.

- 8 (3) A person commits an offence if the person—
- 9 (a) is the operator of a commercial brothel or commercial escort
- 10 agency; and
- 11 (b) provides a sex worker employed at the brothel, or from the
- 12 escort agency, prophylactics or personal protective equipment;
- 13 and
- 14 (c) charges, or imposes a levy on, the sex worker for the
- 15 prophylactics or personal protective equipment.

16 Maximum penalty: 40 penalty units.

- 17 (4) In this section:
- 18 *commercial brothel*—see section 5.
- 19 *commercial escort agency*—see section 5.
- 20 *personal protective equipment*, in relation to sex work, means
- 21 anything used or worn by a sex worker to minimise risk to the sex
- 22 worker’s health or safety from engaging in sex work.

23 **Examples—personal protective equipment**

24 dental dams, latex gloves, water-based lubricants, sponges

25 *Note* An example is part of the Act, is not exhaustive and may extend, but

26 does not limit, the meaning of the provision in which it appears (see

27 [Legislation Act](#), s 126 and s 132).

1 **28 Use of prophylactics**
2 **Section 27 (3), new note**

3 *insert*

4 *Note* It is also an offence not to take reasonable precautions against
5 transmitting a notifiable condition (see [Public Health Regulation 2000](#),
6 s 21 (1)).

7 **29 Regulation-making power**
8 **Section 32 (2) (g) to (i)**

9 *omit*

10 prostitutes

11 *substitute*

12 sex workers

13 **30 New section 34**

14 *insert*

15 **34 Sex Work Regulation 2018—sch 4**

- 16 (1) The provisions set out in schedule 4 are taken, on the commencement
17 of this section, to be a regulation made under section 32.
- 18 (2) To remove any doubt and without limiting subsection (1), the
19 regulation may be amended or repealed as if it had been made by the
20 Executive under section 32.
- 21 (3) Also to remove any doubt, the regulation is taken—
- 22 (a) to have been notified under the [Legislation Act](#) on the day the
23 *Prostitution Amendment Act 2018* is notified; and
- 24 (b) to have commenced on the commencement of this section; and
- 25 (c) not to be required to be presented to the Legislative Assembly
26 under the [Legislation Act](#), section 64 (1).

1 (4) Subsections (1) to (3) are laws to which the [Legislation Act](#),
2 section 88 (Repeal does not end effect of transitional laws etc)
3 applies.

4 (5) This section and schedule 4 expire on the day they commence.

5 **31 Disqualifying offences—this Act**
6 **Schedule 2, item 5, column 3**

7 *omit*

8 child prostitution

9 *substitute*

10 commercial sexual services by child

11 **32 Schedule 2, item 7**

12 *omit*

13 **33 Schedule 2, item 8, column 3**

14 *omit*

15 prostitute

16 *substitute*

17 sex worker

18 **34 Schedule 2, new item 8A**

19 *insert*

8A	26A	obligation to supply health and safety equipment
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1 **35 Disqualifying offences—foreign countries**
2 **Schedule 3, section 3.1 (1) (f)**

3 *omit*

4 prostitution

5 *substitute*

6 provision of commercial sexual services

1 **36 New schedule 4**

2 *insert*

3 **Schedule 4 Sex Work Regulation 2018**

4 (see s 34)



Australian Capital Territory

5 **Sex Work Regulation 2018**

6 **Subordinate Law SL2018-**

7 made under the

8 **Sex Work Act 1992**

9 **1 Name of regulation**

10 This regulation is the *Sex Work Regulation 2018*.

1 **2** **Locations**

2 For the Act, section 18 (1), the following locations are prescribed:

3 (a) the division of Fyshwick in the Central Canberra district;

4 (b) the division of Mitchell in the Gungahlin district.

5 **37** **Dictionary, note 2**

6 *insert*

- 7 • nurse practitioner

8 **38** **Dictionary, definitions of *annual notice* and *authorised***
9 ***nurse practitioner***

10 *omit*

11 **39** **Dictionary, definition of *brothel***

12 *omit*

13 prostitution

14 *substitute*

15 sex work

16 **40** **Dictionary, definition of *commercial operator***

17 *omit*

18 **41** **Dictionary, definition of *commercial sexual services***

19 *omit*

20 prostitute

21 *substitute*

22 person providing the sexual services

1 **42 Dictionary, definition of *employed***

2 *omit*

3 prostitute

4 *substitute*

5 sex worker

6 **43 Dictionary, definition of *escort agency***

7 *omit*

8 prostitution

9 *substitute*

10 sex work

11 **44 Dictionary, definition of *nurse practitioner position***

12 *omit*

13 **45 Dictionary, definition of *premises used by a single***
14 ***prostitute***

15 *omit*

16 **46 Dictionary, new definition of *premises used by a single***
17 ***sex worker***

18 *insert*

19 *premises used by a single sex worker* means premises used by not
20 more than 1 sex worker other than—

21 (a) premises adjacent to or, for town houses, units or apartments, in
22 the same block as, other premises that are used for sex work; or

- 1 (b) premises at which the provision of commercial sexual services
2 is arranged by a person (other than the sex worker) who
3 arranges clients for other sex workers; or
4 (c) premises to which clients are referred by other sex workers, or
5 from which clients are referred to other sex workers.

6 **47 Dictionary**

7 *omit the definitions of*
8 *prostitute*
9 *prostitution*
10 *public place*
11 *registration notice*
12 *scope of practice*

13 **48 Dictionary, new definition of sex work**

14 *insert*
15 *sex work* means the provision of commercial sexual services by an
16 adult.

17 **49 Dictionary, definition of sole operator**

18 *omit*

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Children and Young People**
4 **Act 2008**

5 **[1.1] Section 344, example 4**

6 *omit*

7 through prostitution

8 *substitute*

9 with money received in exchange for sexual services

10 **Part 1.2 Crimes (Child Sex Offenders)**
11 **Act 2005**

12 **[1.2] Schedule 2, part 2.1, item 13 to 16**

13 *substitute*

13	<i>Sex Work Act 1992,</i> section 19 (2)	accosting child for commercial sexual services	
14	<i>Sex Work Act 1992,</i> section 20 (1)	causing child under 12 to provide commercial sexual services	
15	<i>Sex Work Act 1992,</i> section 20 (3)	causing child 12 or older to provide commercial sexual services	
16	<i>Sex Work Act 1992,</i> section 21 (1)	proceeds of commercial sexual services by child	

1 **Part 1.3** **Fair Trading (Australian**
2 **Consumer Law) Act 1992**

3 **[1.3] Section 34 (2), definition of *consumer and trader***
4 ***legislation*, paragraph (d)**

5 *substitute*

6 (d) the *Sex Work Act 1992*;

7 **Part 1.4** **Spent Convictions Act 2000**

8 **[1.4] Section 19 (8)**

9 *omit*

10 *Prostitution Act 1992*

11 *substitute*

12 *Sex Work Act 1992*

13 **Part 1.5** **Supreme Court Act 1933**

14 **[1.5] Schedule 2, section 2.1, definition of *Prostitution Act***

15 *omit*

16 **[1.6] Schedule 2, section 2.1, new definition of *Sex Work Act***

17 *insert*

18 *Sex Work Act* means the *Sex Work Act 1992*.

1 **[1.7] Schedule 2, part 2.2, items 32 and 33**

2 *substitute*

32	Sex Work Act	20	causing child to provide commercial sexual services etc
33	Sex Work Act	21	receiving proceeds of commercial sexual services by child

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 June 2018.

2 Notification

Notified under the [Legislation Act](#) on 2018.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
