

Queensland



PROSTITUTION ACT 1999

Act No. 73 of 1999

Queensland



PROSTITUTION ACT 1999

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Queensland



Prostitution Act 1999

Act No. 73 of 1999

An Act to regulate prostitution in Queensland, and for other purposes

[Assented to 14 December 1999]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

- 1.** This Act may be cited as the *Prostitution Act 1999*.

Commencement

2.(1) Parts 1 and 2 and part 7, divisions 1 and 2 and schedule 4 commence on assent.

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

(3) However, if a provision of this Act has not commenced before 1 July 2000, it commences on 1 July 2000.

Purpose

- 3.** The purpose of this Act is to regulate prostitution in Queensland.

Act binds all persons

4.(1) This Act binds all persons, including the State.

(2) Nothing in this Act makes the State liable to be prosecuted for an offence.

PART 2—DEFINITIONS AND BASIC CONCEPTS

Division 1—Dictionary

Definitions

5. The dictionary in schedule 4 defines particular words used in this Act.

Division 2—Basic concepts

Meaning of “associate”

6.(1) A person is an “**associate**” of an individual if the person—

- (a) is a member of the individual’s family; or
- (b) has entered into a business arrangement or relationship with the individual for the provision of prostitution; or
- (c) is the owner or lessor, either alone or jointly, of premises used or proposed to be used for the provision of prostitution under a licence.

(2) A person is an “**associate**” of a body corporate if the person is an executive officer of the body corporate.

Meaning of “interest in a brothel”

7.(1) A person has an “**interest in a brothel**” if the person—

- (a) is the licensee of the brothel; or
- (b) is a member of the family of the licensee of the brothel; or
- (c) is an approved manager of the brothel; or
- (d) is a member of the family of an approved manager of the brothel;
or
- (e) is the owner, either alone or jointly, of premises used by the licensee of the brothel for the provision of prostitution; or

- (f) is a member of the family of an owner mentioned in paragraph (e); or
- (g) is the lessor of the premises used by the licensee of the brothel for the provision of prostitution; or
- (h) is a member of the family of a lessor mentioned in paragraph (g); or
- (i) has entered into a business arrangement or relationship with another person for the provision of prostitution at the brothel; or
- (j) directly receives income from the provision of prostitution at the brothel; or
- (k) is able to exercise a significant influence over the operations of, or in relation to the provision of prostitution at, the brothel; or
- (l) is an executive officer of a body corporate that is a person mentioned in paragraphs (e), (g), (i), (j) or (k).

(2) If a financial institution is a mortgagee of premises used by the licensee of a brothel for the provision of prostitution, the institution does not have an **“interest in a brothel”** only because the institution is a mortgagee of the premises.

PART 3—LICENSING SYSTEM

Division 1—Brothel licences

Subdivision 1—Application for licence

Who is ineligible for a brothel licence

8. A person is ineligible to apply for a brothel licence¹ if the person—

¹ The provision of prostitution at a brothel other than in a way permitted under this Act may constitute an offence under the Criminal Code.

- (a) is a corporation; or
- (b) is a minor; or
- (c) is an insolvent under administration; or
- (d) holds a licence or permit under the *Liquor Act 1992*; or
- (e) has been convicted of a disqualifying offence; or
- (f) has had a licence or other authority under this Act or a corresponding law to provide prostitution at a brothel cancelled in the last 3 years; or
- (g) has had a certificate or other authority under this Act or a corresponding law to manage a brothel cancelled in the last 3 years; or
- (h) is subject to an order of the Authority declaring the person to be ineligible to apply for a licence.

Person may hold only 1 brothel licence

9. A person is not entitled to apply for, or eligible to be granted, more than 1 licence.

Application for licence

10.(1) A person who is eligible to apply for a licence may apply to the Authority for a licence.

(2) The application must—

- (a) be in the approved form; and
- (b) be accompanied by the application fee and the licence fee prescribed under a regulation; and
- (c) state the following information—
 - (i) the applicant's name, address, occupation and date of birth;
 - (ii) the address of the premises at which, and the name or names under which, the applicant proposes to operate a brothel;

- (iii) whether the applicant proposes to operate the brothel in partnership, or otherwise in association, with someone else and if so, the person's name, address and occupation and, if known to the applicant, the person's date of birth;
- (iv) the name, address and occupation of the owner of the premises at which the applicant proposes to operate the brothel and, if known to the applicant, the owner's date of birth;
- (v) the names, addresses and occupations of all associates of the applicant and, if known to the applicant, their dates of birth;
- (vi) anything else prescribed under a regulation.

Updating of application

11.(1) This section applies if, before a licence application is decided, the applicant becomes aware of a change in the information given at any time by the applicant for the application.

(2) The applicant must, within 10 days after becoming aware of the change, give particulars of the change to the Authority by signed notice.

Maximum penalty for subsection (2)—60 penalty units.

Withdrawal of application

12.(1) An applicant for a licence may withdraw his or her application at any time before the licence is issued.

(2) If an application for a licence is withdrawn by the applicant or rejected by the Authority, the Authority—

- (a) may, at its discretion, direct the refund of the whole or part of the application fee; and
- (b) must direct the refund of the licence fee.

Applicant to consent to identifying particulars being taken

13.(1) The applicant must consent to having all or any of the applicant's identifying particulars taken by the Authority or a member of the police service.

(2) The Authority must refuse to consider an application for a licence if the applicant refuses to allow the applicant's identifying particulars to be taken.

(3) The Authority must refer any identifying particulars taken to the commissioner and must not itself keep a copy of the particulars.

(4) Identifying particulars taken under this section may be used only to decide whether an applicant should be granted a licence or to identify a person to whom a licence has been granted and for no other purpose.

Application to be referred to commissioner

14.(1) The Authority must give to the commissioner any particulars it considers relevant for each application for a licence.

(2) On receiving particulars of the application, the commissioner—

- (a)** must make inquiries about the applicant's criminal history; and
- (b)** must make any other inquiries about the application that the commissioner considers appropriate; and
- (c)** by notice, may require the applicant to attend at a stated time and place to provide all or any of the applicant's identifying particulars.

(3) The commissioner must report to the Authority after receiving the results of the inquiries.

(4) The commissioner's report may include recommendations.

(5) The commissioner's report must include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.²

² *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)

Consideration of application

15.(1) The Authority must consider every application for a licence by a person who is eligible to apply.

(2) In considering an application, the Authority may—

- (a) conduct the inquiries it considers appropriate; and
- (b) by notice, require the applicant to give further information the Authority considers relevant to the application within a stated reasonable time, not less than 14 days after the notice is given; and
- (c) consider—
 - (i) whether any other licences or adult entertainment permits have been granted in the locality in which the proposed brothel is to be situated; and
 - (ii) the extent to which the character of the locality may be affected if the application were granted; and
- (d) seek advice and information on the application from any other entity it considers appropriate.

(3) An applicant is taken to have withdrawn the application if the applicant fails to give the further information required by the Authority under subsection (2)(b) within the time stated in the notice.

(4) The Authority is not required to conduct a hearing to decide whether to grant a licence or refuse to grant a licence.

When authority must refuse application

16.(1) The Authority must refuse to grant a licence if the Authority is satisfied that the applicant—

- (a) is not a suitable person to operate a licensed brothel; or
- (b) has been convicted of an offence, the facts of which constitute the running of a brothel; or
- (c) has an interest in another licensed brothel; or
- (d) holds a licence or a permit under the *Liquor Act 1992*.

(2) For subsection (1)(b), it does not matter whether the offence is committed in Queensland or elsewhere.

(3) Also, the Authority must refuse to grant a licence if, after considering the matters mentioned in section 15(2)(c), it considers that, if the application were granted, the combined total of licensed brothels and premises permitted to provide adult entertainment in the locality in which the brothel is to be situated would substantially affect the character of the locality.

Example of character of locality being substantially affected—

Locality becoming a ‘red light district’.

Suitability of applicant

17.(1) In deciding whether an applicant for a licence is a suitable person to operate a licensed brothel, the Authority must consider all relevant matters including the following—

- (a) the applicant’s reputation, having regard to character, honesty and integrity;
- (b) whether the applicant has been convicted of an offence against this Act or a corresponding law;
- (c) whether the applicant has been convicted of an indictable offence;
- (d) whether the applicant has been charged with any offence of a sexual nature that involves violence, intimidation, threats or children, including the circumstances surrounding the laying of the charge and whether proceedings in relation to the charge are continuing or have been discontinued;
- (e) whether the applicant has, or is or will be able to obtain, financial resources that are adequate to ensure the financial viability of the brothel;
- (f) whether the applicant will have in place arrangements to ensure the safety of persons directly involved in providing prostitution and that otherwise comply with the requirements of this Act;
- (g) whether the business structure for the operation of the brothel is sufficiently transparent to enable all associates of the applicant, whether individuals or bodies corporate, to be readily identified;

- (h) whether the applicant is an associate of a person who has been convicted of a disqualifying offence or an indictable offence;
- (i) whether the applicant is an associate of a body corporate, an executive officer of which has been convicted of a disqualifying offence or an indictable offence;
- (j) whether the applicant is an associate of a person who holds a licence or a permit under the *Liquor Act 1992*;
- (k) any other matter prescribed under a regulation.

(2) For subsection (1)(d), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.

(3) The Authority must not decide that an applicant for a licence is not a suitable person to operate a licensed brothel because the applicant has worked as a prostitute.

Grant or refusal of licence

18.(1) The Authority must consider an application for a licence and either—

- (a) grant the licence, with or without conditions or restrictions; or
- (b) refuse to grant the licence.

(2) If the Authority decides to grant the licence, the Authority must promptly give the applicant the licence.

(3) However, the applicant may ask the Authority to postpone giving the licence to the applicant until the happening of an event.

Examples of happening of an event—

1. Development permit for the brothel is issued.
2. Premises to be operated as a brothel are constructed.

(4) If the Authority is satisfied that it is reasonable in the circumstances to postpone giving the licence to the applicant, the Authority must postpone giving the licence for the period decided by the Authority.

(5) The Authority may extend the period of time it sets under subsection (4).

(6) If the Authority decides to refuse to grant the licence, the Authority must give the applicant a notice stating—

- (a) the decision; and
- (b) subject to section 138,³ the reasons for the decision.

The licence

19.(1) A licence authorises the holder of the licence to operate a brothel only at the premises stated in the licence, subject to the *Integrated Planning Act 1997*.

(2) A licence may not authorise the holder to operate a brothel at more than 1 premises.

(3) Any act of prostitution authorised under a licensee's licence may take place only at the premises stated in the licence.

(4) A licence is granted for a term of 1 year unless it is sooner surrendered, suspended or cancelled.

(5) A licence—

- (a) is personal to the licensee; and
- (b) is not transferable to any other person; and
- (c) does not vest by operation of law in any other person; and
- (d) is subject to any conditions or restrictions set out in the licence or prescribed under a regulation.

Requirement to notify changes in information given

20.(1) This section applies if a licensee becomes aware of a change in the information given at any time by the licensee for the application for the licence.

(2) The licensee must, within 10 days after becoming aware of the change, give particulars of the change to the Authority by signed notice.

³ Section 138 (Application of Judicial Review Act)

Example of change—

Change in owner of premises.

Maximum penalty for subsection (2)—60 penalty units.

Amendment of licence conditions or restrictions

21.(1) The Authority may at any time—

- (a) vary or revoke a condition or restriction to which a licence is subject; or
- (b) add a new condition or restriction to a licence.

(2) The Authority may act under subsection (1)—

- (a) on its own initiative; or
- (b) on the application of the licensee; or
- (c) on the application of a police officer.

(3) Subsection (1) does not apply to a condition or restriction prescribed under a regulation.

(4) If a condition or restriction prescribed under a regulation is amended, the Authority must promptly give each licensee affected by the amendment notice of the amendment.

Endorsement of licence

22.(1) This section applies if—

- (a) an existing condition or restriction to which a licence is subject is varied or revoked; or
- (b) a new condition or restriction is added to a licence.

(2) The Authority may require the licensee to produce the licence for endorsement of the variation, revocation or addition.

(3) The licensee must comply with the requirement.

Maximum penalty for subsection (3)—10 penalty units.

Renewal of licence

23.(1) A licensee may apply to the Authority for the renewal of the licensee's licence at least 1 month before the licence ends.

(2) The application for renewal must—

- (a) be in the approved form; and
- (b) be accompanied by the renewal fee prescribed under a regulation.

(3) Sections 10 to 12 and 14 to 18 apply, with necessary changes, to the application for renewal of the licence as if it were an application for a licence.

(4) The Authority must make a decision on an application for the renewal of a licence within 1 month after the application is made.

Subdivision 2—Licence cancellation and disciplinary action**Definition for sdiv 2**

24. In this subdivision—

“**licensee**” includes a person who has surrendered a licence and to whom section 31(3) applies.

Automatic cancellation of licence

25. A licence is automatically cancelled if the licensee—

- (a) is convicted of—
 - (i) a disqualifying offence; or
 - (ii) an offence against the Criminal Code, chapter 22A⁴ (other than section 229M); or
 - (iii) an offence of giving false or misleading information or documents under this Act; or
- (b) becomes an insolvent under administration.

⁴ Criminal Code, chapter 22A (Prostitution)

Investigating disciplinary action

26.(1) The Authority may conduct an inquiry (“**disciplinary inquiry**”) to decide whether there are grounds for taking disciplinary action against a licensee.

(2) For subsection (1), the Authority may act on its own initiative, or on the application of the commissioner or an authorised officer of a relevant local government.

Grounds for disciplinary action

27. The following are grounds for taking disciplinary action against a licensee—

- (a) the licensee has been charged with or convicted of an offence in Queensland or elsewhere;
- (b) a person who has an interest in the licensee’s brothel—
 - (i) has been charged with or convicted of an offence against this Act or a corresponding law; or
 - (ii) has been charged with or convicted of an offence in Queensland or elsewhere for which the penalty may be a term of imprisonment;
- (c) the provision of prostitution under the licensee’s licence contravenes a condition or restriction to which the licence or the certificate of the approved manager of the brothel is subject;
- (d) the licensed brothel is or has been managed in a way that makes it desirable that action should be taken against the licensee.

Starting disciplinary action

28.(1) This section applies if an application for a disciplinary inquiry is made.

(2) The inquiry must not start within 30 days of when the application is made unless—

- (a) the person who made the application or the licensee applies to the Authority for the inquiry to be started within that time; and
- (b) the Authority is satisfied that it is reasonable in the circumstances.

Disciplinary powers of Authority

29.(1) The Authority's power under this section is in addition to any other powers of the Authority under this Act.

(2) The Authority may, if satisfied there are grounds for taking disciplinary action against a licensee, by notice given to the licensee, do 1 or more of the following—

- (a) reprimand the licensee;
- (b) add a condition or restriction to the licensee's licence;
- (c) require the licensee to enter into an undertaking to perform, or not to perform, particular tasks to be specified in the undertaking;
- (d) require the licensee to comply with a requirement specified by the Authority within or for a specified time;
- (e) order the licensee to pay into the fund an amount that is not more than the monetary value of 135 penalty units;
- (f) suspend the licensee's licence for a specified period of not more than 1 year;
- (g) cancel the licensee's licence;
- (h) order that the licensee be ineligible to apply for a licence or be an approved manager either permanently or for a specified period.

(3) If the Authority orders the licensee to pay an amount into the fund—

- (a) it may order that the amount be paid by a specified date; and
- (b) if the amount is not paid by a specified date, it may suspend the licence until the amount is paid and set a final payment date; and
- (c) if the amount has not been paid by the final date, it may cancel the licensee's licence; and
- (d) it may at any time extend the period of time it sets for the payment of the amount.

(4) If the licensee does not pay the amount within the time allowed, the registrar may recover the amount as a debt from the licensee.

(5) This section is subject to section 30.

Disciplinary powers limited for certain licensees

30.(1) The only action the Authority may take solely on the ground that a licensee has been charged with an offence is to suspend the licensee's licence.

(2) The Authority must immediately remove the suspension if—

- (a) the charge is withdrawn; or
- (b) the licensee is not convicted of the offence.

(3) The only action the Authority may take solely on the ground that a person who has an interest in a licensee's brothel has been charged with an offence is to do 1 or more of the things mentioned in section 29(2)(b), (c) or (d).

(4) If a licensee has surrendered the licensee's licence, the only action the Authority may take against the licensee is to make an order under section 29(2)(h).

Subdivision 3—Other provisions about licences

Surrender of licence

31.(1) A licensee may surrender the licensee's licence by signed notice given to the Authority.

(2) The surrender of the licence takes effect on the day the notice of surrender is given to the Authority or, if a later day of effect is stated in the notice, the later day.

(3) However, if the Authority has decided to conduct a disciplinary inquiry in relation to a licensee, the Authority may, subject to section 30(4), exercise its disciplinary powers in relation to the licensee despite the surrender of the licence.

Surrendered, suspended or cancelled licence must be returned

32.(1) This section applies if a licensee surrenders the licensee's licence or the Authority suspends or cancels a licensee's licence under this Act.

(2) The person to whom the licence was granted must return the licence to the Authority within 7 days after the person surrenders the licence or becomes aware of the suspension or cancellation.

Maximum penalty for subsection (2)—10 penalty units.

When Authority can authorise approved manager to act as licensee

33.(1) This section applies if a licensee—

- (a) dies; or
- (b) becomes incapable of discharging the duties of a licensee because of physical or mental incapacity.

(2) An approved manager may apply to the Authority for authorisation to act as licensee of the brothel specified in the licensee's licence.

(3) If the Authority is satisfied that subsection (1) applies to the licensee, the Authority may—

- (a) authorise the approved manager to act as licensee for a specified period, not more than 6 months; and
- (b) if the licensee's licence would otherwise expire during the period authorised under paragraph (a), extend the licence to the day the period ends.

(4) The Authority may extend a period mentioned under subsection (3) if it is satisfied it is reasonable in the circumstances to do so.

(5) If the period for which the approved manager is authorised to act as licensee extends beyond the day the licence would otherwise expire, the licence fee prescribed under a regulation, worked out on a proportionate basis, is payable for the period after the licence would otherwise expire.

(6) The Authority must endorse the licence to show that the approved manager is acting as licensee for the period endorsed on the licence.

(7) The approved manager, while acting as licensee, is subject to the obligations of a licensee under this Act.

(8) This section does limit a power to surrender, suspend or cancel a licence.

Division 2—Approved managers

Subdivision 1—Application for certificate

Who is ineligible for a certificate

34. A person is ineligible to apply for an approved manager's certificate if the person—

- (a) is a corporation; or
- (b) is a minor; or
- (c) is an insolvent under administration; or
- (d) holds a licence or permit under the *Liquor Act 1992*; or
- (e) has been convicted of a disqualifying offence; or
- (f) has had a licence or other authority under this Act or a corresponding law to provide prostitution at a brothel cancelled in the last 3 years; or
- (g) has had a certificate or other authority under this Act or a corresponding law to manage a brothel cancelled in the last 3 years; or
- (h) is subject to an order of the Authority declaring the person to be ineligible to apply for a certificate.

Application for certificate

35.(1) A person who is eligible to apply for a certificate may apply to the Authority for a certificate.

(2) The application must—

- (a) be in the approved form; and

- (b) be accompanied by the application fee and the certificate fee prescribed under a regulation; and
- (c) state the following information—
 - (i) the applicant's name, address, occupation and date of birth;
 - (ii) the address of any licensed brothel of which the applicant is to be the approved manager;
 - (iii) the names, addresses and occupations of all associates of the applicant and, if known to the applicant, their dates of birth;
 - (iv) anything else prescribed under a regulation.

Updating of application

36.(1) This section applies if, before a certificate application is decided, the applicant becomes aware of a change in the information given at any time by the applicant for the application.

(2) The applicant must, within 10 days after becoming aware of the change, give particulars of the change to the Authority by signed notice.

Maximum penalty for subsection (2)—60 penalty units.

Withdrawal of application

37.(1) An applicant for a certificate may withdraw his or her application at any time before the certificate is issued.

(2) If an application for a certificate is withdrawn by the applicant or rejected by the Authority, the Authority—

- (a) may, at its discretion, direct the refund of the whole or part of the application fee; and
- (b) must direct the refund of the certificate fee.

Applicant to consent to identifying particulars being taken

38.(1) The applicant must consent to having all or any of the applicant's identifying particulars taken by the Authority or a member of the police service.

(2) The Authority must refuse to consider an application for a certificate if the applicant refuses to allow the applicant's identifying particulars to be taken.

(3) The Authority must refer any identifying particulars taken to the commissioner and must not itself keep a copy of the particulars.

(4) Identifying particulars taken under this section may be used only to decide whether an applicant should be granted a certificate or to identify a person to whom a certificate has been granted and for no other purpose.

Application to be referred to commissioner

39.(1) The Authority must give to the commissioner any particulars it considers relevant for each application for a certificate.

(2) On receiving particulars of the application, the commissioner—

- (a) must make inquiries about the applicant's criminal history; and
- (b) must make any other inquiries about the application that the commissioner considers appropriate; and
- (c) by notice, may require the applicant to attend at a stated time and place to provide all or any of the applicant's identifying particulars.

(3) The commissioner must report to the Authority after receiving the results of the inquiries.

(4) The commissioner's report may include recommendations.

(5) The commissioner's report must include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.⁵

Consideration of application

40.(1) The Authority must consider every application for a certificate by a person who is eligible to apply.

⁵ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)

(2) In considering an application, the Authority may—

- (a) conduct the inquiries it considers appropriate; and
- (b) by notice, require the applicant to give further information the Authority considers relevant to the application within a stated reasonable time, not less than 14 days after the notice is given; and
- (c) seek advice and information on the application from any other entity it considers appropriate.

(3) An applicant is taken to have withdrawn the application if the applicant fails to give the further information required by the Authority under subsection (2)(b) within the time stated in the notice.

(4) The Authority is not required to conduct a hearing to decide whether to grant a certificate or refuse to grant a certificate.

When Authority must refuse application

41.(1) The Authority must refuse to grant a certificate if the Authority is satisfied that the applicant—

- (a) is not a suitable person to be an approved manager of a licensed brothel; or
- (b) has been convicted of an offence, the facts of which constitute the running of a brothel; or
- (c) has an interest in another licensed brothel, otherwise than as an approved manager of the brothel.

(2) For subsection (1)(b), it does not matter whether the offence is committed in Queensland or elsewhere.

Suitability of applicant

42.(1) In deciding whether an applicant for a certificate is a suitable person to be an approved manager of a licensed brothel, the Authority must consider all relevant matters including the following—

- (a) the applicant's reputation, having regard to character, honesty and integrity;

- (b) whether the applicant has been convicted of an offence against this Act or a corresponding law;
- (c) whether the applicant has been convicted of an indictable offence;
- (d) whether the applicant is an associate of a person who has been convicted of a disqualifying offence or an indictable offence;
- (e) whether the applicant is an associate of a body corporate, an executive officer of which has been convicted of a disqualifying offence or an indictable offence;
- (f) whether the applicant has been charged with any offence of a sexual nature that involves violence, intimidation, threats or children, including the circumstances surrounding the laying of the charge and whether proceedings in relation to the charge are continuing or have been discontinued;
- (g) any other matter prescribed under a regulation.

(2) For subsection (1)(f), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.

(3) The Authority must not decide that an applicant for a certificate is not a suitable person to be an approved manager of a licensed brothel only because the applicant has worked as a prostitute.

Grant or refusal of certificate

43.(1) The Authority must consider an application for a certificate and either—

- (a) grant the certificate, with or without conditions or restrictions; or
- (b) refuse to grant the certificate.

(2) If the Authority decides to grant the certificate, the Authority must promptly give the applicant the certificate.

(3) However, the applicant may ask the Authority to postpone giving the certificate to the applicant until the happening of an event.

Example of happening of an event—

1. Brothel commences operation.

(4) If the Authority is satisfied that it is reasonable in the circumstances to postpone giving the certificate to the applicant, the Authority must postpone giving the certificate for the period decided by the Authority.

(5) The Authority may extend the period of time it sets under subsection (4).

(6) If the Authority decides to refuse to grant the certificate, the Authority must give the applicant a notice stating—

- (a) the decision; and
- (b) subject to section 138,⁶ the reasons for the decision.

The certificate

44.(1) A certificate authorises the holder of the certificate to be an approved manager of a licensed brothel at the premises stated in the certificate.

(2) A certificate may authorise the holder to be an approved manager of more than 1 licensed brothel.

(3) A certificate is for the term of 1 year unless it is sooner surrendered, suspended or cancelled.

(4) A certificate—

- (a) is personal to the person approved as manager; and
- (b) is not transferable to any other person; and
- (c) does not vest by operation of law in any other person; and
- (d) is subject to any conditions or restrictions set out in the certificate or prescribed under a regulation.

Requirement to notify changes in information given

45.(1) This section applies if an approved manager of a licensed brothel or the brothel's licensee becomes aware of a change in the information given at any time by the manager or the licensee for the application for a certificate.

⁶ Section 138 (Application of Judicial Review Act)

(2) The approved manager or the licensee must, within 10 days after becoming aware of the change, give particulars of the change to the Authority by signed notice.

Example of change—

Change in owner of premises.

Maximum penalty for subsection (2)—60 penalty units.

Variation of certificate

46.(1) An approved manager may at any time apply to the Authority to vary the certificate by altering or adding to the premises stated in the certificate for which the manager is approved.

(2) The application for variation must—

- (a) be in the approved form; and
- (b) be accompanied by the variation fee prescribed under a regulation.

(3) Sections 35 to 37 and 39 to 43, with necessary changes, apply to the application for variation of the certificate as if it were an application for a certificate.

Amendment of certificate conditions or restrictions

47.(1) The Authority may at any time—

- (a) vary or revoke a condition or restriction to which a certificate is subject; or
- (b) add a new condition or restriction to a certificate.

(2) The Authority may act under subsection (1)—

- (a) on its own initiative; or
- (b) on the application of the approved manager; or
- (c) on the application of a police officer.

(3) Subsection (1) does not apply to a condition or restriction prescribed under a regulation.

(4) If a condition or restriction prescribed under a regulation is amended, the Authority must promptly give each approved manager affected by the amendment notice of the amendment.

Endorsement of certificate

48.(1) This section applies if—

- (a) a certificate is varied; or
- (b) an existing condition or restriction to which a certificate is subject is varied or revoked; or
- (c) a new condition or restriction is added to a certificate.

(2) The Authority may require the approved manager to produce the certificate for endorsement of the variation, revocation or addition.

(3) The approved manager must comply with the requirement.

Maximum penalty for subsection (3)—10 penalty units.

Renewal of certificate

49.(1) An approved manager may apply to the Authority for the renewal of the manager's certificate at least 1 month before the certificate ends.

(2) The application for renewal must—

- (a) be in the approved form; and
- (b) be accompanied by the renewal fee prescribed under a regulation.

(3) Sections 35 to 37 and 39 to 43 apply, with necessary changes, to the application for renewal of the certificate as if it were an application for a certificate.

(4) The Authority must make a decision on an application for the renewal of a certificate within 1 month after the application is made.

Subdivision 2—Certificate cancellation and disciplinary action

Definition for sdiv 2

50. In this subdivision—

“approved manager” includes a person who has surrendered a certificate and to whom section 57(3) applies.

Automatic cancellation of certificate

51. A certificate is automatically cancelled if the approved manager—

- (a) is convicted of—
 - (i) a disqualifying offence; or
 - (ii) an offence against the Criminal Code, chapter 22A,⁷ (other than section 229M); or
 - (iii) an offence of giving false or misleading information or documents under this Act; or
- (b) becomes an insolvent under administration.

Investigating disciplinary action

52.(1) The Authority may conduct an inquiry (**“disciplinary inquiry”**) to decide whether there are grounds for taking disciplinary action against an approved manager.

(2) For subsection (1), the Authority may act on its own initiative, or on the application of the commissioner or an authorised officer of a relevant local government.

Grounds for disciplinary action

53. The following are grounds for taking disciplinary action against an approved manager—

⁷ Criminal Code, chapter 22A (Prostitution)

- (a) the approved manager has been charged with or convicted of an offence in Queensland or elsewhere;
- (b) the provision of prostitution under the licence of the brothel that the manager manages contravenes a condition or restriction to which the licence or the manager's certificate is subject;
- (c) the brothel that the manager manages is or has been managed in a way that makes it desirable that action should be taken against the approved manager.

Starting disciplinary action

54.(1) This section applies if an application for a disciplinary inquiry is made.

(2) The inquiry must not start within 30 days of when the application is made unless—

- (a) the person who made the application or the approved manager applies to the Authority for the inquiry to be started within that time; and
- (b) the Authority is satisfied that it is reasonable in the circumstances.

Disciplinary powers of Authority

55.(1) The Authority's power under this section is in addition to any other powers of the Authority under this Act.

(2) The Authority may, if satisfied there are grounds for taking disciplinary action against an approved manager, by notice given to the manager, do 1 or more of the following—

- (a) reprimand the manager;
- (b) add a condition or restriction to the manager's certificate;
- (c) require the manager to enter into an undertaking to perform, or not to perform, particular tasks to be specified in the undertaking;
- (d) require the manager to comply with a requirement specified by the Authority within or for a specified time;

- (e) order the manager to pay into the fund an amount that is not more than the monetary value of 135 penalty units;
- (f) suspend the manager's certificate for a specified period of not more than 1 year;
- (g) cancel the manager's certificate;
- (h) order that the manager be ineligible to apply for a certificate or be a licensee either permanently or for a specified period.

(3) If the Authority orders the manager to pay an amount into the fund—

- (a) it may order that the amount be paid by a specified date; and
- (b) if the amount is not paid by a specified date, it may suspend the certificate until the amount is paid and set a final payment date; and
- (c) if the amount has not been paid by the final date, it may cancel the manager's certificate; and
- (d) it may at any time extend the period of time it sets for the payment of the amount.

(4) If the manager does not pay the amount within the time allowed, the Authority may recover the amount as a debt from the manager.

(5) This section is subject to section 56.

Disciplinary powers limited for certain approved managers

56.(1) The only action the Authority may take solely on the ground that an approved manager has been charged with an offence is to suspend the manager's certificate.

(2) The Authority must immediately remove the suspension if—

- (a) the charge is withdrawn; or
- (b) the manager is not convicted of the offence.

(3) If a manager has surrendered the manager's certificate, the only action the Authority may take against the manager is to make an order under section 55(2)(h).

Subdivision 3—Other provisions about certificates**Surrender of certificate**

57.(1) An approved manager may surrender the manager's certificate by signed notice given to the Authority.

(2) The surrender of the certificate takes effect on the day the notice of surrender is given to the Authority or, if a later day of effect is stated in the notice, the later day.

(3) However, if the Authority has decided to conduct a disciplinary inquiry in relation to a manager, the Authority may, subject to section 56(3), exercise its disciplinary powers in relation to the manager despite the surrender of the certificate.

Surrendered, suspended or cancelled certificate must be returned

58.(1) This section applies if an approved manager surrenders the manager's certificate or the Authority suspends or cancels the manager's certificate under this Act.

(2) The person to whom the certificate was granted must return the certificate to the Authority within 7 days after the person surrenders the certificate or becomes aware of the suspension or cancellation.

Maximum penalty for subsection (2)—10 penalty units.

Division 3—Powers of entry**Police power to enter licensed brothel**

59.(1) A police officer of at least the rank of inspector, or a police officer authorised by a police officer of at least the rank of inspector, may at any time when premises used as a licensed brothel are open for business enter the premises.

(2) If entry is made by a police officer who is not of at least the rank of inspector—

- (a) the police officer must be specifically authorised in writing for the particular entry; and
- (b) the police officer must produce the authority to the licensee or approved manager if the licensee or manager asks the officer to do so.

Powers after entry

60.(1) A police officer who enters premises under section 59 may inspect the premises and, with the written authorisation of the Authority, do any of the following—

- (a) inspect, photograph or copy anything required to be kept under this Act;
- (b) take possession of a document or thing, if the document or thing is evidence of the commission of an offence against this Act;
- (c) require the licensee or approved manager to produce stated documents or things for inspection;
- (d) require the licensee or approved manager to give the police officer reasonable help.

(2) If a police officer takes possession of a document or thing under subsection (1)(b), the *Police Powers and Responsibilities Act 1997*, part 12, division 4⁸ applies to the document or thing as if it were seized under that Act.

Authority to be given particulars after entry

61. As soon as practicable after a police officer enters a licensed brothel, the police officer, or the police officer who authorised the entry, must give the Authority any particulars in relation to the entry that are prescribed under a regulation.

⁸ *Police Powers and Responsibilities Act 1997*, part 12 (Standard safeguards), division 4 (Safeguards for things seized during searches)

PART 4—DEVELOPMENT APPROVALS FOR BROTHELS

Definitions for pt 4

62. In this part—

“**assessment manager**” has the meaning given by the *Integrated Planning Act 1997*, section 3.1.7.

“**development application**” means an application for a development approval under the *Integrated Planning Act 1997*.

“**local government area**” has the meaning given by the *Local Government Act 1994*, section 3.

Application of pt 4

63. This part applies to a development application for a material change of the use of premises for a licensed brothel.

When assessment manager must refuse application

64.(1) The assessment manager must refuse the application if—

- (a) the land the subject of the application is in, or within 200 m of, a primarily residential area or an area approved for residential development or intended to be residential in character; or
- (b) the land is within 200 m of a residential building, place of worship, hospital, school, kindergarten, or any other facility or place regularly frequented by children for recreational or cultural activities; or
- (c) for land in a town with a population of less than 25 000—
 - (i) the local government for the local government area has required that all applications within the area be refused; and
 - (ii) the Minister has agreed that the applications should be refused; or

(d) more than 5 rooms in the proposed brothel are to be used for providing prostitution.

(2) For subsection (1), distances are to be measured according to the shortest route that reasonably may be used in travelling.

(3) In subsection (1)(b)—

“residential building” means a building or part of a building used primarily for private residential use.

PART 5—PROHIBITED BROTHELS

Application to Magistrates Court

65. A police officer, the Authority or an authorised officer of the relevant local government may apply to a Magistrates Court for an order declaring that particular premises are a prohibited brothel.

Declaration that premises are a prohibited brothel

66.(1) The court may declare premises to be a prohibited brothel if it is satisfied, on the balance of probabilities—

- (a) that a person is operating a brothel without a licence at the premises; or
- (b) that the premises are being used for a brothel in contravention of the *Integrated Planning Act 1997*.

(2) The court may make the declaration only if it is satisfied that, at least 72 hours before the hearing, notice of the application was given to the owner or occupier of the premises that are the subject of the application.

(3) On the hearing of the application, the court may inform itself in any way it considers appropriate and is not bound by rules or practice about evidence.

(4) The court may make the declaration for an unlimited or for a specified period.

Publication of declaration

67.(1) As soon as possible after the making of the declaration, the applicant for the declaration—

- (a) must publish, on 2 consecutive days, a notice of the making of the declaration in a newspaper sold and generally circulating in the locality in which the premises are situated; and
- (b) must give a notice of the making of the declaration to—
 - (i) the occupier of the premises; and
 - (ii) if the occupier is not the owner of the premises, the owner; and
 - (iii) if the premises are subject to a registered mortgage, the registered mortgagee; and
- (c) must post up at or near to the entrance to the premises a copy of the declaration so that it is visible and legible to any person entering the premises.

(2) In a proceeding under this part, the production of papers purporting to be a copy of a newspaper containing a notice published under subsection (1)(a) is evidence that the notice was published in the newspaper on the date appearing on the newspaper.

(3) The copy of the declaration mentioned in subsection (1)(c) must comply with any requirements prescribed under a regulation.

Offence in relation to posted up declaration

68.(1) A person must not interfere with a copy of a declaration posted up on a prohibited brothel.

Maximum penalty—60 penalty units or 6 months imprisonment.

(2) In this section—

“interfere with” means cover, remove, deface or destroy.

Offence of being in or entering or leaving prohibited brothel

69.(1) A person must not be found in or entering or leaving a prohibited brothel.

Maximum penalty—60 penalty units or 1 year’s imprisonment.

(2) However, a person other than the owner or occupier of the premises does not commit an offence if the person was in or entering or leaving the premises for a lawful purpose.

(3) Also, the owner or occupier does not commit an offence if the owner or occupier enters the premises under a court order.

Offence if prohibited brothel used as brothel after declaration given

70. If a prohibited brothel is used as a brothel at any time after notice of the making of the declaration is given under section 67(1)(b)(i) or (ii) and while the declaration is in force, the occupier, and if the occupier is not the owner of the premises, the owner each commit an offence.

Maximum penalty—200 penalty units or 3 years imprisonment.

Rescission of declaration

71.(1) The following persons may apply to the court for an order rescinding the declaration—

- (a) the owner, occupier, or a registered mortgagee of the premises declared to be a prohibited brothel;
- (b) a police officer;
- (c) the Authority;
- (d) an authorised officer of the relevant local government.

(2) The court may rescind the declaration on any terms it considers appropriate, which may include the giving of security to ensure that the premises are not again used for a brothel without a brothel licence.

(3) The court may rescind a declaration only if it is satisfied that, at least 72 hours before the hearing, notice of the application was given to each of the following—

- (a) a police officer of at least the rank of inspector stationed within the police district in which the declared premises are situated;
- (b) the Authority;
- (c) the relevant local government.

Service of notices in relation to prohibited brothels

72.(1) For section 66(2), a notice is taken to be given to the owner or occupier of premises if it is posted in a prepaid letter addressed to ‘the owner’ or ‘the occupier’ without name or further description and bearing an address or description of the premises that should ensure the delivery of the letter at the premises at least 72 hours before the hearing.

(2) For section 67(1)(b), a notice is taken to be given to an occupier, owner or mortgagee of premises if it is given personally to a person who is authorised by the person to whom the notice is directed to accept delivery of documents on the person’s behalf, either generally or for the particular delivery.

(3) This section does not limit the *Acts Interpretation Act 1954*, section 39.⁹

PART 6—OFFENCES

Division 1—General offences relating to prostitution

Public soliciting for purposes of prostitution

73.(1) A person must not publicly solicit for prostitution.

Maximum penalty—

- (a) for a first offence—15 penalty units; or
- (b) for a second offence—25 penalty units; or

⁹ *Acts Interpretation Act 1954*, section 39 (Service of documents)

(c) for a third or subsequent offence—30 penalty units or 6 months imprisonment.

(2) A person publicly solicits for prostitution if, for that purpose, the person—

- (a) solicits a person who is in a public place; or
- (b) solicits a person at a place within the view or hearing of a person who is in a public place; or
- (c) loiters in or near a public place; or
- (d) loiters in a place that can be viewed from a public place.

(3) Subsection (1) applies equally to—

- (a) males and females; and
- (b) prostitutes and their clients; and
- (c) persons acting for prostitutes; and
- (d) persons acting for clients of prostitutes.

(4) In this section—

“solicit” includes the following—

- (a) offer to provide prostitution;
- (b) accept an offer to provide prostitution.

Exception to soliciting offences—persons in licensed brothels

74. A person does not commit an offence against section 73(1) if—

- (a) the soliciting happens in a licensed brothel; and
- (b) the soliciting can not be viewed by a person outside the brothel.

Exception to soliciting offences—police officers

75.(1) A police officer does not commit an offence against section 73(1) if the soliciting is done under written instructions given in relation to a particular operation by a police officer of at least the rank of inspector.

(2) However, a person other than a police officer commits an offence against section 73(1) if the person publicly solicits the police officer.

Nuisances connected with prostitution

76.(1) This section applies to conduct—

- (a) that happens in the vicinity of a place that is reasonably suspected of being used for prostitution; and
- (b) that, to a significant extent, is caused by the presence, or suspected presence, of prostitution at the place.

(2) A person must not—

- (a) cause unreasonable annoyance to another person; or
- (b) cause unreasonable disruption to the privacy of another person.

Maximum penalty for subsection (2)—

- (a) for a first or second offence—15 penalty units; or
- (b) for a third or subsequent offence—25 penalty units.

Duress

77. A person must not do any of the following acts, either directly or indirectly, to make another person continue to provide prostitution—

- (a) cause or threaten wilful injury to the person or any one else;
- (b) cause or threaten wilful damage to property of the person or any one else;
- (c) intimidate or harass the person or any one else;
- (d) make a false representation or use any false pretence or other fraudulent means.

Maximum penalty—200 penalty units or 7 years imprisonment.

*Division 2—Offences relating to the operation of a licensed brothel***Brothel offences**

78.(1) A person who is a licensee or an approved manager of a licensed brothel must not—

- (a) provide prostitution under the licence at a place other than the brothel; or
- (b) have more than 10 staff at the brothel at any 1 time; or
- (c) at any 1 time have more prostitutes at the brothel than the total number of rooms that have been permitted to be used for providing prostitution under the development permit for the brothel; or
- (d) provide prostitution at the brothel in contravention of any condition or restriction of a licence or a certificate; or
- (e) provide prostitution at the brothel while the licensee’s licence is suspended.

Maximum penalty—200 penalty units or 5 years imprisonment.

(2) In this section—

“**staff**” means the licensee, the approved manager, a person employed at the brothel, or a prostitute.

Operating licensed brothel other than in a building

79.(1) A licensee must not operate a licensed brothel other than in a building.

Maximum penalty—200 penalty units or 5 years imprisonment.

(2) In this section—

“**building**” means a fixed structure that is wholly or partly enclosed by walls and is roofed, and includes a floating building and any part of a building.

Personal supervision of licensed brothel

80.(1) A licensed brothel must at all times when open for business be personally supervised by the licensee or an approved manager.

Maximum penalty—60 penalty units or 6 months imprisonment.

(2) For subsection (1), a licensee or approved manager who is not at the brothel at a particular time is not personally supervising the brothel at that time.

(3) If subsection (1) is contravened in relation to a brothel, the following persons each commit an offence—

- (a) the licensee;
- (b) any approved manager whose duty it was to personally supervise the business at the relevant time.

Licensee not to operate brothel in partnership or in association with unlicensed person

81.(1) A licensee must not operate a licensed brothel in partnership with, or otherwise in association with, a person who is not also licensed to operate the brothel.

Maximum penalty—200 penalty units or 5 years imprisonment.

(2) For subsection (1), a person operates a brothel in association with another person if the person directly receives income from the brothel.

Person not to have interest in more than 1 licensed brothel

82. Subject to section 44(2),¹⁰ a person must not have, at any 1 time, an interest in more than 1 licensed brothel.

Maximum penalty—200 penalty units or 5 years imprisonment.

¹⁰ Section 44 (The certificate)

Possessing liquor in licensed brothel

83.(1) A person must not possess liquor at a licensed brothel.

Maximum penalty—40 penalty units.

(2) If liquor is found at a brothel, the licensee and any approved manager whose duty it was to personally supervise the brothel at the relevant time each commit an offence.

Maximum penalty—40 penalty units.

(3) This section applies despite anything to the contrary in the *Liquor Act 1992* or in any licence or permit granted or having effect under that Act.

Complying with police requirement

84.(1) This section applies if a police officer enters a licensed brothel under section 59.¹¹

(2) A person must comply with a requirement made under section 60(1)(c) or (d),¹² unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Person to state age

85.(1) This section applies if a police officer reasonably believes that a person in a licensed brothel may be a minor.

(2) The police officer may require the person to give particulars of the person's age.

(3) If the police officer considers, on reasonable grounds, that any particulars given by the person may be false, the police officer may require the person to give satisfactory evidence of the correctness of the particulars.

(4) If the police officer makes a requirement under subsection (2) or (3), the police officer must warn the person that it is an offence—

¹¹ Section 59 (Police power to enter licensed brothel)

¹² Section 60 (Powers after entry)

(a) to fail, without reasonable excuse, to comply with the requirement; or

(b) to give false particulars or evidence.

(5) The person must not, without reasonable excuse—

(a) fail to comply with a requirement made under subsection (2) or (3); or

(b) give false particulars of the person's age; or

(c) give false evidence about the person's age.

Maximum penalty for subsection (5)—20 penalty units.

Licensee and approved manager to state name and address

86.(1) A police officer or the Authority may require a licensee or an approved manager at a licensed brothel to give particulars of the licensee's or manager's name and address.

(2) If a police officer or the Authority makes a requirement under subsection (1), the police officer or the Authority must warn the licensee or approved manager that it is an offence—

(a) to fail, without reasonable excuse, to comply with the requirement; or

(b) to give false particulars.

(3) The licensee or approved manager must not—

(a) without reasonable excuse, fail to comply with the requirement; or

(b) give false particulars of the licensee's or manager's name; or

(c) give false particulars of the address of the licensee's or manager's ordinary place of residence or business.

Maximum penalty for subsection (3)—20 penalty units.

Display of licence

87.(1) A licensee must keep the licensee's licence for a brothel displayed in a conspicuous place inside the front entrance to the brothel.

Maximum penalty—100 penalty units.

(2) A licensee must not display at the brothel a document falsely purporting to be a licence.

Maximum penalty—100 penalty units.

Production of licence or certificate

88. A licensee or approved manager must not, without reasonable excuse, fail to produce his or her licence or certificate to a police officer or the Authority if the police officer or Authority asks the licensee or approved manager to do so.

Maximum penalty—10 penalty units.

Division 3—Offences relating to prostitutes working in licensed brothels

Permitting prostitute infective with a disease to work in a licensed brothel

89.(1) A person who is a licensee or an approved manager of a licensed brothel must not permit a person to work as a prostitute at the brothel during any period in which the person knows the prostitute is infective with a sexually transmissible disease.

Maximum penalty—120 penalty units.

(2) For subsection (1), it does not matter whether the prostitute works under a contract of service or a contract for service.

(3) For subsection (1), the licensee or manager is taken to have known that the prostitute was infective with a sexually transmissible disease, unless the licensee or manager proves that, at the time the offence is alleged to have been committed, the licensee or manager believed on reasonable grounds that the prostitute—

- (a) had been medically examined or tested at intervals prescribed under a regulation to ascertain whether the prostitute was infective with a sexually transmissible disease; and
- (b) was not infective with a sexually transmissible disease.

(4) A person who is a licensee or an approved manager of a licensed brothel must take reasonable steps to prevent the fact that a prostitute has been medically examined or tested, or the results of the examination or test, from being used to induce a client of the prostitute to believe that the prostitute is not infective with a sexually transmissible disease.

Maximum penalty—40 penalty units.

(5) For subsection (4), it does not matter whether the prostitute is or is not infective with a sexually transmissible disease.

Prostitute working while infective with a disease

90.(1) A person must not work as a prostitute at a licensed brothel during any period in which the person knows he or she is infective with a sexually transmissible disease.

Maximum penalty—100 penalty units.

(2) For subsection (1), it does not matter whether the prostitute works under a contract of service or a contract for service.

(3) For subsection (1), the prostitute is taken to have known that he or she was infective with a sexually transmissible disease, unless the prostitute proves that, at the time the offence is alleged to have been committed, he or she—

- (a) had been medically examined or tested at intervals prescribed under a regulation to ascertain whether he or she was infective with a sexually transmissible disease; and
- (b) believed on reasonable grounds that he or she was not infective with a sexually transmissible disease.

(4) A prostitute must not, for the purpose of prostitution, use the fact that the prostitute has been medically examined or tested, or the results of the examination or test, to induce a client of the prostitute to believe that the prostitute is not infective with a sexually transmissible disease.

Maximum penalty—40 penalty units.

(5) For subsection (4), it does not matter whether the prostitute is or is not infective with a sexually transmissible disease.

Prostitute providing sexual intercourse or oral sex without a prophylactic

91.(1) A prostitute must not, at a licensed brothel, provide prostitution involving sexual intercourse or oral sex unless a prophylactic is used.

Maximum penalty—100 penalty units.

(2) A person must not, at a licensed brothel, obtain prostitution involving sexual intercourse or oral sex unless a prophylactic is used.

Maximum penalty—100 penalty units.

(3) A person obtaining prostitution involving sexual intercourse or oral sex at a licensed brothel must not—

- (a) interfere with the efficacy of a prophylactic used by the person; or
- (b) use, or continue to use, a prophylactic that the person knows, or could reasonably be expected to know, is damaged.

Maximum penalty—100 penalty units.

(4) A person who is a licensee or an approved manager of a licensed brothel must take reasonable steps to ensure that a person does not provide or obtain prostitution involving sexual intercourse or oral sex at the brothel unless a prophylactic is used.

Maximum penalty—120 penalty units.

(5) A person who is a licensee or an approved manager of a licensed brothel must not discourage the use of prophylactics at the brothel.

Maximum penalty—120 penalty units.

(6) In this section—

“interfere with” includes the following—

- (a) misuse;
- (b) damage.

“oral sex” has the meaning given by the Criminal Code, section 229E(5).¹³

“prophylactic” means a condom or other device that is adequate to prevent the transmission of a sexually transmissible disease.

¹³ Criminal Code, section 229E (Meaning of “prostitution”)

“**sexual intercourse**” has the meaning given by the Criminal Code, section 229D.¹⁴

Division 4—Advertising offences

Definitions for div 4

92. In this division—

“**advertisement**” includes the following—

- (a) notice;
- (b) sign;
- (c) circular;
- (d) matter that is not in writing, but which conveys a message because of the form or context in which it appears.

“**publish**” an advertisement or statement means publish, or cause to be published, in any way including by newspaper, periodical, notice, sign or circular or through radio or television or by film or video recording.

Advertising prostitution

93.(1) A person must not publish an advertisement for prostitution that describes the services offered.

Maximum penalty—40 penalty units.

(2) A person must not publish an advertisement for prostitution that is not in the approved form.

Maximum penalty—40 penalty units.

(3) A person must not publish any advertisement for prostitution through radio or television or by film or video recording.

Maximum penalty—40 penalty units.

(4) In subsection (2)—

¹⁴ Criminal Code, section 229D (Meaning of “sexual act”)

“approved form” means—

- (a) if the Authority has, for a particular advertisement, consented to a form—that form; or
- (b) otherwise—the approved form under section 139(2).¹⁵

Statements inducing persons to become prostitutes

94. A person must not publish a statement intended or likely to induce a person to seek employment as a prostitute.

Maximum penalty—100 penalty units.

Advertising prostitution as massage services

95.(1) A person providing prostitution must not hold out or publish an advertisement that states, directly or indirectly, that the person’s business provides or is connected with massage services.

Maximum penalty—40 penalty units.

(2) In this section—

“business” of a person means the business of a licensed brothel or of an individual prostitute.

Evidentiary provision

96. Evidence that an advertisement or statement has been published in relation to a licensed brothel is evidence that the brothel’s licensee published the advertisement or statement.

Division 5—Other offences

False or misleading statements

97. A person must not, in connection with this Act, state anything to the Authority that the person knows is false or misleading in a material

¹⁵ Section 139 (Approval of forms)

particular.

Maximum penalty—100 penalty units.

False or misleading documents

98.(1) A person must not, in connection with this Act, give to the Authority a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the Authority, to the best of the person's ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

Offences by bodies corporate

99.(1) This section applies if a body corporate commits an offence against a provision of this Act.

(2) Each executive officer of the body corporate also commits the offence.

Maximum penalty—the maximum penalty for the contravention of the provision by an individual.

(3) Evidence that a body corporate has been convicted of an offence against a provision of this Act is evidence that each executive officer of the body corporate committed the offence.

(4) However, it is a defence for an executive officer to prove—

- (a) that the offence was committed without the officer's knowledge; and
- (b) the officer used all due diligence to prevent the offence being committed.

PART 7—ADMINISTRATION

Division 1—Prostitution Licensing Authority

Establishment of Authority

100. The Prostitution Licensing Authority is established.

Functions of Authority

101. The Authority has the following functions—

- (a) to decide licence applications;
- (b) to decide approved manager applications;
- (c) to monitor the provision of prostitution through licensed brothels;
- (d) to conduct disciplinary inquiries in relation to licensees and approved managers;
- (e) to discipline licensees and approved managers;
- (f) to receive complaints about prostitution;
- (g) to liaise with the police service with a view to helping the service in carrying out its functions in relation to prostitution;
- (h) to collect fees under this Act;
- (i) to inform relevant government departments and agencies about possible offences that are detected while carrying out its functions;
- (j) to inform the Council about issues and trends relevant to its functions.

Membership

102.(1) The Authority consists of the following 6 members—

- (a) the chairperson who is to be an independent, respected member of the community nominated by the Premier;

- (b) the commissioner, or a police officer of at least the rank of superintendent nominated by the commissioner;
- (c) the crime commissioner, an assistant crime commissioner or general counsel nominated by the crime commissioner;
- (d) a doctor who has at least 5 years' experience in community health;
- (e) a lawyer who has been admitted for at least 5 years and has knowledge of or experience in administrative law, company law or criminal law;
- (f) a senior representative of the Local Government Association of Queensland.

(2) Members of the Authority are to be appointed by the Governor in Council.

(3) Members of the Authority are to be appointed under this Act and not under the *Public Service Act 1996*.

Term of appointment

103. A member of the Authority holds office for the term, not longer than 5 years, and on the conditions stated in the member's instrument of appointment.

Remuneration

104. Members of the Authority are to be paid the fees and allowances decided by the Governor in Council.

Disqualifications for appointment

105. A person is not qualified to be or continue as a member of the Authority if the person—

- (a) is an insolvent under administration; or
- (b) is convicted of—
 - (i) an offence against this Act or a corresponding law; or

- (ii) an indictable offence; or
- (c) becomes incapable of discharging the duties of a member because of physical or mental incapacity; or
- (d) has an interest in a brothel.

Vacation of office

106.(1) The office of a member of the Authority becomes vacant if the member—

- (a) dies; or
- (b) resigns office by signed notice given to the Minister; or
- (c) is absent without the Authority’s permission from 3 consecutive meetings of the Authority of which proper notice has been given; or
- (d) is no longer qualified to be a member.

(2) In this section—

“**meeting**” means the following—

- (a) if the member does not attend—a meeting with a quorum present;
- (b) if the member attends—a meeting with or without a quorum present.

Meetings

107.(1) Meetings of the Authority are to be held at the times and places the chairperson decides.

(2) The quorum at a meeting of the Authority is half the number of members plus 1.

(3) Subject to this Act, the Authority may conduct its business, including its meetings, in the way it considers appropriate.

Member's interest in a matter to be considered by Authority

108.(1) This section applies if a member of the Authority has a direct or indirect interest in a matter being considered, or about to be considered, by the Authority.

(2) The member must disclose the nature of the interest to a meeting of the Authority as soon as practicable after the relevant facts come to the member's knowledge.

Maximum penalty—100 penalty units.

(3) The disclosure must be recorded in the minutes of the meeting of the Authority.

(4) If the interest is a material personal interest, the member must not—

- (a) vote on the matter; or
- (b) vote on a proposed resolution (a **“related resolution”**) under subsection (5)(a) about the matter (whether in relation to the member or another member); or
- (c) be present while the matter, or a related resolution, is being considered by the Authority; or
- (d) otherwise take part in any decision of the Authority in relation to the matter or a related resolution.

Maximum penalty—100 penalty units.

(5) Subject to subsection (4)(b), subsection (4) does not apply to the matter if—

- (a) the Authority has at any time passed a resolution that states—
 - (i) the member, interest and matter; and
 - (ii) that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter; or
- (b) if a quorum of the Authority can not be formed because of subsection (4)—the Minister has given a written direction to that effect for the matter.

(6) In this section—

“material personal interest” means a direct or indirect interest relating to the personal affairs of the member that may have, or be seen to have, a significant influence on the conduct of the member at the meeting.

Annual report

109. The Authority must, as soon as practicable after the end of each year, but within 4 months after the end of the year, prepare and give to the Minister a report on its operations during the year.

Registrar

110.(1) A registrar of the Authority, and any other staff necessary to enable the Authority to exercise its functions, may be employed under the *Public Service Act 1996*.

(2) The registrar is subject to the Authority’s directions.

Licence and certificate register

111.(1) The registrar must enter in a register kept for the purpose full particulars of the following—

- (a) the name of each holder of a licence or certificate;
- (b) the granting, renewal, surrender, suspension or cancellation of a licence;
- (c) the address of the premises at which the holder of a licence may operate the brothel under the licence;
- (d) the granting, renewal, surrender, suspension or cancellation of a certificate;
- (e) the addresses of the licensed brothels for which the holder of a certificate is authorised to be an approved manager;
- (f) all entries into licensed brothels by police officers.

(2) The register may be inspected, and a copy of an entry in it obtained, at the registrar’s office during office hours—

- (a) free of charge, by the police service, an agency of government prescribed under a regulation or an authorised officer of a relevant local government; or
- (b) on payment of the fee prescribed under a regulation, by any other person.

(3) The registrar may, if the registrar decides that a correction is necessary, correct an error or omission in the register by inserting, amending or omitting an entry.

(4) The registrar—

- (a) must make a correction on the direction of the Authority; or
- (b) may make a correction on the registrar's own initiative, or on the application of any person.

(5) If the registrar makes a correction, the registrar must record in the register the date on which it was made.

(6) The register may be kept in any way the registrar considers appropriate, subject to the Authority's directions.

Division 2—Prostitution Advisory Council

Definition for div 2

112. In this division—

“ministerial committee” means a committee of the Ministers administering the following Acts—

- this Act
- *Family Services Act 1987*
- *Health Act 1932*
- *Liquor Act 1992*.

Establishment of Council

113.(1) The Prostitution Advisory Council is established.

(2) The Council is to report to the ministerial committee.

Functions of Council

114.(1) The Council has the following functions—

- (a) to advise the ministerial committee on issues related to the regulation of prostitution in Queensland;
- (b) to monitor generally the operation of this Act;
- (c) to liaise with the Authority, the police service and other agencies prescribed under a regulation with a view to helping them in carrying out their functions in relation to prostitution;
- (d) to refer matters it considers appropriate for investigation to an agency of government or any other entity for investigation;
- (e) to promote and coordinate programs that—
 - (i) promote sexual health care; or
 - (ii) help prostitutes to leave prostitution; or
 - (iii) divert minors and other vulnerable persons from prostitution, especially opportunistic prostitution; or
 - (iv) raise awareness in prostitutes, judicial officers, police, community workers and the community about issues relating to prostitution;
- (f) to promote the dissemination of information about—
 - (i) the dangers inherent in prostitution; and
 - (ii) security measures to improve the personal safety of prostitutes;
- (g) to coordinate the development of codes of practice for licensed brothels, if appropriate.

(2) In carrying out the functions mentioned in subsection (1)(b), (c), (e) and (f), the Council is subject to the directions of the ministerial committee.

Membership

115. The Council consists of the number of members appointed by the Governor in Council on the recommendation of the ministerial committee, 1 of whom is to be appointed as chairperson.

(2) The members of the Council must include—

- (a) a person who represents prostitutes in Queensland; and
- (b) a person who has experience as a sexual health care doctor or social worker with prostitutes; and
- (c) a person who has knowledge of relevant issues for marginalised or disadvantaged young people; and
- (d) a person who is representative of religious or community interests.

(3) In recommending persons for appointment, the ministerial committee must have regard to the desirability of ensuring the Council consists of both women and men.

(4) Members of the Council are to be appointed under this Act and not under the *Public Service Act 1996*.

Term of appointment

116. A member of the Council holds office for the term, not longer than 5 years, and on the conditions stated in the member's instrument of appointment.

Disqualifications for appointment

117.(1) A person is not qualified to be a member of the Council if the person—

- (a) is an insolvent under administration; or
- (b) is convicted of an offence against this Act or a corresponding law.

(2) A person is not qualified to continue as a member of the Council if the person—

- (a) is an insolvent under administration; or

- (b) is convicted of—
 - (i) an offence against this Act or a corresponding law; or
 - (ii) an indictable offence; or
- (c) becomes incapable of discharging the duties of a member because of physical or mental incapacity.

Vacation of office

118.(1) The office of a member of the Council becomes vacant if the member—

- (a) dies; or
- (b) resigns office by signed notice given to the ministerial committee; or
- (c) is absent without the Council’s permission from 3 consecutive meetings of the Council of which proper notice has been given; or
- (d) is no longer qualified to be a member.

(2) In this section—

“**meeting**” means the following—

- (a) if the member does not attend—a meeting with a quorum present;
- (b) if the member attends—a meeting with or without a quorum present.

Remuneration

119. Members of the Council are to be paid the fees and allowances decided by the Governor in Council.

Meetings

120.(1) Meetings of the Council are to be held at the times and places the chairperson decides.

(2) The quorum at a meeting of the Council is half the number of members plus 1.

(3) Subject to this Act, the Council may conduct its business, including its meetings, in the way it considers appropriate.

Council may ask Authority for information

121. The Council may ask the Authority for information about issues and trends relevant to prostitution.

Annual report

122. The Council must, as soon as practicable after the end of each year, but within 4 months after the end of the year, prepare and give to the ministerial committee a report on its operations during the year.

Division 3—Prostitution Licensing Authority Fund

Establishment of fund

123. The Prostitution Licensing Authority Fund is established.

Payments into fund

124.(1) The fund consists of the following—

- (a) fees paid under this Act;
- (b) amounts payable under section 29(2)(e) or 55(2)(e);¹⁶
- (c) other amounts received by the Authority under this Act.

(2) If the Authority receives an amount mentioned in subsection (1), the Authority must pay the amount into the fund.

Payments out of fund

125.(1) The Authority may pay out of the fund—

¹⁶ Section 29 (Disciplinary powers of Authority) or 55 (Disciplinary powers of Authority)

- (a) refunds of fees under this Act; and
- (b) costs and expenses incurred in the administration of this Act; and
- (c) contributions to philanthropic causes.

(2) This section is subject to section 126.

Directions by Minister

126. The Minister may give the Authority written directions about—

- (a) the purposes for which the Authority may pay amounts out of the fund in exercising its functions under this Act; and
- (b) the extent to which the Authority may pay an amount for any particular purpose.

PART 8—GENERAL

Division 1—Proceedings for offences

Indictable and summary offences

127.(1) An offence against section 77, 78(1), 79(1), 81(1) or 82¹⁷ is an indictable offence.

(2) Any other offence against this Act is a summary offence.

Proceedings for indictable offences

128.(1) A proceeding for an indictable offence against this Act may be taken, at the election of the defendant—

¹⁷ Section 77 (Duress), 78 (Brothel offences), 79 (Operating licensed brothel other than in a building), 81 (Licensing not to operate brothel in partnership or in association with unlicensed person) or 82 (Person not to have interest in more than 1 licensed brothel)

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if the magistrate considers that the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).¹⁸

(4) The maximum penalty that may be summarily imposed for an indictable offence is 200 penalty units or 3 years imprisonment.

Limitation on who may summarily hear indictable offence proceedings

129.(1) A proceeding for an offence against this Act must be before a magistrate if it is a proceeding—

- (a) for the summary conviction of a person on a charge for an indictable offence; or
- (b) for an examination of witnesses for a charge for an indictable offence.

(2) If a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

¹⁸ *Justices Act 1886*, section 104 (Proceedings upon examination of witnesses in relation to an indictable offence)

Limitation on time for starting summary proceedings

130. A proceeding or an offence against this Act by way of summary proceeding under the *Justices Act 1886* must be started within—

- (a) 1 year after the offence is committed; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

Offences about false or misleading information or documents

131. For an offence against section 97 or 98,¹⁹ it is enough to allege and prove that the information or document was 'false or misleading' without specifying which.

Evidentiary provision

132.(1) This section applies to a proceeding under this Act.

(2) The appointment or power of the Minister, the commissioner, a member of the Authority or an authorised officer of a relevant local government must be presumed unless a party, by reasonable notice, requires proof of—

- (a) the person's appointment; or
- (b) the person's power to do anything under this Act.

(3) A signature purporting to be a signature of the Minister, the commissioner, a member of the Authority or an authorised officer of a relevant local government is evidence of the signature it purports to be.

(4) A statement by the prosecutor or the informant stating any of the following matters is evidence of the matter—

- (a) a person's address, telephone number or post office box number;
- (b) a person's age at the time of an offence.

(5) A certificate purporting to be signed by the registrar and stating any of the following matters is evidence of the matter—

¹⁹ Section 97 (False or misleading statements) or 98 (False or misleading documents)

- (a) that a specified document is a licence or copy of a licence, or a certificate or a copy of a certificate, granted under this Act;
- (b) that on a specified day, or during a specified period, a person was or was not a licensee or an approved manager of a specified brothel;
- (c) that a licence or certificate—
 - (i) was or was not issued for a specified term; or
 - (ii) was or was not in force on a specified day or during a specified period;
- (d) that a document is a copy of a record kept under this Act.

Division 2—Other matters

Disclosure of information

133.(1) An official must not disclose information obtained by the official in the administration of this Act.

Maximum penalty—100 penalty units.

- (2)** Subsection (1) does not apply to a disclosure of information—
- (a) with the consent of the person from whom the information was obtained; or
 - (b) in the administration of this Act; or
 - (c) to the commissioner; or
 - (d) with the approval of the Authority, to a person administering a corresponding law; or
 - (e) in a proceeding under this Act or a report of the proceeding; or
 - (f) in a proceeding before a court in which the information is relevant to the issue before the court; or
 - (g) if the information would normally be made available to any member of the public on request.
- (3)** In this section—

“official” means—

- (a) the commissioner; or
- (b) a member, or an officer or employee, of the Authority; or
- (c) a member of the Council; or
- (d) the registrar; or
- (e) an authorised officer of a relevant local government.

Protection from liability

134.(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

“official” means—

- (a) the Minister; or
- (b) the commissioner; or
- (c) a member of the Authority; or
- (d) a member of the Council; or
- (e) the registrar; or
- (f) any other person performing a function under this Act.

Noncompellability of health service providers

135.(1) A health service provider is entitled to refuse to give any document or information, or answer any question, in relation to an investigation of, or prosecution for, an offence against this Act on the ground that it would disclose information gained in providing a health service.

(2) In this section—

“health service” means—

- (a) a service genuinely provided to a person for the benefit of human health; or
- (b) a service specified in the *Health Rights Commission Act 1991*, schedule 1, part 1.²⁰

“health service provider” means—

- (a) a registered provider under the *Health Rights Commission Act 1991*; or
- (b) another person who provides a health service; or
- (c) an employee of a person mentioned in paragraph (a) or (b).

Destruction of identifying particulars etc.

136.(1) The commissioner must ensure that any identifying particulars obtained by the Authority or a member of the police service under this Act and referred to the commissioner, and any record, copy or photograph of them, are destroyed as soon as the commissioner has no further use for them.

(2) The commissioner is taken to have no further use for identifying particulars obtained in connection with an application for a licence or a certificate when the application is refused.

Application of Freedom of Information Act

137. The *Freedom of Information Act 1992* does not apply to a document given to or produced by the Authority for this Act.

Application of Judicial Review Act

138.(1) The *Judicial Review Act 1991*, part 4²¹ does not apply to a decision of the Authority if the Supreme Court makes an order to that effect.

(2) The Authority may apply to the court for an order mentioned in subsection (1) on any of the following grounds—

²⁰ *Health Rights Commission Act 1991*, schedule 1, part 1 (Declared health services)

²¹ *Judicial Review Act 1991*, part 4 (Reasons for decision)

- (a) the disclosure of reasons for the decision may endanger the life or well being of someone;
- (b) the disclosure of reasons may reveal the identity of an informant;
- (c) the disclosure of reasons may prejudice the investigation or prosecution of persons for an offence against this Act;
- (d) the disclosure of reasons may prejudice the proper administration of this Act.

(3) The application must be heard in private and without notice to the person seeking reasons for the decision.

(4) The court may make an order only if satisfied that—

- (a) a ground mentioned in subsection (2) exists; and
- (b) the order is justified in all the circumstances.

(5) The Authority must give the person seeking reasons for the decision a copy of the court's order.

Approval of forms

139.(1) The commissioner may approve forms for use under this Act.

(2) However, the Authority may approve a form for section 93(2).²²

Regulation-making power

140.(1) The Government in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may be made about any of the following matters—

- (a) fees;
- (b) records to be kept by licensees;
- (c) documents, including financial statements, to be given to the Authority by licensees and when they are required to be given;

²² Section 93 (Advertising prostitution)

- (d) the auditing of financial statements;
- (e) advertising in relation to licensed brothels;
- (f) a code for IDAS for development applications mentioned in part 4;
- (g) a code of practice for licensed brothels.

(3) A regulation may also create offences and impose penalties of not more than 40 penalty units for an offence against a regulation.

Review of Act

141.(1) The Criminal Justice Commission must, as soon as practicable after the end of 3 years after the commencement of this section, review the effectiveness of this Act and give a report on the review under the *Criminal Justice Act 1989*, section 26.²³

(2) The conduct of the review and the preparation of the report is taken to be a function of the commission for the *Criminal Justice Act 1989*.

(3) In the course of preparing the report, the commission must consult with the Minister, the Authority and the Council.

(4) The report is taken to be a report of the commission for the *Criminal Justice Act 1989*, section 26.

PART 9—AMENDMENT OF LIQUOR ACT 1992

Act amended in pt 9

142. This part amends the *Liquor Act 1992*.

²³ *Criminal Justice Act 1989*, section 26 (Commission's reports)

Amendment of title

143. Title, after ‘**liquor**’—

insert—

‘**and the provision of adult entertainment**’.

Amendment of s 3 (Objects of Act)

144.(1) Section 3(e)—

renumber as paragraph (f).

(2) Section 3—

insert—

‘(e) to regulate the provision of adult entertainment; and’.

Amendment of s 4 (Definitions)

145. Section 4—

insert—

‘**“adult entertainment”** has the meaning given by section 103E(2).

“adult entertainment permit” means a permit granted under this Act authorising a person to provide adult entertainment.

“approved area” has the meaning given by section 103G(1).

“assistant commissioner”, for a locality, means the assistant commissioner in charge of the police service for the locality.

“associate” has the meaning given by section 4C.

“brothel licence” has the meaning given by the *Prostitution Act 1999*, schedule 4.

“code” means the adult entertainment code made and approved under section 103E.

“commissioner” means the Commissioner of the Police Service.

“controller” means a person authorised by the chief executive under section 109AA to supervise the provision of adult entertainment.

“**executive officer**”, of a body corporate, in sections 4C and 107B, means a person who is concerned with, or takes part in, the body corporate’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“**family**” of an individual, has the meaning given by the *Prostitution Act 1999*, schedule 4.

“**interest in a brothel**” has the meaning given by the *Prostitution Act 1999*, section 6.

“**licensed brothel**” has the meaning given by the *Prostitution Act 1999*, schedule 4.

“**prostitution**” has the meaning given by the Criminal Code, section 229E.’.

Insertion of new s 4C

146. After section 4B—

insert—

‘Meaning of “associate”

‘4C.(1) For an adult entertainment permit, a person is an “**associate**” of an individual if the person—

- (a) is a member of the individual’s family; or
- (b) has entered into a business arrangement or relationship with the individual for the provision of adult entertainment; or
- (c) is the owner or lessor, either alone or jointly, of premises used or proposed to be used for the provision of adult entertainment under an adult entertainment permit.

‘(2) A person is an “**associate**” of a body corporate if the person is an executive officer of the body corporate.’.

Amendment of s 97 (Available permits)

147. Section 97—

insert—

‘(d) an adult entertainment permit.’

Insertion of new pt 4, div 13A

148. After section 103D—

insert—

‘Division 13A—Adult entertainment permit

‘Adult entertainment code

‘**103E.(1)** There is to be an adult entertainment code (the “code”).

‘**(2)** The code prescribes the live entertainment that may be performed for an audience, by a person performing an act of an explicit sexual nature (“**adult entertainment**”), on licensed premises or premises to which a general purpose permit or restricted club permit relates under an adult entertainment permit.

‘**(3)** Adult entertainment does not include the performance of the following acts—

- (a) sexual intercourse;
- (b) masturbation;
- (c) oral sex.

‘**(4)** The chief executive and the commissioner are to make the code.

‘**(5)** The code is not effective until it is approved by the Governor in Council under a regulation.

‘**(6)** The chief executive must ensure that a copy of the code approved under subsection (5) is made available for inspection without charge, or for purchase during normal business hours at the office of the department in which this Act is administered.

‘(7) In this section—

“oral sex” has the meaning given by the Criminal Code, section 229E(5).²⁴

‘Only licensees and permittees eligible for grant of adult entertainment permit

‘103F.(1) A person is eligible to apply for, or to be granted, an adult entertainment permit only if the person is a licensee or the holder of a general purpose permit or restricted club permit.

‘(2) Subsection (1) does not limit another requirement about who may apply for, or the grant of, an adult entertainment permit under part 5.

‘Authority of adult entertainment permit

‘103G.(1) An adult entertainment permit authorises the permittee to provide adult entertainment only—

- (a) in an area of the permittee’s premises approved by the chief executive (the “**approved area**”); and
- (b) at the following times—
 - (i) if the premises are licensed premises—during ordinary or extended trading hours unless other hours are specified in the licence;
 - (ii) if the premises are premises to which a general purpose permit or restricted club permit applies—the hours stated in the general purpose or restricted club permit.

‘(2) Adult entertainment must not be provided in more than 1 approved area of the permittee’s premises at any time.

‘(3) The adult entertainment permit is subject to this Act and the conditions prescribed under a regulation or imposed by the chief executive.

²⁴ Criminal Code, section 229E (Meaning of “prostitution”)

‘Approved area to conform with requirements

‘103H. Before the chief executive approves an area as an approved area, the chief executive must be satisfied the area conforms, or will conform, with this Act and the following requirements while adult entertainment is being provided in the area—

- (a) the area must be fully enclosed in a way that prevents a person outside the area from seeing inside the area;
- (b) the area must not contain, for the private use of persons attending the entertainment, a lounge, booth, compartment or cubicle (other than a toilet cubicle);
- (c) another requirement prescribed under a regulation.

‘Duration of adult entertainment permit

‘103I. An adult entertainment permit—

- (a) is issued for the term stated in it, not longer than 1 year, unless it is sooner surrendered, suspended or cancelled under this Act; and
- (b) is not renewable; and
- (c) is not transferable.

‘Adult entertainment permit dependent on currency of licence or general purpose permit or restricted club permit

‘103J.(1) This section applies if an adult entertainment permit is issued for licensed premises or for premises to which a general purpose permit or restricted club permit relates and—

- (a) the licence or general purpose permit or restricted club permit ends or is suspended or cancelled; or
- (b) the licensee or permittee surrenders the licence or general purpose permit or restricted club permit.

‘(2) If the licence or general purpose permit or restricted club permit ends, the adult entertainment permit also ends at the same time.

‘(3) If the licence or general purpose permit or restricted club permit is suspended, the adult entertainment permit is also suspended at the same time.

‘(4) If the licence or general purpose permit or restricted club permit is surrendered or cancelled, the adult entertainment permit is also surrendered or cancelled at the same time.’.

Amendment of s 104 (Additional time for consumption or removal of liquor)

149. Section 104—

insert—

‘(2) Despite subsection (1), the period authorised under a licence or permit for the sale of, consumption of, or removal from, liquor on a part of premises that is an approved area where adult entertainment is being provided ends when the adult entertainment ends.’.

Amendment of s 106 (Who may apply for licence or permit)

150.(1) Section 106, ‘a general purpose’—

omit.

(2) Section 106—

insert—

‘(2) Also, an adult may apply for a licence or permit for or on behalf of an unincorporated association.

‘(3) A person who holds a brothel licence, or has an interest in a brothel, may not apply for or hold a licence or permit.’.

Amendment of s 107 (Restrictions on grant of licence or permit)

151.(1) Section 107(5)(a), ‘Commissioner of the Police Service’—

omit, insert—

‘commissioner’.

(2) Section 107—

insert—

‘(7) In this section—

“**permit**” does not include an adult entertainment permit.’.

Insertion of new ss 107A to 107C

152. After section 107—

insert—

‘Restriction on grant of adult entertainment permit

‘107A.(1) The chief executive may grant an application for an adult entertainment permit only if the chief executive is satisfied that—

- (a) the applicant is a suitable person to provide adult entertainment in licensed premises (the **“relevant premises”**) or premises to which a general purpose permit or restricted club permit relates (also the **“relevant premises”**); and
- (b) after considering that, if the application were granted, the combined total of licensed brothels and premises permitted to provide adult entertainment in the locality in which the relevant premises are situated would not substantially affect the character of the locality; and

Example of character of locality being substantially affected—

Locality becoming a ‘red light district’.

- (c) the proposed approved area for the entertainment conforms with the requirements of section 103H; and
- (d) the applicant has submitted a proposed management plan in the approved form that provides for any matters prescribed under a regulation.

‘(2) Without limiting subsection (1), the chief executive must have regard to any comments of the relevant local government or assistant commissioner received under section 117(2)(a).

‘Suitability of applicant for adult entertainment permit

‘107B.(1) In deciding whether an applicant for an adult entertainment permit is a suitable person to provide adult entertainment, the chief executive must consider all relevant matters including the following—

- (a) the applicant’s reputation, having regard to character, honesty and integrity;
- (b) whether the applicant has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
- (c) whether the applicant is an associate of a person who has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
- (d) whether the applicant is an associate of a body corporate, an executive officer of which has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
- (e) whether the applicant has been charged with any offence of a sexual nature that involves violence, intimidation, threats or children, including the circumstances surrounding the laying of the charge and whether proceedings in relation to the charge are continuing or have been discontinued;
- (f) whether the applicant’s business structure is sufficiently transparent to enable all associates of the applicant, whether individuals or bodies corporate, to be readily identified;
- (g) whether the applicant has the ability to control the noise and behaviour of the number of persons that could reasonably be expected to be on and in the vicinity of the premises if the permit were granted;
- (h) any other matters prescribed under a regulation.

‘(2) For subsection (1)(e), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.

‘(3) If the applicant has nominated a nominee for the applicant’s licence or general purpose permit or restricted club permit, the chief executive must comply with subsection (1) by also applying the subsection to the nominee as if the nominee were the applicant.

‘Application to be referred to commissioner

‘107C.(1) The chief executive must give to the commissioner any particulars the chief executive considers relevant for each application for an adult entertainment permit.

‘(2) On receiving particulars of the application, the commissioner—

- (a) must make inquiries about the applicant’s criminal history; and
- (b) must make any other inquiries about the application, including inquiries to the Prostitution Licensing Authority, the commissioner considers appropriate.

‘(3) The commissioner must report to the chief executive after receiving the results of the inquiries.

‘(4) The commissioner’s report may include recommendations.

‘(5) The commissioner’s report must include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.²⁵.

Replacement of s 108 (More than 1 licence may be held)

153. Section 108—

omit, insert—

‘More than 1 licence or adult entertainment permit may be held

‘108.(1) A person may apply for, and hold, more than 1 licence, whether of the same kind or of different kinds, or adult entertainment permit if for each licence for which a nominee is nominated the nominee is other than the holder of the licence and any other nominee.

²⁵ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)

‘(2) In this section—
“**licence**” includes a permit, other than an adult entertainment permit.’.

Amendment of s 109 (Nominees)

154.(1) Section 109(1)(c)—

omit.

(2) Section 109(6)(a)—

omit, insert—

‘(a) is responsible for ensuring that—

- (i) liquor is supplied or possessed on the premises only in accordance with the authority conferred by the licence or permit; and
- (ii) for an adult entertainment permit, the conduct of entertainment under the permit is in accordance with this Act and the conditions of the permit; and’.

Insertion of new s 109AA

155. After section 109—

insert—

‘Controllers

‘109AA.(1) A licensee or permittee who holds an adult entertainment permit may nominate an adult to be a controller to supervise the provision of the adult entertainment under the permit to ensure that it is provided in accordance with this Act and the conditions of the permit.

‘(2) The nomination of a person by a licensee or permittee as a controller has no effect until it is authorised by signed written notice from the chief executive to the licensee or permittee.

‘(3) If the licensee or permittee nominates a person to be a controller, the licensee or permittee must, within 14 days after nominating the person, give to the chief executive the following particulars about the person—

- (a) the person’s full name and residential address;

- (b) the date and place of the person's birth;
- (c) any other particulars prescribed under a regulation.

Maximum penalty—25 penalty units.

‘(4) Before authorising the nomination, the chief executive must give to the commissioner any particulars about the person the chief executive considers relevant to the nomination.

‘(5) On receiving the particulars, the commissioner must make the inquiries the commissioner considers appropriate including—

- (a) inquiries about the person's criminal history; and
- (b) inquiries to the Prostitution Licensing Authority.

‘(6) The commissioner must report to the chief executive after receiving the results of the inquiries.

‘(7) The commissioner's report may include recommendations.

‘(8) The commissioner's report must include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.²⁶

‘(9) Without limiting subsection (2), the chief executive must refuse to authorise the nomination if the chief executive is satisfied the nominated person is not a suitable person to be a controller.

‘(10) In deciding whether the nominated person is a suitable person to be a controller, the chief executive must consider all relevant matters including the following—

- (a) whether the nominated person has an interest in a licensed brothel;
- (b) whether the nominated person has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;

²⁶ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)

- (c) whether the nominated person has been charged with any offence of a sexual nature that involves violence, intimidation, threats or children, including the circumstances surrounding the laying of the charge and whether proceedings in relation to the charge are continuing or have been discontinued.

‘(11) For subsection (10)(c), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.’

Amendment of s 110 (Application for grant of extended hours permit not on regular basis)

156. Section 110(2), ‘Assistant Commissioner in charge of the Police Service in’—

omit, insert—

‘assistant commissioner for’.

Amendment of s 117 (Advice about application etc.)

157.(1) Section 117(1), after ‘club licence’—

insert—

‘or an adult entertainment permit’.

(2) Section 117(1)(b), ‘—the Assistant Commissioner in charge of the Police Service’—

omit, insert—

‘or an adult entertainment permit—the assistant commissioner’.

Amendment of s 121 (Conference of concerned persons and decision by chief executive)

158. Section 121(5)(f), ‘Assistant Commissioner in charge of the Police Service in’—

‘assistant commissioner for’.

Amendment of s 121A (Renewal of permits for extension of hours beyond 3 a.m.)

159. Section 121A(1)(b), ‘Assistant Commissioner in charge of the Police Service’—

omit, insert—

‘assistant commissioner’.

Amendment of s 134 (Cancellation, suspension or variation of permits)

160.(1) Section 134, ‘general purpose, restricted club or extended hours’—

omit.

(2) Section 134—

insert—

(3) Subsection (4) applies if an adult entertainment permit has been issued for licensed premises or premises to which a general purpose permit or restricted club permit relate and the chief executive—

- (a) is advised that a nominee ceases to be a nominee for the licence or general purpose permit or restricted club permit; or
- (b) is advised that the licensee has ceased to conduct the business authorised by the licensee’s licence on the premises; or
- (c) receives an application to transfer the licence because of the sale of the business authorised by the licensee’s licence on the premises; or
- (d) receives an application to conduct the business of a licensee on licensed premises under section 129; or
- (e) receives a notice from a body corporate under section 150 about a change in the controlling interest in the body corporate.

(4) The chief executive must, by written notice, cancel the adult entertainment permit.

(5) If subsection (3)(a) applies, the notice must be given to the licensee or permittee and takes effect 28 days after the date of the notice.

‘(6) If subsection (3)(b) applies, the notice must be given to the person controlling, or apparently controlling, the premises and takes effect on giving the notice.

‘(7) If subsection (3)(c) applies—

- (a) if the licensee has ceased to conduct the business—the notice must be given to the person controlling, or apparently controlling, the premises and takes effect from the date of the notice; or
- (b) if the licensee continues to conduct the business until the date of settlement of the sale—the notice must be given to the licensee and takes effect from the date of settlement.

‘(8) If subsection (3)(d) applies, the notice must be given to the person controlling, or apparently controlling, the premises and takes effect 28 days after the date of the notice.

‘(9) If subsection (3)(e) applies, the notice must be given to the licensee and takes effect 28 days after the date of the notice.’.

Amendment of s 135 (Summary cancellation, suspension or variation)

161. Section 135—

insert—

‘(2) Subsection (1) applies subject to section 134(3) to (9).’.

Replacement of pt 6, div 1, hdg

162. Part 6, division 1, heading—

omit, insert—

‘Division 1—Provisions binding licensees, permittees, employees and agents’.

Insertion of new s 143A

163. After section 143—

insert—

‘Particulars to be displayed for approved area for adult entertainment

‘143A.(1) A permittee who holds an adult entertainment permit must, at all times when adult entertainment is being provided in the approved area for the entertainment, display a sign stating—

- (a) that adult entertainment is being provided in the area; and
- (b) that minors must not enter the area; and
- (c) anything else prescribed under a regulation.

Maximum penalty—25 penalty units.

‘(2) The permittee must ensure that—

- (a) the sign is conspicuously displayed at every entrance to the area; and
- (b) characters on the sign are legible and not less than 50 mm high.

Maximum penalty—25 penalty units.’.

Insertion of new ss 149A and 149B

164. After section 149—

insert—

‘Providing adult entertainment without adult entertainment permit

‘149A. A licensee or permittee must not provide adult entertainment on licensed premises or premises to which a general purpose permit or restricted club permit relates unless the licensee or permittee provides the entertainment under an adult entertainment permit.

Maximum penalty—200 penalty units.

‘Supervising adult entertainment

‘149B.(1) At all times when adult entertainment is being provided under an adult entertainment permit, the entertainment must be supervised by the licensee, permittee or nominee or a controller to ensure that it is provided in accordance with this Act and the conditions of the permit.

Maximum penalty—100 penalty units.

‘(2) If subsection (1) is contravened, the following persons each commit an offence—

- (a) the licensee or permittee;
- (b) any nominee or controller whose duty it was to supervise the entertainment at the relevant time.’.

Insertion of new s 155A

165. After section 155—

insert—

‘Minors must not be in approved area when adult entertainment being provided

‘**155AA.(1)** This section applies despite section 155, if a licensee of licensed premises or permittee of premises to which a general purpose permit or restricted club permit relates holds an adult entertainment permit.

‘(2) The licensee, permittee or the licensee’s or permittee’s nominee or controller, if any, must ensure that a minor is not in the approved area when adult entertainment is being provided.

Maximum penalty for subsection (2)—200 penalty units.’.

Insertion of new s 168A

166. Division 2, after section 168—

insert—

‘Advertising adult entertainment

‘**168A.(1)** A person must not publish an advertisement for adult entertainment that describes the sexually explicit nature of the acts performed in the entertainment.

Maximum penalty—40 penalty units.

‘(2) A person must not publish an advertisement for adult entertainment that is not in the form approved by the chief executive either generally or for a particular advertisement.

Maximum penalty—40 penalty units.

‘(3) A person must not publish any advertisement for adult entertainment through radio or television or by film or video recording.

Maximum penalty—40 penalty units.

‘(4) Evidence that an advertisement has been published in relation to adult entertainment provided at licensed premises or premises to which a general purpose or restricted club permit relates, is evidence that a person who is the licensee or permittee published the advertisement.

‘(5) In this section—

“**advertisement**” includes the following—

- (a) notice;
- (b) sign;
- (c) circular;
- (d) matter that is not in writing, but that conveys a message because of the form or context in which it appears.

“**publish**” an advertisement means publish, or cause to be published, in any way including in a newspaper, periodical, notice, sign or circular or through radio or television or by film or video recording.’.

Amendment of s 226 (Contravention of condition of licences etc.)

167. Section 226, penalty—

omit, insert—

‘Maximum penalty—

- (a) if the condition contravened is specified in an adult entertainment permit—40 penalty units; or
- (b) for a contravention of another condition—25 penalty units.’.

Insertion of new s 233A

168. After section 233—

insert—

‘Use of code in proceedings

‘233A.(1) This section applies in a proceeding for an offence against this Act or another Act.

‘(2) A document purporting to be the code is admissible as evidence of the code.’.

Amendment of s 235 (Regulations)

169. Section 235(2)—

insert—

‘(j) advertising in relation to adult entertainment;’.

PART 10—AMENDMENTS OF THE CRIMINAL CODE**Act amended in pt 10**

170. This part amends the Criminal Code.

Amendment of s 1 (Construction of terms)

171.(1) Section 1, definition **“sexual act”**—

omit.

(2) Section 1—

insert—

“adult entertainment” has the meaning given by the *Liquor Act 1992*, section 103E.

“adult entertainment permit” means an adult entertainment permit granted under the *Liquor Act 1992* and in force.

“approved manager” means an approved manager under the *Prostitution Act 1999*.

“**brothel licence**” has the meaning given by the *Prostitution Act 1999*, schedule 4.

“**licensed brothel**” has the meaning given by the *Prostitution Act 1999*, schedule 4.

“**licensee**”, for a licensed brothel, means the person who holds the brothel licence for the brothel under the *Prostitution Act 1999*.’.

Amendment of s 218 (Procuring sexual acts by coercion etc.)

172.(1) Section 218(2)—

renumber as subsection (4).

(2) Section 218—

insert—

‘**(2)** For subsection (1), a person engages in a sexual act if the person—

- (a) allows a sexual act to be done to the person’s body; or
- (b) does a sexual act to the person’s own body or the body of another person; or
- (c) otherwise engages in an act of an indecent nature with another person.

‘**(3)** Subsection (2)—

- (a) applies equally to males and females; and
- (b) is not limited to sexual intercourse or acts involving physical contact.’.

Amendment of s 227 (Indecent acts)

173. Section 227—

insert—

‘**(3)** Subsection (1) does not apply to a person who does an indecent act under the authority of an adult entertainment permit.’.

Replacement of ss 229D-229E

174. Sections 229D and 229E—

omit, insert—

‘Meaning of “sexual intercourse” for ch 22A

‘229D.(1) For this chapter, **“sexual intercourse”** includes either or both of the following activities—

- (a) the penetration, to any extent, of the vagina, vulva or anus of a person by any part of the body of another person;
- (b) the penetration, to any extent, of the vagina, vulva or anus of a person, carried out by another person using an object.

‘(2) In this section—

“penetration” does not include penetration carried out for a proper medical, hygienic or law enforcement purpose.

‘Meaning of “prostitution”

‘229E.(1) A person engages in **“prostitution”** if the person engages, or offers to engage, in the provision to another person, under an arrangement of a commercial character, of any of the following activities—

- (a) sexual intercourse;
- (b) masturbation;
- (c) oral sex;
- (d) any activity, other than sexual intercourse, masturbation or oral sex, that involves the use of 1 person by another for his or her sexual satisfaction involving physical contact.

‘(2) However, a person does not engage in prostitution if—

- (a) the activity is an activity mentioned in subsection (1)(d); and
- (b) the person is providing adult entertainment under an adult entertainment permit and is an adult and is not an intellectually impaired person; and
- (c) the activity is authorised under the permit.

‘(3) Subsection (1) applies equally to males and females.

‘(4) It does not matter, in relation to an arrangement for the provision of an activity mentioned in subsection (1)(a), (b), (c) or (d), whether—

- (a) the arrangement is initiated with the person engaging in the provision of the activity or a third person; or
- (b) the pecuniary or other reward under the arrangement is to be received by the person engaging in the provision of the activity or a third person.

‘(5) In this section—

“oral sex” means the bringing into contact of any part of the genitalia or anus of a person with any part of the mouth of another person.’

Amendment of s 229G (Procuring prostitution)

175.(1) Section 229G(3)—

renumber as subsection (5).

(2) Section 229G—

insert—

‘(3) A licensee or approved manager of a licensed brothel, or his or her agent, does not contravene subsection (1) only because the licensee, manager or agent has employed an adult who is not an intellectually impaired person to work as a prostitute at the brothel in accordance with the brothel licence for the brothel.

‘(4) For subsection (3), it does not matter whether the prostitute is employed under a contract of service or a contract for service.’

Amendment of s 229H (Knowingly participating in provision of prostitution)

176. Section 229H—

insert—

‘(3) Subsection (1) does not apply to a person (the **“participant”**) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

- (a) the provision of the prostitution by the other person happens at a licensed brothel in accordance with the brothel licence for the brothel; and
- (b) the other person is an adult and is not an intellectually impaired person.

‘(4) Also, subsection (1) does not apply to a person (also the **“participant”**) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

- (a) the activity constituting the prostitution is an activity mentioned in section 229E(1)(d); and
- (b) the person engaging in the activity is providing adult entertainment under an adult entertainment permit and is an adult and is not an intellectually impaired person; and
- (c) the activity is authorised under the permit.

‘(5) Also, subsection (1) does not apply to a person (also the **“participant”**) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

- (a) the provision of the prostitution by the other person does not take place at a licensed brothel, and is not otherwise unlawful under this chapter; and
- (b) the participant—
 - (i) is the holder of a current crowd controller’s licence under the *Security Providers Act 1993*; and
 - (ii) participates in the provision of the prostitution no more than the extent necessary for providing services as a bodyguard; and
- (c) the other person is an adult and is not an intellectually impaired person.’.

Amendment of s 229I (Persons found in places reasonably suspected of being used for prostitution etc.)

177. Section 229I—

insert—

‘(4) Subsection (1) does not apply to a person (the “**relevant person**”) if the place is a licensed brothel, unless—

- (a) if the relevant person, without reasonable excuse, is found in the place—a person who is not an adult or who is an intellectually impaired person is, to the relevant person’s knowledge, also in the place; or
- (b) if the relevant person, without reasonable excuse, is found leaving after having been in the place—a person who is not an adult or who is an intellectually impaired person was, to the relevant person’s knowledge, also in the place when the relevant person was in the place.’

Amendment of s 229K (Having an interest in premises used for the purposes of prostitution etc.)

178. Section 229K—

insert—

‘(3A) Subsection (2) does not apply to an interested person in relation to a licensed brothel.

‘(3B) However, subsection (3A) does not apply if, to the interested person’s knowledge, a person who was not an adult or who was an intellectually impaired person was in the premises when the interested person was allowing the person to be using the premises for prostitution.’

PART 11—AMENDMENTS OF OTHER ACTS

Acts and regulations amended

179. Schedule 3 amends the Acts and regulations mentioned in it.

SCHEDULE 1**DISQUALIFYING OFFENCE PROVISIONS UNDER
THE CRIMINAL CODE**

schedule 4, definition “disqualifying offence”, paragraph (c)

1. Section 87 (Official corruption)
2. Section 121 (Official corruption not judicial but relating to offences)
3. Section 300 (Unlawful homicide)
4. Section 347 (Rape)
5. Section 351 (Abduction)
6. Section 354 (Kidnapping)
7. Section 354A (Kidnapping for ransom)
8. Section 415 (Demanding property, benefit or performance of services with threats)
9. Any offence in Chapter 22 (Offences against morality), if the offence relates to a child or intellectually impaired person.
10. Any offence in Chapter 22A (Prostitution), if the offence relates to a child or intellectually impaired person.

SCHEDULE 2**DISQUALIFYING OFFENCE PROVISIONS UNDER
THE MIGRATION ACT 1985 (CWLTH)**

schedule 4, definition “disqualifying offence”, paragraph (d)

1. Section 233 (Persons concerned in bringing non-citizens into Australia in contravention of Act or harbouring illegal entrants)
2. Section 234 (False papers etc.)
3. Section 235 (Offences in relation to work)
4. Section 236 (Offences relating to visas)
5. Section 240 (Offence to arrange marriage to obtain permanent residence)
6. Section 241 (Offence to arrange pretended de facto relationship to obtain permanent residence)
7. Section 242 (Offence to arrange interdependency relationship to obtain permanent residence)
8. Section 243 (Offences relating to an application for permanent residence because of marriage or de facto relationship)
9. Section 244 (Offences relating to application for permanent residence because of interdependency)
10. Section 245 (Offences of making false or unsupported statements)
11. Section 280 (Restrictions on giving of immigration assistance)
12. Section 281 (Restriction on charging fees for immigration assistance)
13. Section 282 (Restriction on charging fees for immigration representatives)
14. Section 283 (False representation that a person is a registered agent)

SCHEDULE 2 (continued)

- 15.** Section 284 (Restriction on self-advertising of the giving of immigration assistance)
- 16.** Section 285 (Restriction on other advertising of immigration assistance)

SCHEDULE 3**AMENDMENT OF OTHER ACTS AND
REGULATIONS**

section 179

**CRIMINAL LAW (REHABILITATION OF
OFFENDERS) ACT 1986****1. Section 9A(1), table—***insert—*

- | | |
|--|---|
| ‘11. An applicant for a licence or a licensee under the <i>Prostitution Act 1999</i> . | 11. Contraventions of any law, whether committed in Queensland or elsewhere. |
| ‘12. An applicant for an approved manager’s certificate or an approved manager under the <i>Prostitution Act 1999</i> . | 12. Contraventions of any law, whether committed in Queensland or elsewhere. |
| ‘13. An applicant for an adult entertainment permit under the <i>Liquor Act 1992</i> . | 13. Contraventions of any law, whether committed in Queensland or elsewhere. |
| ‘14. A person nominated to be a controller under the <i>Liquor Act 1992</i> . | 14. Contraventions of any law, whether committed in Queensland or elsewhere.’. |

SCHEDULE 3 (continued)

FREEDOM OF INFORMATION ACT 1992**1. Schedule 1—***insert—*‘*Prostitution Act 1999*, section 137’.**INTEGRATED PLANNING ACT 1997****1. Schedule 8, part 1—***insert—*

‘5. Making a material change of the use of premises for a licensed brothel.’.

2. Schedule 8, part 4—*insert—*‘“**licensed brothel**” see the *Prostitution Act 1999*, schedule 4.’.**INTEGRATED PLANNING REGULATION 1998****1. Schedule 1—***insert—*

‘3. Making a material change of the use of premises for a licensed brothel—

Code assessment

- (a) in an industrial area
- (b) other than in an industrial area,

SCHEDULE 3 (continued)

unless a local planning instrument
or amendment of a local planning
instrument made after the commencement of this section
requires code assessment

Impact assessment’.

JUDICIAL REVIEW ACT 1991

1. Schedule 2—

insert—

‘Certain decisions under the Prostitution Act 1999

‘5B. Decisions to which this Act does not apply under a Supreme Court order under the *Prostitution Act 1999*, section 138.²⁷’.

POLICE POWERS AND RESPONSIBILITIES ACT 1997

1. Section 83—

insert—

‘(3) This division also applies to a person if a police officer reasonably suspects the person is soliciting for prostitution in a prescribed place.’.

2. Schedule 3, definition “prescribed place”—

omit.

²⁷ *Prostitution Act 1999*, section 138 (Application of Judicial Review Act)

 SCHEDULE 3 (continued)
3. Schedule 3—*insert—***“prescribed place”—**

- (a) for part 11,²⁸ in relation to soliciting for prostitution, means any public place to which the public has access, whether on payment of a fee or otherwise, but does not include any area in a licensed brothel that can not be viewed from outside the brothel; and
- (b) for part 11, in relation to other matters, means—
 - (i) a shop; or
 - (ii) a child-care centre; or
 - (iii) a pre-school centre; or
 - (iv) a primary, secondary or special school; or
 - (v) premises licensed under the *Liquor Act 1992*; or
 - (vi) a railway station and any railway land around it; or
 - (vii) an automatic teller machine; or
 - (viii) a place declared under section 87 to be a notified area.²⁹

“licensed brothel” see the *Prostitution Act 1999*, schedule 4.**“prostitution”** see the Criminal Code, section 229E.**“solicit”** includes the following—

- (a) offer to provide prostitution;
- (b) accept an offer to provide prostitution.’.

²⁸ Part 11 (Power to give directions in notified areas and other places)
²⁹ Section 87 (Declaration of notified areas)

SCHEDULE 3 (continued)

**VAGRANTS, GAMING AND OTHER OFFENCES ACT
1931**

1. Section 2, definition “prostitution”—

omit.

2. Sections 18A to 18C—

omit.

SCHEDULE 4

DEFINITIONS

section 5

“adult entertainment permit” means an adult entertainment permit granted under the *Liquor Act 1992* and in force.

“approved form” means a form approved under section 139.

“approved manager” means a person who holds an approved manager’s certificate that is in force.

“approved manager’s certificate” means a certificate granted under this Act authorising a person to be an approved manager of a licensed brothel stated in the certificate.

“associate” see section 6.

“authorised officer of a relevant local government” means an officer of the relevant local government who is authorised in writing by the local government for this Act.

“Authority” means the Prostitution Licensing Authority established under section 100.

“brothel” means premises made available for prostitution by 2 or more prostitutes at the premises.

“brothel licence” means a licence granted under this Act authorising a person to operate a brothel at premises stated in the licence.

“certificate” means an approved manager’s certificate.

“commissioner” means the Commissioner of the Police Service.

“conviction” includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

“corresponding law” means a law of another State corresponding to this Act.

SCHEDULE 4 (continued)

“**Council**” means the Prostitution Advisory Council established under section 113.

“**crime commissioner**” see the *Crime Commission Act 1997*.

“**criminal history**” of a person means the convictions recorded against the person, whether in Queensland or another State, for offences.

“**development permit**” means a development permit granted under the *Integrated Planning Act 1997*.

“**disciplinary inquiry**”—

- (a) in relation to a licensee—see section 26; or
- (b) in relation to an approved manager—see section 52.

“**disqualifying offence**” means an offence—

- (a) against the *Crimes (Confiscation) Act 1989*, section 90;³⁰ or
- (b) against the *Drugs Misuse Act 1986*, section 5;³¹ or
- (c) against a provision of the Criminal Code mentioned in schedule 1; or
- (d) against a provision of the *Migration Act 1958* (Cwlth) mentioned in schedule 2; or
- (e) that, if committed in Queensland, would be a disqualifying offence.

“**executive officer**”, of a body corporate, means a person who is concerned with, or takes part in, the body corporate’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“**family**”, of an individual, consists of the following members—

- (a) the individual’s spouse;

³⁰ *Crimes (Confiscation) Act 1989*, section 90 (Money laundering)

³¹ *Drugs Misuse Act 1986*, section 5 (Trafficking in dangerous drugs)

SCHEDULE 4 (continued)

- (b) each of the individual's children who is 18 years or more, including a stepchild, an adopted child and a person for whom the individual was foster-parent or guardian when the person was a child;
- (c) each of the individual's parents, including a step-parent, and a person who was a foster-parent or guardian for the individual when the individual was a child;
- (d) each of the individual's siblings who is 18 years or more, including a step-sibling and a person who was a foster-sibling when the individual was a child.

“fee” means fee, charge or tax.

“fund” means the Prostitution Licensing Authority Fund established under section 123.

“IDAS” see the *Integrated Planning Act 1997*, section 3.1.1.

“identifying particulars”—

- (a) means any of the following—
 - (i) palm prints;
 - (ii) fingerprints;
 - (iii) handwriting;
 - (iv) voiceprints;
 - (v) footprints; and
- (b) includes photographs of a person's identifying features.

Examples for paragraph (b)—

1. Photographs of scars or tattoos.
2. Photographs of the person.

“information” includes a statement and particulars.

“insolvent under administration” means a person—

- (a) who is an undischarged bankrupt; or

SCHEDULE 4 (continued)

- (b) for whom a debt agreement has been made under the *Bankruptcy Act 1966* (Cwlth), part X or the corresponding provisions of the law of another jurisdiction, if the debt agreement has not ended or has not been terminated; or
- (c) who has executed a deed of arrangement under the *Bankruptcy Act 1966* (Cwlth), part X or the corresponding provisions of the law of another jurisdiction, if the terms of the deed have not been fully complied with; or
- (d) whose creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X or the corresponding provisions of the law of another jurisdiction, if a final payment has not been made under the composition.

“interest in a brothel” see section 7.

“licence” means brothel licence.

“licensed brothel” means premises stated in a licensee’s licence as the premises used for the business of providing prostitution.

“licensee” means a person who holds a brothel licence that is in force.

“notice” means written notice.

“operate” a brothel means to carry on the business of providing prostitution at the brothel.

“prostitution” see the Criminal Code, section 229E.

“registrar” means the registrar of the Authority.

“sexually transmissible disease” means any of the following diseases or conditions—

- chancroid
- donovanosis
- genital chlamydia
- genital herpes (when lesions are visible)
- genital warts (when lesions are visible)
- gonorrhoea

SCHEDULE 4 (continued)

- human immunodeficiency virus (HIV)
- lymphogranuloma venereum
- syphilis
- another disease or condition prescribed under a regulation.

“spouse” includes de facto spouse.