



Prostitution Act 1999

Current as at [Not applicable]

Indicative reprint note

This is an *unofficial* version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019. This indicative reprint has been prepared for information only—*it is not an authorised reprint of the Act*.

The point-in-time date for this indicative reprint is the introduction date for the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019—18 September 2019.

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Queensland

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Prostitution Act 1999

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

Part 1 Preliminary

1 Short title

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

2 Commencement

- (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.

3 Purpose

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

4 Act binds all persons

- (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

5 Definitions

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

6 Meaning of *associate*

- (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.

7 Meaning of *interest in a brothel*

- (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.
- (3) For subsection (1)(i), (j) and (k), a prostitute does not have an ***interest in a brothel*** merely because the prostitute is entitled by way of remuneration to a proportion of the payments made for the provision of prostitution by the prostitute at the brothel.

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Part 3 Licensing system

[s 8]

Part 3 Licensing system

Division 1 Brothel licences

Subdivision 1 Application for licence

8 Who is ineligible for a brothel licence

- (1) A person is ineligible to apply for a brothel licence 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 licence.

~~*Note—*~~

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

- (2) However, subsection (1)(f) and (g) does not apply if the licence or other authority under this Act or a corresponding law, or the certificate or other authority under this Act or a corresponding law, was automatically cancelled for failure to pay a fee.

Note—

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

9 Person may hold only 1 brothel licence

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

10 Application for licence

- (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.

11 Updating of application

- (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.

12 Withdrawal of application

- (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.

13 Applicant to consent to identifying particulars being taken

- (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.

14 Application to be referred to commissioner

- (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.

15 Consideration of application

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

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- (2) However, the Authority is not obliged to consider an application until a development approval has been given for a material change of use of the premises to which the application relates for a brothel.
 - (3) 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.
 - (4) An applicant is taken to have withdrawn the application if the applicant fails to give the further information required by the Authority under subsection (3)(b) within the time stated in the notice.
 - (5) The Authority is not required to conduct a hearing to decide whether to grant a licence or refuse to grant a licence.

16 When Authority must refuse application

- (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 an interest in another licensed brothel; or
 - (c) holds a licence or a permit under the *Liquor Act 1992*.

- (2) Also, the Authority must refuse to grant a licence if, after considering the matters mentioned in section 15(3)(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’

17 Suitability of applicant

- (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 convicted of an offence, the circumstances of which constituted the running of a brothel;
 - (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 has, or is or will be able to obtain, financial resources that are adequate to ensure the financial viability of the brothel;
 - (g) 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;

- (h) 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;
 - (i) whether the applicant is an associate of a person who has been convicted of a disqualifying offence or an indictable offence;
 - (j) 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;
 - (k) whether the applicant is an associate of a person who holds a licence or a permit under the *Liquor Act 1992*;
 - (l) any other matter prescribed under a regulation.
- (2) For subsection (1)(d) or (e), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.
 - (3) For subsection (1)(h), (i), (j) or (k), the applicant may arrange for the Authority to obtain information directly from a person who is or may be an associate of the applicant.
 - (4) 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.

18 Grant or refusal of licence

- (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, the reasons for the decision.

19 The licence

- (1) A licence authorises the holder of the licence to operate a brothel only at the premises stated in the licence, subject to the Planning Act.
- (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 for the term of 3 years 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 the following conditions or restrictions—
 - (i) the licensee must pay, by the day prescribed under a regulation, the annual licence fee and the annual licence return fee prescribed under the regulation;
 - (ii) the licensee must, by the day prescribed under a regulation, give the Authority an annual return, in the approved form, about the information given for the application for the licence;
 - (iii) any other conditions or restrictions set out in the licence or prescribed under a regulation.
- (6) Section 14, with necessary changes, applies to an annual return as if—
 - (a) the annual return were an application for a licence; and
 - (b) the licensee were an applicant for a licence.

20 Requirement to notify changes in information given

- (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.

Example of change—

change in owner of premises

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

21 Amendment of licence conditions or restrictions

- (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.

22 Endorsement of licence

- (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.

23 Renewal of licence

- (1) A licensee may apply to the Authority for the renewal of the licensee's licence at least 3 months 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 3 months after the application is made.

Subdivision 2 Licence cancellation and disciplinary action

24 Definition for sdiv 2

In this subdivision—

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

24A Payment of fee by payment plan

- (1) This section applies if, due to financial hardship caused by exceptional circumstances, a licensee is unable to pay the annual licence fee or the annual licence return fee for the licensee's licence by the prescribed day.
- (2) Despite section 19(5)(d)(i), a licensee may apply to the Authority to pay the annual licence fee or the annual licence return fee under a payment plan decided by the Authority.
- (3) An application under subsection (2) must be in the approved form.
- (4) The Authority may enter into a payment plan with the licensee if the Authority is satisfied that, having regard to financial hardship caused by exceptional circumstances, the licensee is unable to pay the annual licence fee or the annual licence return fee for the licensee's licence by the prescribed day.

- (5) If the licensee pays the annual licence fee or the annual licence return fee under the payment plan, the licensee is taken to have paid the annual licence fee or the annual licence return fee by the prescribed day.

- (6) In this section—

exceptional circumstances means unforeseen circumstances that adversely affect the premises stated in the licensee's licence as the premises where the licensee is authorised to operate a brothel.

Example of unforeseen circumstances—

natural disaster or fire

24B Automatic suspension of licence

- (1) This section applies if a licensee—
- (a) has failed to pay the annual licence fee or the annual licence return fee for the licence by the prescribed day; and
 - (b) has not entered into a payment plan decided by the Authority under section 24A.
- (2) The licensee's licence is automatically suspended for 28 days (the *suspension period*) starting the day after the prescribed day.
- (3) The suspension of the licence ends if—
- (a) the annual licence fee or the annual licence return fee for the licence is paid during the suspension period; or
 - (b) the licensee enters into a payment plan decided by the Authority under section 24A.

25 Automatic cancellation of licence

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 22A;
or
- (iii) an offence of giving false or misleading information or documents under this Act; or
- (b) becomes an insolvent under administration; or
- (c) fails to pay the annual licence fee or the annual licence return fee for the licensee's licence during the suspension period for the licence; or
- (d) if the licensee has entered into a payment plan decided by the Authority under section 24A—fails to pay the annual licence fee or the annual licence return fee for the licence under the payment plan.

26 Investigating disciplinary action

- (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~~official of a relevant local government.

27 Grounds for disciplinary action

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.

27A Authority may conduct disciplinary inquiry by hearing or on correspondence

The Authority may conduct a disciplinary inquiry by hearing or on correspondence.

27B Disciplinary inquiry notice

- (1) If the Authority decides to conduct a disciplinary inquiry, it must give notice of its intention to conduct the inquiry (a *disciplinary inquiry notice*) to—
 - (a) the licensee; and
 - (b) any person who makes an application under section 26(2).
- (2) A disciplinary inquiry notice must—
 - (a) be in the approved form; and
 - (b) state all of the following—
 - (i) the ground for the disciplinary action against the licensee;
 - (ii) the facts and circumstances forming the basis for the ground;
 - (iii) whether the Authority will be conducting the inquiry by hearing or on correspondence;

- (iv) if the Authority will be conducting the inquiry by hearing—the date of the hearing;
 - (v) if the Authority will be conducting the inquiry on correspondence that—
 - (A) the licensee may give the Authority a written submission about the ground; and
 - (B) the submission must be made within the stated period for making a submission;
 - (vi) that if the licensee fails to attend on the date of the hearing stated in the notice, or does not make a submission in accordance with subparagraph (v), the Authority may—
 - (A) continue the inquiry; and
 - (B) make a decision about whether the ground for disciplinary action is established.
- (3) For subsection (2)(b)(v)(B), the stated period for making a submission must be at least 30 days from the day the notice is given to the licensee unless—
- (a) the Authority is satisfied—
 - (i) urgent circumstances exist for the submission to be made within that time; and
 - (ii) it is reasonable in the circumstances; or
 - (b) any person who made an application under section 26(2) applies to the Authority for the submission to be made within that time and the Authority is satisfied it is reasonable in the circumstances.

28 Starting disciplinary inquiry

- (1) If the Authority decides to conduct a disciplinary inquiry in relation to a licensee by hearing, the Authority must not start the inquiry before the date of the hearing stated in the disciplinary inquiry notice given under section 27B for the inquiry.

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- (2) The date of the hearing must be at least 30 days from the day the notice is given to the licensee unless—
 - (a) the Authority is satisfied—
 - (i) urgent circumstances exist for the inquiry to be started within that time; and
 - (ii) it is reasonable in the circumstances; or
 - (b) any person who made an application under section 26(2) applies to the Authority for the inquiry to be started within that time and the Authority is satisfied it is reasonable in the circumstances.
 - (3) Subsection (4) applies if—
 - (a) a licensee is given a disciplinary inquiry notice under section 27B for a disciplinary inquiry in relation to the licensee; and
 - (b) the licensee applies in the approved form to the Authority for the inquiry to be started before the date stated in the notice as the date of the hearing of the inquiry.
 - (4) The Authority may start the inquiry before the date stated in the notice as the date of the hearing of the inquiry if the Authority—
 - (a) is satisfied that it is reasonable in the circumstances; and
 - (b) gives notice of the date of the hearing decided by the Authority under this subsection to—
 - (i) the licensee; and
 - (ii) any person who made an application under section 26(2).

28A Procedure for disciplinary inquiry by hearing

- (1) If the Authority decides to conduct a disciplinary inquiry by hearing, the hearing must be closed to the public.

- (2) The Authority must decide the matter in the way it considers appropriate, but must—
 - (a) observe natural justice; and
 - (b) act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.
- (3) The Authority—
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself in the way, and to the extent, the Authority considers appropriate; and
 - (c) may decide the procedures to be followed for the proceedings; and
 - (d) may receive evidence on oath or by statutory declaration.
- (4) The chairperson of the Authority, or a member of the Authority permitted by the chairperson, may administer an oath to a person appearing before the Authority.

28B Power of Authority to continue disciplinary inquiry in particular circumstances

- (1) This section applies if a licensee does not—
 - (a) if the licensee is given a notice under section 27B stating the Authority will be conducting a disciplinary inquiry in relation to the licensee by hearing—attend the hearing on the date of the hearing stated in the notice; or
 - (b) if the licensee is given a notice under section 27B stating the Authority will be conducting a disciplinary inquiry in relation to the licensee on correspondence—make a submission in accordance with the requirements stated in the notice under section 27B(2)(b)(v); or
 - (c) if the licensee is given a notice under section 28D—give the information required by the notice.

- (2) The Authority may—
 - (a) continue the disciplinary inquiry; and
 - (b) make a decision about whether the ground for disciplinary action is established.

28C Failure to take oath or answer question

- (1) At a hearing of a disciplinary inquiry in relation to a licensee, the licensee must not—
 - (a) fail to take an oath or make an affirmation when required by the Authority; or
 - (b) fail, without reasonable excuse, to answer a question the Authority requires the licensee to answer.

Maximum penalty—60 penalty units.

- (2) For subsection (1)(b), it is a reasonable excuse for a licensee to fail to answer a question, if answering the question might tend to incriminate the licensee.

28D Authority may require information relevant to disciplinary inquiry

- (1) For conducting a disciplinary inquiry, the Authority may, by notice given to the licensee or another person, require the licensee or person to give the Authority information, including a document, relevant to the inquiry.
- (2) If a document is given to the Authority under subsection (1), the Authority may make a copy of, or take an extract from, it.
- (3) A person given a notice under subsection (1) must not fail, without a reasonable excuse, to give the Authority the information the person is required to give by the notice.

Maximum penalty—60 penalty units.

- (4) For subsection (3), it is a reasonable excuse for an individual to fail to give information, if giving the information might tend to incriminate the individual.

28E Attendance notice

- (1) The Authority may, by notice given to a relevant person (an *attendance notice*), require the person—
 - (a) to attend a hearing at a stated time and place to give evidence; or
 - (b) to produce stated documents or other things at a hearing.
- (2) For subsection (1), the Authority may act on its own initiative or on the application, in the approved form, of a licensee.
- (3) If a document is given to the Authority under subsection (1), the Authority may make a copy of, or take an extract from, it.
- (4) A person given an attendance notice must not fail, without reasonable excuse—
 - (a) to attend as required by the notice; or
 - (b) to continue to attend as required by the Authority until excused from further attendance.

Maximum penalty—60 penalty units.

- (5) Also, at a hearing, a person appearing as a witness must not—
 - (a) fail to take an oath or make an affirmation when required by the Authority; or
 - (b) fail, without reasonable excuse, to answer a question the Authority requires the person to answer; or
 - (c) fail, without reasonable excuse, to produce a document or other thing the person is required to produce by an attendance notice.

Maximum penalty—60 penalty units.

- (6) It is a reasonable excuse for an individual to fail to answer a question or to produce a document or other thing, if answering the question or producing the document or thing might tend to incriminate the individual.
- (7) In this section—

relevant person means a person the Authority considers has information relevant to the disciplinary inquiry conducted about a licensee.

28F Substituted service on licensee or relevant person

- (1) If the Authority is satisfied service of a notice given to a licensee under section 27B or relevant person under section 28E can not be effected on the licensee or relevant person under the provision, the Authority may order substituted service of the notice.
- (2) Substituted service may be effected in any way ordered, including, for example, by facsimile or telephone.
- (3) If the licensee or relevant person is served with a notice as ordered by the Authority under subsection (1), the notice is taken to have been given to the licensee under section 27B or relevant person under section 28E.

29 Disciplinary powers of Authority

- (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 executive director may recover the amount as a debt from the licensee.
- (5) This section is subject to section 30.

30 Disciplinary powers limited for certain licensees

- (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

31 Surrender of licence

- (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.

32 Surrendered, suspended or cancelled licence must be returned

- (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.

33 When Authority can authorise approved manager to act as licensee

- (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 not limit a power to surrender, suspend or cancel a licence.

Division 2 Approved managers

Subdivision 1 Application for certificate

34 Who is ineligible for a certificate

(1) 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.

(2) However, subsection (1)(f) and (g) does not apply if the licence or other authority under this Act or a corresponding law, or the certificate or other authority under this Act or a corresponding law, was automatically cancelled for failure to pay a fee.

35 Application for certificate

- (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 names, addresses and occupations of all associates of the applicant and, if known to the applicant, their dates of birth;
 - (iii) anything else prescribed under a regulation.

36 Updating of application

- (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.

37 Withdrawal of application

- (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.

38 Applicant to consent to identifying particulars being taken

- (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.

39 Application to be referred to commissioner

- (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

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Criminal Law (Rehabilitation of Offenders) Act 1986, section 6.

40 Consideration of application

- (1) The Authority must consider every application for a certificate 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) 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.

41 When Authority must refuse application

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 an interest in another licensed brothel, otherwise than as an approved manager of the brothel.

42 Suitability of applicant

- (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 has been convicted of an offence, the circumstances of which constituted the running of a brothel;
 - (e) whether the applicant is an associate of a person who has been convicted of a disqualifying offence or an indictable offence;
 - (f) 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;
 - (g) 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;
 - (h) any other matter prescribed under a regulation.
- (2) For subsection (1)(d) or (g), 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.

43 Grant or refusal of certificate

- (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—

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, the reasons for the decision.

44 The certificate

- (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 3 years 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 the following conditions or restrictions—
 - (i) the holder of the certificate must pay, by the day prescribed under a regulation, the annual certificate fee and the annual return fee prescribed under the regulation;
 - (ii) the holder of the certificate must, by the day prescribed under a regulation, give the Authority an annual return, in the approved form, about the information given for the application for the certificate;
 - (iii) any other conditions or restrictions set out in the certificate or prescribed under a regulation.
 - (5) Section 39, with necessary changes, applies to an annual return as if—
 - (a) the annual return were an application for a certificate; and
 - (b) the holder of the certificate were an applicant for a certificate.

45 Requirement to notify changes in information given

- (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.

- (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.

46 Variation of certificate

- (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) The Authority must consider the application for variation and either—
 - (a) vary the certificate; or
 - (b) refuse to vary the certificate.
- (4) If the Authority decides to vary the certificate, the Authority must promptly vary the certificate.
- (5) If the Authority decides to refuse to vary the certificate, the Authority must give the applicant a notice stating—
 - (a) the decision; and
 - (b) subject to section 138, the reasons for the decision.

47 Amendment of certificate conditions or restrictions

- (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.

48 Endorsement of certificate

- (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.

49 Renewal of certificate

- (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—

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- (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**

50 **Definition for sdiv 2**

In this subdivision—

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

50A **Payment of fee by payment plan**

- (1) This section applies if, due to financial hardship caused by exceptional circumstances, an approved manager is unable to pay the annual certificate fee or the annual return fee for the approved manager's certificate by the prescribed day.
- (2) Despite section 44(4)(d)(i), the approved manager may apply to the Authority to pay the annual certificate fee or the annual return fee under a payment plan decided by the Authority.
- (3) An application under subsection (2) must be in the approved form.
- (4) The Authority may enter into a payment plan with the approved manager if the Authority is satisfied that, having regard to financial hardship caused by exceptional circumstances, the approved manager is unable to pay the

annual certificate fee or the annual return fee for the approved manager's certificate by the prescribed day.

- (5) If the approved manager pays the annual certificate fee or the annual return fee under the payment plan, the approved manager is taken to have paid the annual certificate fee or the annual return fee by the prescribed day.
- (6) In this section—

exceptional circumstances means unforeseen circumstances that adversely affect premises stated in the approved manager's certificate as premises of a licensed brothel for the approved manager.

Example of unforeseen circumstances—

natural disaster or fire

50B Automatic suspension of certificate

- (1) This section applies if an approved manager—
 - (a) has failed to pay the annual certificate fee or the annual return fee for the certificate by the prescribed day; and
 - (b) has not entered into a payment plan decided by the Authority under section 50A.
- (2) The approved manager's certificate is automatically suspended for 28 days (the *suspension period*) starting the day after the prescribed day.
- (3) The suspension of the certificate ends if—
 - (a) the annual certificate fee or the annual return fee for the certificate is paid during the suspension period; or
 - (b) the approved manager enters into a payment plan decided by the Authority under section 50A.

51 Automatic cancellation of certificate

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, (other than section 229M); or

Editor's note—
Criminal Code, section 229M (Police officer may require person to provide name and address etc.) was omitted 2000 Act No. 5s 461sch 3.
 - (iii) an offence of giving false or misleading information or documents under this Act; or
- (b) becomes an insolvent under administration; or
- (c) fails to pay the annual certificate fee or the annual return fee for the certificate during the suspension period for the certificate; or
- (d) if the approved manager has entered into a payment plan decided by the Authority under section 50A—fails to pay the annual certificate fee or the annual return fee for the certificate under the payment plan.

52 Investigating disciplinary action

- (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~~official of a relevant local government.

53 Grounds for disciplinary action

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

- (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.

53A Authority may conduct disciplinary inquiry by hearing or on correspondence

The Authority may conduct a disciplinary inquiry by hearing or on correspondence.

53B Disciplinary inquiry notice

- (1) If the Authority decides to conduct a disciplinary inquiry, it must give notice of its intention to conduct the inquiry (a *disciplinary inquiry notice*)—
 - (a) to the approved manager; and
 - (b) any person who makes an application under section 52(2).
- (2) A disciplinary inquiry must—
 - (a) be in the approved form; and
 - (b) state all of the following—
 - (i) the ground for the disciplinary action against the approved manager;
 - (ii) the facts and circumstances forming the basis for the ground;
 - (iii) whether the Authority will be conducting the inquiry by hearing or on correspondence;
 - (iv) if the Authority will be conducting the inquiry by hearing—the date of the hearing;

- (v) if the Authority will be conducting the inquiry on correspondence, that—
 - (A) the approved manager may give the Authority a written submission about the ground; and
 - (B) the submission must be made within the stated period for making a submission;
- (vi) that if the approved manager fails to attend on the date of the hearing stated in the notice, or does not make a submission in accordance with subparagraph (v), the Authority may—
 - (A) continue the inquiry; and
 - (B) make a decision about whether the ground for disciplinary action is established.
- (3) For subsection (2)(b)(v)(B), the stated period for making a submission must be at least 30 days from the day the notice is given to the approved manager unless—
 - (a) the Authority is satisfied—
 - (i) urgent circumstances exist for the submission to be made within that time; and
 - (ii) it is reasonable in the circumstances; or
 - (b) any person who made an application under section 52(2) applies to the Authority for the submission to be made within that time and the Authority is satisfied it is reasonable in the circumstances.

54 Starting disciplinary inquiry

- (1) If the Authority decides to conduct a disciplinary inquiry in relation to an approved manager by hearing, the Authority must not start the inquiry before the date of the hearing stated in the disciplinary inquiry notice given under section 53B for the inquiry.

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- (2) The date of the hearing must be at least 30 days from the day the notice is given to the approved manager unless—
 - (a) the Authority is satisfied—
 - (i) urgent circumstances exist for the inquiry to be started within that time; and
 - (ii) it is reasonable in the circumstances; or
 - (b) any person who made an application under section 52(2) applies to the Authority for the inquiry to be started within that time and the Authority is satisfied it is reasonable in the circumstances.
 - (3) Subsection (4) applies if—
 - (a) an approved manager is given a disciplinary inquiry notice under section 53B for a disciplinary inquiry in relation to the approved manager; and
 - (b) the approved manager applies in the approved form to the Authority for the inquiry to be started before the date stated in the notice as the date of the hearing of the inquiry.
 - (4) The Authority may start the inquiry before the date stated in the notice as the date of the hearing of the inquiry if the Authority—
 - (a) is satisfied that it is reasonable in the circumstances; and
 - (b) gives notice of the date of the hearing decided by the Authority under this subsection to—
 - (i) the approved manager; and
 - (ii) any person who made an application under section 52(2).

54A Procedure for disciplinary inquiry by hearing

- (1) If the Authority decides to conduct a disciplinary inquiry by hearing, the hearing must be closed to the public.

- (2) The Authority must decide the matter in the way it considers appropriate, but must—
 - (a) observe natural justice; and
 - (b) act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.
- (3) The Authority—
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself in the way, and to the extent, the Authority considers appropriate; and
 - (c) may decide the procedures to be followed for the proceedings; and
 - (d) may receive evidence on oath or by statutory declaration.
- (4) The chairperson of the Authority, or a member of the Authority permitted by the chairperson, may administer an oath to a person appearing before the Authority.

54B Power of Authority to continue disciplinary inquiry in particular circumstances

- (1) This section applies if an approved manager does not—
 - (a) if the approved manager is given a notice under section 53B stating the Authority will be conducting a disciplinary inquiry in relation to the approved manager by hearing—attend the hearing on the date of the hearing stated in the notice; or
 - (b) if the approved manager is given a notice under section 53B stating the Authority will be conducting a disciplinary inquiry in relation to the approved manager on correspondence—make a submission in accordance with the requirements stated in the notice under section 53B(2)(b)(v); or

- (c) if the approved manager is given a notice under section 54D—give the information required by the notice.
- (2) The Authority may—
 - (a) continue the disciplinary inquiry; and
 - (b) make a decision about whether the ground for disciplinary action is established.

54C Failure to take oath or answer question

- (1) At a hearing of a disciplinary inquiry in relation to an approved manager, the approved manager must not—
 - (a) fail to take an oath or make an affirmation when required by the Authority; or
 - (b) fail, without reasonable excuse, to answer a question the Authority requires the approved manager to answer.

Maximum penalty—60 penalty units.

- (2) For subsection (1)(b), it is a reasonable excuse for an approved manager to fail to answer a question, if answering the question might tend to incriminate the approved manager.

54D Authority may require information relevant to disciplinary inquiry

- (1) For conducting a disciplinary inquiry, the Authority may, by notice given to the approved manager or another person, require the approved manager or other person to give the Authority information, including a document, relevant to the inquiry.
- (2) If a document is given to the Authority under subsection (1), the Authority may make a copy of, or take an extract from, it.
- (3) A person given a notice under subsection (1) must not fail, without a reasonable excuse, to give the Authority the information the person is required to give by the notice.

Maximum penalty—60 penalty units.

- (4) For subsection (3), it is a reasonable excuse for an individual to fail to give information, if giving the information might tend to incriminate the individual.

54E Attendance notice

- (1) The Authority may, by notice given to a relevant person (an *attendance notice*), require the person—
 - (a) to attend a hearing at a stated time and place to give evidence; or
 - (b) to produce stated documents or other things at a hearing.
- (2) For subsection (1), the Authority may act on its own initiative or on the application, in the approved form, of an approved manager.
- (3) If a document is given to the Authority under subsection (1), the Authority may make a copy of, or take an extract from, it.
- (4) A person given an attendance notice must not fail, without reasonable excuse—
 - (a) to attend as required by the notice; or
 - (b) to continue to attend as required by the Authority until excused from further attendance.

Maximum penalty—60 penalty units.

- (5) Also, at a hearing, a person appearing as a witness must not—
 - (a) fail to take an oath or make an affirmation when required by the Authority; or
 - (b) fail, without reasonable excuse, to answer a question the Authority requires the person to answer; or
 - (c) fail, without reasonable excuse, to produce a document or other thing the person is required to produce by an attendance notice.

Maximum penalty—60 penalty units.

- (6) It is a reasonable excuse for an individual to fail to answer a question or to produce a document or other thing, if answering the question or producing the document or thing might tend to incriminate the individual.
- (7) In this section—
relevant person means a person the Authority considers has information relevant to the disciplinary inquiry conducted about an approved manager.

54F Substituted service on approved manager or relevant person

- (1) If the Authority is satisfied service of a notice given to an approved manager under section 53B or relevant person under section 54E can not be effected on the approved manager or relevant person under the provision, the Authority may order substituted service of the notice.
- (2) Substituted service may be effected in any way ordered, including, for example, by facsimile or telephone.
- (3) If the approved manager or relevant person is served with a notice as ordered by the Authority under subsection (1), the notice is taken to have been given to the approved manager under section 53B or relevant person under section 54E.

55 Disciplinary powers of Authority

- (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.

56 Disciplinary powers limited for certain approved managers

- (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**57 Surrender of certificate**

- (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.

58 Surrendered, suspended or cancelled certificate must be returned

- (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

59 ~~Police power to enter licensed brothel~~

- ~~(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.~~

60 ~~Powers after entry~~

- ~~(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 2000*, chapter 20, part 2 applies to the document or thing as if it were seized under that Act.~~

61 Authority to be given particulars after entry

~~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.~~

Part 3A Enforcement

Division 1 Authorised officers

59 Meaning of authorised officer

An *authorised officer* is any of the following—

- (a) a police officer of at least the rank of inspector;
- (b) a police officer authorised by a police officer of at least the rank of inspector to exercise enforcement powers;
- (c) a staff member authorised under section 60 by the executive director to exercise enforcement powers.

60 Executive director may authorise staff member to exercise enforcement powers

- (1) The executive director may authorise an appropriately qualified staff member, or a class of appropriately qualified staff members, to exercise enforcement powers.

- (2) The executive director must issue an identity card to a staff member authorised under subsection (1).
 - (3) The identity card must—
 - (a) contain a recent photograph of the staff member; and
 - (b) be in a form approved by the executive director.
 - (4) If the staff member stops being authorised under subsection (1), the staff member must, as soon as practicable, return the staff member's identity card to the executive director.
- Maximum penalty—25 penalty units.

Division 2 Powers of entry

61 Production of authorised officer's identity card

- (1) In exercising an enforcement power in relation to a person in the person's presence, an authorised officer must—
 - (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise an enforcement power in relation to a person only because the authorised officer has entered premises as mentioned in section 61A(1)(c).
- (4) Also, subsections (1) and (2) do not apply to an authorised officer who, after entering premises as mentioned in section 61A(1)(c), exercises a power under section 61C(2)(d) or (f) at the premises.

Example for subsection (4)—

An authorised officer may enter premises while the premises are open for business and covertly film a thing in the premises.

61A Entry of premises by authorised officer

- (1) An authorised officer may at any reasonable time enter premises that are a licensed brothel, or that the authorised officer suspects on reasonable grounds are being used for prostitution, if—
 - (a) the occupier of the premises consents to the entry; or
 - (b) the entry is authorised by a warrant; or
 - (c) the premises are open for business or otherwise open for entry.
- (2) This section does not confer a power to enter premises or a part of premises used only for residential purposes without the occupier's consent or the authority of a search warrant.
- (3) Before asking for the consent of an occupier, an authorised officer must—
 - (a) explain to the occupier the purpose of the entry, including the powers intended to be exercised; and
 - (b) tell the occupier that—
 - (i) the occupier is not required to consent; and
 - (ii) the consent may be given subject to conditions and may be withdrawn at any time.
- (4) If premises are entered under subsection (1)(a) or (c) by a police officer who is not of at least the rank of inspector the police officer must be specifically authorised in writing for the particular entry.

61B Warrants

- (1) An authorised officer may apply to a magistrate for a warrant for a place.

- (2) The application must—
 - (a) be sworn; and
 - (b) set out the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—
The magistrate may require that additional information supporting the application be given by a statutory declaration.
- (4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing (the *evidence*) that may provide evidence of the commission of an offence against this Act; and
 - (b) the evidence is, or may be within the next 7 days, at the place.
- (5) The warrant must state—
 - (a) that the authorised officer is authorised, with assistance and force that may be necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise enforcement powers; and
 - (b) the evidence for which the warrant is issued; and
 - (c) the hours of the day when entry may be made; and
 - (d) the day, within 14 days after the warrant's issue, on which the warrant stops having effect.

61C Authorised officer's general powers in premises

- (1) After entering premises under this division, an authorised officer may exercise a power mentioned in subsection (2) only if—

- (a) the occupier of the premises consents to the exercise of the power; or
 - (b) the entry was authorised by a warrant.
- (2) The authorised officer may—
 - (a) search any part of the premises; or
 - (b) if entry was authorised by a warrant—seize the evidence for which the warrant was issued; or
 - (c) seize a thing if the authorised officer believes on reasonable grounds—
 - (i) the thing is evidence of the commission of an offence against this Act; and
 - (ii) the seizure is necessary to prevent—
 - (A) the concealment, loss or destruction of the thing; or
 - (B) the use of the thing in committing, continuing or repeating an offence against this Act; or
 - (d) inspect, examine, record, photograph or film anything in or on the premises; or
 - (e) take extracts from, or make copies of, any documents in or on the premises; or
 - (f) take into or onto the premises any person, equipment and materials that the authorised officer reasonably requires for the purpose of exercising any powers in relation to the premises.

61D Procedure after thing seized

- (1) As soon as practicable after a thing is seized by an authorised officer, the authorised officer must give a receipt for it to the person from whom it was seized.

- (2) The authorised officer must allow a person who would be entitled to the seized thing if it were not in the authorised officer's possession—
 - (a) to inspect it; or
 - (b) if it is a document—to take extracts from it or make copies of it.
- (3) The authorised officer must return the seized thing to the person at the end of—
 - (a) 12 months; or
 - (b) if a proceeding for an offence, or a disciplinary proceeding, involving it is started within 12 months—the proceeding for the offence and any appeal from the proceeding.
- (4) Despite subsection (3), the authorised officer must return the seized thing to the person if the authorised officer is satisfied that—
 - (a) its retention as evidence is no longer necessary; and
 - (b) its return is not likely to result in its use in repeating the offence.

61E Power to require production of documents

- (1) An authorised officer may require a person, by written notice given to the person, to produce to the authorised officer, at a reasonable time and place stated in the notice, any documents the authorised officer believes, on reasonable grounds—
 - (a) the person has possession or control of; and
 - (b) are relevant to the administration or enforcement of this Act.
- (2) An authorised officer may require the person to give the authorised officer reasonable assistance in relation to the exercise of the power mentioned in subsection (1).

- (3) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1) or (2).
Maximum penalty—50 penalty units.
- (4) It is a reasonable excuse for a person to fail to produce a document, other than a document required to be kept by the person under this Act, on the basis that producing the document might tend to incriminate the person or expose the person to a penalty.
- (5) An authorised officer may examine the document and—
(a) make a copy of, or take an extract from, the document;
or
(b) if the authorised officer considers, on reasonable grounds, it is necessary to remove the document to examine or copy it—remove the document from the person's possession or control.
- (6) Subsection (7) applies if a document removed under subsection (5) is—
(a) a record made and kept under this Act; or
(b) an accounting record or other record about a business conducted under a brothel licence.
- (7) The authorised officer must permit, at all reasonable times, a person who, if the record had not been removed, would be entitled to inspect the record or make additions to the record to—
(a) inspect the record; and
(b) make additions to the record.
- (8) An authorised officer who has removed a document under subsection (5) must, as soon as is practicable after the removal—
(a) examine and, if the authorised officer considers it necessary, copy the document; and

- (b) return the document to the person from whom it was removed.

61F Authority to be given particulars after entry

As soon as practicable after an authorised officer enters premises under section 61A, or enters a place under a warrant issued under section 61B, the authorised officer must give the Authority the particulars in relation to the entry prescribed by regulation.

61G Obstructing authorised officer

- (1) A person must not obstruct an authorised officer exercising an enforcement power, or someone helping an authorised officer exercising an enforcement power, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) If a person has obstructed an authorised officer, or someone helping an authorised officer, and the authorised officer decides to proceed with the exercise of the enforcement power, the authorised officer must warn the person that—

- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
- (b) the authorised officer considers the person's conduct an obstruction.

- (3) In this section—

obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

Part 4 Development approvals for brothels

Division 1 Preliminary

62 Definitions for part

In this part—

decision-maker means—

- (a) for a development application—the assessment manager for the application; or
- (b) for a change application—the responsible entity under the Planning Act for the application.

relevant application means—

- (a) a development application for a development approval for a material change of use of premises for a brothel; or
- (b) a change application to change a development approval that already approves a material change of use of premises for a brothel; or
- (c) a change application to change a development approval—
 - (i) to approve a material change of use of premises for a brothel; and
 - (ii) that does not already approve a material change of use of premises for a brothel.

63A Planning Act

- (1) This part applies despite the Planning Act.
- (2) If this part is inconsistent with the Planning Act, this part prevails to the extent of the inconsistency.

Division 2 Particular provisions about relevant applications

63B Notification by decision-maker of relevant application

- (1) Within 10 business days after receiving a relevant application, the decision-maker must give the Authority—
 - (a) a copy of the application; and
 - (b) for an application other than a minor change application—a written notice stating whether the development the subject of the application requires code assessment or impact assessment under the Planning Act.
- (2) Subsection (1) does not apply if the decision-maker for the relevant application is the Planning and Environment Court.

Division 3 Review by QCAT

64A Review of decisions about code assessment

- (1) This section applies if a decision-maker decides a relevant application, other than a minor change application, requires code assessment under the Planning Act.
- (2) The applicant for the relevant application may apply, as provided under the QCAT Act, to QCAT for a review of any of the following decisions of the decision-maker about the application—
 - (a) a decision that the application requires code assessment under the Planning Act;
 - (b) if the relevant application is a development application—
 - (i) a refusal of all or part of the application; or
 - (ii) a deemed refusal of the application; or

- (iii) a provision of any development approval given for the application; or
- (iv) a decision to give a preliminary approval even though the application sought a development permit;
- (c) if the relevant application is a change application—a decision on the application, including a deemed refusal of the application.
- (3) For working out the period within which the application must be made under the QCAT Act, section 33, the applicant is taken to have been notified of the decision when the following is given to the applicant under the Planning Act—
 - (a) the decision notice for the decision;
 - (b) if a negotiated decision notice is also given to the applicant—the negotiated decision notice.

Note—

Under the QCAT Act, section 157(1), the decision-maker is required to give the applicant a notice complying with that section about each decision mentioned in subsection (2).

- (4) If an appeal is made to the Planning and Environment Court about a decision mentioned in subsection (2), the court must not hear or decide the appeal.
- (5) This section does not prevent the making of an application under the *Planning and Environment Court Act 2016*, section 11 for a declaration about the meaning, effect or enforcement of a condition of a development approval.

64B Review of decisions about impact assessment

- (1) This section applies if a decision-maker decides a relevant application, other than a minor change application, requires impact assessment under the Planning Act.
- (2) The applicant for the relevant application may apply, as provided under the QCAT Act, to QCAT for a review of the

decision-maker's decision that the application requires impact assessment.

- (3) For working out the period within which the application must be made under the QCAT Act, section 33, the applicant is taken to have been notified of the decision when the applicant is given a notice by the decision-maker under the development assessment rules under the Planning Act accepting the application.

Note—

Under the QCAT Act, section 157(1), the decision-maker is required to give the applicant a notice complying with that section about the decision.

- (4) If an appeal is made to the Planning and Environment Court about a decision mentioned in subsection (2), the court must not hear or decide the appeal.
- (5) This section does not prevent the making of an application under the *Planning and Environment Court Act 2016*, section 11 for a declaration about the meaning, effect or enforcement of a condition of a development approval.

64C Procedures for review

- (1) This section applies if, under section 64A or 64B, an applicant for a relevant application applies to QCAT for a review of a decision of the decision-maker.
- (2) The obligation imposed on the applicant, under the QCAT Act, section 37, to give a copy of the application to the decision-maker must be complied with within 5 business days after the day the application for review is made.
- (3) The obligation imposed on the decision-maker, under the QCAT Act, section 21(2), to give a statement of reasons, documents and other things to QCAT must be complied with within 10 business days after the day the decision-maker is notified of the making of the application for review.

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- (4) Within 10 business days after receiving material from the decision-maker under the QCAT Act, section 21(2), QCAT must—
 - (a) make a preliminary assessment of the decision of the decision-maker that is the subject of the review; and
 - (b) give a copy of the preliminary assessment and the reasons for the preliminary assessment to the parties to the review.
 - (5) QCAT must give the parties to the review 10 business days after receiving the preliminary assessment to make written submissions about the assessment.
 - (6) QCAT must decide the review within 5 business days after the end of the period for making written submissions, unless the period for deciding the review is extended under subsection (7).
 - (7) If QCAT considers it appropriate, QCAT may extend the period for deciding the review to the extent necessary.

Example—

An extension of the period for deciding the review may be necessary to allow parties to make oral submissions to QCAT or because the review is complex.

64D No appeal from QCAT's decision under the Planning Act

- (1) This section applies to a QCAT decision in a proceeding for a review under this division that, under the QCAT Act, section 24(2), is taken to be a decision of a decision-maker.
- (2) The decision is not subject to appeal under the Planning Act.

Note—

However, the QCAT Act, chapter 2, part 8 (Appeals etc.) applies to QCAT's decisions in the proceeding for the review.

64E Development approval suspended until review decided

A development approval is suspended until the end of any period for applying to QCAT for a review of a decision about a provision of the development approval and any proceeding started because of the review.

Part 5 Prohibited brothels**65 Application to Magistrates Court**

- (1) A police officer, the Authority or an authorised ~~officer~~official of the relevant local government may apply to a Magistrates Court for an order under section 66 (*section 66 declaration*) or 66A (*temporary declaration*) declaring that particular premises are a prohibited brothel.
- (2) An application for a temporary declaration may be made—
 - (a) before a proceeding for a section 66 declaration is started; or
 - (b) before a proceeding for a section 66 declaration ends.
- (3) An application by a police officer for a temporary declaration may also be made to a magistrate.
- (4) If an application is made under subsection (3), the *Police Powers and Responsibilities Act 2000*, sections 800 to 802 apply to a temporary declaration as if it were a prescribed authority under those sections.

66 Declaration that premises are a prohibited brothel

- (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 Planning Act.

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- (2) Also, the court may declare premises to be a prohibited brothel if it is satisfied, on the balance of probabilities, that on the day stated in the application—
 - (a) a person was operating a brothel without a licence at the premises; or
 - (b) the premises were being used for a brothel in contravention of the Planning Act or the repealed *Sustainable Planning Act 2009*.
 - (3) 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.
 - (4) 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.
 - (5) The court may make the declaration for an unlimited or for a specified period.

66A Temporary declaration that premises are prohibited brothel

- (1) The issuer may declare premises to be a prohibited brothel if it is satisfied, on the balance of probabilities, there is a likelihood the premises will be a brothel because—
 - (a) a person will operate a brothel without a licence at the premises; or
 - (b) the premises will be used for a brothel in contravention of the Planning Act.
- (2) The issuer may make the declaration for a specified period, but may extend the declaration from time to time until a section 66 declaration is made or an application for a section 66 declaration for the premises is withdrawn or dismissed.
- (3) The issuer may make the declaration only if it is satisfied that the applicant has made a reasonable attempt to notify the

owner or occupier of the premises of the making of the application.

- (4) In considering the application, the issuer may inform itself in any way it considers appropriate and is not bound by rules or practice about evidence.
- (5) In this section—
issuer means—
 - (a) for an application made to the court under section 65(1), the court; or
 - (b) for an application made to a magistrate under section 65(3), the magistrate.

67 Publication of declaration

- (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.
- (4) Subsections (1)(a) and (b)(iii) and (2) do not apply to a temporary declaration.

68 Offence in relation to posted up declaration

- (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.

69 Offence of being in or entering or leaving prohibited brothel

- (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.

70 Offence if prohibited brothel used as brothel after declaration given

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.

71 Rescission of declaration

- (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~~ official 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.

72 Service of notices in relation to prohibited brothels

- (1) For section 66(3), 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.

Part 6 Offences

Division 1 General offences relating to prostitution

73 Public soliciting for purposes of prostitution

- (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
 - (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.

74 Exception to soliciting offences—persons in licensed brothels

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.

75 Exception to soliciting offences—police officers

- (1) A police officer does not commit an offence against section 73(1) if the soliciting is done under an authority given under the *Police Powers and Responsibilities Act 2000*, chapter 10 or 11.
- (2) However, a person other than a police officer commits an offence against section 73(1) if the person publicly solicits the police officer.

76 Nuisances connected with prostitution

- (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.

77 Duress

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.

77A Prostitute providing sexual intercourse or oral sex without a prophylactic

- (1) A prostitute must not provide prostitution involving sexual intercourse or oral sex unless a prophylactic is used.

Maximum penalty—100 penalty units.

- (2) A prostitute must not offer to provide prostitution involving sexual intercourse or oral sex without a prophylactic being used.

Maximum penalty—100 penalty units.

- (3) A person must not—
- (a) ask a prostitute to provide prostitution involving sexual intercourse or oral sex without a prophylactic being used; or
 - (b) accept an offer from a prostitute to provide prostitution involving sexual intercourse or oral sex without a prophylactic being used; or
 - (c) obtain prostitution involving sexual intercourse or oral sex unless a prophylactic is used.

Maximum penalty—100 penalty units.

- (4) A person obtaining prostitution involving sexual intercourse or oral sex 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.

- (5) A person who is a licensee or an approved manager of a licensed brothel must, for any period the licensed brothel is being used to provide prostitution, take reasonable steps to ensure that—
- (a) a person does not provide or obtain prostitution involving sexual intercourse or oral sex at the licensed brothel unless a prophylactic is used; or
 - (b) a person does not offer to provide, or ask a prostitute to provide, prostitution involving sexual intercourse or oral

sex at the licensed brothel without a prophylactic being used.

Maximum penalty—120 penalty units.

- (6) 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.

- (7) 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).

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

sexual intercourse has the meaning given by the Criminal Code, section 229D.

Division 2 Offences relating to the operation of a licensed brothel

78 Brothel offences

- (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 13 staff at the brothel at any 1 time; or

~~(e) provide prostitution at the brothel in contravention of any condition or restriction of a licence or a certificate; or~~

~~(d)~~ provide prostitution at the brothel while the licensee's licence is suspended.

Maximum penalty—200 penalty units or 5 years imprisonment.

- (2) A person who is a licensee or an approved manager of a licensed brothel that is, under the development permit for the licensed brothel, permitted to have a total number of rooms stated in schedule 3, column 1, used for providing prostitution must not, at any 1 time, have at the licensed brothel more than the number of prostitutes set out opposite in schedule 3, column 2.

Maximum penalty—200 penalty units or 5 years imprisonment.

- (3) A person who is a licensee or an approved manager of a licensed brothel must not provide prostitution at the brothel in contravention of any condition or restriction of a licence or a certificate.

Maximum penalty—20 penalty units.

- ~~(3)~~ In this section—

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

79 Operating licensed brothel other than in a building

- (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.

80 Personal supervision of licensed brothel

- (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.

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

- (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.
- (3) Subsection (2) does not apply merely because a licensee is operating a licensed brothel in partnership with, or otherwise in association with, a corporation that receives income from the licensed brothel if—

- (a) the licensee is the sole director of the corporation; or
- (b) each director of the corporation is a licensee.

82 Person not to have interest in more than 1 licensed brothel

Subject to section 44(2), 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.

83 Possessing liquor in licensed brothel

- (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.

84 ~~Complying with police requirement~~

- ~~(1) This section applies if a police officer enters a licensed brothel under section 59.~~

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

~~Maximum penalty—20 penalty units.~~

85 Person to state age

- (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—
 - (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.

86 Licensee and approved manager to state name and address

- (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.

87 Display of licence

- (1) A licensee must keep either of the following displayed in a conspicuous place inside the front entrance to the licensee's brothel—
 - (a) the licensee's licence for the brothel;
 - (b) a notice stating—
 - (i) the licensee's licence number; and
 - (ii) the address of the brothel; and
 - (iii) the date on which the licensee's licence expires.

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.

88 Production of licence or certificate

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

- (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.

90 Prostitute working while infective with a disease

- (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.

Division 4 Advertising offences**Subdivision 1 Definitions****92 Definitions for div 4**

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.

approved form means—

- (a) if the Authority has, for a particular advertisement mentioned in section 93(2) or 96A(2), consented to a form—that form; or
- (b) if guidelines under section 139A or a regulation provides for the form of an advertisement mentioned in section 93(2) or 96A(2), including matters that may or may not be included in an advertisement mentioned in section 93(2) or 96A(2)—a form that complies with the guidelines or regulation; or
- (c) otherwise—the approved form under section 139(2).

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 or on the internet, even if—

- (a) the act done to publish the advertisement or statement in Queensland is done outside Queensland; or
- (b) if the advertisement or statement is published on an internet site—the site is located outside Queensland.

Subdivision 2 Advertising offences about prostitution**93 Advertising prostitution**

- (1) A person must not publish an advertisement for prostitution that describes the services offered.
- (2) A person must not publish an advertisement for prostitution that is not in the approved form.
- (3) A person must not publish any advertisement for prostitution through radio or television or by film or video recording.

Maximum penalty for subsections (1) to (3)—

- (a) if an internet website has been established for the advertisement—
 - (i) if the cost of establishing the website is \$1,000 or less—70 penalty units; and
 - (ii) if the cost of establishing the website is more than \$1,000—an amount that is 10 times the commercial cost of establishing the website; or
- (b) otherwise—
 - (i) if the cost of publishing the advertisement is \$1,000 or less—70 penalty units; or
 - (ii) if the cost of publishing the advertisement is more than \$1,000—an amount that is 10 times the cost of publishing the advertisement.

94 Statements inducing persons to become prostitutes

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.

95 Advertising prostitution as massage services

- (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.

96 Evidentiary provision

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.

Subdivision 3 Advertising offences about social escort services**96A Advertising social escort services**

- (1) A person must not publish an advertisement for social escort services that does not, by the use of the words 'non-sexual' or 'sexual services are not provided', unequivocally state that the services are not sexual or that sexual services are not provided.
- (2) A person must not publish an advertisement for social escort services that is not in the approved form.

Maximum penalty for subsections (1) and (2)—

- (a) if an internet website has been established for the advertisement—
- (i) if the cost of establishing the website is \$1,000 or less—70 penalty units; and

- (ii) if the cost of establishing the website is more than \$1,000—an amount that is 10 times the commercial cost of establishing the website; or
- (b) otherwise—
 - (i) if the cost of publishing the advertisement is \$1,000 or less—70 penalty units; or
 - (ii) if the cost of publishing the advertisement is more than \$1,000—an amount that is 10 times the cost of publishing the advertisement.

96B Clients of social escort services to be informed that prostitution is not provided

- (1) An employee of a social escort provider must not arrange for the provision of a social escort service to a person unless the employee has clearly informed the person that the social escort service does not include the provision of prostitution.

Maximum penalty—70 penalty units.

- (2) A social escort must not start to provide a social escort service to a person unless the social escort has clearly informed the person that the social escort service does not include the provision of prostitution.

Maximum penalty—70 penalty units

- (3) A social escort provider commits an offence if—
- (a) a person enters into an arrangement for the provision of a social escort service to the person, or has been provided with a social escort service; and
 - (b) the person has not been clearly informed by the social escort provider, an employee of the social escort provider or by the social escort that the social escort service does not include the provision of prostitution.

Maximum penalty—70 penalty units.

- (4) In a proceeding for an offence against subsection (3), it is a defence for the social escort provider to prove that—

- (a) the provider issued appropriate instructions to the provider's employees and to the relevant social escort and used all reasonable precautions to ensure compliance with subsection (3); and
 - (b) the offence was committed by an employee or the social escort without the provider's knowledge; and
 - (c) the provider could not, by the exercise of reasonable diligence, have prevented the commission of the offence.
- (5) In this section—
- arrange** means enter into an arrangement of a commercial character.

96C Evidentiary provision

Evidence that an advertisement or statement has been published in relation to a social escort service is evidence that the person who carried on the business of a social escort provider at the relevant time published the advertisement or statement in relation to the social escort service.

Division 5 Other offences

97 False or misleading statements

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 particular.

Maximum penalty—100 penalty units.

98 False or misleading documents

- (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.

Part 7 Prostitution Licensing Authority

Division 1 Establishment

100 Establishment of Authority

The Prostitution Licensing Authority is established.

101 Functions of Authority

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 and other agencies prescribed under a regulation with a view to helping

them in carrying out their 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 advise the Minister about ways of promoting and coordinating 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, in prostitutes, judicial officers, police, community workers and the community, awareness of issues about prostitution;
- (k) to advise the Minister about the development of codes of practice for licensed brothels;
- (l) to raise, in prostitutes, judicial officers, police, community workers and the community, awareness of issues about prostitution.

Division 2 Membership

Subdivision 1 Appointment

102 Membership

- (1) The Authority consists of the following persons appointed as members by the Governor in Council—

- (a) the chairperson, who is an independent and appropriately qualified 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 chairperson, or the senior executive officer (crime), of the Crime and Corruption Commission;
 - (d) a health practitioner who has at least 5 years experience in the practitioner's profession;
 - (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 person who represents local government;
 - (g) 2 persons who represent community interests.
- (2) The members of the Authority are to be appointed under this Act and not under the *Public Service Act 2008*.
- (3) A person mentioned in subsection (1)(g) must not be a person who has, or has had, a business interest in a brothel or in the provision of prostitution services.
- (4) In this section—
health practitioner means—
 - (a) a doctor; or
 - (b) a person registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the nursing profession, other than as a student; and
 - (ii) in the registered nurses division of that profession; or
 - (c) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession, other than as a student.

senior executive officer (crime), of the Crime and Corruption Commission, see the *Crime and Corruption Act 2001*, section 245(3)(a).

103 Term of appointment

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.

104 Remuneration

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

105 Disqualifications for appointment

A person is not qualified to be recommended for appointment or continue as a member of the Authority if—

- (a) the person—
 - (i) is an insolvent under administration; or
 - (ii) is convicted of—
 - (A) an offence against this Act or a corresponding law; or
 - (B) an indictable offence; or
 - (iii) becomes incapable of discharging the duties of a member because of physical or mental incapacity; or
 - (iv) has an interest in a brothel; or
- (b) the Minister, having regard to information about the person under subdivision 2, decides the person should not continue or be recommended for appointment as a member of the Authority.

106 Vacation of office

- (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.

106A Acting chairperson

The Governor in Council may appoint a member of the Authority to act as the chairperson—

- (a) during a vacancy in the office of chairperson; and
- (b) during all periods when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

107 Meetings

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

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

- (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.

Subdivision 2 **Assessing suitability for appointment**

108A Subdivision does not apply to exempt member

This subdivision does not apply to an exempt member.

108B Extended criminal history checks

- (1) This section applies in relation to the following persons—
 - (a) a member of the Authority;
 - (b) a person who is being considered for appointment as a member of the Authority (a *prospective member*).
- (2) The Minister may ask the commissioner for a written report about the person's extended criminal history.
- (3) However, if the request relates to a prospective member, the Minister may make the request only if the person has given the Minister written consent for the request.
- (4) The commissioner must comply with the request.
- (5) However, subsection (4) applies only to information in the commissioner's possession or to which the commissioner has access.
- (6) Before using information obtained under subsection (2) to decide whether a person should continue or be recommended

for appointment as member of the Authority, the Minister must—

- (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the Minister about the information.
- (7) The Minister must ensure a report given under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (8) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned in subsection (2).
- (9) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner may disclose information to which that part applies to the Minister for complying with a request under subsection (2).

108C Disclosure of changes in extended criminal history

- (1) If there is a change in the extended criminal history of a member of the Authority, the member must, unless the member has a reasonable excuse, immediately disclose the change to the Minister.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (2) For a member of the Authority who does not have an extended criminal history, there is taken to be a change in the member's extended criminal history if the member acquires an extended criminal history.
- (3) To comply with subsection (1), the information disclosed by the member of the Authority about a conviction for an offence or charge in the member's extended criminal history must include the following—
- (a) the existence of the conviction or charge;

- (b) when the offence was committed or alleged to have been committed;
- (c) details adequate to identify the offence or alleged offence;
- (d) for a conviction—
 - (i) whether or not a conviction was recorded; and
 - (ii) the sentence imposed on the member.
- (4) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information under this section.

108D Disclosure must not be false, misleading or incomplete

- (1) The disclosure under section 108C(1) must be in the approved form.
- (2) A member of the Authority must not give the Minister an approved form under subsection (1) that is false, misleading or incomplete in a material particular.
Maximum penalty—100 penalty units or 2 years imprisonment.
- (3) Subsection (2) does not apply to a member of the Authority in relation to particular information that the member is unable to provide if the member—
 - (a) indicates in the approved form the information that the member is unable to provide; and
 - (b) otherwise gives the information in the approved form to the best of the member's ability.

108E Use of information obtained under this subdivision

- (1) The information about a person received under this subdivision must not be used for any purpose other than for making a decision about whether the person should continue

or be recommended for appointment as a member of the Authority.

- (2) When making the decision mentioned in subsection (1), the Minister must have regard to the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—
- (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the offence and its relevance to the person's appointment as a member of the Authority;
 - (c) anything else the Minister considers relevant to whether the person should continue or be recommended for appointment as a member of the Authority.

Division 3 Status

108F Authority is statutory body under the Financial Accountability Act 2009

The Authority is a statutory body under the *Financial Accountability Act 2009*.

108G Authority is statutory body under the Statutory Bodies Financial Arrangements Act 1982

- (1) The Authority is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) Part 2B of that Act sets out the way in which the Authority's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

108H Budget

- (1) For each financial year, the Authority must develop, adopt and give to the Minister a budget by the day the Minister directs.

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Part 7A Office of the Prostitution Licensing Authority

[s 108I]

- (2) A budget has no effect until approved by the Minister.
- (3) During a financial year the Authority may develop, adopt and submit to the Minister amendments to its budget.
- (4) An amendment has no effect until approved by the Minister.

108I Performance of Authority

- (1) The Minister has the responsibility to ensure the Authority operates to best practice standards.
- (2) To help the Minister discharge the responsibility, the Authority must report to the Minister, when and in the way required by the Minister, on the efficiency, effectiveness, economy and timeliness of the Authority and its systems and processes, including operational processes.
- (3) The Authority must comply with a ministerial request under this section.
- (4) In the Authority's annual report for a year under the *Financial Accountability Act 2009*, the Authority must include copies of all requests given to it by the Minister under this section in the year.

Part 7A Office of the Prostitution Licensing Authority

Division 1 Establishment

109 Establishment of office

- (1) The Office of the Prostitution Licensing Authority is established.
- (2) The office consists of the executive director and the staff of the office.

110 Function

- (1) The office's function is to help the Authority in the performance of its functions.
- (2) Without limiting subsection (1), the office's function includes—
 - (a) helping in the development of reports, budgets and policy issues by the Authority; and
 - (b) coordinating the management of the Authority's functions and providing strategic advice and information to the Authority, including in relation to the Authority's functions; and
 - (c) establishing and maintaining effective liaison between the Authority, the office, the commissioner, the Minister and other entities; and
 - (d) developing and maintaining strategic alliances and partnerships that enhance the Authority's capacity to deliver sustainable services across the State; and
 - (e) developing and implementing policies, procedures, performance standards, operational plans and systems to ensure effective outcomes for the Authority.
- (3) The office may do anything necessary or convenient to be done in performing its function.

110A Status

The office is not a statutory body for—

- (a) the *Financial Accountability Act 2009*; or
- (b) the *Statutory Bodies Financial Arrangements Act 1982*.

Note—

The office is a public service office under the *Public Service Act 2008*.

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Part 7A Office of the Prostitution Licensing Authority

[s 110B]

Division 2 Executive director

Subdivision 1 Appointment

110B Appointment of executive director

- (1) There is to be an executive director of the office.
- (2) The executive director is to be appointed by the Governor in Council on the recommendation of the Minister.
- (3) The executive director is appointed for the term stated in the instrument of appointment and is eligible for reappointment.
- (4) The stated term must not be longer than 5 years.
- (5) The *Public Service Act 2008* does not apply to the appointment of the executive director.

110C Terms of appointment

- (1) The executive director is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The executive director holds office on terms, not provided for by this Act, decided by the Governor in Council.

110D Function of executive director

- (1) The executive director's function is to control the office and be responsible for its efficient and effective administration and operation.
- (2) Subsection (1) does not prevent the attachment of the office to the department for the purpose of ensuring the office is supplied with the administrative support services that it requires to carry out its functions effectively and efficiently.

110E Relationship with Authority

- (1) In performing the executive director's functions and exercising the executive director's powers in relation to a power delegated by the Authority, the executive director must act independently, impartially, fairly and in the public interest.
- (2) However, the executive director is subject to direction by the Authority.

110F Delegation by executive director

The executive director may delegate the executive director's powers under this Act to an appropriately qualified member of the office's staff.

110G Resignation

The executive director may resign by signed notice given to the Minister.

110H Ending of appointment

The Governor in Council may end the appointment of the executive director for any reason or without stating the reason.

110I Preservation of rights

- (1) This section applies if a public service officer is appointed as the executive director.
- (2) The person retains and is entitled to all rights that have accrued to the person because of employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the executive director were a continuation of service as a public service officer.
- (3) At the end of the person's term of appointment or on resignation—

- (a) the person is entitled to be employed as a public service officer at a classification level not less than the current classification level of a position equivalent to the position the person held before being appointed as executive director; and
- (b) the person's service as the executive director is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

110K Acting executive director

The Minister may appoint a person to act as the executive director—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the executive director is absent from duty or can not, for another reason, perform the functions of that office.

Subdivision 2 Assessing suitability for appointment**110KA Extended criminal history checks**

- (1) This section applies in relation to the following persons—
 - (a) the executive director;
 - (b) a person who is being considered for appointment as the executive director (a *prospective executive director*).
- (2) The Minister may ask the commissioner for a written report about the person's extended criminal history.
- (3) However, if the request relates to a prospective executive director, the Minister may make the request only if the prospective executive director has given the Minister written consent for the request.
- (4) The commissioner must comply with the request.

- (5) However, subsection (4) applies only to information in the commissioner's possession or to which the commissioner has access.
- (6) Before using information obtained under subsection (2) to decide whether a person should continue or be recommended for appointment as the executive director, the Minister must—
 - (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the Minister about the information.
- (7) The Minister must ensure a report given under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (8) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned in subsection (2).
- (9) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner may disclose information to which that part applies to the Minister for complying with a request under subsection (2).

110KB Disclosure of changes in extended criminal history

- (1) If there is a change in the extended criminal history of the executive director, the executive director must, unless the executive director has a reasonable excuse, immediately disclose the change to the Minister.

Maximum penalty—100 penalty units or 2 years imprisonment.
- (2) For the executive director who does not have an extended criminal history, there is taken to be a change in the executive director's extended criminal history if the executive director acquires an extended criminal history.
- (3) To comply with subsection (1), the information disclosed by the executive director about a conviction for an offence or

charge in the executive director's extended criminal history must include the following—

- (a) the existence of the conviction or charge;
- (b) when the offence was committed or alleged to have been committed;
- (c) details adequate to identify the offence or alleged offence;
- (d) for a conviction—
 - (i) whether or not a conviction was recorded; and
 - (ii) the sentence imposed on the executive director.
- (4) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information under this section.

110KC Disclosure must not be false, misleading or incomplete

- (1) The disclosure under section 110KB(1) must be in the approved form.
- (2) The executive director must not give the Minister an approved form under subsection (1) that is false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (3) Subsection (2) does not apply to the executive director in relation to particular information that the executive director is unable to provide if the executive director—
 - (a) indicates in the approved form the information that the executive director is unable to provide; and
 - (b) otherwise gives the information in the approved form to the best of the executive director's ability.

110KD Use of information obtained under this subdivision

- (1) The information about a person received under this subdivision must not be used for any purpose other than for deciding whether the person should continue or be recommended for appointment as the executive director.
- (2) When making the decision mentioned in subsection (1), the Minister must have regard to the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—
 - (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the offence and its relevance to the person's appointment as the executive director;
 - (c) anything else the Minister considers relevant to whether the person should continue or be recommended for appointment as the executive director.

Division 3 Staff of the office

Subdivision 1 Employment

110L Office staff

The staff of the office are to be employed under the *Public Service Act 2008*.

**Subdivision 2 Assessing suitability to be engaged
as staff member**

110M Application of sdiv 2

- (1) This subdivision applies to duties to be performed in the office if, under a part 6 directive, the executive director decides that,

because of the nature of the particular duties (*relevant duties*), it may be necessary to have regard to the extended criminal history of anyone engaged to perform the relevant duties to ensure the person so engaged is suitable to perform them.

- (2) To remove any doubt, the *Public Service Act 2008*, chapter 5, part 6 applies only to the extent a part 6 directive may be made for that part under that Act.

Note—

Under the *Public Service Act 2008*, section 194, an appeal may be made to the chief executive of the Public Service Commission against a decision to take, or not take, action under a directive.

110N Executive director may obtain extended criminal history

- (1) If the executive director proposes to engage a person as a staff member (a *prospective staff member*), the executive director may, under a part 6 directive, ask the prospective staff member for written consent for the executive director to obtain the prospective staff member's extended criminal history.
- (2) Subsection (1) applies even if the prospective staff member is a public service employee at the time the executive director proposes to engage the prospective staff member as a staff member.

110O Failure to consent to obtaining extended criminal history

If a prospective staff member does not consent, or withdraws his or her consent, to the executive director obtaining the prospective staff member's extended criminal history, the executive director is not required to consider the prospective staff member for engagement with the office.

110P Obtaining extended criminal history with consent

- (1) If a prospective staff member gives written consent to the executive director obtaining the prospective staff member's extended criminal history, the executive director may ask the

commissioner for a written report about the prospective staff member's extended criminal history.

- (2) The request may include the following—
 - (a) the prospective staff member's name and any other name the executive director believes the prospective staff member may use or may have used;
 - (b) the prospective staff member's date and place of birth, gender and address.
- (3) Subject to subsection (4), the commissioner must comply with the request.
- (4) The duty imposed on the commissioner to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The executive director must destroy a report given to the executive director under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned in subsection (1).
- (7) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner may disclose information to which that part applies to the executive director for complying with a request under subsection (1).

110Q Assessment of suitability using extended criminal history

After the prospective staff member's extended criminal history is given to the executive director, the executive director must consider the prospective staff member's extended criminal history in making an assessment about the prospective staff member's suitability for engagement as a staff member.

110R Staff member to disclose change in extended criminal history

- (1) This section applies if there is a change in the extended criminal history of a staff member.
- (2) The staff member must immediately disclose the details of the change to the executive director.
- (3) The disclosure under subsection (2) must be in the approved form.
- (4) Information disclosed in the approved form by the staff member about a conviction or charge for an offence in the staff member's extended criminal history must include—
 - (a) the existence of the conviction or charge; and
 - (b) when the offence was committed or alleged to have been committed; and
 - (c) the details of the offence or alleged offence; and
 - (d) for a conviction—whether or not a conviction was recorded and the sentence imposed on the staff member.
- (5) For a staff member who does not have an extended criminal history, there is taken to be a change in the staff member's extended criminal history if the staff member acquires an extended criminal history.
- (6) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure of information under this section.

110S Failing to make disclosure or making false, misleading or incomplete disclosure

- (1) A staff member must not—
 - (a) fail to give the executive director a disclosure as required under section 110R, unless the staff member has a reasonable excuse; or

- (b) give the executive director an approved form under section 110R that is false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (2) Subsection (1)(b) does not apply to a staff member in relation to particular information that the staff member is unable to provide if the staff member—
 - (a) indicates in the approved form the information that the staff member is unable to provide; and
 - (b) otherwise gives the information in the approved form to the best of the staff member's ability.

110T Executive director may obtain report from commissioner

- (1) This section applies to a staff member.
- (2) The executive director may ask the commissioner for a written report about the staff member's extended criminal history.
- (3) Subject to subsection (4), the commissioner must comply with the request.
- (4) The duty imposed on the commissioner to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The executive director must destroy a report given to the executive director under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the asking for, or giving of, the information mentioned in subsection (2).
- (7) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner may disclose information to which that part applies to the executive director for complying with a request under subsection (2).

110U Use of information obtained under this subdivision

- (1) This section applies to the executive director in considering information about a person received under this subdivision.
- (2) The information must not be used for any purpose other than assessing the person's suitability to be or continue to be engaged as a staff member.
- (3) When making the assessment, the executive director must have regard to the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—
 - (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the offence and its relevance to the person's proposed duties or duties under the engagement;
 - (c) anything else the executive director considers relevant to the assessment of the person's suitability.

110V Person to be advised of information obtained from commissioner

- (1) This section applies if, after having regard to the matters mentioned in section 110U(3) about a person, the executive director considers the person may not be suitable to be or continue to be engaged by the office to perform relevant duties.
- (2) The executive director must—
 - (a) disclose the information to the person; and
 - (b) allow the person a reasonable opportunity to make representations to the executive director about the information.

Part 7B Administration

Division 1 Register

111 Licence and certificate register

- (1) The executive director 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, giving, 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, giving, 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 office during office hours—
 - (a) free of charge, by the police service, an authorised officer, an agency of government prescribed ~~under a~~by regulation or an authorised ~~officer~~official of a relevant local government; or
 - (b) on payment of the fee prescribed under a regulation, by any other person.
- (3) The executive director may, if the executive director decides that a correction is necessary, correct an error or omission in the register by inserting, amending or omitting an entry.
- (4) The executive director—

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- (a) must make a correction on the direction of the Authority; or
 - (b) may make a correction on the executive director's own initiative, or on the application of any person.
- (5) If the executive director makes a correction, the executive director must record in the register the date on which it was made.
- (6) The register may be kept in any way the executive director considers appropriate, subject to the Authority's directions.

Division 2 Prostitution Licensing Authority Fund

123 Establishment of fund

The Prostitution Licensing Authority Fund is established.

124 Payments into fund

- (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);
 - (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.

125 Payments out of fund

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

126 Directions by Minister

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

127 Indictable and summary offences

- (1) An offence against section 77, 78(1), 79(1), 81(1) or 82 is an indictable offence.
- (2) Any other offence against this Act is a summary offence.

128 Proceedings for indictable offences

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the defendant—
 - (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).
- (4) The maximum penalty that may be summarily imposed for an indictable offence is 200 penalty units or 3 years imprisonment.

129 Limitation on who may summarily hear indictable offence proceedings

- (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*.

130 Limitation on time for starting summary proceedings

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.

131 Offences about false or misleading information or documents

For an offence against section 97, 98, 108D(2), 110KC(2) or 110S, it is enough to allege that the information or document was 'false or misleading' without specifying which.

132 Evidentiary provision

- (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, an authorised officer or an authorised ~~officer~~official 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, an authorised officer or an authorised ~~officer~~official 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 executive director and stating any of the following matters is evidence of the matter—
 - (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;
 - (e) that an annual licence fee or an annual licence return fee was not paid by the prescribed day;
 - (f) that an annual certificate fee or an annual return fee was not paid by the prescribed day.

Division 2 Other matters

133 Disclosure of information

- (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 Minister; or
 - (d) to the commissioner; or
 - (e) with the approval of the Authority, to a person administering a corresponding law; or
 - (f) in a proceeding under this Act or a report of the proceeding; or
 - (g) in a proceeding before a court in which the information is relevant to the issue before the court; or
 - (h) if the information would normally be made available to any member of the public on request.
- (3) In this section—
- official** means a person who is or was—
- (a) the Minister; or
 - (b) the commissioner; or
 - (c) a member of the Authority; or
 - (d) the independent assessor under this Act, as in force before the commencement of the QCAT Act, chapter 7; or
 - (e) the executive director or a member of the staff of the office; or
 - (f) the assessor's registrar under this Act, as in force before the commencement of the QCAT Act, chapter 7; or
 - (g) an authorised officer; or
 - (gh) an authorised ~~officer~~official of a relevant local government.

133A Confidentiality

- (1) This section applies to a relevant person who, in the capacity as relevant person, acquired information, or gained access to a document, under this Act about someone else's extended criminal history for assessing the person's suitability for—

- (a) appointment as a member of the Authority; or
 - (b) appointment as the executive director; or
 - (c) engagement as a staff member.
- (2) The person must not disclose the acquired information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units.

- (3) Subsection (2) does not apply to the disclosure of acquired information, or giving of access to a document, about a person—
- (a) to the Minister for the purpose of assessing the person's suitability for the appointment in relation to which the information or document was acquired; or
 - (b) to a member of the Authority for the purpose of assessing the person's suitability for appointment as the executive director or engagement as a staff member; or
 - (c) to the executive director or a selection panel member for the purpose of assessing the person's suitability for engagement as a staff member; or
 - (d) with the person's consent; or
 - (e) if the disclosure or giving of access is otherwise required under an Act.

- (4) In this section—

relevant person means a person who is or has been—

- (a) the Minister; or
- (b) a member of the Authority; or
- (c) the executive director; or
- (d) a staff member or a selection panel member.

selection panel member means a member of a panel formed to make a recommendation to the executive director about engaging a person as a staff member.

134 Protection of officials from liability

- (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) the executive director; or
 - (e) any other person performing a function under this Act.

134A Protection of health professionals from liability

- (1) This section applies if a health professional reasonably believes that a prostitute at a licensed brothel is a person with an impairment of the mind.
- (2) The health professional may give a police officer information about the prostitute and the prostitute's disability.
- (3) The health professional is not liable, civilly, criminally or under an administrative process, for giving the information to the police officer honestly and on reasonable grounds.
- (4) Also, merely because the health professional gives the information, the health professional can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (5) Without limiting subsections (3) and (4)—

- (a) in a proceeding for defamation, the health professional has a defence of absolute privilege for publishing the information; and
- (b) if the health professional would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the health professional—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving information.
- (6) In this section—

health professional means—

 - (a) a doctor; or
 - (b) a person registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the nursing profession, other than as a student; and
 - (ii) in the registered nurses division of that profession; or
 - (c) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession, other than as a student; or
 - (d) another person prescribed under a regulation for this section.

person with an impairment of the mind see the Criminal Code, section 1.

135 Non-compellability of health service providers

- (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 health service under the *Health Ombudsman Act 2013*.

health service provider means—

- (a) a health practitioner under the Health Practitioner Regulation National Law (Queensland); or
- (b) another person who provides a health service; or
- (c) an employee of a person mentioned in paragraph (a) or (b).

136 Destruction of identifying particulars etc.

- (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.

138 Application of Judicial Review Act

- (1) The *Judicial Review Act 1991*, part 4 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—

- (a) the disclosure of reasons for the decision may endanger the life or wellbeing 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.

138A Delegation

The Authority may delegate powers of the Authority under this Act, other than power to grant, renew or cancel a licence, to the executive director.

139 Approved forms

- (1) The Authority may approve a form for use under this Act, other than under section 108D(1), 110KC(1) or 110R(3).
- (2) The chief executive of the department may approve a form for use under section 108D(1), 110KC(1) or 110R(3).

139A Guidelines

- (1) The Authority may issue guidelines about the approved form for advertisements for prostitution or social escort services.
- (2) Without limiting subsection (1), a guideline may provide—

-
- (a) for the form of an advertisement for prostitution or social escort services; or
 - (b) matters that may or may not be included in an advertisement for prostitution or social escort services.
 - (3) A guideline may be replaced or varied by a later guideline issued under this section.
 - (4) The Authority must keep a copy of a guideline, issued under this section, available for inspection and permit a person—
 - (a) to inspect the guideline without fee; and
 - (b) to take extracts from the guideline without fee.
 - (5) For subsection (4)—
 - (a) a copy of the guideline must be kept at the Authority's office; and
 - (b) the copy kept under paragraph (a) must be available for inspection during office hours on business days for the office.
 - (6) Also, the Authority must keep a copy of a guideline, issued under this section, available for supply to a person and permit a person to obtain a copy of the guideline, or a part of the guideline, without fee.
 - (7) In addition, the Authority must keep a copy of a guideline, issued under this section, posted on the Authority's web site on the internet.

140 Regulation-making power

- (1) The Governor 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;
 - (d) the auditing of financial statements;
 - (e) advertising in relation to licensed brothels or social escort services;
 - (f) assessment benchmarks for the Planning Act for the assessment under that Act of assessable development that is a material change of use of premises for a brothel, other than an assessment carried out by the chief executive of the department in which that Act is administered;
 - (g) a code of practice for licensed brothels;
 - (h) the development of processes by the Authority to deal with complaints by licensees, including the principles with which the processes must comply;
 - (i) advertising by individual prostitutes, including the approval of the advertising by the Authority.
- (3) A regulation may also create offences and impose penalties of not more than 40 penalty units for an offence against a regulation.

141 Review of Act

- (1) The Crime and Corruption Commission must, as soon as practicable after the end of 3 years after the commencement of the *Prostitution Amendment Act 2006*, section 34, review the effectiveness of this Act and give a report on the review under the *Crime and Corruption Act 2001*.
- (2) The conduct of the review and the preparation of the report is taken to be a function of the commission for the *Crime and Corruption Act 2001*.
- (3) In the course of preparing the report, the commission must consult with the Minister and the Authority.

- (4) The Crime and Corruption Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.

Part 9 Transitional provisions

Division 1 Provision for Act No. 77 of 2001

142 Transitional provision about appeals

An appeal started in the Planning and Environment Court under the repealed *Integrated Planning Act 1997* before the commencement of this section in relation to an application made to an assessment manager for development approval for a licensed brothel may continue to be dealt with under that Act as if the *Prostitution Amendment Act 2001* had not been enacted.

Division 2 Provisions for Act No. 40 of 2006

143 Transitional provision for registrar and executive director

A reference in an Act or a document to the registrar of the Authority may, if the context permits, be taken to be a reference to the executive director.

144 Transitional provision for licences

- (1) This section applies to a licence granted before the commencement of this section.
- (2) Despite the *Prostitution Amendment Act 2006*, section 6, the licence continues on the same conditions, and for the same term, that applied to the licence immediately before the commencement.

145 Transitional provision for certificates

- (1) This section applies to a certificate granted before the commencement of this section.
- (2) Despite the *Prostitution Amendment Act 2006*, section 11, the certificate continues on the same conditions, and for the same term, that applied to the certificate immediately before the commencement.

146 Transitional provision for brothel offences

- (1) This section applies if, before the commencement of this section, a person committed an offence against section 78(1)(b) or (c) (the *relevant provision*).
- (2) From the commencement—
 - (a) the relevant provision, as in force before the commencement, continues to apply in relation to the offence; and
 - (b) proceedings for the offence may be continued, or started, against the person as if the *Prostitution Amendment Act 2006*, section 16, had not commenced.

147 Membership of Authority

- (1) This section applies to a person who, immediately before the commencement of this section, was a member of the Authority appointed under section 102(1)(d) or (f).
- (2) From the commencement, the person continues to be a member of the Authority as if the *Prostitution Amendment Act 2006*, section 23 had not commenced.

148 Proceedings

A proceeding that could have been started or continued by or against the registrar before the commencement of this section

may be started or continued by or against the executive director.

149 Transitional provision for evidentiary certificates

A certificate under section 132(5) purporting to be signed by the registrar before the commencement of this section is, on the commencement, taken to have been signed by the executive director.

Division 3 Provision for Act No. 59 of 2007

150 Continuation of refusal of development applications

- (1) This section applies if—
 - (a) after the changeover day for a new or adjusted local government area, land forms part of the new or adjusted local government area; and
 - (b) before the changeover day the assessment manager for a development application for the land would have been required to refuse the development application under section 64(c).
- (2) After the changeover day for the new or adjusted local government area, all development applications for the land must continue to be refused until—
 - (a) the local government for the new or adjusted local government area no longer requires that development applications for the land be refused; or
 - (b) the Minister decides that the local government for the new or adjusted local government area may approve development applications for the land.
- (3) In this section—

adjusted local government area means an adjusted local government area under the reform implementation provisions.

Prostitution Act 1999

Part 9 Transitional provisions

[s 151]

changeover day, for a new or adjusted local government area, means the changeover day for the area under the reform implementation provisions.

new local government area means a new local government area under the reform implementation provisions.

reform implementation provisions means the *Local Government Act 1993*, chapter 3, part 1B.

Division 4 Provision for Act No. 55 of 2008

151 References in sch 1 to Criminal Code offences

Schedule 1 applies as if the reference to the Criminal Code, section 415 included a reference to the Criminal Code, section 415 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

Division 5 Provisions for Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009

152 Definition for div 5

In this division—

commencement means the commencement of section 153.

153 Independent assessor goes out of office

On the commencement, the independent assessor goes out of office.

154 Application of particular QCAT Act provisions to former independent assessor and former assessor's registrar

- (1) From the commencement, the following provisions of the QCAT Act apply in relation to the former independent assessor as if the former independent assessor were a former tribunal under that Act—
 - sections 250 to 253 and 254(1)(a)
 - chapter 7, part 2, divisions 2 to 4
 - chapter 7, part 4
 - section 276.
- (2) For applying the QCAT Act, section 276 in relation to the former independent assessor, a reference in the section to a former Act is taken to be a reference to this Act.
- (3) Also, from the commencement, the QCAT Act, section 254(1)(d) applies to the former assessor's registrar as if the reference in the paragraph to a former registrar were a reference to the former assessor's registrar.
- (4) In this section—

former assessor's registrar means the person holding appointment as the assessor's registrar for this Act immediately before the commencement.

former independent assessor means the person holding appointment as an independent assessor for this Act immediately before the commencement.

Division 6 Provision for Sustainable Planning Act 2009

155 Application of pt 4

- (1) This section applies to the following made but not decided before the commencement—

Prostitution Act 1999

Part 9 Transitional provisions

[s 156]

- (a) a development application under the repealed *Integrated Planning Act 1997* for a material change of use of premises for a brothel;
- (b) a request to change a development approval, or the conditions of a development approval, under that Act for a brothel.
- (2) Part 4 as in force before the commencement continues to apply to an application or request mentioned in subsection (1) as if the *Sustainable Planning Act 2009* had not commenced.
- (3) In this section—
commencement means the day this section commences.

Division 7 Provisions for Police Legislation Amendment Act 2010

156 Definition for pt 9, div 7

In this division—

commencement means the commencement of this division.

157 Conduct of disciplinary inquiry started but not dealt with as at commencement

- (1) This section applies to a disciplinary inquiry that has started but is not complete as at the commencement.
- (2) The Authority must continue to conduct the inquiry under the Act as in force immediately before the commencement.

158 Disciplinary inquiry notice not given to licensee as at commencement

- (1) This section applies if the Authority—
 - (a) decides, before the commencement, to conduct a disciplinary inquiry in relation to a licensee; and

- (b) has not, as at the commencement, started the inquiry.
- (2) The Authority must conduct the inquiry under the Act as in force from the commencement.

159 Disciplinary inquiry notice not given to approved manager as at commencement

- (1) This section applies if the Authority—
 - (a) decides, before the commencement, to conduct a disciplinary inquiry in relation to an approved manager; and
 - (b) has not, as at the commencement, started the inquiry.
- (2) The Authority must conduct the inquiry under the Act as in force from the commencement.

160 Disqualifications for appointment—particular members of Authority

- (1) This section applies to a member of the Authority, other than an exempt member, as at the commencement.
- (2) Section 105(b) as at the commencement applies to the member.

161 Extended criminal history checks—particular members of Authority

- (1) This section applies to a member of the Authority, other than an exempt member, as at the commencement.
- (2) Sections 108B and 108E apply in relation to the member.
- (3) Sections 108C and 108D apply to the member.

162 Extended criminal history checks—executive director

- (1) This section applies to the executive director as at the commencement of this section.

Prostitution Act 1999

Part 9 Transitional provisions

[s 163]

- (2) Sections 110KA and 110KD apply in relation to the executive director.
- (3) Sections 110KB and 110KC apply to the executive director.

163 Executive director may obtain extended criminal history

- (1) This section applies to a staff member as at the commencement of this section.
- (2) Sections 110R and 110S apply to the staff member.
- (3) Sections 110T, 110U and 110V apply in relation to the staff member.

Division 8

Provision for Court and Civil Legislation Amendment Act 2017

~~164~~163A Application of Act to application for variation not decided before commencement

- (1) An application made under the pre-amended Act, section 46 but not decided before the commencement must be dealt with as if it had been made under section 46 as in force after the commencement.
- (2) Without limiting subsection (1), if, before the commencement, the Authority had given the commissioner particulars of the application under applied section 39(1) and the commissioner had not reported to the Authority under applied section 39(3), the commissioner's obligations under applied section 39 end.
- (3) In this section—

applied section 39 means section 39 as applied under the pre-amended Act, section 46(3).

pre-amended Act means this Act as in force before the commencement.

**Division 89 Provisions for Planning
(Consequential) and Other
Legislation Amendment Act 2016**

164 Definitions for division

In this division—

amending Act means the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the amending Act.

165 Existing development application or request to change a development approval

(1) This section applies to—

- (a) an existing development application for a material change of use of premises for a brothel; and
- (b) an existing request to change a development approval for a brothel.

(2) Former section 63B continues to apply in relation to the application or request as if the amending Act had not been enacted.

(3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 288 applies.

existing request to change a development approval means a request to change a development approval made under the repealed Planning Act, to which the Planning Act, section 288 applies.

repealed Planning Act means the repealed *Sustainable Planning Act 2009*.

166 Existing review or right to review by QCAT

- (1) Subsection (2) applies if—
 - (a) a person applied to QCAT for review of a decision under former section 64A or 64B; and
 - (b) QCAT had not made its decision on the review before the commencement.
- (2) QCAT must hear, or continue to hear, and decide the review under the pre-amended Act as if the amending Act had not been enacted.
- (3) Subsection (4) applies if, before the commencement—
 - (a) a person could have applied to QCAT for review of a decision under former section 64A or 64B; and
 - (b) the person had not applied to QCAT for the review.
- (4) The person may apply to QCAT for a review of the decision, and QCAT must hear and decide the review, under the pre-amended Act as if the amending Act had not been enacted.
- (5) In this section—

pre-amended Act means this Act as in force immediately before the commencement of the amending Act.

167 Existing declaration or temporary declaration that premises are a prohibited brothel

- (1) A declaration made under former section 66 and in force immediately before the commencement—
 - (a) continues in force subject to section 66(5); and
 - (b) is taken to have been made under section 66.
- (2) A temporary declaration made under former section 66A and in force immediately before the commencement—
 - (a) continues in force subject to section 66A(2); and
 - (b) is taken to have been made under section 66A.

Division 10**Provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2019****168 Proceedings for particular offences**

- (1) This section applies in relation to an offence against former section 78(1)(c) or former section 84 committed by a person before the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the *Police Powers and Responsibilities and Other Legislation Amendment Act 2019*, sections 60 and 61 had not commenced.
- (3) Subsection (2) applies despite the *Criminal Code*, section 11.
- (4) In this section—
former, in relation to a provision, means as in force from time to time before the provision was amended by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2019*.

**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 306 (Attempt to murder)
- 5 section 349 (Rape)
- 6 section 350 (Attempt to commit rape)
- 7 section 354 (Kidnapping)
- 8 section 354A (Kidnapping for ransom)
- 9 section 415 (Extortion)
- 10 any offence in chapter 22 (Offences against morality), if the offence relates to a child or a person with an impairment of the mind
- 11 any offence in chapter 22A (Prostitution), if the offence relates to a child or a person with an impairment of the mind

**Schedule 2 Disqualifying offence
provisions under the Migration
Act 1958 (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 pretended interdependency relationship to obtain permanent residence)
- 8 section 243 (Offences relating to 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 representations)
- 14 section 283 (False representation that a person is a registered agent)

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Schedule 2

- 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

Restrictions on numbers of
prostitutes at licensed brothel

section 78(2)

Column 1 Number of rooms permitted at licensed brothel under development permit	Column 2 Number of prostitutes at licensed brothel at any 1 time
1	2
2	3
3	4
4	6
5	8

Schedule 4 Dictionary

section 5

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

advertisement, for part 6, division 4 and section 139A, see section 92.

approved form see 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.

assessment manager, for a development application, means the person who is the assessment manager under the Planning Act for the application.

associate see section 6.

authorised officer see section 59.

authorised official 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.

~~***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.

change application means a change application under the Planning Act.

commencement, for part 9, division 7, see section 156.

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.

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

decision-maker, for part 4, see section 62.

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

development permit means a development permit granted under the Planning Act.

disciplinary inquiry—

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

disciplinary inquiry notice, for a disciplinary inquiry—

- (a) in relation to a licensee—see section 27B; or
- (b) in relation to an approved manager—see section 53B.

disqualifying offence means—

- (a) an offence or an attempt to commit, or to conspire to commit or to counsel or procure a person to commit an offence, against any of the following—
 - (i) the *Criminal Proceeds Confiscation Act 2002*, section 250;

- (ii) the *Drugs Misuse Act 1986*, section 5 or 9D;
- (iii) a provision of the Criminal Code mentioned in schedule 1;
- (iv) a provision of the *Migration Act 1958* (Cwlth) mentioned in schedule 2; or
- (b) an offence that, if committed in Queensland, would be a disqualifying offence under paragraph (a).

enforcement power means a power under part 3A, division 2.

engage, a person, includes appoint, employ, promote, redeploy or second the person within or to the office.

executive director means the executive director of the office appointed under section 110B.

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.

exempt member means a member of the Authority mentioned in section 102(1)(b) or (c).

extended criminal history, of a person, means all of the following—

- (a) every conviction of the person for an offence, in Queensland or elsewhere, whether before or after the commencement of this Act;
- (b) every charge of an offence made against the person, in Queensland or elsewhere, whether before or after the commencement of this Act.

family, of an individual, consists of the following members—

- (a) the individual's spouse;
- (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.

health services means services prescribed under a regulation for maintaining, improving and restoring people's health and wellbeing.

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
- (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.

material change of use, of premises, see the Planning Act, schedule 2.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

notice means written notice.

occupier, of premises, includes the following—

- (a) if there is more than 1 person who apparently occupies the premises—any 1 of the persons;
- (b) any person at the premises who is apparently acting with the authority of a person who apparently occupies the premises;
- (c) if no-one apparently occupies the premises—any person who is an owner of the premises.

office means the Office of the Prostitution Licensing Authority established under section 109.

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

part 6 directive means a ruling that is a directive made for the *Public Service Act 2008*, chapter 5, part 6.

Planning Act means the *Planning Act 2016*.

prescribed day means—

- (a) for an annual licence fee, or an annual licence return fee, for a licence—the day mentioned in section 19(5)(d)(i) as the day by which the licensee must pay the fee; or
- (b) for an annual certificate fee, or an annual return fee, for a certificate—the day mentioned in section 44(4)(d)(i) as the day by which the approved manager must pay the fee.

prospective staff member see section 110N.

prostitution see the Criminal Code, section 229E.

publish, an advertisement or statement, for part 6, division 4, see section 92.

relevant application, for part 4, see section 62.

relevant duties see section 110M.

section 66 declaration see section 65.

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

social escort means a person who, under an arrangement of a commercial character, is held out to the public for hire to—

- (a) accompany another person to social affairs, places of entertainment or amusement; or
- (b) consort with a person in any place, whether public or private;

but does not include—

- (c) a person who provides the services mentioned in paragraph (a) or (b) as part of health services for the other person; or
- (d) a person who provides prostitution.

social escort provider means a person or entity that, under an arrangement of a commercial character—

- (a) provides, or offers to provide, names of social escorts to persons; or
- (b) introduces, or offers to introduce, persons to social escorts; or
- (c) takes any other step for the purpose of introducing persons to social escorts.

staff member means a member of the staff of the office.

suspension period—

- (a) for a licence—see section 24B; or
- (b) for a certificate—see section 50B.

temporary declaration see section 65.