



Queensland

Prostitution and Other Acts Amendment Act 2010

Act No. 29 of 2010



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Contents

| | | Page |
|---------------|--|------|
| Part 1 | Preliminary | |
| 1 | Short title | 4 |
| 2 | Commencement | 4 |
| Part 2 | Amendment of Prostitution Act 1999 | |
| 3 | Act amended | 4 |
| 4 | Insertion of new pt 6, div 4, sdiv 1 hdg. | 4 |
| 5 | Amendment of s 92 (Definitions for div 4) | 4 |
| 6 | Insertion of new pt 6, div 4, sdiv 2 hdg. | 5 |
| 7 | Amendment of s 93 (Advertising prostitution) | 5 |
| 8 | Insertion of new pt 6, div 4, sdiv 3 | 6 |
| | Subdivision 3 Advertising offences about social escort services | |
| | 96A Advertising social escort services | 6 |
| | 96B Clients of social escort services to be informed that prostitution is not provided | 7 |
| | 96C Evidentiary provision | 8 |
| 9 | Amendment of s 139 (Approval of forms) | 8 |
| 10 | Amendment of s 139A (Guidelines) | 8 |
| 11 | Amendment of s 140 (Regulation-making power) | 8 |
| 12 | Amendment of sch 4 (Dictionary) | 9 |
| Part 3 | Amendment of Criminal Code | |
| 13 | Act amended | 10 |
| 14 | Amendment of s 229C (Definitions) | 10 |
| 15 | Insertion of new ss 229F and 229FA | 10 |
| | 229F Meaning of carry on a business | 10 |
| | 229FA Obtaining prostitution from person who is not an adult | 11 |

Prostitution and Other Acts Amendment Act 2010

Contents

| | | |
|---------------|---|----|
| 15A | Amendment of s 229G (Procuring prostitution) | 11 |
| 16 | Amendment of s 229H (Knowingly participating in provision of prostitution). | 11 |
| 17 | Insertion of new ss 229HA–229HC | 13 |
| | 229HA When section 229H does not apply to a person. | 14 |
| | 229HB Carrying on business of providing unlawful prostitution | 14 |
| | 229HC Persons engaging in or obtaining prostitution through unlawful prostitution business. | 14 |
| 18 | Amendment of s 229J (Certificate of discharge for s 229I offence) | 15 |
| 19 | Insertion of new s 229M | 15 |
| | 229M Evidence that business of prostitution is being carried on | 16 |
| Part 4 | Amendment of Child Employment Act 2006 | |
| 20 | Act amended | 16 |
| 21 | Insertion of new s 8B | 16 |
| | 8B Prohibition on work as social escort. | 16 |



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Prostitution and Other Acts Amendment Act 2010

Act No. 29 of 2010

An Act to amend the Prostitution Act 1999, the Criminal Code and the Child Employment Act 2006 for particular purposes

[Assented to 1 September 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Prostitution and Other Acts Amendment Act 2010*.

2 Commencement

Parts 2 and 4 commence on a day to be fixed by proclamation.

Part 2 Amendment of Prostitution Act 1999

3 Act amended

This part amends the *Prostitution Act 1999*.

4 Insertion of new pt 6, div 4, sdiv 1 hdg

Part 6, division 4, before section 92—

insert—

‘Subdivision 1 Definitions’.

5 Amendment of s 92 (Definitions for div 4)

Section 92, definition *publish*, after ‘recording’—

insert—

‘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’.

6 Insertion of new pt 6, div 4, sdiv 2 hdg

After section 92—

insert—

‘Subdivision 2 Advertising offences about prostitution’.

7 Amendment of s 93 (Advertising prostitution)

- (1) Section 93(1), (2) and (3), penalty—

omit.

- (2) Section 93, at the end—

insert—

‘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 \$1000 or less—70 penalty units; and
 - (ii) if the cost of establishing the website is more than \$1000—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 \$1000 or less—70 penalty units; or
 - (ii) if the cost of publishing the advertisement is more than \$1000—an amount that is 10 times the cost of publishing the advertisement.’.

[s 8]

- (3) Section 93(4), definition *approved form*, paragraphs (a) and (b), after ‘advertisement’—

insert—

‘mentioned in section 93(2) or 96A(2)’.

- (4) Section 93(4), definition *approved form*—

relocate to section 92.

- (5) Section 93(4)—

omit.

8 Insertion of new pt 6, div 4, sdiv 3

After section 96—

insert—

‘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 \$1000 or less—70 penalty units; and
- (ii) if the cost of establishing the website is more than \$1000—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 \$1000 or less—70 penalty units; or
 - (ii) if the cost of publishing the advertisement is more than \$1000—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

[s 9]

- (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.'

9 Amendment of s 139 (Approval of forms)

Section 139(2), after 'section 93(2)'—

insert—

'or 96A(2)'.

10 Amendment of s 139A (Guidelines)

Section 139A(1) and (2), after 'prostitution'—

insert—

'or social escort services'.

11 Amendment of s 140 (Regulation-making power)

Section 140(2)(e), after 'brothels'—

insert—

'or social escort services'.

12 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definition *approved form*—

omit.

(2) Schedule 4—

insert—

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

approved form see section 139.

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

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

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.'

[s 13]

Part 3 Amendment of Criminal Code

13 Act amended

This part amends the Criminal Code.

14 Amendment of s 229C (Definitions)

(1) Section 229C, heading—

omit, insert—

‘229C Definitions for ch 22A’.

(2) Section 229C—

insert—

‘carry on a business see section 229F.

prostitution see section 229E.

unlawful prostitution means prostitution by 2 or more prostitutes, other than at a licensed brothel in accordance with the brothel licence for the brothel.’.

15 Insertion of new ss 229F and 229FA

After section 229E—

insert—

‘229F Meaning of *carry on a business*

‘To carry on a business, a person must at least—

- (a) provide finance for the business; and
- (b) either—
 - (i) take part in the management of the business; or
 - (ii) control the business.

‘229FA Obtaining prostitution from person who is not an adult

‘(1) A person (a *client*) who obtains prostitution from a person who is not an adult and who the client knows, or ought reasonably to know, is not an adult, commits a crime.

Maximum penalty—imprisonment for 7 years.

‘(2) If the person who provides the prostitution is under 16 years, the offender is liable to a maximum penalty of 14 years imprisonment.’.

15A Amendment of s 229G (Procuring prostitution)

Section 229G, heading—

omit, insert—

‘229G Procuring engagement in prostitution’.

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

(1) Section 229H(1), example 3—

omit.

(2) Section 229H(1), example 5, after ‘prostitution’—

insert—

‘unless section 229HA(4)(b)(ii) applies’.

(3) Section 229H(1), example 6, after ‘another person’—

insert—

‘unless section 229HA(5) applies’.

(4) Section 229H(1), examples 4 to 7—

renumber as examples 3 to 6.

(5) Section 229H(1), after example 6 (as renumbered)—

insert—

[s 16]

Note—

Some of these examples may also illustrate the offence defined in section 229HB.’.

- (6) Section 229H(3), ‘Subsection (1)’—
omit, insert—
‘Section 229H’.
- (7) Section 229H(4) and (5), ‘Also, subsection (1)’—
omit, insert—
‘Section 229H’.
- (8) Section 229H(5)(a), from ‘is not’—
omit, insert—
‘the prostitution is not unlawful prostitution; and’.
- (9) Section 229H(5)(b)—
omit, insert—
‘(b) either—
- (i) the participant—
 - (A) is the holder of a current licence issued under the *Security Providers Act 1993* for carrying out the functions of a bodyguard under that Act; and
 - (B) participates in the provision of the prostitution no more than the extent necessary for providing services as a bodyguard; and
 - (C) participates in the provision of the prostitution by the other person and no one else; or
 - (ii) the participant—
 - (A) is the holder of a current licence issued under the *Security Providers Act 1993* for carrying

out the functions of a crowd controller under that Act; and

(B) participates in the provision of the prostitution no more than the extent necessary for providing services as a driver; and

(C) participates in the provision of the prostitution by the other person and no one else; and’.

(10) Section 229H—

insert—

‘(6) Section 229H does not apply to a person (also the *participant*) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

(a) the provision of the prostitution by the other person does not take place at a licensed brothel, and the prostitution is not unlawful prostitution; and

(b) the participant directly receives a message from the other person about the other person’s location, or the activity being undertaken by the other person, in relation to the provision of prostitution by the other person; and

(c) the participant participates in the provision of the prostitution no more than the extent necessary for ensuring the safety of the other person; and

(d) the participant participates in the provision of the prostitution by the other person and no one else; and

(e) the participant does not engage in prostitution.’.

(11) Section 229H(3) to (6)—

relocate and renumber as section 229HA(2) to (5).

17 Insertion of new ss 229HA–229HC

After section 229H—

insert—

[s 17]

‘229HA When section 229H does not apply to a person

- ‘(1) Subsections (2) to (5) set out particular circumstances in which section 229H does not apply to a person.

‘229HB Carrying on business of providing unlawful prostitution

- ‘(1) A person who knowingly carries on the business of providing unlawful prostitution commits a crime.

Maximum penalty—imprisonment for 7 years.

- ‘(2) However, if a person who is not an adult or is a person with an impairment of the mind is, to the offender’s knowledge, engaged in the provision of the prostitution, the offender is liable to a maximum penalty of 14 years imprisonment.

- ‘(3) This section and section 229H do not limit each other.

‘229HC Persons engaging in or obtaining prostitution through unlawful prostitution business

- ‘(1) A person who engages in prostitution through a business suspected on reasonable grounds of providing unlawful prostitution commits a crime.

Maximum penalty—

- (a) for a first offence—imprisonment for 3 years; or
- (b) for a second offence—imprisonment for 5 years; or
- (c) for a third or subsequent offence—imprisonment for 7 years.

- ‘(2) A person who, without reasonable excuse, obtains prostitution through a business suspected on reasonable grounds of providing unlawful prostitution commits a crime.

Maximum penalty—

- (a) for a first offence—imprisonment for 3 years; or
- (b) for a second offence—imprisonment for 5 years; or

- (c) for a third or subsequent offence—imprisonment for 7 years.’.

18 Amendment of s 229J (Certificate of discharge for s 229I offence)

- (1) Section 229J, heading—

omit, insert—

‘229J Certificate of discharge for particular offences’.

- (2) Section 229J(1)—

insert—

‘unlawful prostitution offence means an offence against section 229HC(1) or (2).’.

- (3) Section 229J(1), definitions *defendant* and *the court*, after ‘unlawful’—

insert—

‘prostitution offence or an unlawful’.

- (4) Section 229J(2), (5)(a), (6) and (7), after ‘unlawful’—

insert—

‘prostitution offence or the unlawful’.

- (5) Section 229J(5)(b), ‘Code in relation to the premises.’—

omit, insert—

‘Code—

- (i) if the offence is an unlawful prostitution offence—in relation to carrying on the business of providing unlawful prostitution; or
- (ii) if the offence is an unlawful presence offence—in relation to the premises.’.

19 Insertion of new s 229M

After section 229L—

[s 20]

insert—

‘229M Evidence that business of prostitution is being carried on

- ‘(1) The fact that a business of prostitution is being carried on may be inferred from employment records, business records, telephone records, advertisements and other relevant factors and circumstances.
- ‘(2) However, evidence of condoms and other material for safe sex practices is not admissible against a defendant.’.

Part 4 **Amendment of Child Employment Act 2006**

20 **Act amended**

This part amends the *Child Employment Act 2006*.

21 **Insertion of new s 8B**

After section 8A—

insert—

‘8B **Prohibition on work as social escort**

- ‘(1) An employer must not require or permit a child to work as a social escort.

Maximum penalty—100 penalty units.

- ‘(2) In this section—

social escort see the *Prostitution Act 1999*, schedule 4.’.