



Prostitution Act 1999

Reprinted as in force on 1 December 2008

Reprint No. 2B

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Information about this reprint

This Act is reprinted as at 1 December 2008. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Prostitution Act 1999

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Prostitution Act 1999

[as amended by all amendments that commenced on or before 1 December 2008]

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.

Part 3 Licensing system

Division 1 Brothel licences

Subdivision 1 Application for licence

8 Who is ineligible for a brothel licence

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

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

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

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.

- (2) However, the Authority is not obliged to consider an application until the relevant assessment manager gives development approval 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 Integrated 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 granted for a 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.

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.

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 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.

28 Starting disciplinary action

- (1) This section applies if an application for a disciplinary inquiry is made.
- (2) The inquiry must not start within 30 days of when the application is made unless—
 - (a) the person who made the application or the licensee applies to the Authority for the inquiry to be started within that time; and
 - (b) the Authority is satisfied that it is reasonable in the circumstances.

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 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

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.

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 *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—

1 Brothel commences operation.

- (4) If the Authority is satisfied that it is reasonable in the circumstances to postpone giving the certificate to the applicant, the Authority must postpone giving the certificate for the period decided by the Authority.
- (5) The Authority may extend the period of time it sets under subsection (4).
- (6) If the Authority decides to refuse to grant the certificate, the Authority must give the applicant a notice stating—
 - (a) the decision; and
 - (b) subject to section 138, 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.

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

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—
 - (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.

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 229M²); or
 - (iii) an offence of giving false or misleading information or documents under this Act; or
- (b) becomes an insolvent under administration.

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 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;

2 Criminal Code, section 229M (Police officer may require person to provide name and address etc.) was omitted 2000 Act No. 5 s 461 sch 3.

- (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.

54 Starting disciplinary action

- (1) This section applies if an application for a disciplinary inquiry is made.
- (2) The inquiry must not start within 30 days of when the application is made unless—
 - (a) the person who made the application or the approved manager applies to the Authority for the inquiry to be started within that time; and
 - (b) the Authority is satisfied that it is reasonable in the circumstances.

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;

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- (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 4 Development approvals for brothels

Division 1 Preliminary

62 Definitions for pt 4

In this part—

application land means land the subject of a development application.

development application means an application under the Integrated Planning Act for—

- (a) a material change of use of premises for a brothel; or
- (b) a minor change to a development approval for a brothel or a request to change or cancel conditions of a development approval for a brothel.

63A Integrated Planning Act

- (1) This part applies despite the Integrated Planning Act.
- (2) If this part is inconsistent with the Integrated Planning Act, this part prevails to the extent of the inconsistency.
- (3) Further, for the application of the Integrated Planning Act to a development application, an industrial area is land, however described, that is designated in a planning scheme or other planning instrument under the Integrated Planning Act as industrial, or that is predominantly industrial in character, having regard to—
 - (a) dominant land uses in the area; or
 - (b) the relevant provisions of a planning scheme or planning instrument applying to the area.

Examples of ways of describing industrial areas—

- 1 heavy industry
- 2 commercial industry
- 3 light industry

- 4 service industry
- 5 general industry
- 6 waterfront industry

Division 2 Particular provisions about development applications

63B Notification by assessment manager of development application

Within 10 business days after receiving a development application, the assessment manager must give the Authority—

- (a) a copy of the application; and
- (b) a written notice stating whether the development application is required to be subject to code assessment or impact assessment under the Integrated Planning Act.

64 When assessment manager must refuse application

(1) The assessment manager must refuse a development application if—

- (a) the application land—
 - (i) is in, or within 200m of the closest point on any boundary of, a primarily residential area or an area approved for residential development or intended to be residential in character; or
 - (ii) is within 200m of the closest point on any boundary of land on which there is a residential building, place of worship, hospital, school, kindergarten, or any other facility or place regularly frequented by children for recreational or cultural activities;

measured according to the shortest route a person may reasonably and lawfully take, by vehicle or on foot, between the application land and the other land; or

- (b) the application land is within 100m of the closest point on any boundary of land on which there is a residential building, place of worship, hospital, school, kindergarten, or any other facility or place regularly frequented by children for recreational or cultural activities, measured in a straight line; or
 - (c) for land in a town with a population of less than 25000—
 - (i) the local government for the local government area has required that all applications within the area be refused; and
 - (ii) the Minister has agreed that the applications should be refused; or
 - (d) more than 5 rooms in the proposed brothel are to be used for providing prostitution.
- (2) In this section—

residential building, for subsection (1)(a)(ii) and (1)(b), means a building or part of a building used primarily for private residential use, other than a building or part of a building used only for a caretaker's residence on land in an industrial area.

vehicle includes any type of transport that moves on wheels but does not include a train or tram.

Division 3 Object of appeal divisions

64A Object of appeal divisions

- (1) The object of the appeal divisions is to provide for easily accessible, informal, fair, speedy and just reviews of decisions about particular development applications.
- (2) In this section—

appeal divisions means divisions 4 to 7.

Division 4 Independent assessor

64B Independent assessor

- (1) The Minister may appoint an independent assessor for this Act.
- (2) An independent assessor must be a lawyer of at least 5 years standing.
- (3) However, the Minister may make an appointment only if the Minister is satisfied the person has sufficient expertise or experience in town planning and is otherwise suitable for appointment.
- (4) Subject to section 64D, the terms and conditions of the appointment are as decided by the Minister.

64C Acting independent assessor

The Minister may appoint a person qualified to be an independent assessor to act as the independent assessor—

- (a) during a vacancy in the office of the independent assessor; or
- (b) during any period, or during all periods, when the independent assessor is absent from duty or the State or is, for another reason, unable to perform the duties of office.

64D Independent assessor remuneration

The independent assessor is to be paid the fees and allowances decided by the Governor in Council.

64E Independent assessor not subject to control

The independent assessor is not subject to control or direction by anyone in the way the independent assessor performs the independent assessor's functions.

64F Independent assessor's jurisdiction

The independent assessor may hear and decide appeals made to the independent assessor under this part.

64G If conflict of interest

- (1) If the independent assessor has a conflict of interest in relation to an appeal, the independent assessor must not decide the appeal.
- (2) Without limiting subsection (1), the independent assessor has a conflict of interest for this section if—
 - (a) premises to which an appeal relates are premises—
 - (i) the independent assessor owns; or
 - (ii) in relation to which the independent assessor was, is, or is to be, a planner; or
 - (iii) situated or to be situated in the area of a local government of which the independent assessor is an officer, employee or councillor; or
 - (b) the independent assessor has acted or is acting as the appellant's lawyer and the independent assessor's involvement as the appellant's lawyer could conflict with the proper performance of the independent assessor's duties in relation to the appeal; or
 - (c) the independent assessor has a direct or indirect personal interest in a matter to be considered by the independent assessor, and the interest could conflict with the proper performance of the independent assessor's duties in relation to consideration of the matter.

64H Protection

- (1) The independent assessor has, in the performance of the independent assessor's duties, including in the performance or exercise of an administrative function or power conferred on the independent assessor under an Act, the same protection and immunity as a Supreme Court judge has in a proceeding in the Supreme Court.

- (2) A person representing a party before the independent assessor has the same protection and immunity as a lawyer has in appearing for a party in a proceeding in the Supreme Court.
- (3) A person making oral submissions to the independent assessor has the same protection as a witness has in a proceeding in the Supreme Court.

64I Assessor's registrar

- (1) The Minister may at any time by gazette notice appoint a registrar for appeals to the independent assessor (*assessor's registrar*), and other officers the Minister considers appropriate to help the independent assessor perform functions under this Act.
- (2) A public service officer may be appointed under subsection (1) or may be assigned by the chief executive to perform duties to help the independent assessor and may hold the appointment or perform the duties concurrently with any other appointment the officer holds in the public service.
- (3) In performing the functions of assessor's registrar, or a function delegated to the registrar by the independent assessor, the assessor's registrar is not subject to direction by the Minister or the chief executive.

64J Delegation

The independent assessor may delegate to the assessor's registrar the independent assessor's powers, other than power to hear and decide an appeal.

Division 5 Appeals

64K Appeals by applicants

- (1) An applicant for a development application that an assessment manager decides requires code assessment under the Integrated Planning Act may appeal to the independent assessor against—

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- (a) the assessment manager's decision that the development application is required to be subject to code assessment under the Integrated Planning Act; or
 - (b) the assessment manager's refusal, or the refusal in part, of the application; or
 - (c) a matter stated in a development approval for the application, including any condition applying to the development; or
 - (d) a decision to give a preliminary approval when a development permit was applied for; or
 - (e) the length of a period mentioned in the Integrated Planning Act, section 3.5.21; or
 - (f) a deemed refusal.
- (2) Also, an applicant for a development application may appeal to the independent assessor against a statement in an acknowledgment notice under the Integrated Planning Act that an aspect of the development applied for requires impact assessment.
- (3) The appeal must be started within 20 business days after either of the following happens under the Integrated Planning Act—
- (a) the decision notice or acknowledgment notice is given to the applicant;
 - (b) if a negotiated decision notice is also given to the applicant—the negotiated decision notice is given to the applicant.
- (4) If the appeal is made to the Planning and Environment Court, the court must not hear or decide the appeal.
- (5) Subsections (1), (2) and (4) do not prevent the making of an application under the Integrated Planning Act, section 4.1.21 for a declaration about the meaning, effect or enforcement of a condition of a development approval.

Division 6 Starting an appeal

64L Starting an appeal

- (1) A person starts an appeal to the independent assessor by lodging a notice of appeal, in the approved form, with the assessor's registrar.
- (2) The notice of appeal must state the grounds of the appeal, including why the appellant considers the decision is wrong, and must be accompanied by the fee prescribed under a regulation.

64M Notice of appeal to other parties

- (1) The assessor's registrar must, within 5 business days after the day the appeal is started, give notice of the starting of the appeal to the assessment manager.
- (2) The assessor's registrar may also give notice of the starting of the appeal to the Authority.
- (3) The notice must be accompanied by a copy of the appellant's notice of appeal.

64N Development approval suspended until appeals decided

A development approval is suspended until the end of any period for appealing against any matter stated in the approval and any proceeding started because of an appeal.

64O Assessment manager to provide documents

- (1) The assessor's registrar must ask the assessment manager to give the registrar—
 - (a) all documents, including plans and specifications, about the aspect of the development application being appealed; and
 - (b) for a deemed refusal, a statement of the reasons the assessment manager had not decided the application during the decision making period or any extension of the decision making period; and

- (c) any other information the registrar requires.
- (2) The assessment manager must give the material mentioned in subsection (1) within 10 business days after the day the assessor's registrar asks for the material.

Division 7 Procedure

64P Procedure for deciding appeal

For deciding the appeal, the independent assessor—

- (a) need not proceed in a formal way; and
- (b) is not bound by the rules of evidence, but must comply with natural justice; and

Example—

giving the parties a reasonable opportunity to make oral submissions by using any reasonable form of contemporaneous communication

- (c) may inform him or herself in the way the independent assessor considers appropriate; and
- (d) may seek the views of any person; and
- (e) may give the directions about the conduct of the appeal the independent assessor considers reasonably necessary.

64Q Independent assessor may allow longer period to take step

- (1) This section applies if a step in an appeal must be taken within a stated time.
- (2) The independent assessor may allow a longer time to take the step.
- (3) Subsection (2) does not apply to a notice of appeal that is not received within the time stated for starting the appeal.

64R Costs

Each party to an appeal must bear the party's own costs for the appeal.

64S Preliminary assessment

- (1) Within 10 business days after receiving material from the assessment manager under section 64O, the independent assessor must—
 - (a) make a preliminary assessment of the assessment manager's decision or failure to decide; and
 - (b) give a copy of the preliminary assessment and the reasons for the preliminary assessment to the appellant and the respondent.
- (2) The independent assessor must give the parties 10 business days after receiving the preliminary assessment to make written submissions about the assessment.
- (3) The independent assessor must decide the appeal within 5 business days after the end of the period for making written submissions, unless the time for deciding the appeal is extended under subsection (4).
- (4) If the independent assessor considers it appropriate, the independent assessor may extend the time for deciding the appeal to the extent necessary.

Example—

An extension of time may be necessary to allow parties to make oral submissions to the independent assessor or because the appeal is complex.

64T Matters the independent assessor may consider in making a decision

- (1) The independent assessor must decide the appeal based on the laws and policies applying when the application was made and the materials made available to the assessment manager.
- (2) Subsection (1) does not stop the independent assessor considering new material submitted by the parties to the

appeal if satisfied considering the material will help the independent assessor decide the appeal.

64U Appeal decision

- (1) In deciding an appeal the independent assessor may make the orders the independent assessor considers appropriate.
- (2) Without limiting subsection (1), the independent assessor may—
 - (a) confirm the decision appealed against; or
 - (b) change the decision appealed against; or
 - (c) set aside the decision appealed against and make a decision replacing the decision set aside.
- (3) If the independent assessor acts under subsection (2)(b) or (c), the independent assessor's decision is taken, for this Act (other than this division) and the Integrated Planning Act to be the decision of the assessment manager that made the decision appealed against.
- (4) The assessor's registrar must give all parties to the appeal and the Authority notice of the independent assessor's decision and the reasons for the decision.
- (5) The independent assessor's decision can not be appealed against under this Act or the Integrated Planning Act.

Division 8 General

64V Parties' access to documents

- (1) This section applies to documents in the independent assessor's possession for an appeal.
- (2) The assessor's registrar must allow the parties to the appeal to inspect and make copies of the documents.
- (3) For subsection (2), the assessor's registrar must give the parties reasonable access to the documents during normal business hours.

Part 5 Prohibited brothels

65 Application to Magistrates Court

- (1) A police officer, the Authority or an authorised officer 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 Integrated Planning Act.
- (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 Integrated Planning Act.
- (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 Integrated 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 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.

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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;

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- (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

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- (b) have more than 13 staff at the brothel at any 1 time; or
- (c) 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) 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—

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- (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

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.

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.

93 Advertising prostitution

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

Maximum penalty—70 penalty units.

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

Maximum penalty—70 penalty units.

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

Maximum penalty—70 penalty units.

(4) In subsection (2)—

approved form means—

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

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.

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.

99 Offences by bodies corporate

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

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

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

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

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

- (a) that the offence was committed without the officer's knowledge; and

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- (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.

102 Membership

- (1) The Authority consists of the following 8 members—
 - (a) the chairperson who is to be an independent, respected member of the community nominated by the Premier;
 - (b) the commissioner, or a police officer of at least the rank of superintendent nominated by the commissioner;
 - (c) the chairperson, or the assistant commissioner, crime, of the Crime and Misconduct Commission;
 - (d) a health practitioner who has at least 5 years experience in his or her 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, in the Minister's opinion, are qualified to represent community interests.
- (2) Members of the Authority are to be appointed by the Governor in Council.
- (3) Members of the Authority are to be appointed under this Act and not under the *Public Service Act 1996*.
- (4) 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.

(5) In this section—

health practitioner means—

- (a) a doctor; or
- (b) a person registered under the *Nursing Act 1992*; or
- (c) a person registered under the *Psychologists Registration Act 2001*.

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 or continue as a member of the Authority if the person—

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

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.

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 half the number of members plus 1.
- (3) Subject to this Act, the Authority may conduct its business, including its meetings, in the way it considers appropriate.

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.

108A Authority is statutory body under the Financial Administration and Audit Act 1977

The Authority is a statutory body under the *Financial Administration and Audit Act 1977*.

108B 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*.

108C Budget

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

108D 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 Administration and Audit Act 1977*, 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 Administration and Audit Act 1977*; or
- (b) the *Statutory Bodies Financial Arrangements Act 1982*.

Note—

The office is a public service office under the *Public Service Act 1996*.

Division 2 Executive Director**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.
- (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 1996* 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.

110J Superannuation for executive director who was previously a public service officer

- (1) This section applies if a public service officer is appointed as the executive director and immediately before the appointment the public service officer was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*.
- (2) The person continues to be eligible to be, and to be, a member of the scheme.

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.

Division 3 Staff of the office

110L Office staff

The staff of the office are to be employed under the *Public Service Act 1996*.

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, renewal, surrender, suspension or cancellation of a licence;
 - (c) the address of the premises at which the holder of a licence may operate the brothel under the licence;
 - (d) the granting, renewal, surrender, suspension or cancellation of a certificate;
 - (e) the addresses of the licensed brothels for which the holder of a certificate is authorised to be an approved manager;
 - (f) all entries into licensed brothels by police officers.
- (2) The register may be inspected, and a copy of an entry in it obtained, at the office during office hours—
 - (a) free of charge, by the police service, an agency of government prescribed under a regulation or an authorised officer of a relevant local government; or
 - (b) on payment of the fee prescribed under a regulation, by any other person.
- (3) The 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—
 - (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 or 98, 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, the independent assessor or an authorised officer of a relevant local government must be presumed unless a party, by reasonable notice, requires proof of—
 - (a) the person’s appointment; or
 - (b) the person’s power to do anything under this Act.
- (3) A signature purporting to be a signature of the Minister, the commissioner, a member of the Authority, the independent assessor or an authorised officer of a relevant local government is evidence of the signature it purports to be.
- (4) A statement by the prosecutor or the informant stating any of the following matters is evidence of the matter—
 - (a) a person’s address, telephone number or post office box number;
 - (b) a person’s age at the time of an offence.
- (5) A certificate purporting to be signed by the 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.

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) the Minister; or
- (b) the commissioner; or
- (c) a member of the Authority; or
- (d) the independent assessor; or

- (e) the executive director or a member of the staff of the office; or
- (f) the assessor's registrar; or
- (g) an authorised officer of a relevant local government.

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 independent assessor; or
- (e) the executive director; or
- (f) 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

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- (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 *Nursing Act 1992*; or
- (c) a person registered under the *Psychologists Registration Act 2001*; 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 service specified in the *Health Quality and Complaints Commission Act 2006*, schedule 1, part 1.

health service provider means—

- (a) a registered provider under the *Health Quality and Complaints Commission Act 2006*; 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.

137 Application of Freedom of Information Act

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

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 well being of someone;

- (b) the disclosure of reasons may reveal the identity of an informant;
 - (c) the disclosure of reasons may prejudice the investigation or prosecution of persons for an offence against this Act;
 - (d) the disclosure of reasons may prejudice the proper administration of this Act.
- (3) The application must be heard in private and without notice to the person seeking reasons for the decision.
- (4) The court may make an order only if satisfied that—
- (a) a ground mentioned in subsection (2) exists; and
 - (b) the order is justified in all the circumstances.
- (5) The Authority must give the person seeking reasons for the decision a copy of the court's order.

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 Approval of forms

- (1) The commissioner may approve forms for use under this Act.
- (2) However, the Authority may approve a form for section 93(2).

139A Guidelines

- (1) The Authority may issue guidelines about the approved form for advertisements for prostitution.
- (2) Without limiting subsection (1), a guideline may provide—
 - (a) for the form of an advertisement for prostitution; or
 - (b) matters that may or may not be included in an advertisement for prostitution.
- (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 Government in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may be made about any of the following matters—
 - (a) fees;
 - (b) records to be kept by licensees;
 - (c) documents, including financial statements, to be given to the Authority by licensees and when they are required to be given;
 - (d) the auditing of financial statements;
 - (e) advertising in relation to licensed brothels;
 - (f) a code for IDAS for development applications mentioned in part 4;
 - (g) a code of practice for licensed brothels;

- (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 Misconduct 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 Misconduct 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 Misconduct Act 2001*.
- (3) In the course of preparing the report, the commission must consult with the Minister and the Authority.
- (4) The Crime and Misconduct Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.

Part 9 Transitional provisions

Division 1 Transitional provision for Prostitution Amendment Act 2001

142 Transitional provision about appeals

An appeal started in the Planning and Environment Court under the Integrated Planning Act 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 Transitional provisions for Prostitution Amendment Act 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 Transitional provision for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 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.

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 Transitional provision for Criminal Code and Other Acts Amendment Act 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

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415 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

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 an application for permanent residence because of marriage or de facto relationship)
- 9 section 244 (Offences relating to application for permanent residence because of interdependency)
- 10 section 245 (Offences of making false or unsupported statements)
- 11 section 280 (Restrictions on giving of immigration assistance)
- 12 section 281 (Restriction on charging fees for immigration assistance)
- 13 section 282 (Restriction on charging fees for immigration representations)
- 14 section 283 (False representation that a person is a registered agent)

Schedule 2 (continued)

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

Schedule 3 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.

application land, for part 4, see section 62.

approved form means a form approved under section 139.

approved manager means a person who holds an approved manager's certificate that is in force.

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

assessment manager has the meaning given by the Integrated Planning Act, section 3.1.7.

assessor's registrar see section 64I.

associate see section 6.

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

Authority means the Prostitution Licensing Authority established under section 100.

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

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

certificate means an approved manager's certificate.

commissioner means the commissioner of the police service.

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

Schedule 4 (continued)

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.

development application, for part 4, see section 62.

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

disciplinary inquiry—

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

disqualifying offence means—

- (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;
 - (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).

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.

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

- (a) the individual's spouse;

Schedule 4 (continued)

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

fee means fee, charge or tax.

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

IDAS see the Integrated Planning Act, section 3.1.1.

identifying particulars—

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

Examples for paragraph (b)—

- 1 photographs of scars or tattoos
- 2 photographs of the person

independent assessor see section 64B.

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

Schedule 4 (continued)

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.

Integrated Planning Act means the *Integrated Planning Act 1997*.

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.

local government area means a part of the State established as a local government area under the *Local Government Act 1993*, section 3.

minor change, for part 4, see section 62.

notice means written notice.

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.

prostitution see the Criminal Code, section 229E.

section 66 declaration see section 65.

Schedule 4 (continued)

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.

spouse includes de facto spouse.

temporary declaration see section 65.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 December 2008. Future amendments of the Prostitution Act 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	2000 Act No. 22	1 July 2000	7 July 2000
1A	2000 Act No. 46	25 October 2000	8 November 2000
1B	2001 Act No. 77	7 December 2001	20 December 2001
1C	2001 Act No. 77	1 January 2002	11 January 2002

Reprint No.	Amendments included	Effective	Notes
1D	2002 Act No. 68	1 January 2003	
1E rv	2003 Act No. 92	3 December 2003	
1F	2006 Act No. 11	30 March 2006	
1G	2005 Act No. 45	30 June 2006	
1H	2006 Act No. 25	1 July 2006	
1I	2000 Act No. 5 (amd 2006 Act No. 26)	21 July 2006	
2	2006 Act No. 40 2007 Act No. 1	12 August 2007	
2A	2007 Act No. 59	15 March 2008	
2B	2008 Act No. 55	1 December 2008	

5 List of legislation

Prostitution Act 1999 No. 73

date of assent 14 December 1999

ss 1–4, pts 2, 7 divs 1–2, sch 4 commenced on date of assent (see s 2(1))

remaining provisions commenced 1 July 2000 (see s 2(2)–(3))

amending legislation—

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

Police Powers and Responsibilities and Other Acts Amendment Act 2000 No. 22 s 1, pt 7

date of assent 23 June 2000

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000

commenced on date of assent

Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1

date of assent 8 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2002 (2001 SL No. 221)

Prostitution Amendment Act 2001 No. 77 ss 1–24, sch

date of assent 15 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 7 December 2001 (2001 SL No. 246)

Criminal Proceeds Confiscation Act 2002 No. 68 ss 1–2(1), 339 sch 4

date of assent 29 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2003 (see s 2(1))

Police Powers and Responsibilities and Other Legislation Amendment Act 2003 No. 92 s 1, pt 11

date of assent 3 December 2003

commenced on date of assent

Cross-Border Law Enforcement Legislation Amendment Act 2005 No. 45 ss 1–2(1), 74 sch 4

date of assent 14 October 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 30 June 2006 (2006 SL No. 144)

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 11

date of assent 30 March 2006

commenced on date of assent

Health Quality and Complaints Commission Act 2006 No. 25 ss 1–2(1), 241(1) sch 3

date of assent 29 May 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (see s 2(1))

**Police Powers and Responsibilities Act 2000 No. 5 s 810 sch 4 (prev s 459A sch 3A)
(this Act is amended, see amending legislation below)**

amending legislation—

**Police Powers and Responsibilities and Other Acts Amendment Act 2006
No. 26 ss 1–2, 84, 86 (amends 2000 No. 5 above)**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 21 July 2006 (2006 SL No. 185)

Prostitution Amendment Act 2006 No. 40 pts 1–2

date of assent 11 August 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 12 August 2007 (automatic commencement under AIA s 15DA(2))

Summary Offences and Other Acts Amendment Act 2007 No. 1 ss 1, 2(2), pt 5

date of assent 16 February 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 12 August 2007 immediately after the commencement of pt 2 of the Prostitution Amendment Act 2006 No. 40 (see s 2(2))

Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007 No. 59 ss 1–2, 152 sch

date of assent 22 November 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 2008 (2007 SL No. 336)

Criminal Code and Other Acts Amendment Act 2008 No. 55 ss 1–2, 150 sch

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2008 (2008 SL No. 386)

6 List of annotations

PART 2—DEFINITIONS**pt hdg** amd 2001 No. 77 s 3 sch**Division 1—Dictionary****div hdg** om 2001 No. 77 s 3 sch**Division 2—Basic concepts****div hdg** om 2001 No. 77 s 3 sch**Meaning of “interest in a brothel”****s 7** amd 2006 No. 40 s 4**Consideration of application****s 15** amd 2001 No. 77 s 4**When Authority must refuse application****prov hdg** amd 2001 No. 77 s 3 sch**s 16** amd 2001 No. 77 s 5**Suitability of applicant****s 17** amd 2001 No. 77 s 6; 2006 No. 40 s 5**The licence****s 19** amd 2001 No. 77 s 3 sch; 2006 No. 40 s 6**Renewal of licence****s 23** amd 2006 No. 40 s 7**Automatic cancellation of licence****s 25** amd 2006 No. 40 s 8**Disciplinary powers of Authority****s 29** amd 2006 No. 40 s 9

When Authority can authorise approved manager to act as licensee

s 33 amd 2000 No. 46 s 3 sch

Application for certificate

s 35 amd 2006 No. 40 s 10

When Authority must refuse application

s 41 amd 2001 No. 77 s 7

Suitability of applicant

s 42 amd 2001 No. 77 s 8

The certificate

s 44 amd 2001 No. 77 s 11; 2006 No. 40 s 11

Powers after entry

s 60 amd 2000 No. 22 s 39; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86)

PART 4—DEVELOPMENT APPROVALS FOR BROTHELS**Division 1—Preliminary**

div hdg ins 2001 No. 77 s 9

Definitions for pt 4

prov hdg sub 2001 No. 77 s 9; 2007 No. 1 s 28

s 62 def “**application land**” ins 2001 No. 77 s 9

sub 2007 No. 1 s 28

 def “**assessment manager**” om 2001 No. 77 s 9 def “**code assessable development application**” ins 2001 No. 77 s 9

sub 2006 No. 40 s 12

om 2007 No. 1 s 28

 def “**development application**” sub 2001 No. 77 s 9; 2007 No. 1 s 28 def “**local government area**” om 2001 No. 77 s 9 def “**minor change**” ins 2006 No. 40 s 12(2)

om 2007 No. 1 s 28

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s 63 amd 2001 No. 77 s 10

sub 2006 No. 40 s 13

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Division 2—Particular provisions about development applications

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s 63B ins 2001 No. 77 s 11

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s 64 amd 2001 No. 77 s 12

Division 3—Object of appeal divisions

div hdg ins 2001 No. 77 s 13

Object of appeal divisions

s 64A ins 2001 No. 77 s 13
amd 2007 No. 1 s 29

Division 4—Independent assessor

div 4 (ss 64B–64J) ins 2001 No. 77 s 13

Division 5—Appeals

div hdg ins 2001 No. 77 s 13

Appeals by applicants

s 64K ins 2001 No. 77 s 13
amd 2006 No. 11 s 103; 2006 No. 40 s 14; 2007 No. 1 s 30

Division 6—Starting an appeal

div 6 (ss 64L–64O) ins 2001 No. 77 s 13

Division 7—Procedure

div 7 (ss 64P–64U) ins 2001 No. 77 s 13

Division 8—General

div 8 (s 64V) ins 2001 No. 77 s 13

Application to Magistrates Court

s 65 amd 2001 No. 77 s 14; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86)

Declaration that premises are a prohibited brothel

s 66 amd 2001 No. 77 ss 15, 3 sch

Temporary declaration that premises are prohibited brothel

s 66A ins 2001 No. 77 s 16

Publication of declaration

s 67 amd 2001 No. 77 s 17

Service of notices in relation to prohibited brothels

s 72 amd 2001 No. 77 s 3 sch

Exception to soliciting offences—police officers

s 75 amd 2000 No. 22 s 40; 2005 No. 45 s 74 sch 4; 2000 No. 5 s 810 sch 4 (amd 2006 No. 26 ss 84, 86)

Prostitute providing sexual intercourse or oral sex without a prophylactic

s 77A (prev s 91) amd 2003 No. 92 s 39(1)–(2)
renum and reloc 2003 No. 92 s 39(3)
amd 2006 No. 40 s 15

Brothel offences

s 78 amd 2006 No. 40 s 16

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

s 81 amd 2006 No. 40 s 17

Display of licence

s 87 amd 2006 No. 40 s 18

Advertising prostitution

s 93 amd 2006 No. 40 s 19

PART 7—PROSTITUTION LICENSING AUTHORITY

pt hdg sub 2006 No. 40 s 20

Division 1—Prostitution Licensing Authority

div hdg om 2006 No. 40 s 21

Functions of Authority

s 101 amd 2003 No. 92 s 40; 2006 No. 40 s 22

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s 102 amd 2001 No. 69 s 378 sch 1; 2003 No. 92 s 41; 2006 No. 40 s 23

Authority is statutory body under the Financial Administration and Audit Act 1977

s 108A ins 2006 No. 40 s 24

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

s 108B ins 2006 No. 40 s 24

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s 108C ins 2006 No. 40 s 24

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s 108D ins 2006 No. 40 s 24

PART 7A—OFFICE OF THE PROSTITUTION LICENSING AUTHORITY

pt hdg ins 2006 No. 40 s 26

Division 1—Establishment

div hdg ins 2006 No. 40 s 26

Establishment of offices 109 prev s 109 om 2006 No. 40 s 25
pres s 109 ins 2006 No. 40 s 26**Function**s 110 prev s 110 om 2006 No. 40 s 25
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s 110A ins 2006 No. 40 s 26

Division 2—Executive Director

div 2 (ss 110B–110K) ins 2006 No. 40 s 26

Division 3—Staff of the office

div 3 (s 110L) ins 2006 No. 40 s 26

PART 7B—ADMINISTRATION

pt hdg ins 2006 No. 40 s 26

Division 1—Register

div hdg ins 2006 No. 40 s 26

Licence and certificate register

s 111 amd 2006 No. 40 s 27

Division 2—Prostitution Licensing Authority Fund

div hdg prev div 2 hdg om 2003 No. 92 s 42
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s 114 om 2003 No. 92 s 42

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s 116 om 2003 No. 92 s 42

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s 117 om 2003 No. 92 s 42

Vacation of office

s 118 om 2003 No. 92 s 42

Remuneration

s 119 om 2003 No. 92 s 42

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s 120 om 2003 No. 92 s 42

Council may ask Authority for information

s 121 om 2003 No. 92 s 42

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s 122 om 2003 No. 92 s 42

Offences about false or misleading information or documents

s 131 amd 2000 No. 46 s 3 sch

Evidentiary provision

s 132 amd 2001 No. 77 s 18; 2006 No. 40 s 28

Disclosure of information

s 133 amd 2001 No. 77 s 19; 2003 No. 92 s 44; 2006 No. 40 s 29

Protection of officials from liability

prov hdg amd 2006 No. 40 s 30(1)

s 134 amd 2001 No. 77 s 20; 2003 No. 92 s 45; 2006 No. 40 s 30(2)

Protection of health professionals from liability

s 134A ins 2006 No. 40 s 31
 amd 2008 No. 55 s 150 sch

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s 135 amd 2006 No. 25 s 241(1) sch 3

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s 138A ins 2001 No. 77 s 21
amd 2006 No. 40 s 32

Guidelines

s 139A ins 2006 No. 40 s 33

Regulation-making power

s 140 amd 2006 No. 40 s 34

Review of Act

s 141 amd 2001 No. 69 s 378 sch 1; 2003 No. 92 s 46; 2006 No. 40 s 35

PART 9—TRANSITIONAL PROVISIONS

pt hdg prev pt 9 hdg om R1 (see RA s 40)
pres pt 9 hdg ins 2001 No. 77 s 22
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Transitional provision for registrar and executive director

s 143 prev s 143 om R1 (see RA s 40)
pres s 143 ins 2006 No. 40 s 37

Transitional provision for licences

s 144 prev s 144 om R1 (see RA s 40)
pres s 144 ins 2006 No. 40 s 37

Transitional provision for certificates

s 145 prev s 145 om R1 (see RA s 40)
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Transitional provision for brothel offences

s 146 prev s 146 om R1 (see RA s 40)
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s 147 prev s 147 om R1 (see RA s 40)
pres s 147 ins 2006 No. 40 s 37

Proceedings

s 148 prev s 148 om R1 (see RA s 40)
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Transitional provision for evidentiary certificates

s 149 prev s 149 om R1 (see RA s 40)
 pres s 149 ins 2006 No. 40 s 37

Division 3—Transitional provision for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007

div hdg ins 2007 No. 59 s 152 sch

Continuation of refusal of development applications

s 150 prev s 150 om R1 (see RA s 40)
 pres s 150 ins 2007 No. 59 s 152 sch

Division 4—Transitional provision for Criminal Code and Other Acts Amendment Act 2008

div hdg ins 2008 No. 55 s 150 sch

References in sch 1 to Criminal Code offences

s 151 prev s 151 om R1 (see RA s 40)
 pres s 151 ins 2008 No. 55 s 150 sch

Insertion of new ss 107A to 107C

s 152 om R1 (see RA s 40)

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

s 153 om R1 (see RA s 40)

Amendment of s 109 (Nominees)

s 154 om R1 (see RA s 40)

Insertion of new s 109AA

s 155 om R1 (see RA s 40)

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s 156 om R1 (see RA s 40)

Amendment of s 117 (Advice about application etc.)

s 157 om R1 (see RA s 40)

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

s 158 om R1 (see RA s 40)

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

s 159 om R1 (see RA s 40)

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

s 160 om R1 (see RA s 40)

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

s 161 om R1 (see RA s 40)

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s 162 om R1 (see RA s 40)

Insertion of new s 143A

s 163 om R1 (see RA s 40)

Insertion of new ss 149A and 149B

s 164 om R1 (see RA s 40)

Insertion of new s 155A

s 165 om R1 (see RA s 40)

Insertion of new s 168A

s 166 om R1 (see RA s 40)

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

s 167 om R1 (see RA s 40)

Insertion of new s 233A

s 168 om R1 (see RA s 40)

Amendment of s 235 (Regulations)

s 169 om R1 (see RA s 40)

PART 10—AMENDMENTS OF THE CRIMINAL CODE

pt 10 (ss 170–178) om R1 (see RA s 40)

PART 11—AMENDMENTS OF OTHER ACTS

pt 11 (s 179) om R1 (see RA s 40)

SCHEDULE 1—DISQUALIFYING OFFENCE PROVISIONS UNDER THE CRIMINAL CODE

amd 2001 No. 77 s 23; 2008 No. 55 s 150 sch

SCHEDULE 2—DISQUALIFYING OFFENCE PROVISIONS UNDER THE MIGRATION ACT 1958 (CWLTH)

sch hdg amd 2000 No. 46 s 3 sch

sch 2 amd 2000 No. 46 s 3 sch

SCHEDULE 3—RESTRICTIONS ON NUMBERS OF PROSTITUTES AT LICENSED BROTHEL

prev sch 3 amd 2000 No. 5 s 373 sch 2

om R1 (see RA s 40)

pres sch 3 ins 2006 No. 40 s 38

SCHEDULE 4—DICTIONARY

sch hdg amd 2006 No. 40 s 39(1)

sch 4

def “**application land**” ins 2001 No. 77 s 24(2)def “**assessment manager**” ins 2001 No. 77 s 24(2)def “**assessor’s registrar**” ins 2001 No. 77 s 24(2)def “**code assessable development application**” ins 2001 No. 77 s 24(2)

om 2007 No. 1 s 31

def “**Council**” om 2003 No. 92 s 47def “**crime commissioner**” om 2001 No. 69 s 378 sch 1def “**development application**” ins 2001 No. 77 s 24(2)def “**development permit**” amd 2001 No. 77 s 3 schdef “**disqualifying offence**” sub 2001 No. 77 s 24

amd 2002 No. 68 s 339 sch 4

def “**executive director**” ins 2006 No. 40 s 39(3)def “**IDAS**” amd 2001 No. 77 s 3 schdef “**independent assessor**” ins 2001 No. 77 s 24(2)

def “**Integrated Planning Act**” ins 2001 No. 77 s 24(2)
def “**local government area**” ins 2001 No. 77 s 24(2)
def “**minor change**” ins 2006 No. 40 s 39(3)
def “**office**” ins 2006 No. 40 s 39(3)
def “**registrar**” om 2006 No. 40 s 39(2)
def “**section 66 declaration**” ins 2001 No. 77 s 24(2)
def “**temporary declaration**” ins 2001 No. 77 s 24(2)

7 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).

Form 1 Version 1—Notice of appeal to the Independent Assessor Against a Decision of a Local Government

pubd gaz 22 February 2002 p 749

Form 2 Version 2—Brothel Licence Application

pubd gaz 14 March 2008 p 1467

Form 2 Version 2—Form A—Statement of Personal Details

pubd gaz 14 March 2008 p 1467

Form 2 Version 2—Form B—Associates’ Details

pubd gaz 14 March 2008 p 1467

Form 2 Version 2—Form C—Proposed Brothel Details

pubd gaz 14 March 2008 p 1467

Form 3 Version 2—Licence Renewal

pubd gaz 14 March 2008 p 1467

Form 3 Version 2—Form A—Statement of Personal Details

pubd gaz 14 March 2008 p 1467

Form 3 Version 2—Form B—Brothel Details

pubd gaz 14 March 2008 p 1467

Form 4 Version 2—Approval Manager’s Certificate Application

pubd gaz 14 March 2008 p 1467

Form 4 Version 2—Form A—Statement of Personal Details

pubd gaz 14 March 2008 p 1467

Form 4 Version 2—Form B—Associates’ Details

pubd gaz 14 March 2008 p 1467

Form 4 Version 2—Form C—Proposed Brothel Details

pubd gaz 14 March 2008 p 1467

Form 5 Version 2—Certificate Renewal

pubd gaz 14 March 2008 p 1467

Form 6 Version 2—Application for Variation of an Approved Manager’s Certificate

pubd gaz 14 March 2008 p 1467

Form 7 Version 1—Annual Return Licence

pubd gaz 14 March 2008 p 1467

Form 8 Version 1—Annual Return Certificate

pubd gaz 14 March 2008 p 1467