

Authorised Version No. 080

Sex Work Act 1994

No. 102 of 1994

Authorised Version incorporating amendments as at
21 August 2013

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The Parliament of Victoria enacts as follows:

PART I—PRELIMINARY

1 Purpose

The main purpose of this Act is to seek to control sex work in Victoria. The Act also amends the **Crimes Act 1958** to create a new offence related to child sex tourism and amends the **Travel Agents Act 1986** to provide for the disqualification of licensed travel agents who are convicted of offences against that provision or the similar provisions contained in the Crimes Act 1914 of the Commonwealth.

S. 1
amended by
No. 1/2010
s. 42(2)(Sch.
item 1) (as
amended by
No. 63/2010
s. 27).

2 Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

S. 3
amended by
No. 27/2001
s. 8(Sch. 6
item 5.2) (ILA
s. 39B(1)).

S. 3(1) def. of
*approved
manager*
inserted by
No. 47/1997
s. 4,
amended by
Nos 52/1998
s. 194(a),
1/2010
s. 42(2)(Sch.
item 2(a)) (as
amended by
No. 63/2010
s. 27).

3 Definitions

(1) In this Act—

Advisory Committee means the Advisory
Committee established by section 67;

approved manager means a person who holds an
approval of the Authority under section 52 as
a manager of a sex work service providing
business;

assault has the same meaning as in section 31(1)
of the **Crimes Act 1958**;

authorised member of the police force means a
member of the police force who is—

- (a) of or above the rank of sergeant; or
- (b) authorised in writing by the Chief
Commissioner of Police to enforce
Parts 3 to 5;

authorised officer of the responsible authority
means an officer of the responsible authority
who is authorised in writing by the
responsible authority to enforce Parts 4
and 5;

S. 3(1) def. of
Authority
inserted by
No. 52/1998
s. 194(b).

Authority means the Business Licensing
Authority established under the **Business
Licensing Authority Act 1998**;

* * * * *

S. 3(1) def. of *Board* repealed by No. 52/1998 s. 194(c).

brothel means any premises made available for the purpose of sex work by a person carrying on the business of offering or providing sex work services at the business's premises;

S. 3(1) def. of *brothel* amended by Nos 82/2008 s. 3(1), 1/2010 s. 42(2)(Sch. item 2(b)) (as amended by No. 63/2010 s. 27).

building means building or other structure permanently affixed to land, other than land covered with water, but does not include—

S. 3(1) def. of *building* inserted by No. 73/1996 s. 69, amended by No. 65/2010 s. 420(Sch. 3 item 15).

- (a) a building or structure that is of a temporary nature or that is readily capable of being moved or transported from place to place; and
- (b) a vehicle within the meaning of the **Road Safety Act 1986**; and
- (c) a railway locomotive or railway rolling stock; and
- (d) a vessel within the meaning of the **Marine Safety Act 2010**; and
- (e) an aircraft of any type;

caretaker's house means a dwelling on a site occupied by—

- (a) the owner or manager of an industry, business or community or religious establishment conducted on the site; or
- (b) a person who has care of any building on the site in which such an industry, business or establishment is conducted or of any plant on the site used in the

conduct of that industry, business or establishment;

child means a person under the age of 18 years;

S. 3(1) def. of *children's services centre* substituted by No. 53/1996 s. 60.

children's services centre means any premises or place where a children's service within the meaning of the **Children's Services Act 1996** operates;

S. 3(1) def. of *director* amended by No. 44/2001 s. 3(Sch. item 94.1).

director, in relation to a body corporate, has the same meaning as in section 9 of the Corporations Act;

S. 3(1) def. of *Director of Fair Trading* inserted by No. 52/1998 s. 194(b), substituted by No. 17/1999 s. 40, repealed by No. 35/2000 s. 49(b).

* * * * *

S. 3(1) def. of *disqualifying offence* amended by No. 52/1998 s. 194(d), substituted by No. 73/2011 s. 3(a).

disqualifying offence means—

- (a) an indictable offence; or
- (b) an offence which, if committed in Victoria, would have been an indictable offence;

S. 3(1) def. of *domestic partner* inserted by No. 27/2001 s. 8(Sch. 6 item 5.1), substituted by No. 12/2008 s. 73(1)(Sch. 1 item 49.1).

domestic partner of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal

or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (i) for fee or reward; or
- (ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

drug of dependence has the same meaning as in the **Drugs, Poisons and Controlled Substances Act 1981**;

education and care service premises means a place where an education and care service (other than a family day care service) within the meaning of the Education and Care Services National Law (Victoria) educates or cares for children;

S. 3(1) def. of *education and care service premises* inserted by No. 80/2011 s. 79(Sch. item 7.1).

entry authority means writing issued in accordance with the procedure set out in section 64(2) or 78B(2);

S. 3(1) def. of *entry authority* amended by No. 73/2011 s. 3(b).

escort agency means a business of offering or providing, or facilitating the offer or provision of, sex work services to persons at premises not made available by the agency;

S. 3(1) def. of *escort agency* amended by Nos 82/2008 s. 3(2), 1/2010 s. 42(2)(Sch. item 2(c)) (as amended by No. 63/2010 s. 27).

S. 3(1) def. of *Fund* amended by Nos 52/1998 s. 194(e), 1/2010 s. 42(2)(Sch. item 2(d)) (as amended by No. 63/2010 s. 27).

Fund means the Sex Work Regulation Fund;

S. 3(1) def. of *HIV* inserted by No. 46/2008 s. 283(1).

HIV has the same meaning as in section 3(1) of the **Public Health and Wellbeing Act 2008**;

hospital means public hospital, private hospital or denominational hospital within the meaning of the **Health Services Act 1988**;

S. 3(1) def. of *insolvent under administration* inserted by No. 101/1998 s. 10(1), repealed by No. 4/2008 s. 32(Sch. item 27).

* * * * *

S. 3(1) def. of *inspector* inserted by No. 44/1999 s. 4(1), amended by No. 21/2012 s. 239(Sch. 6 item 42.1).

inspector means an inspector appointed under the **Australian Consumer Law and Fair Trading Act 2012**;

S. 3(1) def. of *law enforcement agency* amended by No. 52/2003 s. 52(Sch. 1 item 10).

law enforcement agency means—

- (a) the police force of Victoria or of any other State or of the Northern Territory;
or
- (b) the Australian Federal Police; or

(c) the Australian Crime Commission established by the Australian Crime Commission Act 2002 of the Commonwealth;

lease includes a sub-lease and an agreement for a lease or sub-lease;

S. 3(1) def. of *lease* inserted by No. 44/1999 s. 4(1).

licence means a licence granted under Part 3 authorising the holder to carry on business as a sex work service provider;

S. 3(1) def. of *licence* amended by No. 1/2010 s. 42(2)(Sch. item 2(e)) (as amended by No. 63/2010 s. 27).

* * * * *

S. 3(1) def. of *member* repealed by No. 52/1998 s. 194(c).

office hours means between the hours of 9.00 a.m. and 5.00 p.m. on any day other than—

- (a) a Saturday or Sunday; or
- (b) a day appointed under the **Public Holidays Act 1993** as a public holiday in the relevant place;

officer, in relation to a body corporate, has the meaning given by section 82A of the Corporations Act;

S. 3(1) def. of *officer* amended by No. 44/2001 s. 3(Sch. item 94.1).

owner means the person for the time being entitled to receive the rent of the land with respect to which the word is used or who would be entitled to receive the rent if the land were let at a rent;

payment includes any form of commercial consideration;

S. 3(1) def. of *prostitution* repealed by No. 1/2010 s. 42(2)(Sch. item 3) (as amended by No. 63/2010 s. 27).

* * * * *

S. 3(1) def. of *prostitution service provider* repealed by No. 1/2010 s. 42(2)(Sch. item 4) (as amended by No. 63/2010 s. 27).

* * * * *

public place has the same meaning as in the **Summary Offences Act 1966**;

publish means—

- (a) insert in a newspaper or other publication; or
- (b) disseminate by broadcast, telecast or cinematograph; or
- (c) exhibit by means of posters, film or videotape; or
- (d) send or deliver to any person by any means whatever; or
- (e) throw or leave upon premises in the occupation of any person; or
- (f) bring to the notice of the public or any member of the public by any other means whatever;

Registrar means the Registrar of the Authority appointed under the **Business Licensing Authority Act 1998**;

S. 3(1) def. of *Registrar* substituted by No. 52/1998 s. 194(f).

relative, in relation to a person, means—

S. 3(1) def. of *relative* inserted by No. 82/2008 s. 3(3).

- (a) the spouse or domestic partner of the person; or
- (b) a parent, son, daughter, brother or sister of the person; or
- (c) a parent, son, daughter, brother or sister of the spouse or domestic partner of the person;

relevant financial interest, in relation to a business, means—

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business; or
- (c) any entitlement to receive any payment as a result of money advanced to the business;

relevant position, in relation to a business, means the position of director, manager or other executive position or secretary, however that position is designated;

relevant power, in relation to a business, means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision in the business; or

(b) to elect or appoint any person to any relevant position in the business;

responsible authority has the same meaning as in the **Planning and Environment Act 1987**;

school means a Government school or non-Government school within the meaning of the **Education and Training Reform Act 2006**;

sex work means the provision by one person to or for another person (whether or not of a different sex) of sexual services in return for payment or reward;

sex work service provider means a person carrying on a business of a kind referred to in the definitions in this section of *brothel* and *escort agency*;

sexual penetration has the same meaning as in Subdivisions (8A) to (8G) of Division 1 of Part I of the **Crimes Act 1958**;

sexual services includes—

- (a) taking part with another person in an act of sexual penetration; and
- (b) masturbating another person; and
- (c) permitting one or more other persons to view any of the following occurring in their presence—

S. 3(1) def. of *school* substituted by No. 24/2006 s. 6.1.2(Sch. 7 item 32).

S. 3(1) def. of *sex work* inserted by No. 1/2010 s. 42(2)(Sch. item 5) (as amended by No. 63/2010 s. 27).

S. 3(1) def. of *sex work service provider* inserted by No. 1/2010 s. 42(2)(Sch. item 5) (as amended by No. 63/2010 s. 27).

S. 3(1) def. of *sexual penetration* inserted by No. 44/1999 s. 4(2).

S. 3(1) def. of *sexual services* substituted by No. 44/1999 s. 4(3).

- (i) two or more persons taking part in an act of sexual penetration;
- (ii) a person introducing (to any extent) an object or a part of their body into their own vagina or anus;
- (iii) a person masturbating himself or herself or two or more persons masturbating themselves or each other or one or more of them—

in circumstances in which—

- (iv) there is any form of direct physical contact between any person viewing the occurrence and any person taking part in the occurrence; or
- (v) any person viewing the occurrence is permitted or encouraged to masturbate himself or herself while viewing—

and, for the purposes of this definition, a person may be regarded as being masturbated whether or not the genital part of his or her body is clothed or the masturbation results in orgasm;

sexually transmitted disease means—

- (a) a disease or condition prescribed by the regulations to be a sexually transmitted disease; or
- (b) HIV;

spouse of a person means a person to whom the person is married;

S. 3(1) def. of *sexually transmitted disease* amended by No. 46/2008 s. 283(2).

S. 3(1) def. of *spouse* inserted by No. 27/2001 s. 8(Sch. 6 item 5.1).

S. 3(1) def. of *the Director* inserted by No. 35/2000 s. 49(a), amended by No. 21/2012 s. 239(Sch. 6 item 42.2).

the Director means the Director within the meaning of the **Australian Consumer Law and Fair Trading Act 2012**;

S. 3(1) def. of *Tribunal* inserted by No. 52/1998 s. 194(b).

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3(1) def. of *uninvolved relative* inserted by No. 82/2008 s. 3(4), amended by No. 1/2010 s. 42(2)(Sch. item 2(f)) (as amended by No. 63/2010 s. 27).

uninvolved relative means a relative of a person who—

- (a) is not, and has never been involved in any business of the person involving sex work; or
- (b) does not propose to be involved in the business that the person proposes to conduct as licensee or supervise as approved manager;

S. 3(1) def. of *vagina* inserted by No. 44/1999 s. 4(2).

vagina includes—

- (a) the external genitalia; and
- (b) a surgically constructed vagina.

S. 3(2) inserted by No. 27/2001 s. 8(Sch. 6 item 5.2), substituted by No. 12/2008 s. 73(1)(Sch. 1 item 49.2).

- (2) For the purposes of the definition of *domestic partner* in subsection (1)—
- (a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and
 - (b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the

Relationships Act 2008 as may be relevant in a particular case; and

- (c) a person is not a domestic partner of another person only because they are co-tenants.

3A Admission charge constitutes payment for sexual services

S. 3A
inserted by
No. 44/1999
s. 5.

If—

- (a) admission to any premises is or may be procured by the payment of an admission fee or charge or the making of a donation of any kind; and
- (b) sexual services are provided at those premises in the ordinary course of a business carried on at those premises without any further payment or reward being sought for the provision of those services—

the payment of the admission fee or charge or the making of the donation must be taken to be payment for the provision of the sexual services, whether or not entertainment or a service of any other kind is provided at those premises without any further payment or reward being sought for it.

3B Exemptions for sex on premises venues

S. 3B
inserted by
No. 1/2010
s. 43 (as
amended by
No. 63/2010
s. 28).

- (1) The Secretary may exempt a sex on premises venue from the operation of this Act if the Secretary is satisfied that—
 - (a) the operator has agreed in writing to operate the venue in accordance with a statement of principles and procedures for the promotion of sexual health that has been approved by the Secretary; and
 - (b) if the venue has commenced operation, the operator is operating the venue in accordance with that statement of principles and procedures.

-
- (2) In granting an exemption, the Secretary—
- (a) must issue the exemption in writing; and
 - (b) may specify the period for which it is to apply; and
 - (c) may impose any condition that the Secretary considers to be appropriate for the purposes of protecting public health.
- (3) The Secretary, at any time by notice in writing to the operator of a sex on premises venue, may vary, suspend or revoke an exemption granted under subsection (1) in respect of the venue if the Secretary is satisfied that the operator has failed to comply with—
- (a) the statement of principles and procedures referred to in subsection (1); or
 - (b) a condition imposed under subsection (2)(c).
- (4) The Secretary must notify the Director, the Authority and the Chief Commissioner of Police of—
- (a) any exemption granted under subsection (1); or
 - (b) the suspension, variation or revocation of an exemption under subsection (3).
- (5) In this section—

operator means the owner of the sex on premises venue business;

Secretary means the Secretary to the Department of Health;

sex on premises venue means any venue where a person is required to pay an admission fee or charge to enter the venue for the purpose of engaging in sexual activities with another person who has also entered the venue on the

same terms and who did not receive any form of payment or reward, whether directly or indirectly, for engaging in sexual activities.

4 Objects of Act

The objects of this Act are—

- (a) to seek to protect children from sexual exploitation and coercion;
- (b) to lessen the impact on the community and community amenities of the carrying on of sex work-related activities;
S. 4(b) amended by No. 1/2010 s. 42(2)(Sch. item 6(a)) (as amended by No. 63/2010 s. 27).
- (c) to seek to ensure that criminals are not involved in the sex work industry;
S. 4(c) amended by No. 1/2010 s. 42(2)(Sch. item 6(b)) (as amended by No. 63/2010 s. 27).
- (d) to seek to ensure that brothels are not located in residential areas or in areas frequented by children;
- (da) to seek to ensure that no one person has at any one time an interest in more than one brothel licence or permit;
S. 4(da) inserted by No. 44/1999 s. 6(1).
- (e) to maximise the protection of sex workers and their clients from health risks;
S. 4(e) amended by No. 1/2010 s. 42(2)(Sch. item 6(c)) (as amended by No. 63/2010 s. 27).

Sex Work Act 1994
No. 102 of 1994
Part I—Preliminary

s. 4

S. 4(f)
amended by
No. 1/2010
s. 42(2)(Sch.
item 6(c)) (as
amended by
No. 63/2010
s. 27).

(f) to maximise the protection of sex workers
from violence and exploitation;

S. 4(g)
amended by
No. 44/1999
s. 6(2).

(g) to ensure that brothels are accessible to
inspectors, law enforcement officers, health
workers and other social service providers;

S. 4(h)
amended by
No. 1/2010
s. 42(2)(Sch.
item 6(c)) (as
amended by
No. 63/2010
s. 27).

(h) to promote the welfare and occupational
health and safety of sex workers.

PART 2—OFFENCES CONNECTED WITH SEX WORK

Pt 2 (Heading) substituted by No. 1/2010 s. 42(2)(Sch. item 7) (as amended by Nos 63/2010 s. 27, 36/2011 s. 35(3)).

5 Causing or inducing child to take part in sex work

S. 5 (Heading) inserted by No. 1/2010 s. 42(2)(Sch. item 8) (as amended by No. 63/2010 s. 27).

- (1) A person must not cause or induce a child to take part in an act of sex work, whether as the sex worker or as the client or in any other capacity, or to continue to take part in such acts.

S. 5(1) amended by Nos 48/1997 s. 70(1), 1/2010 s. 42(2)(Sch. item 9) (as amended by No. 63/2010 s. 27).

Penalty: Level 5 imprisonment (10 years maximum).

- (2) An offence against subsection (1) is an indictable offence.
- (3) In a proceeding for an offence against subsection (1)—
- (a) it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child; but
 - (b) it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 years or more.

6 Obtaining payment for sexual services provided by a child

S. 6(1)
amended by
Nos 48/1997
s. 70(2),
1/2010
s. 42(2)(Sch.
item 10) (as
amended by
No. 63/2010
s. 27).

- (1) A person must not receive a payment (except in the ordinary course of a business unrelated to sex work) knowing that it or any part of it has been derived, directly or indirectly, from sexual services provided by a child.

Penalty: Level 4 imprisonment (15 years maximum).

- (2) An offence against subsection (1) is an indictable offence.

S. 6(3)
amended by
No. 1/2010
s. 42(2)(Sch.
item 11) (as
amended by
No. 63/2010
s. 27).

- (3) If in a proceeding for an offence against subsection (1) it is proved that the accused was residing with a sex worker who was a child, the accused must be presumed to be guilty of the offence in the absence of proof to the contrary.

- (4) In a proceeding for an offence against subsection (1)—

- (a) it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child; but
- (b) it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 years or more.

7 Agreement for provision of sexual services by a child

- (1) A person must not enter into or offer to enter into an agreement under which a child is to provide sexual services to or for that person or another person in return for payment or in exchange for drugs of dependence.

S. 7(1)
amended by
No. 48/1997
s. 70(3).

Penalty: Level 4 imprisonment (15 years maximum).

- (2) An offence against subsection (1) is an indictable offence.
- (3) In a proceeding for an offence against subsection (1)—
- (a) it is not necessary for the prosecution to prove that the accused knew that the person who was to provide the sexual services was a child; but
 - (b) if the person concerned was aged 17 years or more at the time the offence is alleged to have been committed, it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 years or more.

S. 8 (Heading) inserted by No. 1/2010 s. 42(2)(Sch. item 12) (as amended by No. 63/2010 s. 27).

8 Forcing person into or to remain in sex work

S. 8(1) amended by Nos 48/1997 s. 70(4), 1/2010 s. 42(2)(Sch. item 13) (as amended by No. 63/2010 s. 27).

- (1) A person must not with intent to induce another person aged 18 years or more to engage or continue to engage in sex work—
- (a) assault or threaten to assault that other person or any other person; or
 - (b) intimidate that other person or any other person; or
 - (c) supply or offer to supply a drug of dependence to that other person or any other person; or
 - (d) make a false representation or use any false pretence or other fraudulent means.

Penalty: Level 5 imprisonment (10 years maximum).

- (2) An offence against subsection (1) is an indictable offence.

S. 9 (Heading) inserted by No. 1/2010 s. 42(2)(Sch. item 14) (as amended by No. 63/2010 s. 27).

9 Forcing person to provide financial support out of sex work

S. 9(1) amended by Nos 48/1997 s. 70(5), 1/2010 s. 42(2)(Sch. item 15) (as amended by No. 63/2010 s. 27).

- (1) A person must not with intent to induce another person aged 18 years or more to provide or continue to provide him or her with a payment or payments derived, directly or indirectly, from sex work engaged in by that other person—

- (a) assault or threaten to assault that other person or any other person; or
- (b) intimidate that other person or any other person; or
- (c) supply or offer to supply a drug of dependence to that other person or any other person.

Penalty: Level 5 imprisonment (10 years maximum).

- (2) An offence against subsection (1) is an indictable offence.

10 Living on earnings of sex worker

S. 10
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 16) (as
amended by
No. 63/2010
s. 27).

- (1) A person must not knowingly live wholly or in part on, or derive a material benefit from, the earnings of sex work.

Penalty: Level 6 imprisonment (5 years maximum).

S. 10(1)
amended by
Nos 48/1997
s. 70(6),
1/2010
s. 42(2)(Sch.
item 17) (as
amended by
No. 63/2010
s. 27).

- (2) An offence against subsection (1) is an indictable offence.

- (3) A person is not guilty of an offence against subsection (1) only because of deriving income as a sex work service provider if—

- (a) there has been granted, and is in force, any licence required under Part 3 to authorise the person who is carrying on the business to carry on that business; and

S. 10(3)
amended by
No. 1/2010
s. 42(2)(Sch.
item 17) (as
amended by
No. 63/2010
s. 27).

(b) there has been granted, and is in force, any permit required under the **Planning and Environment Act 1987** for the use or development of the land for the purposes of the business.

S. 10(4)
amended by
No. 1/2010
s. 42(2)(Sch.
item 17) (as
amended by
No. 63/2010
s. 27).

(4) In a proceeding for an offence against subsection (1) it is a defence to the charge for the accused to prove that he or she did not hold a relevant position (whether in his or her own right or on behalf of any other person) in the sex work service providing business or exercise a significant influence over or with respect to the management or operation of that business.

S. 11
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 18) (as
amended by
No. 63/2010
s. 27).

11 Allowing child to take part in sex work

S. 11(1)
amended by
Nos 48/1997
s. 70(7),
1/2010
s. 42(2)(Sch.
item 19) (as
amended by
No. 63/2010
s. 27).

(1) A person who owns or occupies any premises or who manages or assists in the management of any premises must not allow a child to enter or remain on the premises for the purpose of taking part in an act of sex work, whether as the sex worker or as the client or in any other capacity.

Penalty: Level 5 imprisonment (10 years maximum).

(2) An offence against subsection (1) is an indictable offence.

(3) In a proceeding for an offence against subsection (1)—

(a) it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child; but

- (b) it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 years or more.
- (4) If in a proceeding for an offence against subsection (1) it is proved—
- (a) that a child was on premises used for the purposes of the operation of a brothel and in respect of which a permit is required under the **Planning and Environment Act 1987** for their use or development for those purposes; and
- (b) that the child was on those premises for the purpose of taking part in an act of sex work—

S. 11(4)(b)
amended by
No. 1/2010
s. 42(2)(Sch.
item 20) (as
amended by
No. 63/2010
s. 27).

the accused must be presumed to have allowed the child to enter or remain on those premises for that purpose unless the accused satisfies the court on the balance of probabilities that he or she did not know, and could not reasonably have known, that a child was on those premises for that purpose at the time the offence is alleged to have been committed.

s. 11A

11A Child over 18 months not to be in brothel

S. 11A
inserted by
No. 99/1995
s. 26.

S. 11A(1)
amended by
No. 44/1999
s. 31(1).

- (1) A person who carries on a business of a kind referred to in the definition of *brothel* in section 3 or who assists in the management of that business must not allow a child over the age of 18 months to enter or remain in a brothel at which that business is carried on for any purpose whatsoever.

Penalty: Level 8 imprisonment (1 year maximum) or a level 8 fine (120 penalty units maximum).

- (2) In a proceeding for an offence against subsection (1)—
- (a) it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child over the age of 18 months; but
 - (b) it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 years or more or under 18 months.

12 Street sex work—offences by clients

S. 12
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 21) (as
amended by
No. 63/2010
s. 27).

(1) Subject to section 14, a person must not for the purpose of, or with the intention of, inviting or soliciting any person to offer sex work services himself or herself with him or her or another person or of being accosted by or on behalf of a sex worker, intentionally or recklessly loiter in or near—

S. 12(1)
amended by
Nos 1/2010
s. 42(2)(Sch.
item 22) (as
amended by
No. 63/2010
ss 27, 34),
73/2011
s. 4(1).

(a) a place of worship; or

(b) a hospital; or

(c) a school, education and care service premises or children's services centre; or

S. 12(1)(c)
amended by
No. 80/2011
s. 79(Sch.
item 7.2).

(d) a public place regularly frequented by children and in which children are present at the time of the loitering.

Penalty: For a first offence—30 penalty units or imprisonment for 3 months;

For a second offence—60 penalty units or imprisonment for 6 months;

For a subsequent offence—90 penalty units or imprisonment for 9 months.

s. 13

S. 12(2)
amended by
No. 73/2011
s. 4(1).

(2) Subject to section 14, a person must not—

S. 12(2)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 22) (as
amended by
No. 63/2010
ss 27, 34).

(a) loiter in or frequent a public place for the purpose of, or with the intention of, inviting or soliciting any person to offer sex work services himself or herself with him or her or another person or of being accosted by or on behalf of a sex worker; or

S. 12(2)(b)
amended by
No. 1/2010
s. 42(2)(Sch.
item 22(a)) (as
amended by
No. 63/2010
ss 27, 34).

(b) in a public place invite or solicit any person to offer sex work services himself or herself with him or her or another person.

Penalty: For a first offence—10 penalty units or imprisonment for 1 month;

For a second offence—30 penalty units or imprisonment for 3 months;

For a subsequent offence—60 penalty units or imprisonment for 6 months.

S. 13
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 23) (as
amended by
No. 63/2010
s. 27).

13 Street sex work—offences by sex workers

S. 13(1)
amended by
Nos 1/2010
s. 42(2)(Sch.
item 24) (as
amended by
No. 63/2010
s. 27), 73/2011
s. 4(2).

(1) Subject to section 14, a person must not for the purpose of sex work intentionally or recklessly solicit or accost any person or loiter in or near—

(a) a place of worship; or

(b) a hospital; or

S. 13(1)(c)
amended by
No. 80/2011
s. 79(Sch.
item 7.3).

(c) a school, education and care service premises or children's services centre; or

(d) a public place regularly frequented by children and in which children are present at the time of the soliciting, accosting or loitering.

Penalty: For a first offence—10 penalty units or imprisonment for 1 month;

For a second offence—30 penalty units or imprisonment for 3 months;

For a subsequent offence—60 penalty units or imprisonment for 6 months.

(2) Subject to section 14, a person must not for the purpose of sex work solicit or accost any person or loiter in a public place.

Penalty: For a first offence—5 penalty units or imprisonment for 1 month;

For a second offence—15 penalty units or imprisonment for 3 months;

For a subsequent offence—25 penalty units or imprisonment for 6 months.

S. 13(2) amended by Nos 1/2010 s. 42(2)(Sch. item 24) (as amended by No. 63/2010 s. 27), 73/2011 s. 4(2).

14 Exceptions to street sex work offences

(1) An act done in a brothel or in any premises on which an escort agency carries on business which, but for this subsection, would constitute an offence against section 12 or 13 does not constitute an offence against that section if the act is not visible to a person in a public place outside the brothel or those premises.

S. 14 (Heading) inserted by No. 1/2010 s. 42(2)(Sch. item 25) (as amended by No. 63/2010 s. 27).

* * * * *

S. 14(2) repealed by No. 16/2004 s. 55.

15 Being in, entering or leaving unlicensed brothel

A person must not be found, without reasonable excuse, in or entering or leaving a brothel in respect of which there is not in force any licence required under Part 3.

Penalty: For a first offence—10 penalty units or imprisonment for 1 month;

For a second offence—30 penalty units or imprisonment for 3 months;

For a subsequent offence—60 penalty units or imprisonment for 6 months.

16 Offensive behaviour towards sex workers

A person must not in or near a public place with the intention of intimidating, insulting or harassing a sex worker—

(a) behave in an indecent, offensive or insulting manner; or

(b) use threatening, abusive or insulting words.

Penalty: 30 penalty units or imprisonment for 3 months.

17 Controls on advertising by sex work service providers

(1) A person must not publish or cause to be published an advertisement for sex work services that—

(a) describes the services offered; or

(b) contravenes the regulations.

Penalty: 40 penalty units.

S. 16
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 26) (as
amended by
No. 63/2010
s. 27).

S. 16
amended by
No. 1/2010
s. 42(2)(Sch.
item 27) (as
amended by
No. 63/2010
s. 27).

S. 17
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 28) (as
amended by
No. 63/2010
s. 27).

S. 17(1)
amended by
No. 1/2010
s. 42(2)(Sch.
item 29(a)) (as
amended by
No. 63/2010
s. 27).

- (2) A person must not cause an advertisement for sex work services to be broadcast or televised.

Penalty: 40 penalty units.

S. 17(2)
amended by
No. 1/2010
s. 42(2)(Sch.
item 29(a)) (as
amended by
No. 63/2010
s. 27).

- (3) A person must not publish or cause to be published a statement which is intended or likely to induce a person to seek employment—

(a) as a sex worker; or

S. 17(3)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 29(b)) (as
amended by
No. 63/2010
s. 27).

(b) in a brothel or with an escort agency or any other business that provides sex work services.

Penalty: 40 penalty units.

S. 17(3)(b)
amended by
No. 1/2010
s. 42(2)(Sch.
item 29(a)) (as
amended by
No. 63/2010
s. 27).

- (4) A sex work service provider or any other business that provides sex work services must not publish or cause to be published an advertisement for the business that—

(a) uses (either alone or in combination with any other word or words or letters) the words "massage", "masseur", "remedial" or any other words that state or imply that the business provides massage services; or

(b) holds the business out either directly or by implication as a provider of massage services.

Penalty: 40 penalty units.

S. 17(4)
amended by
No. 1/2010
s. 42(2)(Sch.
item 29(a)) (as
amended by
No. 63/2010
s. 27).

(5) If in a proceeding for an offence against this section it is proved to the court that—

S. 17(5)(a) amended by No. 1/2010 s. 42(2)(Sch. item 29(a)) (as amended by No. 63/2010 s. 27).

(a) an advertisement has been published for or relating to a brothel, escort agency or any other business that provides sex work services; and

(b) a person is the owner or occupier of the premises on which the brothel, escort agency or that other business is carried on—

that person must, in the absence of proof to the contrary, be presumed to have caused the advertisement to be published.

18 Advertising regulations

The Governor in Council may make regulations for or with respect to—

S. 18(a) amended by No. 1/2010 s. 42(2)(Sch. item 30) (as amended by No. 63/2010 s. 27).

(a) the size, form and content of advertisements for sex work services or any class of sex work services;

S. 18(b) amended by No. 1/2010 s. 42(2)(Sch. item 30) (as amended by No. 63/2010 s. 27).

(b) prohibiting the advertising—

(i) in a specified publication or specified class of publication; or

(ii) in a specified manner—

of advertisements for sex work services or any class of sex work services;

(c) generally prescribing any other matter or thing required or permitted by section 17 to be prescribed or necessary to be prescribed to give effect to section 17.

18A Sex workers and clients must adopt safer sex practices

S. 18A
inserted by
No. 1/2010
s. 44 (as
amended by
No. 63/2010
s. 29).

- (1) A person must not provide or receive sex work services unless he or she has taken all reasonable steps to ensure a condom or other appropriate barrier is used if that sex work involves vaginal, anal, or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmitted diseases.

Penalty: 20 penalty units.

- (2) A person who provides or receives sex work services must take all reasonable steps to minimise the risk of acquiring or transmitting sexually transmitted diseases while providing or receiving those services.

Penalty: 20 penalty units.

19 Permitting sex worker infected with a disease to work in a brothel etc.

S. 19
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 31) (as
amended by
No. 63/2010
s. 27).

- (1) A person who—

S. 19(1)
amended by
No. 1/2010
s. 42(2)(Sch.
item 32(b)) (as
amended by
No. 63/2010
s. 27).

- (a) is a sex work service provider; or

S. 19(1)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 32(a)) (as
amended by
No. 63/2010
s. 27).

Sex Work Act 1994

No. 102 of 1994

Part 2—Offences Connected with Sex Work

s. 19

S. 19(1)(b)
amended by
No. 1/2010
s. 42(2)(Sch.
item 32(a)) (as
amended by
No. 63/2010
s. 27).

(b) manages a brothel or an escort agency or any other business that provides sex work services—

must not permit a sex worker to work (whether under a contract of service or a contract for services) in a brothel or for the escort agency or other business during any period in which he or she knows that the sex worker is infected with a sexually transmitted disease.

Penalty: 50 penalty units.

S. 19(2)
amended by
No. 1/2010
s. 42(2)(Sch.
item 32(b)) (as
amended by
No. 63/2010
s. 27).

(2) If it is proved to a court that a person referred to in subsection (1) permitted a sex worker to work as mentioned in that subsection during a period in which the sex worker was infected with a sexually transmitted disease, that person must be presumed to have known that the sex worker was so infected unless that person proves that at the time the offence is alleged to have been committed that person believed on reasonable grounds—

S. 19(2)(a)
substituted by
No. 99/1995
s. 27(1),
amended by
No. 1/2010
s. 42(2)(Sch.
item 32(b)) (as
amended by
No. 63/2010
s. 27).

(a) that the sex worker had been undergoing—

S. 19(2)(a)(i)
amended by
No. 46/2008
s. 283(3).

(i) regular blood tests, on at least a quarterly basis, for HIV and each other sexually transmitted disease for which blood tests are appropriate; and

(ii) regular swab tests, at the time periods determined by the Health Minister by Order published in the Government Gazette, for the purpose of determining whether he or she was infected with any other sexually transmitted disease; and

S. 19(2)(a)(ii) amended by No. 1/2010 s. 45(1).

(b) that the sex worker was not infected with a sexually transmitted disease.

S. 19(2)(b) amended by No. 1/2010 s. 42(2)(Sch. item 32(b)) (as amended by No. 63/2010 s. 27).

(3) In this section, *Health Minister* means the person for the time being administering the **Public Health and Wellbeing Act 2008**.

S. 19(3) inserted by No. 1/2010 s. 45(2).

20 Sex worker working while infected with a disease

S. 20 (Heading) inserted by No. 1/2010 s. 42(2)(Sch. item 33) (as amended by No. 63/2010 s. 27).

(1) A person must not work as a sex worker during any period in which he or she knows that he or she is infected with a sexually transmitted disease.

S. 20(1) amended by No. 1/2010 s. 42(2)(Sch. item 34) (as amended by No. 63/2010 s. 27).

Penalty: 20 penalty units.

(2) If it is proved to a court that a person worked as a sex worker during a period in which he or she was infected with a sexually transmitted disease, he or she must be presumed to have known that he or she was so infected unless he or she proves that at the time the offence is alleged to have been committed—

S. 20(2) amended by No. 1/2010 s. 42(2)(Sch. item 34) (as amended by No. 63/2010 s. 27).

s. 21

S. 20(2)(a)
substituted by
No. 99/1995
s. 27(2).

(a) that he or she had been undergoing—

S. 20(2)(a)(i)
amended by
No. 46/2008
s. 283(3).

(i) regular blood tests, on at least a quarterly basis for HIV and each other sexually transmitted disease for which blood tests are appropriate; and

S. 20(2)(a)(ii)
amended by
No. 1/2010
s. 46(1).

(ii) regular swab tests, at the time periods determined by the Health Minister by Order published in the Government Gazette, for the purpose of determining whether he or she was infected with any other sexually transmitted disease; and

(b) he or she believed on reasonable grounds that he or she was not infected with a sexually transmitted disease.

S. 20(3)
inserted by
No. 1/2010
s. 46(2).

(3) In this section, *Health Minister* means the person for the time being administering the **Public Health and Wellbeing Act 2008**.

21 Consuming liquor in brothel

S. 21(1)
amended by
No. 1/2010
s. 42(2)(Sch.
item 35) (as
amended by
No. 63/2010
s. 27).

(1) A sex work service provider must not—
(a) sell, supply or consume liquor at a brothel; or
(b) permit liquor to be sold, supplied or consumed at a brothel.

Penalty: 100 penalty units.

S. 21(2)
amended by
No. 1/2010
s. 42(2)(Sch.
item 35) (as
amended by
No. 63/2010
s. 27).

(2) If in a proceeding for an offence against subsection (1)(b) it is proved to the court that liquor was sold, supplied or consumed at a brothel, the sex work service provider must, in the absence of proof to the contrary, be presumed to have permitted the liquor to be sold, supplied or consumed.

- (3) This section applies despite anything to the contrary in the **Liquor Control Reform Act 1998** or in any licence or permit granted or having effect under that Act.

S. 21(3)
amended by
No. 44/1999
s. 31(2).

21A Operating brothel other than in a building

S. 21A
inserted by
No. 73/1996
s. 70.

- (1) A person must not carry on business as a sex work service provider of a kind referred to in the definition of *brothel* in section 3 at premises—
- (a) for which there is not in force a permit granted under the **Planning and Environment Act 1987** for their use or development for the purposes of the operation of a brothel; and
 - (b) that are not a building or part of a building.

S. 21A(1)
amended by
No. 1/2010
s. 42(2)(Sch.
item 36) (as
amended by
No. 63/2010
s. 27).

Penalty: 360 penalty units or imprisonment for 3 years or both.

- (2) An offence against subsection (1) is an indictable offence.

s. 21B

Pt 2A
(Heading and
ss 21B–21M)
inserted by
No. 64/2010
s. 69.

PART 2A—BANNING NOTICES

S. 21B
inserted by
No. 64/2010
s. 69.

21B Definitions

In this Part—

declared area means an area for which a declaration by the Minister under section 18(4) of the **Summary Offences Act 1966** is in force;

relevant offence means an offence against section 12(2)(b);

relevant police member means—

- (a) an authorised member of the police force; or
- (b) a member of the police force authorised under section 21K to be a relevant police member.

S. 21C
inserted by
No. 64/2010
s. 69.

21C Issue of banning notice

- (1) A relevant police member who suspects on reasonable grounds that a person is committing or has just committed a relevant offence within a declared area may give the person a notice banning the person, for the period specified in the notice, from the declared area.
- (2) The period specified in the banning notice must not exceed 72 hours starting from the time the notice is given to the person to whom it applies.

-
- (3) A relevant police member must not give a banning notice to a person unless the member believes on reasonable grounds that the giving of the notice may be effective in preventing or deterring the person from committing a further relevant offence.
 - (4) In determining whether there are reasonable grounds for his or her belief under subsection (3), the relevant police member must consider—
 - (a) whether the person is likely to commit a further relevant offence; and
 - (b) whether the person is likely to be charged with the relevant offence; and
 - (c) whether the person should be arrested or held in custody pending the hearing of any charges against the person in respect of the relevant offence; and
 - (d) any other matter the member considers relevant.
 - (5) A relevant police member must produce proof of his or her identity and official status before giving a banning notice to a person, unless the member is in uniform.
 - (6) A relevant police member cannot give a banning notice referred to in subsection (1) to a person if the member believes or has reasonable grounds for believing that the person lives or works in the declared area.
 - (7) No more than one banning notice may be given to a person for a declared area in respect of the same relevant offence, but a banning notice may be given to a person who is already subject to a banning notice for the declared area if the subsequent notice is given in respect of a separate relevant offence.

S. 21D
inserted by
No. 64/2010
s. 69.

21D Content of banning notice

- (1) A banning notice must include the following details—
 - (a) the name of the person to whom the notice applies;
 - (b) the declared area in which the banning notice applies, including a map of the declared area;
 - (c) the specified period for which the notice applies;
 - (d) the name, rank and place of duty of the relevant police member giving the notice.
- (2) A banning notice must state—
 - (a) that the relevant police member giving the notice suspects that the person has committed an offence against section 12(2)(b) within the declared area in which the banning notice applies; and
 - (b) the grounds for the suspicion; and
 - (c) that the person must not enter the declared area during the specified period; and
 - (d) that, if the person is in the declared area, the person must leave the declared area in accordance with a direction of a member of the police force to do so; and
 - (e) that it is an offence not to comply with the notice or with a direction given by a member of the police force to leave the declared area; and
 - (f) the maximum penalties for those offences.
- (3) A banning notice must include advice that the person to whom the notice applies may apply to a member of the police force of or above the rank of sergeant for a review of the notice.

21E Requirement to give name and address

S. 21E
inserted by
No. 64/2010
s. 69.

- (1) Before giving a banning notice to a person, a relevant police member may request the person to state the person's name and address.
- (2) A relevant police member who makes a request under subsection (1) must inform the person of the member's intention to give the person a banning notice.
- (3) A person must not, in response to a request made by a relevant police member in accordance with this section—
 - (a) refuse or fail to comply with the request without a reasonable excuse for not doing so; or
 - (b) state a name that is false in a material particular; or
 - (c) state an address other than the full and correct address of his or her ordinary place of residence or business.

Penalty: 5 penalty units.

- (4) A person who is requested to state his or her name and address may request the member who made the request to state, orally or in writing, the member's name, rank and place of duty.
- (5) A relevant police member must not, in response to a request under subsection (4)—
 - (a) refuse or fail to comply with the request; or
 - (b) state a name or rank that is false in a material particular; or
 - (c) state as his or her place of duty an address other than the name of the police station which is the member's ordinary place of duty; or

(d) refuse to comply with the request in writing if requested to do so.

Penalty: 5 penalty units.

(6) If a person states a name and address in response to a request made under subsection (1) and the member who made the request suspects on reasonable grounds that the stated name or address may be false, the member may request the person to produce evidence of the correctness of the name and address.

(7) The person must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

(8) It is not an offence for a person to fail to comply with a request made under subsection (1) or (6) if the member who made the request did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request.

S. 21F
inserted by
No. 64/2010
s. 69.

21F Variation and revocation of banning notice

- (1) A person to whom a banning notice applies may apply in writing or orally to a member of the police force of or above the rank of sergeant for a review of the banning notice.
- (2) A member of the police force of or above the rank of sergeant may vary or revoke a banning notice at any time, by written notice given to the person to whom the notice applies.
- (3) A banning notice must not be varied under subsection (2) to extend the period for which the notice applies.
- (4) If a banning notice is varied or revoked under subsection (2), the person to whom the notice was given does not have a right of compensation in relation to the issuing of the banning notice in its original form.

21G Offence to contravene banning notice or fail to comply with police directions

S. 21G
inserted by
No. 64/2010
s. 69.

- (1) A person to whom a banning notice applies must not enter, or attempt to enter, the declared area in contravention of the notice.

Penalty: 20 penalty units.

- (2) If the person is in the declared area in contravention of the notice, he or she must comply with any direction given by a member of the police force under section 21H.

Penalty: 20 penalty units.

- (3) It is a defence to a charge for an offence against subsection (1) or (2) if—

(a) the accused was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence; or

(b) the conduct constituting the offence was caused by circumstances beyond the control of the accused and the accused had taken reasonable precautions to avoid committing an offence; or

(c) at the time of the contravention, the person lived or worked in the declared area.

- (4) Despite subsection (2), it is not an offence for a person to fail to comply with a direction given by a member of the police force under section 21H if the member of the police force did not comply with section 21H(3).

- (5) Section 72 of the **Criminal Procedure Act 2009** applies in the circumstances referred to in subsection (4).

S. 21H
inserted by
No. 64/2010
s. 69.

21H Direction to leave declared area

- (1) This section applies if a person to whom a banning notice applies is in the declared area in contravention of the notice.
- (2) Subject to subsection (3), a member of the police force may direct the person to leave the declared area in the manner, if any, directed by the member.
- (3) A member of the police force must—
 - (a) produce proof of his or her identity and official status before exercising a power under subsection (2) unless the member is in uniform; and
 - (b) inform the person that—
 - (i) the member of the police force is empowered to direct the person to leave the declared area; and
 - (ii) it is an offence to fail to comply with the direction; and
 - (iii) if the person refuses to comply with the direction, the member may use reasonable force to remove the person from the declared area; and
 - (c) make all reasonable attempts to ensure that the person understands the direction.
- (4) A direction under subsection (2)—
 - (a) may be given orally or in writing; and
 - (b) must be reasonable in all the circumstances.

21I Police may use reasonable force to remove person

S. 21I
inserted by
No. 64/2010
s. 69.

- (1) A member of the police force, using no more force than is reasonably necessary, may—
 - (a) prevent a person from entering, or attempting to enter, a declared area contrary to section 21G(1);
 - (b) remove a person from a declared area after the person has refused to comply with a direction under section 21H.
- (2) Nothing in this section limits any powers of arrest that a member of the police force has under any other law.
- (3) Any action taken under this section does not prevent the institution of proceedings in respect of an offence.

21J Infringement notices

S. 21J
inserted by
No. 64/2010
s. 69.

- (1) If a member of the police force has reason to believe that a person has committed an offence against section 21G(1) or (2), the member of the police force may serve an infringement notice on the person.
- (2) The infringement penalty for an offence referred to in subsection (1) is 2 penalty units.
- (3) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

21K Relevant police members

S. 21K
inserted by
No. 64/2010
s. 69.

- (1) A member of the police force of or above the rank of sergeant may authorise a member of the police force to be a relevant police member for the purposes of this Part.

s. 21L

- (2) An authorisation under subsection (1) may be given in writing, orally or by telephone.

S. 21L
inserted by
No. 64/2010
s. 69.

21L Report by Chief Commissioner

S. 21L(1)
amended by
No. 73/2011
s. 14(1)(a).

- (1) The Chief Commissioner must submit a report to the Minister in respect of each calendar year that includes the following information—
- (a) the number of banning notices given;
 - (b) the number of persons to whom banning notices were given;
 - (c) the number of banning notices given to each person who was given more than one banning notice;
 - (d) the declared areas in which those offences were suspected of being committed;
 - (e) the ages of the persons to whom banning notices were given;

S. 21L(1)(f)
repealed by
No. 73/2011
s. 14(1)(b).

* * * * *

S. 21L(1)(g)
amended by
No. 73/2011
s. 14(1)(c).

- (g) the number of banning notices given in relation to each declared area;

S. 21L(1)(h)
inserted by
No. 73/2011
s. 14(1)(d).

- (h) the number of persons charged with an offence against section 21G(1) or (2);

S. 21L(1)(i)
inserted by
No. 73/2011
s. 14(1)(d).

- (i) the number of infringement notices served by members of the police force under section 21J(1).

- (2) The Chief Commissioner must cause the information to be collected that is necessary to enable the report to be prepared.
- (3) The Chief Commissioner must submit a report under this section to the Minister within 3 months after the end of the calendar year to which the report relates.
- (4) The Minister must cause a report under this section to be presented to each House of Parliament within 7 sitting days of that House after the report is received by the Minister.
- (5) In this section—

Minister means the Minister administering the
Police Regulation Act 1958.

S. 21L(3)
amended by
No. 73/2011
s. 14(2).

S. 21L(5)
def. of
Minister
amended by
No. 73/2011
s. 14(3)(a).

* * * * *

S. 21L(5)
def. of
*operational
period of
this Part*
repealed by
No. 73/2011
s. 14(3)(b).

21M Sunset provision

This Part is repealed on 1 January 2014.

S. 21M
inserted by
No. 64/2010
s. 69,
amended by
No. 73/2011
s. 15.

PART 3—LICENSING SYSTEM

Division 1—Requirement to be licensed

22 Sex work service providers to be licensed

S. 22
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 37) (as
amended by
No. 63/2010
s. 27).

(1) A person must not knowingly or recklessly carry
on business as a sex work service provider—

(a) without holding a licence; or

S. 22(1)
amended by
Nos 48/1997
s. 70(8),
44/1999
s. 7(1)(2),
1/2010
ss 42(2)(Sch.
item 38) (as
amended by
No. 63/2010
s. 27), 47.

(b) in breach of any condition of a licence; or

S. 22(1)(b)
amended by
No. 47/1997
s. 5.

(c) when a licence is suspended.

S. 22(1)(c)
inserted by
No. 47/1997
s. 5.

Penalty: Level 6 imprisonment (5 years
maximum) or a level 5 fine
(1200 penalty units maximum) or both.

- (1A) A person must not carry on business as a sex work service provider—
- (a) without holding a licence; or
 - (b) in breach of any condition of a licence; or
 - (c) when a licence is suspended.
- Penalty: Level 7 fine (240 penalty units maximum).
- (2) In a proceeding for an offence against subsection (1) or (1A) it is a defence to the charge for the accused to prove that he or she was exempted by section 23 from the requirement to hold a licence.
- (2A) In a proceeding for an offence against subsection (1A) it is a defence to the charge for the accused to prove that, at the time of the conduct constituting the offence, the accused was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence against that subsection.
- (3) A person must not assist in the carrying on of a sex work service providing business at a time when he or she knows that subsection (1) is being contravened or is reckless as to whether or not subsection (1) is being contravened.
- Penalty: Level 6 imprisonment (5 years maximum) or a level 6 fine (600 penalty units maximum) or both.
- (4) An offence against subsection (1) or (3) is an indictable offence.
- (5) In a proceeding for an offence against subsection (1), (1A) or (3) evidence of the presence on premises of materials commonly used in safe sexual practices is inadmissible for the purpose of establishing that a sex work service provider carried on business on those premises.

S. 22(1A) inserted by No. 44/1999 s. 8(1), amended by No. 1/2010 s. 42(2)(Sch. item 38) (as amended by No. 63/2010 s. 27).

S. 22(2) amended by No. 44/1999 s. 8(2).

S. 22(2A) inserted by No. 44/1999 s. 8(3).

S. 22(3) amended by Nos 48/1997 s. 70(9), 44/1999 s. 7(3), 1/2010 s. 42(2)(Sch. item 38) (as amended by No. 63/2010 s. 27).

S. 22(5) amended by Nos 44/1999 s. 8(4), 1/2010 s. 42(2)(Sch. item 38) (as amended by No. 63/2010 s. 27).

23 Special provisions for small owner-operated businesses

(1) Subject to this section, the following are exempt from the requirement to hold a licence—

S. 23(1)(a) substituted by No. 99/1995 s. 28(1), amended by No. 1/2010 s. 42(2)(Sch. item 39(a)(b)) (as amended by No. 63/2010 s. 27).

- (a) a person carrying on a business as a sex work service provider—
 - (i) of a kind referred to in the definition of *brothel* in section 3 at premises in accordance with a permit granted under the **Planning and Environment Act 1987**; or
 - (ii) of a kind referred to in the definition of *escort agency* in section 3; or
 - (iii) of a kind referred to in both subparagraphs (i) and (ii)—

if only that person works as a sex worker in that business or only that person and one other particular person so work;

S. 23(1)(b) substituted by No. 99/1995 s. 28(1), amended by No. 1/2010 s. 42(2)(Sch. item 39(c)) (as amended by No. 63/2010 s. 27).

- (b) two persons who either jointly or separately carry on such a business if only those persons work as sex workers in that business.

(2) An exemption referred to in subsection (1) does not apply if—

S. 23(2)(a) amended by No. 99/1995 s. 28(2)(a) (i)–(iii).

- (a) clients are managed or directed to the premises or otherwise attended to by a person who does not work in the business and who performs this function in the course of another business; or

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- (b) a person who works in the business directs clients to a sex worker who does not work in the business; or
- (c) the business being carried on is associated with another sex work service providing business, whether of the kind referred to in the definition of *brothel* or *escort agency* in section 3 or of both kinds.
- (3) For the purposes of subsection (2)(c) businesses are associated if—
- (a) they are carried on by the same person; or
- (b) one business is carried on by a person and the other business is carried on by a person who is—
- (i) a relative (other than an uninvolved relative) of that person; or
- (ii) a business partner of that person; or
- (iii) a person who has entered into a business arrangement or relationship with that person in respect of that person's business as a sex work service provider; or
- S. 23(2)(b) amended by Nos 99/1995 s. 28(2)(b), 1/2010 s. 42(2)(Sch. item 39(b)) (as amended by No. 63/2010 s. 27).
- S. 23(2)(c) amended by Nos 99/1995 s. 28(2)(c)(i)(ii), 1/2010 s. 42(2)(Sch. item 39(a)) (as amended by No. 63/2010 s. 27).
- S. 23(3)(b)(i) amended by Nos 27/2001 s. 8(Sch. 6 item 5.3), 82/2008 s. 4.
- S. 23(3)(b)(iii) amended by Nos 99/1995 s. 28(3), 1/2010 s. 42(2)(Sch. item 39(a)) (as amended by No. 63/2010 s. 27).

S. 23(3)(c)(i)
amended by
No. 27/2001
s. 8(Sch. 6
item 5.3).

- (iv) directly receiving any income derived from the business carried on by the other; or
- (c) one business is carried on by a body corporate and the other business is carried on by a person who—
 - (i) is a director or secretary of the body corporate or a spouse or domestic partner of such a director or secretary; or
 - (ii) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the body corporate and thereby is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or
 - (iii) holds or will hold any relevant position (whether in his or her own right or on behalf of any other person) in the business of the body corporate; or
 - (iv) is a related body corporate within the meaning of section 9 of the Corporations Act or a director or secretary, or a spouse or domestic partner of a director or secretary, of a related body corporate.

S. 23(3)(c)(iv)
amended by
Nos 27/2001
s. 8(Sch. 6
item 5.3),
44/2001
s. 3(Sch.
item 94.2).

24 Register for businesses to which section 23 applies

S. 24(1)
amended by
No. 52/1998
s. 195(a).

- (1) A person who intends to rely on an exemption under section 23 must, before commencing to carry on business or as soon as practicable after the commencement of this subsection (whichever

occurs first), give to the Authority the prescribed particulars in relation to the business.

Penalty: 30 penalty units.

- | | |
|--|--|
| (2) The Registrar must enter in a register any particulars given to the Authority in accordance with subsection (1). | S. 24(2)
amended by
No. 52/1998
s. 195(a)(b). |
| (3) The register referred to in subsection (2) may only be inspected by the Director, by members or staff of the Authority or by authorised members of the police force or authorised officers of the responsible authority. | S. 24(3)
amended by
Nos 52/1998
s. 195(a)(c),
35/2000
s. 49(c). |
| (4) The Registrar may correct an error or omission in the register by—

(a) inserting an entry; or

(b) amending an entry; or

(c) omitting an entry—

if he or she decides that the correction is necessary. | S. 24(4)
amended by
No. 52/1998
s. 195(b). |
| (5) The Registrar may make the correction on his or her own initiative or on the application of any person. | S. 24(5)
amended by
No. 52/1998
s. 195(b). |
| (6) On making a correction the Registrar must record in the register the date on which it was made. | S. 24(6)
amended by
Nos 47/1997
s. 6(1),
52/1998
s. 195(b). |
| (7) The Authority, on the application of a person whose name appears in the register, may direct the Registrar to omit that person's entry from the register with effect from the date on which the application was received by the Authority. | S. 24(7)
inserted by
No. 47/1997
s. 6(2),
amended by
No. 52/1998
s. 195(a)(b). |

s. 24A

S. 24(8)
inserted by
No. 47/1997
s. 6(2),
amended by
No. 52/1998
s. 195(b).

- (8) On omitting an entry the Registrar must record in the register the date with effect from which the omission was made.

S. 24A
inserted by
No. 1/2010
s. 48.

24A Annual statement regarding exemption

- (1) A person who carries on a sex work service providing business that has been entered on the register must provide to the Authority, within 6 weeks after the anniversary of his or her date of notification of prescribed particulars under section 24 or this section, a statement that sets out—
- (a) whether or not he or she continues to rely on the exemption in section 23; and
 - (b) if so, the prescribed particulars in relation to the business.
- (2) The Authority must record the information provided under subsection (1) in the register.
- (3) If a person does not provide an annual statement in accordance with subsection (1), the Authority must send a written notice to the person at the address recorded in the register for that person, requesting that the annual statement be provided within 14 days of the date of the notice.
- (4) A person must comply with a notice issued under subsection (3).
- Penalty: 30 penalty units.
- (5) If a person fails to comply with a notice under subsection (3), the Registrar must record in the register that the annual statement has not been provided and the information recorded is not current.

(6) In this section *register* means the register created by the Registrar under section 24.

Division 2—The Authority and the Director

Pt 3 Div. 2
(Heading)
substituted by
No. 52/1998
s. 196,
amended by
No. 35/2000
s. 49(d).

Pt 3 Div. 2
(ss 25–32)
amended by
Nos 99/1995
s. 29, 47/1997
ss 7–11,
46/1998
s. 7(Sch. 1),
substituted as
Pt 3 Div. 2
(Heading and
ss 25–27) by
No. 52/1998
s. 196.

25 Functions of Authority

S. 25
substituted by
No. 52/1998
s. 196.

The functions of the Authority under this Act are—

- (a) to determine licence applications;
- (b) to determine manager approval applications;
- (c) to liaise with the police force so as to assist the police force in carrying out its functions in relation to sex work;
- (d) to refer relevant matters for investigation by the WorkCover Authority, the Australian Taxation Office or the Department of Immigration and Citizenship of the Commonwealth or any other body;
- (e) to inform the Advisory Committee about issues and trends relevant to its functions.

S. 25(c)
amended by
No. 1/2010
s. 42(2)(Sch.
item 40) (as
amended by
No. 63/2010
s. 27).

S. 25(d)
amended by
No. 73/2011
s. 13.

26 Functions of Director

The functions of the Director under this Act are—

S. 26 substituted by No. 52/1998 s. 196, amended by No. 35/2000 s. 49(e).

S. 26(a) amended by No. 1/2010 s. 42(2)(Sch. item 41(a)) (as amended by No. 63/2010 s. 27), substituted by No. 73/2011 s. 5(1).

S. 26(ab) inserted by No. 73/2011 s. 5(1).

- (a) to monitor compliance with and investigate and prosecute alleged contraventions of—
 - (i) sections 11A, 17, 18A, 19, 20 and 21; and
 - (ii) Part 3 (other than sections 22(1)(a), 22(1A)(a) and 22(3) to the extent that that subsection relates to an offence against section 22(1)(a) or 22(1A)(a)); and
 - (iii) Part 6 and any provisions applied by Part 6; and
 - (iv) the regulations;
- (ab) to refer to the Chief Commissioner of Police for investigation any allegation, complaint or information that, in the opinion of the Director, may involve—
 - (i) a contravention of a provision of this Act for which the Director has no prosecutorial functions; or
 - (ii) the operation of a brothel at premises for which there is not in force the requisite planning permit under the **Planning and Environment Act 1987**; or
 - (iii) an organised crime offence within the meaning of the **Major Crime (Investigative Powers) Act 2004** relating to the sex work industry, whether or not the Director has prosecutorial functions in relation to

that allegation, complaint or information;

- (ac) if a referral is made under paragraph (ab), to provide to the Chief Commissioner of Police all information in the possession of the Director that, in the opinion of the Director, is relevant to the referred matter; **S. 26(ac) inserted by No. 73/2011 s. 5(1).**
- (b) to liaise with the Authority and the police force so as—
- (i) to assist the Authority in carrying out its functions under this Act; and
- (ii) to assist the police force in carrying out its functions in relation to sex work; **S. 26(b)(ii) amended by No. 1/2010 s. 42(2)(Sch. item 41(b)) (as amended by No. 63/2010 s. 27).**
- (ba) to coordinate the exercise of the functions of the Director under paragraph (a) and the functions of the police force in relation to sex work; **S. 26(ba) inserted by No. 73/2011 s. 5(2).**
- (c) to refer relevant matters for investigation by the WorkCover Authority, the Australian Taxation Office or the Department of Immigration and Citizenship of the Commonwealth or any other body; **S. 26(c) amended by No. 73/2011 s. 13.**
- (d) any other functions conferred on him or her by or under this Act. **S. 26(d) inserted by No. 101/1998 s. 11(1).**

s. 27

S. 27
substituted by
No. 52/1998
s. 196,
amended by
No. 35/2000
s. 49(e).

27 Delegation by Director

The Director may, by instrument, delegate to—

- (a) the Authority; or
- (b) the Registrar; or
- (c) any person engaged or appointed under section 7(2) or 15 of the **Business Licensing Authority Act 1998**; or
- (d) any person or class of person employed under Part 3 of the **Public Administration Act 2004** in the administration of this Act—

S. 27(d)
substituted by
No. 35/2000
s. 49(f),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 165.1).

any function or power of the Director under this Act other than this power of delegation.

Ss 27A–32
repealed by
No. 52/1998
s. 196.

* * * * *

Division 3—Applications

33 Application for licence

S. 33(1)
amended by
Nos 52/1998
s. 197(1),
1/2010
s. 42(2)(Sch.
item 42) (as
amended by
No. 63/2010
s. 27).

- (1) A natural person aged 18 years or more who is not already a licensee may apply to the Authority for a licence authorising him or her to carry on business as a sex work service provider, whether of the kind referred to in the definition of *brothel* in section 3 or as an escort agency or both.

- (2) An application—
- (a) must be in writing in the form approved by the Authority;
 - (b) must specify—
 - (i) the name, address, occupation and date of birth—
 - (A) of the applicant; and
 - (B) of the owner of the premises on which the applicant intends to carry on the business or, if the owner is a body corporate, of each director and the secretary of the body corporate;
 - (ii) the address of the premises at which, and the name or names under which, the applicant intends to carry on the business;
 - (iii) whether the applicant intends to carry on the business in partnership with, or otherwise in association or conjunction with, another person;
 - (iv) any other matters that are prescribed;
 - (c) must be signed by the applicant;
 - (d) must be accompanied by—
 - (i) the prescribed application fee;
 - (ia) the prescribed licence fee;
 - (ii) any other things that are prescribed.

S. 33(2)(a)
amended by
No. 52/1998
s. 197(2).

S. 33(2)(d)(ia)
inserted by
No. 47/1997
s. 12.

s. 34

S. 33(3)
inserted by
No. 99/1995
s. 30(1),
amended by
No. 52/1998
s. 197(1).

(3) An applicant must consent to having his or her fingerprints taken by an officer of the Authority or an authorised member of the police force.

S. 33(4)
inserted by
No. 99/1995
s. 30(1),
amended by
No. 52/1998
s. 197(1).

(4) The Authority may refuse to consider an application for a licence if the applicant refuses to allow his or her fingerprints to be taken.

S. 34
substituted by
No. 52/1998
s. 198,
amended by
No. 44/1999
s. 9.

34 Applications to be made available to the public

The Authority must make a copy of that part of an application for a licence that has not yet been determined that contains the matters specified under section 33(2)(b)(i), (ii) and (iii) available at its office for any person to inspect during office hours free of charge.

S. 35
substituted by
No. 52/1998
s. 199.

35 Notice of application

- (1) The Authority must give notice of an application for a licence—
 - (a) to the responsible authority; and
 - (b) in a newspaper generally circulating in Victoria.
- (2) A notice under subsection (1) must invite written submissions on the grant of a licence to the applicant to be sent to the Authority before the date specified in the notice.
- (3) In determining the application the Authority must consider any submission received by it before the specified date unless it is satisfied that the submission is frivolous, vexatious or irrelevant to the grant of a licence to the applicant.

36 Application to be referred to Director and the Chief Commissioner

S. 36
amended by
No. 99/1995
s. 30(2),
substituted by
No. 52/1998
s. 199.

- (1) The Authority must, except in the prescribed circumstances, give any details that the Authority considers relevant in respect of each application for a licence to the Director and the Chief Commissioner of Police.
- (2) The Authority must refer any fingerprints taken under section 33(3) to the Chief Commissioner of Police and must not itself keep a copy of those fingerprints.
- (3) The Chief Commissioner of Police, on receiving details of the application, must make any inquiries in relation to the application that the Chief Commissioner of Police considers appropriate.
- (4) The Chief Commissioner, after receiving the results of the inquiries, must report to the Authority.
- (5) The Director may report to the Authority on any matter he or she considers relevant in respect of an application for a licence.
- (6) A report under subsection (4) or (5) may include recommendations.

S. 36(1)
amended by
No. 35/2000
s. 49(e).

S. 36(5)
substituted by
No. 101/1998
s. 11(2),
amended by
No. 35/2000
s. 49(e).

S. 36(6)
inserted by
No. 101/1998
s. 11(2).

36A Consideration of application

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

S. 36A
inserted by
No. 52/1998
s. 199.

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- (2) In considering an application for a licence, the Authority may—
 - (a) conduct any inquiries it thinks fit;
 - (b) require an applicant to provide any further information that the Authority thinks fit in the manner required by the Authority;
 - (c) seek advice and information on the application from any other person or body or source it thinks fit.
 - (3) The Authority may engage or appoint any person to assist it in considering an application.
 - (4) The Authority may refuse to grant a licence to a person if the person does not provide the further information required within a reasonable time of the requirement being made.
 - (5) The Authority may postpone its consideration of an application for a licence until such time as it considers appropriate.
 - (6) The Authority is not required to conduct a hearing to determine whether to grant a licence or refuse to grant a licence.

37 Circumstances in which Authority must refuse licence application

- (1) The Authority must refuse to grant a licence to a person whom it is satisfied—
 - (a) is not a suitable person to carry on business as a sex work service provider; or

S. 37(1)
amended by
No. 52/1998
s. 200(a)(b).

S. 37(1)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 43) (as
amended by
No. 63/2010
s. 27).

-
- (b) has been convicted or found guilty of a disqualifying offence that renders the grant of a licence to that person against the public interest, having regard to—
- (i) the nature of the offence; and
 - (ii) the date on which the offence was committed; or
- (c) has, within the preceding 5 years, had a licence granted to him or her cancelled under Division 4; or
- (d) is an associate of a person who has, or of a body corporate which has, within the preceding 5 years, been convicted or found guilty of a disqualifying offence referred to in paragraph (b); or
- (e) is an associate of a body corporate a director or secretary of which has, within the preceding 5 years, been convicted or found guilty of a disqualifying offence referred to in paragraph (b); or
- (f) is an insolvent under administration; or
- (g) is a represented person within the meaning of the **Guardianship and Administration Act 1986**.
- (2) For the purposes of subsection (1)(d) a person is an associate of another person if he or she—
- (a) is a relative (other than an uninvolved relative) of that other person; or

S. 37(1)(b) substituted by No. 73/2011 s. 6(1).

S. 37(1)(c) amended by No. 47/1997 s. 13.

S. 37(1)(d) amended by Nos 44/1999 s. 10(1), 73/2011 s. 6(2).

S. 37(1)(e) amended by Nos 52/1998 s. 200(c), 73/2011 s. 6(2).

S. 37(1)(f) inserted by No. 52/1998 s. 200(c).

S. 37(1)(g) inserted by No. 52/1998 s. 200(c).

S. 37(2)(a) amended by Nos 27/2001 s. 8(Sch. 6 item 5.3), 82/2008 s. 5(1).

Sex Work Act 1994
No. 102 of 1994
Part 3—Licensing System

s. 37

S. 37(2)(c)
amended by
Nos 44/1999
s. 10(2),
1/2010
s. 42(2)(Sch.
item 43) (as
amended by
No. 63/2010
s. 27).

S. 37(3)
amended by
No. 44/1999
s. 10(3)(a).

S. 37(3)(a)
amended by
Nos 27/2001
s. 8(Sch. 6
item 5.3),
82/2008
s. 5(2).

S. 37(3)(c)
amended by
No. 44/1999
s. 10(3)(b).

S. 37(3)(d)
inserted by
No. 44/1999
s. 10(3)(b),
amended by
No. 1/2010
s. 42(2)(Sch.
item 43) (as
amended by
No. 63/2010
s. 27).

- (b) is a business partner of that other person; or
- (c) has entered into a business arrangement or relationship or a lease with that other person in respect of a sex work service providing business.

(3) For the purposes of subsection (1)(d) or (e) a person is an associate of a body corporate if he or she—

- (a) is a director or secretary of the body corporate or a relative (other than an uninvolved relative) of such a director or secretary; or
- (b) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the body corporate and thereby is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or
- (c) holds or will hold any relevant position (whether in his or her own right or on behalf of any other person) in the business of the body corporate; or
- (d) has entered into a business arrangement or relationship or a lease with the body corporate in respect of a sex work service providing business.

- (4) Subsection (1)(f) applies to a person who is an insolvent under administration within the meaning of paragraph (b) of the definition of *insolvent under administration* in section 3 only if the person became an insolvent under administration within the meaning of that paragraph on or after the commencement of section 10 of the **Licensing and Tribunal (Amendment) Act 1998**.

S. 37(4)
inserted by
No. 101/1998
s. 10(2).

38 Matters to be considered in determining suitability of applicant

- (1) In determining whether an applicant for a licence is a suitable person to carry on business as a sex work service provider, the Authority must consider—
- (a) whether the applicant is of good repute, having regard to character, honesty and integrity;
 - (ab) whether, on account of any report made to it or any information provided to it or otherwise in the Authority's possession, a person who would be an associate of the applicant for the purposes of section 37(1)(d) is of good repute, having regard to character, honesty and integrity;
 - (b) whether the applicant has, or is or will be able to obtain, financial resources that are adequate to ensure the financial viability of the business;
 - (c) whether the applicant has sufficient business ability to establish and maintain a successful business;

S. 38(1)
amended by
Nos 52/1998
s. 201(a)(b),
1/2010
s. 42(2)(Sch.
item 44(a)) (as
amended by
No. 63/2010
s. 27).

S. 38(1)(ab)
inserted by
No. 44/1999
s. 11.

- (d) whether the applicant will have in place arrangements to ensure the safety of persons working in the business that are adequate and comply with the prescribed requirements or the conditions or restrictions that might be set out in a licence;
- (e) whether the proposed business structure is sufficiently transparent to enable all associates of the applicant (whether natural persons or bodies corporate) to be readily identified for the purposes of section 37;
- (f) any other matters that are prescribed.

- (2) The Authority must not class a person as not being a suitable person to carry on business as a sex work service provider only because he or she has worked as a sex worker.

S. 38(2)
amended by
Nos 52/1998
s. 201(b),
1/2010
s. 42(2)(Sch.
item 44(b)) (as
amended by
No. 63/2010
s. 27).

39 Grant or refusal of licence

- (1) The Authority must grant a licence to an applicant if it is satisfied that the applicant is eligible for the grant of the licence.
- (2) A licence may be granted subject to the conditions or restrictions set out in the licence which may include, in the case of an escort agency, requiring a specified type of communication system to be made available to, and used by, persons working in the business.
- (3) A licence remains in force until it is surrendered, suspended or cancelled.

S. 39(1)
substituted by
No. 52/1998
s. 202(1).

S. 39(3)
amended by
No. 47/1997
s. 14,
substituted by
No. 52/1998
s. 202(2).

- (4) A licence—
- (a) is personal to the licensee;
 - (b) is not transferable to any other person;
 - (c) does not vest by operation of law in any other person.

39A Licensee identity cards

S. 39A
inserted by
No. 1/2010
s. 49.

- (1) The Authority must issue an identity card to a person who is granted a licence under section 39.
- (2) An identity card issued under subsection (1) must be in the form approved by the Authority (which may require a photograph of the person) and is valid for the period specified by the Authority.
- (3) A licensee must carry his or her identity card at all times while at the brothel to which the licence applies.

Penalty: 10 penalty units.

40 Amendment of licence

- (1) The Authority may at any time vary or revoke a condition or restriction set out in a licence or impose a new condition or restriction.
- (1A) The conditions and restrictions to which a licence is subject must be set out in the licence.
- (2) The Authority may act under subsection (1)—
 - (a) of its own initiative; or
 - (b) on the application of the licensee; or
 - (c) on the application of an authorised member of the police force or the Director.

S. 40(1)
substituted by
No. 52/1998
s. 203(1).

S. 40(1A)
inserted by
No. 52/1998
s. 203(1).

S. 40(2)
amended by
No. 52/1998
s. 203(2).

S. 40(2)(c)
amended by
Nos 101/1998
s. 11(3)(a),
35/2000
s. 49(e).

s. 40AA

S. 40(3)
amended by
No. 47/1997
s. 15,
repealed by
No. 52/1998
s. 203(3),
new s. 40(3)
inserted by
No. 1/2010
s. 50 (as
amended by
No. 63/2010
s. 30).

- (3) An application by a licensee referred to in subsection (2) must be accompanied by the prescribed fee (if any).

S. 40AA
inserted by
No. 52/1998
s. 204.

40AA Endorsement of licence

- (1) If under section 40 or 48A, a condition or restriction is imposed on a licence or varied or revoked, the Authority may require the licensee to produce the licence for endorsement of or variation or revocation of the condition or restriction.

S. 40AA(2)
amended by
No. 44/1999
s. 31(3).

- (2) A licensee must comply with a requirement under subsection (1).

Penalty: Level 10 fine (10 penalty units maximum).

S. 40A
inserted by
No. 47/1997
s. 16.

40A Surrender of licence

S. 40A(1)
amended by
No. 52/1998
s. 205(1).

- (1) Subject to subsection (2), a licensee may at any time by notice in writing to the Authority surrender the licence.

S. 40A(2)
amended by
No. 52/1998
s. 205(2).

- (2) If the Tribunal has determined to conduct an inquiry under section 48 in relation to a licensee, the licensee may not, without leave of the Tribunal, surrender the licence unless the Tribunal has determined to take action under section 48A or has determined not to take any such action.

- (3) The person who held a licence that has been surrendered must return the licence to the Authority within 14 days of surrendering it.

Penalty: Level 10 fine (10 penalty units maximum).

S. 40A(3)
amended by
Nos 52/1998
s. 205(1),
44/1999
s. 31(4).

41 Cancelled or suspended licence must be returned

If a licence is suspended or cancelled under this Act, the person to whom the licence was issued must return the licence and any identity card issued under section 39A to the Authority within 7 days of receiving notification of the suspension or cancellation of the licence.

Penalty: 25 penalty units.

S. 41
amended by
No. 47/1997
s. 17,
substituted by
No. 52/1998
s. 206,
amended by
No. 1/2010
s. 51.

42 Requirement for licensee to be in effective control of business

- (1) A licensee of a brothel must be regularly and usually in charge at the brothel.

Penalty: 60 penalty units.

- (2) A licensee of a brothel must give regular and substantial attendance at the brothel.

Penalty: 60 penalty units.

- (3) A licensee must properly control and supervise any approved manager appointed in respect of the licensee's business.

Penalty: 60 penalty units.

- (4) A licensee must take reasonable steps to ensure that any approved manager, employee, independent contractor or any other person connected with the licensee's business complies with the provisions of this Act and any other laws relevant to the conduct of the business while the licensee is engaged in that business.

Penalty: 60 penalty units.

S. 42
amended by
No. 47/1997
s. 18,
repealed by
No. 52/1998
s. 207,
new s. 42
inserted by
No. 82/2008
s. 6.

- (5) A licensee must establish procedures designed to ensure that the licensee's business is conducted in accordance with the law and in a suitable manner.

Penalty: 60 penalty units.

- (6) A licensee must monitor the conduct of the licensee's business in a manner that will ensure, as far as is practicable, that those procedures are complied with.

Penalty: 60 penalty units.

- (7) If a business is run by more than one licensee, each licensee must ensure that at least one licensee is nominated as the licensee in effective control of the business at any one time and notify the Authority in writing of the nomination as soon as is practicable.

Penalty: 60 penalty units.

- (8) The nomination of a person as the licensee in effective control of the business under subsection (7) does not affect the duties and obligations of any other licensee under this Act.

S. 42(8)
inserted by
No. 1/2010
s. 52.

S. 42A
inserted by
No. 82/2008
s. 6.

42A Absence of licensee

- (1) A licensee does not commit an offence under section 42(1) or 42(2) if the person complies with this section.

- (2) If a licensee of a business is to be absent from the business—

- (a) for more than 7 days but less than 30 days, the licensee must notify the Authority in writing of the absence as soon as is practicable and in that notice nominate a licensee or approved manager to be in effective control of the business during the licensee's absence;

- (b) for more than 30 days, the licensee must apply in writing to the Authority to appoint a nominated licensee or an approved manager to be in effective control of the business during the licensee's absence.
- (3) In determining an application under subsection (2)(b), the Authority must take into account any prescribed matters.
- (4) If the Authority is satisfied that a person nominated under subsection (2) is capable of managing the business, it may approve and permit that person to be in effective control of the business for a period specified by the Authority.

43 Updating of application

If before a licence application is determined the applicant becomes aware of a change that has occurred in the information provided at any time by the applicant in, or in relation to, the application, the applicant must within 10 days after becoming so aware give particulars of the change to the Authority by writing signed by the applicant.

Penalty: Level 9 fine (60 penalty units maximum).

S. 43
amended by
Nos 52/1998
s. 208(a)(b),
44/1999
s. 31(5).

44 Withdrawal of application

- (1) An applicant for a licence may withdraw his or her application at any time before it has been determined.
- (2) If an application for a licence is withdrawn by the applicant or rejected by the Authority, the Authority—

S. 44(1)
amended by
No. 52/1998
s. 209(1).

S. 44(2)
substituted by
Nos 47/1997
s. 19, 52/1998
s. 209(2).

- (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—
that accompanied the application.

45 False or misleading information

S. 45(1)
amended by
Nos 52/1998
s. 210, 44/1999
s. 31(6).

- (1) A person must not in, or in relation to, an application for a licence or a statement under section 46A give information that is false or misleading in a material particular.

Penalty: Level 9 fine (60 penalty units maximum).
- (2) In a proceeding for an offence against subsection (1) it is a defence to the charge for the accused to prove that at the time at which the offence is alleged to have been committed, the accused believed on reasonable grounds—
 - (a) in the case of false information—that the information was true; or
 - (b) in the case of misleading information—that the information was not misleading.

46 Requirement to notify changes in information provided

S. 46
amended by
Nos 52/1998
s. 211(a)(b),
44/1999
s. 31(7).

If at any time while a licence is in force the licensee becomes aware of a change that has occurred in the information provided at any time by the licensee in, or in relation to, an application for the licence or a statement under section 46A, the licensee must within 10 days after becoming so aware give particulars of the change to the Authority by writing signed by the licensee.

Penalty: Level 9 fine (60 penalty units maximum).

46AA Authority may conduct checks upon receipt of information relating to change of ownership of premises

S. 46AA
inserted by
No. 1/2010
s. 53.

- (1) This section applies if information provided under section 46 relates to a change in the information that was provided under section 33(2)(b)(i)(B).
- (2) The Authority may request, by notice in writing, any new owner of a premises from which a brothel is operated (or if that owner is a body corporate, each director of that body corporate) to furnish to the Authority any authorities and consents that it requires for the purpose of enabling it to determine if that person is of good repute, having regard to character, honesty and integrity.
- (3) A person must comply with a request made under subsection (2).

Penalty: 60 penalty units.

46A Annual licence fee and statement

S. 46A
inserted by
No. 47/1997
s. 20,
substituted by
No. 52/1998
s. 212.

- (1) A licensee must pay to the Authority the relevant prescribed annual licence fee on each anniversary of the date that the licence was granted.
- (2) An annual licence fee may be paid at any time in the 6 weeks before it falls due.
- (3) The payment must be accompanied by a statement in respect of the year up to the date that the payment is made that is in a form approved by the Authority and that is signed by the licensee.
- (4) The statement must contain any information and be accompanied by any documents required by the Authority.

s. 46B

S. 46B
inserted by
No. 52/1998
s. 212.

46B Extension of time

- (1) On payment of any fee required by the regulations, a person may apply to the Authority for an extension of time or a further extension of time in which to comply with section 46A.
- (2) The Authority may grant the application if it is made before the date in relation to which the extension is sought.

S. 46C
inserted by
No. 52/1998
s. 212.

46C Failure to comply with section 46A

- (1) If the licensee fails to comply with section 46A, the Authority must give the licensee a written notice stating that unless the licensee complies with that section and also pays to the Authority the late payment fee or late lodgement fee required by the regulations by the date specified in the notice, the licence will be cancelled.
- (2) The date specified in the notice must be at least 14 days after the date on which the notice is given to the licensee.
- (3) If the licensee has not complied with section 46A and paid the late payment fee or late lodgement fee by the date specified in the notice, the licence is automatically cancelled.

S. 46D
inserted by
No. 44/1999
s. 12.

46D Production of information to Authority

S. 46D(1)
amended by
No. 1/2010
s. 42(2)(Sch.
item 45) (as
amended by
No. 63/2010
s. 27).

- (1) The Authority may require a licensee to answer any question or provide information relating to the business of the licensee as a sex work service provider that the Authority reasonably requires to carry out its functions in relation to that licensee.

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- (2) A licensee must not refuse or fail, without reasonable excuse, to comply with a requirement made by the Authority under this section.

Penalty: Level 10 fine (10 penalty units maximum).

- (3) Nothing in this section limits any requirement imposed on a licensee by or under section 46 or 46A.

46E Rule against self-incrimination does not apply

S. 46E
inserted by
No. 44/1999
s. 12.

- (1) A licensee is not excused from answering a question or providing information under section 46D on the ground that the answer or the information might tend to incriminate the licensee.
- (2) Before a licensee is required by the Authority to answer a question, the Authority must inform the licensee that if they claim, before answering the question, that the answer might tend to incriminate them, the answer is not admissible in evidence in any criminal proceedings, other than in proceedings in respect of the falsity of the answer.
- (3) If the licensee claims, before answering a question, that the answer might tend to incriminate the licensee, the answer is not admissible in evidence in any criminal proceedings, other than in proceedings in respect of the falsity of the answer.

Division 4—Licence cancellation and disciplinary action

Pt 3 Div. 4
(Heading)
substituted by
No. 47/1997
s. 21.

47 Licence cancellation

S. 47(1)
amended by
Nos 47/1997
s. 22(1),
52/1998
s. 213(a)(b),
substituted by
No. 44/1999
s. 13.

- (1) A licence is automatically cancelled if at any time after it is granted—
- (a) the licensee is convicted or found guilty of an offence against the **Drugs, Poisons and Controlled Substances Act 1981** or against a law of another State or of a Territory of the Commonwealth which the Governor in Council, by Order published in the Government Gazette, declares to be a law that makes provision substantially similar to the provisions of that Act or against a corresponding law within the meaning of that Act; or
 - (b) the licensee is convicted or found guilty of an offence that is set out in Schedule 3; or
 - (c) the licensee is convicted or found guilty of an indictable offence punishable by imprisonment for 12 months or more or of an offence which, if committed in Victoria, would have been an indictable offence punishable by imprisonment for 12 months or more; or
 - (d) the licensee is convicted or found guilty of an offence against section 45(1); or
 - (e) the licensee serves a sentence of imprisonment, whether in Victoria or outside Victoria; or
 - (f) the licensee becomes an insolvent under administration; or

- (g) the licensee becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
- (h) the licensee is convicted or found guilty of an offence against section 42.
- (2) For the purposes of subsection (1), a conviction or finding of guilt takes effect at the conclusion of the proceeding for the offence, whether on appeal or otherwise, or at the end of any appeal period, whichever is the later.
- (3) If at any time while the licence is in force one of the matters referred to in subsection (1) occurs to the licensee, the licensee must give particulars of the matter to the Authority in writing signed by the licensee within 10 days of the matter occurring, unless the licensee has a reasonable excuse.
- Penalty: 60 penalty units.
- * * * * *
- (4) The cancellation of a licence has no effect on any permit in force under the **Planning and Environment Act 1987** for a use or development of land for the purposes of the licensed business or on any action which might be taken under that or

S. 47(1)(g)
amended by
No. 82/2008
s. 7(1).

S. 47(1)(h)
inserted by
No. 82/2008
s. 7(2).

S. 47(2)
amended by
No. 73/1996
s. 71,
repealed by
No. 47/1997
s. 22(2),
new s. 47(2)
inserted by
No. 44/1999
s. 13.

S. 47(3)
amended by
No. 47/1997
s. 22(3),
substituted by
No. 52/1998
s. 213(2),
amended by
No. 101/1998
s. 11(3)(b),
repealed by
No. 44/1999
s. 13, new
s. 47(3)
inserted by
No. 82/2008
s. 7(3).

S. 47(3A)
inserted by
No. 52/1998
s. 213(2),
repealed by
No. 44/1999
s. 13.

any other Act or law in respect of a contravention of a condition of such a permit.

S. 47A
inserted by
No. 1/2010
s. 54.

47A Death, disability etc. of licensed sex work service provider

- (1) The following persons may carry on the sex work service providing business of a person who was a licensed sex work service provider under this Part for 30 days after the person ceases to be licensed—
 - (a) if the person dies, the executor named in the person's will or the administrator of the person's estate or any person who intends applying for letters of administration in relation to the person's estate;
 - (b) if the person becomes an insolvent under administration, the assignee, trustee or receiver of the person;
 - (c) if the person becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**, the guardian or administrator of the person or any person nominated by the guardian or administrator.
- (2) If a person authorised to carry on the business applies to the Authority within the 30-day period for permission to carry on the business for a longer period, the person may continue to carry on the business until the Authority makes a decision on the application.
- (3) The Authority may grant an application if it is satisfied that it is not contrary to the public interest to do so.
- (4) In granting its permission, the Authority may limit it in any way it thinks appropriate and may impose any conditions it thinks appropriate to ensure the ongoing protection of the public interest.

- (5) The Authority may at any time withdraw any permission it has granted under this section or limit, or impose, revoke or vary conditions on, any such permission.
- (6) A person who has been granted permission under this section must comply with any limitation or condition that applies to the permission.
- Penalty: 50 penalty units.
- (7) A person who carries on a sex work service providing business under this section is deemed, for the purposes of this Act, to be a licensed sex work service provider on the same terms and conditions as applied to the person who has ceased to be licensed.

48 Disciplinary action against licensee

S. 48 substituted by No. 47/1997 s. 23.

- (1) The Director, the Chief Commissioner of Police or an authorised officer of the responsible authority may apply at any time to the Tribunal to conduct an inquiry to determine whether there are grounds for taking action under section 48A against a licensee.

S. 48(1) substituted by No. 52/1998 s. 214(1), amended by Nos 101/1998 s. 11(3)(b), 35/2000 s. 49(e).

* * * * *

S. 48(2) repealed by No. 52/1998 s. 214(2).

- (3) There are grounds for taking action under section 48A if the Tribunal is satisfied that—
- (a) any use or development of land for the purposes of the licensed business is or was in contravention of a condition of a permit granted under the **Planning and Environment Act 1987**; or

S. 48(3) amended by No. 52/1998 s. 214(3)(a).

S. 48(3)(c)
amended by
No. 46/2008
s. 283(4).

S. 48(3)(d)
amended by
No. 52/1998
s. 214(3)(b).

S. 48(3)(da)
inserted by
No. 44/1999
s. 14,
amended by
No. 73/2011
s. 7.

S. 48(3)(e)
amended by
No. 1/2010
s. 42(2)(Sch.
item 46) (as
amended by
No. 63/2010
s. 27).

- (b) the licensee has been convicted or found guilty of any offence against this Act or the regulations; or
- (c) the licensee has been convicted or found guilty of an offence against the regulations made under the **Public Health and Wellbeing Act 2008**; or
- (d) the licensed business has been managed in such a way that it is desirable that action should be taken against the licensee; or
- (da) the licensee has, at any time after the commencement of section 14 of the **Prostitution Control (Amendment) Act 1999**, knowingly or recklessly permitted the involvement in the management or operation of the licensed business of a person who, within the preceding 5 years, had been convicted or found guilty of a disqualifying offence that would, if the person were an applicant for a licence, be an offence referred to in section 37(1)(b); or
- (e) an offence under the **Drugs, Poisons and Controlled Substances Act 1981** or an indictable offence punishable by imprisonment for 12 months or more has been committed on premises at which the licensee is carrying on business as a sex work service provider; or
- (f) the licensee has been charged with any offence referred to in—
- (i) section 47(1)(a), (b) or (c); or
 - (ii) paragraph (b), (c) or (e) of this subsection; or
 - (iii) Schedule 3; or

- (fa) the effective control of the licensed business is not, or is unlikely to remain, with the licensee; or
- (g) the licensee has contravened this Act or the regulations.

S. 48(3)(fa) inserted by No. 82/2008 s. 8(1).

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S. 48(4) repealed by No. 52/1998 s. 214(2).

- (5) If an application for a disciplinary inquiry is made, an inquiry must not start within 30 days of when the application for the inquiry is made unless—

- (a) the person who made the application or the licensee applies to the Tribunal for the inquiry to be started within that time; and
- (b) the Tribunal is satisfied that there are exceptional circumstances.

S. 48(5)(a) amended by No. 52/1998 s. 214(4).

S. 48(5)(b) amended by No. 52/1998 s. 214(4).

- (6) For the purposes of subsection (3)(fa), in determining whether a licensee is or is likely to remain in effective control of a licensed business, the Tribunal must consider whether the licensee has complied or is likely to comply with section 42.

S. 48(6) inserted by No. 82/2008 s. 8(2).

48A Disciplinary powers of Tribunal

S. 48A inserted by No. 47/1997 s. 23.

- (1) In addition to any other powers of the Tribunal under this Act it may, if satisfied that there are grounds for taking action against a licensee under this section, by order do one or more of the following—

S. 48A(1) amended by No. 52/1998 s. 215(1)(a)(b).

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- (b) if the amount is not paid by that 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 that final date, it may cancel the licence; and
- (d) it may extend any period of time it sets under paragraph (a) or (b) at any time.
- (4) The Tribunal may suspend or cancel a licence under subsection (3) without giving the licensee a chance to be heard. **S. 48A(4) amended by No. 52/1998 s. 215(2).**
- (5) Subject to subsection (6), a suspension imposed on a licensee under subsection (1) solely on the ground set out in section 48(3)(f) remains in force until the licence—
- (a) is surrendered; or
- (b) is cancelled. **S. 48A(5)(b) amended by No. 52/1998 s. 215(3).**
- * * * * *
- S. 48A(5)(c) repealed by No. 52/1998 s. 215(3).**
- (6) The Tribunal must immediately remove a suspension referred to in subsection (5) if—
- (a) the charge is withdrawn; or
- (ab) the prosecution for the offence is discontinued; or **S. 48A(6)(ab) inserted by No. 68/2009 s. 97(Sch. item 98.1).**

- (b) the licensee is not found guilty of the offence on the hearing and determination of the charge; or
 - (c) any finding of guilt made, and any conviction recorded, on the hearing and determination of the charge is set aside on appeal.
- (7) The cancellation or suspension of a licence has no effect on any permit in force under the **Planning and Environment Act 1987** for a use or development of land for the purposes of the licensed business or on any action which might be taken under that or any other Act or law in respect of a contravention of a condition of such a permit.

Division 5—Approved managers

49 Personal supervision of business

S. 49(1)
amended by
Nos 99/1995
s. 31, 47/1997
s. 24(1).

- (1) A licensed business of a kind referred to in the definition in section 3 of *brothel* must at all times when open for business be personally supervised by the licensee or an approved manager.

S. 49(2)
amended by
No. 47/1997
s. 24(2).

- (2) A licensee or approved manager who is not on the premises at which the business is being carried on at a particular time cannot be regarded as personally supervising the business at that time.

S. 49(3)
amended by
No. 1/2010
s. 42(2)(Sch.
item 47) (as
amended by
No. 63/2010
s. 27).

- (3) If subsection (1) is contravened with respect to a licensed sex work service providing business—
- (a) the licensee; and
 - (b) the approved manager (if any) whose duty it was to personally supervise the business at the relevant time—

are each guilty of an offence and liable to a penalty of not more than 60 penalty units or imprisonment for not more than 6 months.

- (4) In a proceeding for an offence against subsection (3), it is a defence to the charge for the accused to prove that at the time the offence is alleged to have been committed—
- (a) the accused did not know and could not reasonably have known that the business was open for business and was not being personally supervised as required by subsection (1); or
 - (b) the accused believed on reasonable grounds that the business was being personally supervised as required by subsection (1).

50 Approval of manager

- (1) A person may at any time apply to the Authority for approval of himself or herself as a manager of a sex work service providing business or for the renewal of such an approval.

S. 50(1)
substituted by
No. 47/1997
s. 25(1),
amended by
Nos 52/1998
s. 216(1),
1/2010
s. 42(2)(Sch.
item 48) (as
amended by
No. 63/2010
s. 27).

- (2) An application under subsection (1) must be in writing and be accompanied by the prescribed application fee and any other things that are prescribed.

- (2A) An applicant under subsection (1) must consent to having his or her fingerprints taken by an officer of the Authority or an authorised member of the police force.

S. 50(2A)
inserted by
No. 99/1995
s. 30(3),
amended by
Nos 47/1997
s. 25(2),
52/1998
s. 216(1).

Sex Work Act 1994
No. 102 of 1994
Part 3—Licensing System

s. 50

S. 50(2B)
inserted by
No. 99/1995
s. 30(3),
amended by
Nos 47/1997
s. 25(3),
52/1998
s. 216(1).

(2B) The Authority may refuse to consider an application under subsection (1) if the applicant refuses to allow his or her fingerprints to be taken.

(3) A renewal application must be made at least 3 months before the expiry of the approval but not earlier than 6 months before that expiry.

S. 50(4)
repealed by
No. 52/1998
s. 216(2).

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S. 50(5)
repealed by
No. 52/1998
s. 216(2).

* * * * *

S. 50(5A)
inserted by
No. 99/1995
s. 30(4),
amended by
No. 52/1998
s. 216(1).

(5A) The Authority must refer any fingerprints taken under subsection (2A) to the Chief Commissioner of Police and must not itself keep a copy of those fingerprints.

S. 50(6)
repealed by
No. 52/1998
s. 216(2).

* * * * *

S. 50(7)
amended by
No. 47/1997
s. 25(4),
substituted by
No. 52/1998
s. 216(3).

(7) Sections 36, 36A, 43, 44 and 45, extend and apply to applications under subsection (1) in the same way and to the same extent as they do in relation to licence applications with any necessary modifications.

51 Circumstances in which Authority must refuse approval or renewal application

- (1) The Authority must refuse to approve as a manager of a sex work service providing business, or refuse to renew such an approval of, a person whom it is satisfied—
- (a) is not of good repute, having regard to character, honesty and integrity; or
 - (b) has, within the preceding 5 years, been convicted or found guilty of a disqualifying offence that would, if the person were an applicant for a licence, be an offence referred to in section 37(1)(b); or
 - (c) has, within the preceding 5 years, had a licence granted to him or her cancelled under Division 4; or
 - (d) is an associate of a person who has, or of a body corporate which has, within the preceding 5 years, been convicted or found guilty of an offence referred to in paragraph (b); or
 - (e) is an associate of a body corporate a director or secretary of which has, within the preceding 5 years, been convicted or found guilty of an offence referred to in paragraph (b); or
 - (f) is an insolvent under administration; or
 - (g) is a represented person within the meaning of the **Guardianship and Administration Act 1986**.

S. 51(1) amended by Nos 52/1998 s. 217(a), 44/1999 s. 15(1)(a), 1/2010 s. 42(2)(Sch. item 49) (as amended by No. 63/2010 s. 27).

S. 51(1)(b) amended by No. 73/2011 s. 8.

S. 51(1)(c) amended by No. 47/1997 s. 26.

S. 51(1)(d) amended by No. 44/1999 s. 15(1)(b).

S. 51(1)(e) amended by No. 52/1998 s. 217(b).

S. 51(1)(f) inserted by No. 52/1998 s. 217(b).

S. 51(1)(g) inserted by No. 52/1998 s. 217(b).

Sex Work Act 1994
No. 102 of 1994
Part 3—Licensing System

s. 51

S. 51(2)(a)
amended by
Nos 27/2001
s. 8(Sch. 6
item 5.3),
82/2008
s. 10(1).

(2) For the purposes of subsection (1)(d) a person is an associate of another person if he or she—

(a) is a relative (other than an uninvolved relative) of that other person; or

(b) is a business partner of that other person; or

S. 51(2)(c)
amended by
No. 1/2010
s. 42(2)(Sch.
item 49) (as
amended by
No. 63/2010
s. 27).

(c) has entered into a business arrangement or relationship with that other person in respect of a sex work service providing business.

S. 51(3)
amended by
No. 44/1999
s. 15(2)(a).

(3) For the purposes of subsection (1)(d) or (e) a person is an associate of a body corporate if he or she—

S. 51(3)(a)
amended by
Nos 27/2001
s. 8(Sch. 6
item 5.3),
82/2008
s. 10(2).

(a) is a director or secretary of the body corporate or a relative (other than an uninvolved relative) of such a director or secretary; or

(b) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the body corporate and thereby is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or

S. 51(3)(c)
amended by
No. 44/1999
s. 15(2)(b).

(c) holds or will hold any relevant position (whether in his or her own right or on behalf of any other person) in the business of the body corporate; or

(d) has entered into a business arrangement or relationship with the body corporate in respect of a sex work service providing business.

S. 51(3)(d) inserted by No. 44/1999 s. 15(2)(b), amended by No. 1/2010 s. 42(2)(Sch. item 49) (as amended by No. 63/2010 s. 27).

52 Grant or refusal of approval or renewal¹

(1) The Authority may approve, or renew the approval, of a person as a manager of a sex work service providing business or refuse to give such an approval or renewal.

S. 52(1) amended by Nos 52/1998 s. 218(1), 44/1999 s. 16(1)(a)(b), 1/2010 s. 42(2)(Sch. item 50) (as amended by No. 63/2010 s. 27).

(1A) An approval, or renewal of an approval, may be given subject to conditions or restrictions.

S. 52(1A) inserted by No. 44/1999 s. 16(2).

(2) If the Authority approves, or renews the approval, of a person as a manager of a sex work service providing business it must issue a certificate of approval to that person.

S. 52(2) amended by Nos 52/1998 s. 218(1), 44/1999 s. 16(3), 1/2010 s. 42(2)(Sch. item 50) (as amended by No. 63/2010 s. 27).

(2A) Any conditions or restrictions to which an approval or renewal of an approval is subject must be set out in the certificate of approval.

S. 52(2A) inserted by No. 44/1999 s. 16(4).

(3) A certificate of approval remains in force for 3 years from the date on which it was issued or renewed unless it is sooner surrendered or cancelled.

S. 52(3) amended by No. 47/1997 s. 27(1).

s. 52AAA

S. 52(4)
amended by
Nos 47/1997
s. 27(2),
52/1998
s. 218(1),
44/1999
s. 31(9).

- (4) If at any time while a certificate of approval is in force the licensee or the approved manager becomes aware of a change that has occurred in the information provided at any time by the licensee or the approved manager in, or in relation to, an application under section 50(1), the licensee or the approved manager must within 10 days after becoming so aware give particulars of the change to the Authority by writing signed by him or her.

Penalty applying to this subsection: Level 9 fine (60 penalty units maximum).

S. 52(5)
inserted by
No. 44/1999
s. 16(5).

- (5) An approved manager must comply with any conditions or restrictions to which an approval or renewal of an approval is subject.

Penalty: Level 9 fine (60 penalty units maximum).

S. 52AAA
inserted by
No. 1/2010
s. 55 (as
amended by
No. 63/2010
s. 31).

52AAA Approved manager identity cards

- (1) The Authority must issue an identity card to a person who is approved as a manager of a brothel under section 52.
- (2) An identity card issued under subsection (1) must be in the form approved by the Authority (which may require a photograph of the person) and is valid for the duration specified by the Authority.
- (3) An approved manager must carry his or her identity card at all times while at the brothel for which he or she is approved as manager.

Penalty: 10 penalty units.

S. 52AA
inserted by
No. 44/1999
s. 17.

52AA Amendment of approval

- (1) The Authority may at any time vary or revoke a condition or restriction to which an approval or renewal of an approval under section 52(1) is subject or impose a new condition or restriction on the approval.

- (2) The Authority may act under subsection (1)—
- (a) of its own initiative; or
 - (b) on the application of the approved manager;
or
 - (c) on the application of an authorised member
of the police force or the Director.

S. 52AA(2)(c)
amended by
No. 35/2000
s. 49(e).

52AB Endorsement of certificate of approval

S. 52AB
inserted by
No. 44/1999
s. 17.

- (1) If under section 52AA or 54A, a condition or restriction is imposed on an approval or renewal of an approval or such a condition is varied or revoked, the Authority may require the approved manager to produce the certificate of approval for endorsement of or variation or revocation of the condition or restriction.
- (2) An approved manager must comply with a requirement under subsection (1).

Penalty: Level 10 fine (10 penalty units maximum).

52A Surrender of approval

S. 52A
inserted by
No. 47/1997
s. 28.

- (1) Subject to subsection (2), an approved manager may at any time by notice in writing to the Authority surrender the approval.
- (2) If the Tribunal has determined to conduct an inquiry under section 54 in relation to an approved manager, the approved manager may not, without leave of the Tribunal, surrender the approval unless the Tribunal has determined to take action under section 54A or has determined not to take any such action.

S. 52A(1)
amended by
No. 52/1998
s. 219(1).

S. 52A(2)
amended by
No. 52/1998
s. 219(2).

S. 52A(3)
amended by
Nos 52/1998
s. 219(1),
44/1999
s. 31(10).

- (3) The person who held an approval that has been surrendered must return the certificate of approval to the Authority within 14 days of surrendering it.

Penalty: Level 10 fine (10 penalty units maximum).

S. 53
amended by
Nos 47/1997
s. 29(1)–(3),
52/1998
s. 220(1)(2),
101/1998
s. 11(3)(c),
substituted by
No. 44/1999
s. 18.

53 Cancellation of approval

- (1) An approval under section 52(1) is automatically cancelled if at any time after it is granted or last renewed—
- (a) the approved manager is convicted or found guilty of an offence against the **Drugs, Poisons and Controlled Substances Act 1981** or against a law of another State or of a Territory of the Commonwealth which the Governor in Council, by Order published in the Government Gazette, declares to be a law that makes provision substantially similar to the provisions of that Act or against a corresponding law within the meaning of that Act; or
 - (b) the approved manager is convicted or found guilty of an offence that is set out in Schedule 3; or
 - (c) the approved manager is convicted or found guilty of an indictable offence punishable by imprisonment for 12 months or more or of an offence which, if committed in Victoria, would have been an indictable offence punishable by imprisonment for 12 months or more; or
 - (d) the approved manager serves a sentence of imprisonment, whether in Victoria or outside Victoria; or
 - (e) the approved manager becomes an insolvent under administration; or

(f) the approved manager becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**.

(2) For the purposes of subsection (1), a conviction or finding of guilt takes effect at the conclusion of the proceeding for the offence, whether on appeal or otherwise, or at the end of any appeal period, whichever is the later.

53A Application for permission to act as approved manager

S. 53A
inserted by
No. 1/2010
s. 56.

(1) An approved manager who has his or her approval cancelled under section 53(1)(e) may apply to the Authority at any time for permission to manage a sex work service providing business.

(2) An application under this section must—

- (a) be in the form approved by the Authority;
- (b) contain the information required by the Authority;
- (c) be accompanied by the documents required by the Authority;
- (d) be accompanied by the prescribed fee (if any).

53B Permission from the Authority

S. 53B
inserted by
No. 1/2010
s. 56.

(1) The Authority may give its permission if it is satisfied that it is not contrary to the public interest to do so.

(2) In determining whether to give its permission, the Authority may—

- (a) conduct any inquiries it thinks fit;

- (b) require the applicant to provide any further information relating to the application that the Authority considers necessary in the form required by the Authority;
 - (c) seek and use information and advice on the application from any person or body or other source as it thinks fit.
- (3) The Authority may refuse to give its permission if the applicant refuses or fails to provide any information requested by the Authority under subsection (2)(b) within a reasonable time after the requirement is made.

S. 53C
inserted by
No. 1/2010
s. 56.

53C Authority may impose conditions

- (1) In giving its permission under section 53B, the Authority may impose any conditions it considers appropriate to ensure the ongoing protection of the public interest.
- (2) The person given the permission, or the Director, may apply to the Authority for a variation or revocation of any conditions the Authority has imposed.
- (3) A person given permission must comply with any conditions imposed in respect of that permission.
Penalty: 25 penalty units.
- (4) If the Authority is satisfied that any condition imposed in respect of a permission has been contravened or not complied with, it may revoke the permission.
- (5) Before taking any action under this section, the Authority may seek and use information and advice from any person or body or other source as it thinks fit.

54 Disciplinary action against approved manager

- (1) The Director, the Chief Commissioner of Police or an authorised officer of the responsible authority may apply at any time to the Tribunal to conduct an inquiry to determine whether there are grounds for taking action under section 54A against an approved manager.

* * * * *

- (3) There are grounds for taking action under section 54A if the Tribunal is satisfied that—
- (a) the approved manager has been convicted or found guilty of any offence against this Act or the regulations; or
 - (b) the approved manager has been convicted or found guilty of an offence against the regulations made under the **Public Health and Wellbeing Act 2008**; or
 - (c) the sex work providing business has been managed in such a way that it is desirable that action should be taken against the approved manager; or
 - (d) an offence under the **Drugs, Poisons and Controlled Substances Act 1981** or an indictable offence punishable by imprisonment for 12 months or more has been committed on premises of which the approved manager is manager; or

S. 54 substituted by No. 47/1997 s. 30.

S. 54(1) substituted by No. 52/1998 s. 221(1), amended by Nos 101/1998 s. 11(3)(d), 35/2000 s. 49(e).

S. 54(2) repealed by No. 52/1998 s. 221(2).

S. 54(3) amended by No. 52/1998 s. 221(3)(a).

S. 54(3)(b) amended by No. 46/2008 s. 283(4).

S. 54(3)(c) amended by Nos 52/1998 s. 221(3)(b), 1/2010 s. 42(2)(Sch. item 51) (as amended by No. 63/2010 s. 27).

s. 54A

- (e) the approved manager has been charged with any offence referred to in—
- (i) section 53(1)(a) or (b); or
 - (ii) paragraph (a), (b) or (d) of this subsection; or
 - (iii) Schedule 3; or
- (f) the approved manager has contravened this Act or the regulations.

S. 54(4)
repealed by
No. 52/1998
s. 221(2).

* * * * *

S. 54(5)
repealed by
No. 52/1998
s. 221(2).

* * * * *

S. 54A
inserted by
No. 47/1997
s. 30.

54A Disciplinary powers of Tribunal

- (1) In addition to any other powers of the Tribunal under this Act it may, if satisfied that there are grounds for taking action against an approved manager under this section, by order do one or more of the following—

- (a) reprimand the approved manager;

S. 54A(1)(b)
repealed by
No. 52/1998
s. 222(1)(c).

* * * * *

S. 54A(1)(c)
amended by
No. 52/1998
s. 222(1)(d).

- (c) order the approved manager to pay into the Fund a penalty of up to \$10 000;

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- (d) impose any condition or restriction on the approval;
- (e) require the approved manager to enter into an undertaking to perform, or not to perform, certain tasks to be specified in the undertaking;
- (f) require the approved manager to comply within, or for, a specified time with a requirement specified by the Tribunal; **S. 54A(1)(f) repealed by No. 52/1998 s. 222(1)(e).**
- (g) cancel the approval or suspend the approval for a specified period not exceeding one year; **S. 54A(1)(g) substituted by No. 52/1998 s. 222(1)(f).**
- (h) order that the approved manager be ineligible to hold an approval or be a licensee either permanently or temporarily.
- (2) Despite anything to the contrary in subsection (1), the only action that the Tribunal may take solely on the ground set out in section 54(3)(e) is to suspend the approval. **S. 54A(2) amended by No. 52/1998 s. 222(2).**
- (3) If the Tribunal orders the payment of an amount under subsection (1)(c)— **S. 54A(3) amended by Nos 52/1998 s. 222(2), 44/1999 s. 31(11).**
- (a) it may order that the amount be paid by a specified date; and
- (b) if the amount is not paid by that date, it may suspend the approval until the amount is paid and set a final payment date; and
- (c) if the amount has not been paid by that final date, it may cancel the approval; and
- (d) it may extend any period of time it sets under paragraph (a) or (b) at any time.
- (4) The Tribunal may suspend or cancel an approval under subsection (3) without giving the approved manager a chance to be heard. **S. 54A(4) amended by No. 52/1998 s. 222(2).**

s. 54A

(5) Subject to subsection (6), a suspension imposed under subsection (1) solely on the ground set out in section 54(3)(e) remains in force until the approval—

(a) is surrendered; or

(b) is cancelled.

S. 54A(5)(b)
substituted by
No. 52/1998
s. 222(3).

S. 54A(5)(c)
repealed by
No. 52/1998
s. 222(3).

* * * * *

S. 54A(6)
amended by
No. 52/1998
s. 222(2).

(6) The Tribunal must immediately remove a suspension referred to in subsection (5) if—

(a) the charge is withdrawn; or

(ab) the prosecution for the offence is discontinued; or

S. 54A(6)(ab)
inserted by
No. 68/2009
s. 97(Sch.
item 98.2).

(b) the approved manager is not found guilty of the offence on the hearing and determination of the charge; or

(c) any finding of guilt made, and any conviction recorded, on the hearing and determination of the charge is set aside on appeal.

S. 54A(7)
amended by
No. 1/2010
s. 42(2)(Sch.
item 52) (as
amended by
No. 63/2010
s. 27).

(7) The cancellation or suspension of an approval has no effect on any permit in force under the **Planning and Environment Act 1987** for a use or development of land for the purposes of the sex work service providing business managed by the approved manager or on any action which might be taken under that or any other Act or law in respect of a contravention of a condition of such a permit.

54B Cancelled or suspended approval must be returned

If an approval under section 52(1) is suspended or cancelled under this Act, the person to whom the certificate of approval was issued must return it and any identity card issued under section 52AAA to the Authority within 7 days of receiving notification of the suspension or cancellation.

Penalty: Level 10 fine (10 penalty units maximum).

S. 54B
inserted by
No. 44/1999
s. 19,
amended by
No. 1/2010
s. 57.

Division 6—Register

55 Licence and approvals register

(1) The Registrar must enter in a register full particulars of—

S. 55(1)
amended by
No. 52/1998
s. 223(1).

(a) the granting, surrender, cancellation or suspension of a licence;

S. 55(1)(a)
amended by
Nos 47/1997
s. 31(1)(a),
52/1998
s. 223(2)(a).

(aa) any statements lodged under section 46A;

S. 55(1)(aa)
inserted by
No. 52/1998
s. 223(2)(b).

(b) the address of the premises at which a sex work service providing business is being or is to be carried on;

S. 55(1)(b)
amended by
No. 1/2010
s. 42(2)(Sch.
item 53) (as
amended by
No. 63/2010
s. 27).

(ba) the name of any licensee who is nominated, approved or permitted to be the licensee in effective control of the business under section 42;

S. 55(1)(ba)
inserted by
No. 1/2010
s. 58.

Sex Work Act 1994
No. 102 of 1994
Part 3—Licensing System

s. 55

- S. 55(1)(c)**
amended by
Nos 47/1997
s. 31(1)(b),
1/2010
s. 42(2)(Sch.
item 53) (as
amended by
No. 63/2010
s. 27).
- (c) the granting, renewal, surrender, cancellation or suspension of an approval of a person as a manager of a sex work service providing business.
- S. 55(2)**
amended by
No. 52/1998
s. 223(3)(a).
- (2) The register referred to in subsection (1) may be inspected, and a copy of an entry in it obtained, at the office of the Authority during office hours—
- S. 55(2)(a)**
amended by
Nos 52/1998
s. 223(3)(b),
35/2000
s. 49(e).
- (a) free of charge, by the Director, an authorised member of the police force or an authorised officer of the responsible authority;
- (b) on payment of the prescribed fee, by any other person.
- S. 55(3)**
amended by
No. 52/1998
s. 223(1).
- (3) The Registrar may correct an error or omission in the register by—
- (a) inserting an entry; or
- (b) amending an entry; or
- (c) omitting an entry—
- if he or she decides that the correction is necessary.
- S. 55(4)**
amended by
No. 52/1998
s. 223(1).
- (4) The Registrar may make the correction on his or her own initiative or on the application of any person.
- S. 55(5)**
amended by
Nos 47/1997
s. 31(2),
52/1998
s. 223(1).
- (5) On making a correction the Registrar must record in the register the date on which it was made.

Division 7—Applications for review

Pt 3 Div. 7
(Heading and
s. 56)
amended by
No. 47/1997
s. 32(a)–(d),
substituted by
No. 52/1998
s. 224.

56 Applications for review

S. 56
substituted by
No. 52/1998
s. 224.

(1) A person whose interests are affected by a decision of the Authority under section 36A(4), 39, 40, 47A, 52, 52AA, 53B or 53C may apply to the Tribunal for review of that decision.

S. 56(1)
amended by
Nos 44/1999
s. 20, 1/2010
s. 59(1).

(1A) A person whose interests are affected by a decision of the Secretary to the Department of Health under section 3B(1) or (3) may apply to the Tribunal for a review of that decision.

S. 56(1A)
inserted by
No. 1/2010
s. 59(2).

(2) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made; or

(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Division 8—Offences

57 Licensee not to carry on business with unlicensed partner etc.

S. 57(1)
amended by
Nos 44/1999
s. 31(12),
1/2010
s. 42(2)(Sch.
item 54) (as
amended by
No. 63/2010
s. 27).

- (1) A licensee must not carry on business as a sex work service provider in partnership with, or otherwise in association with, a person who is not also licensed to carry on that business.

Penalty: Level 8 imprisonment (1 year maximum) or a level 8 fine (120 penalty units maximum) or both.

- (2) For the purposes of subsection (1) a person carries on a business in association with another person if he or she would be an associate of that person for the purposes of section 37(1)(d) or (e) or is directly receiving any income from a business carried on by that person.

58 Power to require licensee, etc. to state name and address

S. 58
amended by
Nos 47/1997
s. 33, 44/1999
s. 21(1).

A licensee or approved manager must not, in response to a request to state his or her name and address made to him or her at his or her place of business by a member of the police force or an inspector—

- (a) refuse or fail to comply with the request; or
(b) state a name that is false in a material particular; or
(c) state an address other than the full and correct address of his or her ordinary place of residence or business.

Penalty: 20 penalty units.

59 Power to require person to state age

- (1) If a member of the police force or an inspector has reason to believe that a person in a brothel appears to be under the age of 18 years, he or she may demand particulars of the person's age.
- (2) If the member of the police force or the inspector considers that any particulars supplied by a person in response to a demand under subsection (1) are false, he or she may require the person to give satisfactory evidence of the correctness of the particulars.
- (3) A person must not—
 - (a) refuse or fail to give particulars of his or her age; or
 - (b) give any false particulars of his or her age; or
 - (c) supply any false evidence as to his or her age—in response to a demand under subsection (1).

S. 59(1)
amended by
No. 44/1999
s. 21(2).

S. 59(2)
amended by
No. 44/1999
s. 21(3).

Penalty: 20 penalty units.

60 Display of licence

- (1) A licensee must keep his or her licence displayed in a conspicuous place near the front entrance to his or her place of business as a sex work service provider.
Penalty: Level 10 fine (10 penalty units maximum).
- (2) A licensee must not display on the premises at which he or she carries on business as a sex work service provider a document falsely purporting to be a licence.
Penalty: Level 10 fine (10 penalty units maximum).

S. 60(1)
amended by
Nos 44/1999
s. 31(13),
1/2010
s. 42(2)(Sch.
item 55) (as
amended by
No. 63/2010
s. 27).

S. 60(2)
amended by
Nos 44/1999
s. 31(13),
1/2010
s. 42(2)(Sch.
item 55) (as
amended by
No. 63/2010
s. 27).

s. 60A

S. 60A
inserted by
No. 1/2010
s. 60.

60A Display of prescribed signage relating to sexual slavery

- (1) A licensee must keep the prescribed signage relating to sexual slavery displayed on the premises of the sex work service providing business in such place or places that it may be read by any person on the premises.

Penalty: 10 penalty units.

- (2) The Governor in Council may make regulations prescribing—
- (a) signage in relation to sexual slavery for the purposes of subsection (1); and
 - (b) the locations where that signage is to be displayed.

S. 61
(Heading)
inserted by
No. 1/2010
s. 61(1).

61 Production of licence, certificate of approval or identity card

S. 61
amended by
Nos 47/1997
s. 34, 44/1999
s. 31(13),
44/1999
s. 21(4)(a)(b),
1/2010 s. 61(2)
(ILA s. 39B(1)).

- (1) A licensee or approved manager must not, without reasonable excuse, refuse or fail to produce his or her licence or certificate of approval to an authorised member of the police force or an authorised officer of the responsible authority or an inspector if that member, officer or inspector demands him or her to do so.

Penalty: Level 10 fine (10 penalty units maximum).

- (2) A licensee or approved manager must not, without reasonable excuse, refuse or fail to produce his or her identity card to an authorised member of the police force or an inspector if that member or inspector demands him or her to do so.

Penalty: Level 10 fine (10 penalty units maximum).

S. 61(2)
inserted by
No. 1/2010
s. 61(2).

Division 8A—Inspection Powers

Pt 3 Div. 8A
(Heading and
ss 61A–61Z)
inserted by
No. 44/1999
s. 22.

61A Definitions

S. 61A
inserted by
No. 44/1999
s. 22.

In this Division—

Consumer Act has the same meaning as it has in
the **Australian Consumer Law and Fair
Trading Act 2012**;

S. 61A def. of
*Consumer
Act*
inserted by
No. 35/2000
s. 49(g),
amended by
No. 21/2012
s. 239(Sch. 6
item 42.3).

financial institution means—

- (a) an authorised deposit-taking institution
within the meaning of the Banking Act
1959 of the Commonwealth; or
- (b) a body approved by the Governor in
Council by Order published in the
Government Gazette;

licensee, except in section 61C, includes—

- (a) a person whose licence has been
surrendered or cancelled within the last
3 years; and
- (b) a person whose licence is suspended;

occupier in relation to any premises, means a
person who appears to be of or over 16 years
of age and who appears to be in control of
the premises;

* * * * *

S. 61A def. of
OFTBA Act
repealed by
No. 35/2000
s. 49(h).

s. 61B

S. 61A def. of
vehicle
inserted by
No. 25/2009
s. 27.

vehicle includes motor vehicle, aircraft and vessel.

S. 61B
inserted by
No. 44/1999
s. 22.

61B Production of identity card

An inspector must produce his or her identity card for inspection—

- (a) before exercising a power under this Division or Division 8 other than a requirement made by post; and
- (b) at any time during the exercise of a power under this Division or Division 8, if asked to do so.

Penalty: Level 10 fine (10 penalty units maximum).

S. 61C
inserted by
No. 44/1999
s. 22.

61C Accounts and other documents available for inspection

S. 61C(1)
amended by
No. 1/2010
s. 62(1).

- (1) A licensee must at all reasonable times at each premises at which that licensee carries on business as a sex work service provider keep all documents relating to the business carried on at those premises that came into existence within the last 7 years available for inspection by an inspector in a form that can be immediately and easily inspected by an inspector.

Penalty: Level 10 fine (10 penalty units maximum).

S. 61C(2)
amended by
No. 1/2010
s. 62(2).

- (2) If the licence of a licensee has been surrendered or cancelled within the last 3 years, the former licensee must make all documents relating to the former business that came into existence within the 7 years preceding the date of the surrender or cancellation of the licence available for inspection by an inspector in a form and at a place where

they can be immediately and easily inspected by an inspector.

Penalty: Level 10 fine (10 penalty units maximum).

- (3) If the licence of a licensee is suspended, the suspended licensee must during the period of the suspension make all documents relating to the business of the suspended licensee that came into existence within the 7 years preceding the date of the suspension of the licence available for inspection by an inspector in a form and at a place where they can be immediately and easily inspected by an inspector.

S. 61C(3)
amended by
No. 1/2010
s. 62(3).

Penalty: Level 10 fine (10 penalty units maximum).

61D Licensees to produce documents and answer questions

S. 61D
inserted by
No. 44/1999
s. 22.

- (1) For the purpose of monitoring compliance with this Act or the regulations, an inspector may require a licensee at a time and place specified by the inspector—
- (a) to answer orally or in writing any questions put by the inspector relating to the licensee's business as a sex work service provider;
 - (b) to supply orally or in writing information required by the inspector relating to that business;
 - (c) to produce to the inspector specified documents or documents of a specified class relating to that business.

S. 61D(1)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 56) (as
amended by
No. 63/2010
s. 27).

- (2) A power conferred on an inspector by this section is in addition to, and does not take away from, a power conferred on an inspector under Division 8.

S. 61DA
inserted by
No. 1/2010
s. 63.

61DA Persons to answer questions in relation to suspected non-licensed sex work service providing businesses

- (1) If an inspector believes on reasonable grounds that premises are being used as a brothel in respect of which there is not in force any licence required under Part 3, the inspector may request any person who is entering or leaving those premises to—
- (a) provide his or her name and address; and
 - (b) answer orally any questions put by the inspector in relation to the use of the premises as a brothel; and
 - (c) provide a written statement to the inspector in relation to any questions put by the inspector under paragraph (b).
- (2) An inspector who makes a request under subsection (1) must—
- (a) inform the person that he or she is an inspector; and
 - (b) state his or her name; and
 - (c) produce for inspection by the person proof that he or she is an inspector; and
 - (d) inform the person that the following are offences—
 - (i) a failure to comply with the request;
 - (ii) the provision of a false name or address;
 - (iii) making a false or misleading statement.

- (3) A person must not, in response to a request made under subsection (1) by an inspector in accordance with this section, refuse or fail to comply with the request.

Penalty: Level 10 fine (10 penalty units maximum).

S. 61DA(3)
amended by
No. 63/2010
s. 74 (as
amended by
No. 63/2010
s. 81(Sch.
item 3.2)).

- (4) Despite subsection (3), it is not an offence for a person to fail to comply with a request made under subsection (1) if the inspector did not fully comply with subsection (2) in making the request.

- (5) If a person states a name and address in response to a request made under subsection (1), the inspector may request the person to provide evidence of the correctness of the name and address.

- (6) A person must comply with a request made under subsection (5), unless he or she has a reasonable excuse for not doing so.

Penalty: Level 10 fine (10 penalty units maximum).

- (7) It is not an offence for a person to fail to comply with a request made under subsection (5) if the inspector did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request.

- (8) An inspector must not divulge to any other person or use for any purpose any information received by the inspector in response to a request made under subsections (1) or (5), except—

(a) in connection with the administration of this Act or the regulations; or

(b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings.

Penalty: 50 penalty units.

s. 61E

S. 61E
inserted by
No. 44/1999
s. 22,
amended by
No. 1/2010
s. 64.

61E Third parties to produce documents and answer questions relating to specified business

For the purpose of monitoring compliance with this Act or the regulations, an inspector may require any person who has possession, custody or control of documents relating to a licensee's business as, or any other business an inspector reasonably suspects is operating as, a sex work service provider—

S. 61E(a)
amended by
No. 1/2010
s. 64.

- (a) to answer orally or in writing any questions put by the inspector relating to the licensee's business as, or any other business an inspector reasonably suspects is operating as, a sex work service provider;
- (b) to supply orally or in writing information required by the inspector relating to that business;
- (c) to produce to the inspector specified documents or documents of a specified class relating to that business.

S. 61F
inserted by
No. 44/1999
s. 22.

61F Department Heads, police and public authorities to produce information to inspectors

S. 61F(1)
amended by
No. 35/2000
s. 49(e).

- (1) For the purpose of monitoring compliance with this Act or the regulations, the Director or an inspector may request a specified public body within a time specified by the Director or inspector—

S. 61F(1)(a)
amended by
No. 1/2010
s. 65.

- (a) to answer orally or in writing any questions put by the inspector relating to a licensee's business as, or any other business an inspector reasonably suspects is operating as, a sex work service provider;

(b) to supply orally or in writing information required by the inspector relating to that business.

(2) An inspector can only make a request under subsection (1) with the written consent of the Director.

S. 61F(2)
amended by
No. 35/2000
s. 49(e).

(3) A specified public body must comply with a request under subsection (1).

(4) In this section *specified public body* means—

(a) a Department Head within the meaning of the **Public Administration Act 2004**; or

S. 61F(4)(a)
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 165.1).

(b) a public statutory authority; or

(c) a municipal council; or

(d) the Chief Commissioner of Police.

61G Certain other specified persons or bodies to produce information

S. 61G
inserted by
No. 44/1999
s. 22.

(1) For the purpose of monitoring compliance with this Act or the regulations, the Director or an inspector may require a specified person or body within a time specified by the Director or inspector—

S. 61G(1)
amended by
No. 35/2000
s. 49(e).

(a) to answer orally or in writing any questions put by the inspector relating to a licensee's business as, or any other business an inspector reasonably suspects is operating as, a sex work service provider;

S. 61G(1)(a)
amended by
No. 1/2010
s. 66.

(b) to supply orally or in writing information required by the inspector relating to that business.

s. 61H

S. 61G(2)
amended by
No. 35/2000
s. 49(e).

- (2) An inspector can only make a requirement under subsection (1) with the written consent of the Director.
- (3) In this section *specified person or body* means—
 - (a) a person who is a publisher of a publication; or
 - (b) a person who is the owner or operator of a broadcasting service; or
 - (c) a person who is the owner or operator of a telecommunications service; or
 - (d) a person who is the owner or operator of a postal service; or
 - (e) a financial institution.

S. 61H
inserted by
No. 44/1999
s. 22.

61H Powers on production of documents

- (1) If any documents are produced to an inspector under section 61D or 61E, the inspector may—
 - (a) inspect the documents or authorise a person to inspect the documents;
 - (b) make copies of, or take extracts from, the documents;
 - (c) seize the documents if the inspector considers the documents necessary for the purpose of obtaining evidence for the purpose of any proceedings under this Act or the regulations;
 - (d) seize the documents if the inspector—
 - (i) considers the documents necessary for the purpose of obtaining evidence for the purpose of any proceedings under any Consumer Act; and

S. 61H(1)(d)(i)
amended by
No. 35/2000
s. 49(j).

-
- (ii) believes on reasonable grounds, that it is necessary to seize the documents in order to prevent their concealment, loss or destruction or their use in the contravention of any Consumer Act;
- (e) secure any seized documents against interference;
- (f) retain possession of the documents in accordance with this Division.
- (2) An inspector must not require a person to produce a document at a place other than the person's place of business or an office of the Director without the consent of the person.
- 61I Order requiring supply of information and answers to questions**
- (1) For the purpose of monitoring compliance with this Act or the regulations, an inspector, with the written approval of the Director, may apply to the Magistrates' Court for an order requiring any person at a time and place specified by an inspector—
- (a) to answer orally or in writing any questions put by an inspector relating to a licensee's business as, or any other business an inspector reasonably suspects is operating as, a sex work service provider; or
- (b) to supply orally or in writing information required by an inspector in relation to a licensee's business as, or any other business an inspector reasonably suspects is operating as, a sex work service provider.
- S. 61H(1)(d)(ii)**
amended by
No. 35/2000
s. 49(j).
- S. 61H(2)**
amended by
No. 35/2000
s. 49(i).
- S. 61I**
inserted by
No. 44/1999
s. 22.
- S. 61I(1)**
amended by
No. 35/2000
s. 49(e).
- S. 61I(1)(a)**
amended by
No. 1/2010
s. 67.
- S. 61I(1)(b)**
amended by
No. 1/2010
s. 67.

s. 61J

S. 61J(2)
amended by
No. 35/2000
s. 49(e).

- (2) If the Magistrates' Court is satisfied on the basis of evidence presented by the Director that the order is necessary for the purpose of monitoring compliance with this Act or the regulations, the Court may grant the order sought.
- (3) An order under this section must state a day, not later than 28 days after the making of the order, on which the order ceases to have effect.
- (4) An inspector who executes an order under this section must, as soon as practicable after that execution, notify the Magistrates' Court in writing of the time and place of execution of the order.

S. 61J
inserted by
No. 44/1999
s. 22.

61J Entry or search with consent

- (1) For the purpose of monitoring compliance with this Act and the regulations, an inspector, with the consent of the occupier of the premises, may—
 - (a) enter and search any premises;
 - (b) seize anything found on the premises which the inspector believes on reasonable grounds to be connected with a contravention of this Act or the regulations;
 - (c) examine and take and keep samples of any goods found on the premises which the inspector believes on reasonable grounds to be connected with a contravention of this Act or the regulations;
 - (d) inspect and make copies of, or take extracts from, any document found on the premises.
- (2) An inspector must not enter and search any premises with the consent of the occupier unless, before the occupier consents to that entry, the inspector has—
 - (a) produced his or her identity card for inspection; and

-
- (b) informed the occupier—
- (i) of the purpose of the search; and
 - (ii) that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search; and
 - (iii) that the occupier may refuse to consent to the taking of any sample of goods or any copy of, or extract from, a document found on the premises during the search; and
 - (iv) that anything seized or taken during the search with the consent of the occupier may be used in evidence in proceedings.
- (3) If an occupier consents to an entry and search, the inspector who requested consent must before entering the premises ask the occupier to sign an acknowledgment in the form approved by the Director stating—
- (a) that the occupier has been informed of the purpose of the search and that anything seized or taken in the search with the consent of the occupier may be used in evidence in proceedings; and
 - (b) that the occupier has been informed that he or she may refuse to give consent to the entry and search; and
 - (c) that the occupier has consented to such an entry and search; and
 - (d) the date and time that the occupier consented.

**S. 61J(3)
amended by
No. 35/2000
s. 49(e).**

s. 61K

- (4) If an occupier consents to the seizure or taking of any thing during a search under this section, the inspector must before seizing or taking the thing ask the occupier to sign an acknowledgment stating—
 - (a) that the occupier has consented to the seizure or taking of the thing; and
 - (b) the date and time that the occupier consented.
- (5) An occupier who signs an acknowledgment must be given a copy of the signed acknowledgment before the inspector leaves the premises.
- (6) If, in any proceeding, an acknowledgment is not produced to the court or a tribunal, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search or to the seizure or taking of the thing.

S. 61K
inserted by
No. 44/1999
s. 22.

61K Entry without consent or warrant

- (1) For the purpose of monitoring compliance with this Act or the regulations, an inspector may (with the assistance, if necessary, of another inspector or a member of the police force) do all or any of the following—
 - (a) enter and search any premises at which a licensee is carrying on business at any time that the premises are open for business or between the hours of 9 a.m. and 5 p.m.;
 - (b) seize or secure against interference anything that the Director or inspector believes on reasonable grounds to be connected with a contravention of this Act or the regulations that is found on or in the premises;
 - (c) inspect and make copies of, or take extracts from, any document kept on the premises.

S. 61K(1)(b)
amended by
No. 35/2000
s. 49(e).

- (2) An inspector must not enter or search any premises under subsection (1) unless, before that entry, the inspector has produced his or her identity card for inspection by the occupier of the premises.

61L Search warrants

S. 61L
inserted by
No. 44/1999
s. 22.

- (1) An inspector, with the written approval of the Director, may apply to a magistrate for the issue of a search warrant in relation to particular premises (including any vehicle on or in those premises) or a particular vehicle located in a public place for the purpose of monitoring compliance with this Act or the regulations.
- (2) If a magistrate is satisfied by the evidence, on oath or by affidavit, of the inspector that the warrant is necessary for the purpose of monitoring compliance with this Act or the regulations, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising an inspector named in the warrant, together with any other person or persons named or otherwise identified in the warrant and with any necessary equipment—
- (a) to enter the premises or vehicle specified in the warrant, if necessary by force; and
- (b) to do all or any of the following—
- (i) search for;
 - (ii) seize;
 - (iii) secure against interference;
 - (iv) examine and inspect;

S. 61L(1)
amended by
Nos 35/2000
s. 49(e),
25/2009
s. 28(1).

S. 61L(2)(a)
amended by
No. 25/2009
s. 28(2).

- (v) make copies of, or take extracts from—
a thing or things of a particular kind named
or described in the warrant and which the
inspector believes, on reasonable grounds, to
be connected with a contravention of this Act
or the regulations.
- (3) A search warrant issued under this section must
state—
- (a) the purpose for which the search is required;
and
 - (b) any conditions to which the warrant is
subject; and
 - (c) whether entry is authorised to be made at any
time of the day or night or during stated
hours of the day or night; and
 - (d) a day, not later than 28 days after the issue of
the warrant, on which the warrant ceases to
have effect.
- (4) Except as provided by this Act, the rules to be
observed with respect to search warrants under the
Magistrates' Court Act 1989 extend and apply to
warrants under this section.

61M Announcement before entry

S. 61M
inserted by
No. 44/1999
s. 22.

S. 61M(1)(a)
amended by
No. 25/2009
s. 29(1).

S. 61M(1)(b)
substituted by
No. 25/2009
s. 29(2).

- (1) On executing a search warrant, the inspector
executing the warrant—
- (a) must announce that he or she is authorised
by the warrant to enter the premises or the
vehicle located in a public place, as the case
may be; and
 - (b) if the inspector has been unable to obtain
unforced entry, must give—
 - (i) any person at the premises an
opportunity to allow entry to the
premises; or

(ii) any person on or in the vehicle an opportunity to allow entry to the vehicle.

- (2) An inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises or the vehicle is required to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

S. 61M(2)
amended by
No. 25/2009
s. 29(3).

61N Details of warrant to be given to occupier

S. 61N
inserted by
No. 44/1999
s. 22.

- (1) If the occupier is present at premises where a search warrant is being executed, the inspector must—
- (a) identify himself or herself to the occupier; and
 - (b) give to the occupier a copy of the warrant.
- (2) If the occupier is not present at premises where a search warrant is being executed, the inspector must—
- (a) identify himself or herself to a person (if any) at the premises; and
 - (b) give to the person a copy of the warrant.

61NA Details of warrant to be given to person in charge of vehicle

S. 61NA
inserted by
No. 25/2009
s. 30.

- (1) If there is a person in charge of the vehicle located in a public place in respect of which a search warrant is being executed, the inspector must—
- (a) identify himself or herself to the person in charge of the vehicle; and
 - (b) give to the person a copy of the warrant.

s. 61O

- (2) If there is no person in charge of the vehicle located in a public place in respect of which a search warrant is being executed, the inspector must—
- (a) identify himself or herself to a person (if any) on or in the vehicle; and
 - (b) give to the person a copy of the warrant.

S. 61O
inserted by
No. 44/1999
s. 22.

61O Seizure of things not mentioned in the warrant

A search warrant under section 61L authorises an inspector executing the search warrant, in addition to the seizure of any thing of the kind described in the warrant, to seize or take a sample of any thing which is not of the kind described in the warrant if—

- (a) the inspector believes, on reasonable grounds, that the thing—
 - (i) is of a kind which could have been included in a search warrant issued under this Division; or
 - (ii) will afford evidence about the contravention of any Consumer Act; and
- (b) in the case of seizure, the inspector believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the contravention of this Act or any other Consumer Act.

S. 61O(a)(ii)
amended by
No. 35/2000
s 49(j).

S. 61O(b)
amended by
No. 35/2000
s 49(j).

61P Embargo notice

S. 61P
inserted by
No. 44/1999
s. 22.

- (1) An inspector executing a search warrant who is authorised by that warrant to seize any thing may, if the thing cannot, or cannot readily, be physically seized and removed, issue an embargo notice in the form approved by the Director—
- (a) by causing a copy of the notice to be served on the occupier or the person in charge of the vehicle; or
- (b) if the occupier or the person in charge of the vehicle cannot be located after all reasonable steps have been taken to do so, by affixing a copy of the notice to the thing in a prominent position.
- (2) A person who knows that an embargo notice relates to a thing and who—
- (a) sells; or
- (b) leases; or
- (c) without the written consent of the inspector who issued the embargo notice, moves; or
- (d) transfers; or
- (e) otherwise deals with—
- the thing or any part of the thing is guilty of an offence and liable to a penalty not exceeding 10 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that the accused moved the thing or the part of the thing for the purpose of protecting and preserving it.

S. 61P(1)
amended by
Nos 35/2000
s. 49(e),
103/2004 s. 60.

S. 61P(1)(a)
amended by
No. 25/2009
s. 31.

S. 61P(1)(b)
amended by
No. 25/2009
s. 31.

S. 61P(3)
amended by
No. 68/2009
s. 97(Sch.
item 98.3).

s. 61Q

- (4) Despite anything in any other Act, a sale, lease, transfer or other dealing with a thing in contravention of this section is void.

S. 61Q
inserted by
No. 44/1999
s. 22.

61Q Copies of seized documents

- (1) If an inspector retains possession of a document taken or seized from a person under this Division, the inspector must give the person, within 21 days of the seizure, a copy of the document certified as correct by the inspector.
- (2) A copy of a document certified under subsection (1) shall be received in all courts and tribunals to be evidence of equal validity to the original.

S. 61R
inserted by
No. 44/1999
s. 22.

61R Retention and return of seized documents or things

- (1) If an inspector seizes a document or other thing under this Division, the inspector must take reasonable steps to return the document or thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the document or thing seized has not been returned within 3 months after it was seized, the inspector must take reasonable steps to return it unless—
- (a) proceedings for the purpose for which the document or thing was retained have commenced within that 3 month period and those proceedings (including any appeal) have not been completed; or
- (b) the Magistrates' Court makes an order under section 61S extending the period during which the document or thing may be retained.

61S Magistrates' Court may extend 3 month period

S. 61S
inserted by
No. 44/1999
s. 22.

- (1) An inspector may apply to the Magistrates' Court within 3 months after seizing a document or other thing under this Division for an extension of the period for which the inspector may retain the document or thing.
- (2) The Magistrates' Court may order such an extension if it is satisfied that retention of the document or other thing is necessary—
 - (a) for the purposes of an investigation into whether a contravention of this Act or the regulations has occurred; or
 - (b) to enable evidence of a contravention of this Act or the regulations to be obtained for the purposes of a proceeding under this Act.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

61T Requirement to assist inspector during entry

S. 61T
inserted by
No. 44/1999
s. 22,
amended by
No. 25/2009
s. 32.

To the extent that it is reasonably necessary to determine compliance with this Act or the regulations, an inspector exercising a power of entry under this Division who produces his or her identity card for inspection by the occupier of the premises or an agent or employee of the occupier or the person in charge of the vehicle may require that person—

- (a) to give information to the inspector, orally or in writing; and
- (b) to produce documents to the inspector; and
- (c) to give reasonable assistance to the inspector.

s. 61U

S. 61U
inserted by
No. 44/1999
s. 22,
amended by
No. 35/2000
s. 49(e).

61U Refusal or failure to comply with requirement

A person must not refuse or fail, without reasonable excuse, to comply with a requirement of the Director or an inspector under this Division.

Penalty: Level 10 fine (10 penalty units maximum).

S. 61V
inserted by
No. 44/1999
s. 22.

61V Rule against self-incrimination does not apply

- (1) A person is not excused from answering a question or producing a document under this Division on the ground that the answer or document might tend to incriminate the person.
- (2) Before a person is required by an inspector to answer a question, the inspector must inform the person that if they claim, before answering the question, that the answer might tend to incriminate them, the answer is not admissible in evidence in any criminal proceedings, other than in proceedings in respect of the falsity of the answer.
- (3) If the person claims, before answering a question, that the answer might tend to incriminate them, the answer is not admissible in evidence in any criminal proceedings, other than in proceedings in respect of the falsity of the answer.

S. 61W
inserted by
No. 44/1999
s. 22.

61W Offence to give false or misleading information

A person must not—

- (a) give information to an inspector under this Division that the person believes to be false or misleading in any material particular; or

- (b) produce a document to an inspector under this Division that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: Level 10 fine (10 penalty units maximum).

61WA Powers of court if requirement to produce information not complied with

S. 61WA
inserted by
No. 2/2008
s. 60(Sch.
item 9.1).

- (1) Subject to subsection (3), if the Director is satisfied that a person has, without reasonable excuse, failed to comply with a requirement under section 61G, the Director may certify that failure to a court.
- (2) Subject to subsection (3), if an inspector is satisfied that a person has, without reasonable excuse, failed to comply with a requirement of the inspector under section 61D, 61E, 61G or 61T, the inspector may certify that failure to a court.
- (3) The Director or an inspector cannot certify a failure to a court under subsection (1) or (2) if the person to whom the failure relates has been charged with an offence against section 61U.
- (4) If the Director or an inspector so certifies under subsection (1) or (2), the court may inquire into the case and may order the person to comply with the requirement within the period specified by the court.
- (5) If a proceeding is brought under this section in relation to a failure to comply with a requirement, a person to whom the failure relates cannot be charged with an offence against section 61U in respect of that failure.

s. 61X

S. 61X
inserted by
No. 44/1999
s. 22,
amended by
No. 21/2012
s. 239(Sch. 6
items 42.4,
42.5).

61X Application of provisions relating to inspections

Sections 152, 172, 173, 176, 178 and 179 of the **Australian Consumer Law and Fair Trading Act 2012** apply (with any necessary modifications) in relation to the exercise or attempted exercise of a power of an inspector under this Division as if any reference in those sections to Part 6.4 of that Act were a reference to this Division.

S. 61Y
inserted by
No. 44/1999
s. 22.

61Y Service of documents

- (1) A written requirement by an inspector under this Division may be given personally or by registered post to a person—
 - (a) at the last known place of business, employment or residence of the person; or
 - (b) in the case of a body corporate, at the registered office of the body corporate.
- (2) A person who provides a document or information in response to a requirement of an inspector under this Division may send that document or information to the Director by registered post.

S. 61Y(2)
amended by
No. 35/2000
s. 49(k).

S. 61Z
inserted by
No. 44/1999
s. 22.

61Z Confidentiality

- (1) An inspector must not, except to the extent necessary to carry out the inspector's functions under this Division, give to any other person, whether directly or indirectly, any information acquired by the inspector in carrying out those functions.

Penalty: Level 10 fine (10 penalty units maximum).

- (2) Subsection (1) does not apply to the giving of information—
 - (a) to a court or tribunal in the course of legal proceedings; or

- (b) pursuant to an order of a court or tribunal; or
- (c) to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or Territory or of the Commonwealth; or
- (d) to the Authority; or
- (e) with the written authority of the Director; or
- (f) with the written authority of the person to whom the information relates.

S. 61Z(2)(e)
amended by
No. 35/2000
s. 49(e).

Division 9—Powers of entry

62 Entry to licensed premises by Chief Commissioner of Police

S. 62
(Heading)
inserted by
No. 1/2010
s. 68(1).

- (1) The Chief Commissioner of Police (accompanied by any other member or members of the police force that he or she considers necessary) may at any time enter and inspect any premises at which a licensee, or a person exempted by section 23 from the requirement to hold a licence, is carrying on business as a sex work service provider.
- (2) If entry is refused or delayed, the member or members of the police force may break, enter and inspect the premises.
- (3) A person must not—
 - (a) prevent or attempt to prevent a member of the police force from entering or inspecting premises under a power conferred by this section; or

S. 62(1)
amended by
Nos 99/1995
s. 32(1),
1/2010
s. 68(2).

S. 62(3)
amended by
No. 44/1999
s. 31(14).

(b) obstruct a member of the police force in the exercise of such a power.

Penalty: Level 8 imprisonment (1 year maximum) or a level 8 fine (120 penalty units maximum) or both.

S. 62(4)
amended by
Nos 52/1998
s. 225(a)(b),
35/2000
s. 49(e),
1/2010
s. 68(4).

(4) The Chief Commissioner of Police must, within 7 days after exercising a power conferred by this section, report to the Director and the Authority in the form and manner approved by the Director or the Authority (as the case requires) particulars of the exercise of that power.

S. 62(5)
inserted by
No. 99/1995
s. 32(2).

(5) Nothing in this section authorises a member of the police force to enter and inspect a part of any premises that is used solely as a residence unless the occupier of the residence has consented in writing to the entry and inspection.

63 Entry to unlicensed premises—search warrant

S. 63(1)
amended by
Nos 44/1999
s. 23, 82/2008
s. 11,
substituted by
No. 25/2009
s. 33(1).

(1) A member of the police force of or above the rank of senior sergeant may apply to a magistrate for the issue of a search warrant—

S. 63(1)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 57) (as
amended by
No. 63/2010
s. 27).

(a) in relation to particular premises (including any vehicle on or in those premises) if the member believes on reasonable grounds that a person is carrying on business at those premises as a sex work service provider in contravention of section 22(1) or (1A) or 24(1); or

(b) in relation to a particular vehicle located in a public place, if the member believes on reasonable grounds that there is evidence on or in the vehicle of a contravention of section 22(1) or (1A) or 24(1).

(2) If the magistrate to whom the application is made is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that a person is carrying on business at the premises as a sex work service provider in contravention of section 22(1) or (1A) or 24(1), the magistrate may issue a search warrant.

S. 63(2)
amended by
Nos 44/1999
s. 23, 1/2010
s. 42(2)(Sch.
item 57) (as
amended by
No. 63/2010
s. 27).

(2A) If the magistrate to whom an application is made is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is evidence of a contravention of section 22(1) or (1A) or 24(1) on or in the vehicle located in a public place, the magistrate may issue a search warrant.

S. 63(2A)
inserted by
No. 25/2009
s. 33(2).

(3) A search warrant issued under this section must be directed to the applicant for it and must authorise him or her to enter the premises or vehicle, or the part of premises or vehicle, named or described in the warrant to search for any article, thing or material of a kind named or described in the warrant which there is reasonable ground to believe will afford evidence as to the commission of an offence against section 22(1) or (1A) or 24(1).

S. 63(3)
amended by
Nos 44/1999
s. 23, 25/2009
s. 33(3).

(4) In addition to any other requirement, a search warrant issued under this section must state—

- (a) any conditions to which the warrant is subject; and
- (b) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
- (c) a date, not being later than 7 days after the date of issue of the warrant, on which the warrant ceases to have effect.

- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
- (7) Nothing in subsection (1) affects the types of premises that may be licensed under this Act.
- (8) In this section—
vehicle includes motor vehicle, aircraft and vessel.

S. 63(7)
inserted by
No. 25/2009
s. 33(4).

S. 63(8)
inserted by
No. 25/2009
s. 33(4).

64 Entry to unlicensed premises—without search warrant

- (1) If outside office hours the Chief Commissioner of Police believes on reasonable grounds that a person is carrying on business at particular premises as a sex work service provider in contravention of section 22(1) or (1A) or 24(1) and that relevant evidence is likely to be lost if entry to the premises is delayed until a search warrant is obtained, the Chief Commissioner may authorise entry to the premises in accordance with the procedure set out in subsection (2).
- (2) The Chief Commissioner of Police must—
- (a) in writing—
- (i) set out the grounds for the belief—
- (A) that an unlicensed person is carrying on business at the premises as a sex work service provider; and

S. 64(1)
amended by
No. 44/1999
s. 23,
substituted by
No. 1/2010
s. 69(1).

S. 64(2)
amended by
No. 1/2010
s. 69(2)(a).

S. 64(2)(a)
(i)(A)
amended by
No. 1/2010
s. 42(2)(Sch.
item 58) (as
amended by
No. 63/2010
s. 27).

-
- (B) that relevant evidence is likely to be lost if entry to the premises is delayed until a search warrant is obtained; and
- (ii) name or describe the premises; and
- (iii) name the member or members of the police force being authorised to enter the premises; and
- (b) without delay transmit a copy of the writing by facsimile machine to the office of the principal registrar of the Magistrates' Court and to the office of the Authority; and
- (c) issue to the member or members of the police force named in the writing a copy of it signed by the Chief Commissioner.
- (3) No entry to premises is authorised under this section until after the requirements of subsection (2) have been complied with.
- (4) An entry authority authorises the member or members of the police force named in it—
- (a) to break, enter and search the premises named or described in the warrant for any article, thing or material which there is reasonable ground to believe will afford evidence as to the commission of an offence against section 22(1) or (1A) or 24(1); and
- (b) to bring the article, thing or material before the Magistrates' Court so that the matter may be dealt with according to law; and
- (c) to arrest any person apparently having possession, custody or control of the article, thing or material.
- S. 64(2)(b) amended by No. 52/1998 s. 226.**
- S. 64(2)(c) amended by No. 1/2010 s. 69(2)(b).**
- S. 64(4)(a) amended by No. 44/1999 s. 23.**

- (5) The member or members of the police force acting under an entry authority must cause any person arrested under subsection (4)(c) to be brought before a bail justice or the Magistrates' Court within a reasonable time of being arrested to be dealt with according to law.
- (6) A person arrested under subsection (4)(c) may be discharged from custody on bail under section 10 of the **Bail Act 1977**.
- (7) In determining what constitutes a reasonable time for the purposes of subsection (5) the matters specified in section 464A(4) of the **Crimes Act 1958** may be considered.
- (8) For the purposes of subsection (4)(b) an article, thing or material that is bulky or cumbersome may be brought before the Magistrates' Court by giving evidence on oath to the Court as to the present whereabouts of the article, thing or material and by producing a photograph of it.
- (9) The Magistrates' Court may direct that any article, thing or material seized under an entry authority be returned to its owner, subject to any condition that the Court thinks fit, if in the opinion of the Court it can be returned consistently with the interests of justice.
- (10) A person acting under an entry authority is not to be taken to be a trespasser from the beginning only because of a defect or error in it.

65 Admissibility of evidence obtained under entry authority

A court hearing a proceeding for an offence against section 22(1) or (1A) or 24(1) must rule as inadmissible as part of the prosecution case any evidence obtained under an entry authority if the court is satisfied that the requirements of section 64 were not complied with.

S. 65
amended by
No. 44/1999
s. 23.

65A Delegations by the Chief Commissioner

Any delegation made by the Chief Commissioner under section 6A of the **Police Regulation Act 1958** of his or her functions and powers under this Division must be made to a member of the police force who is of or above the rank of senior sergeant.

S. 65A
inserted by
No. 1/2010
s. 70.

Division 10—Miscellaneous

66 Sex Work Regulation Fund

S. 66
(Heading)
inserted by
No. 1/2010
s. 42(2)(Sch.
item 59) (as
amended by
No. 63/2010
s. 27).

(1) There shall be kept in the Trust Fund under the **Financial Management Act 1994**, a trust account to be called the Sex Work Regulation Fund.

S. 66(1)
substituted by
No. 52/1998
s. 227(1),
amended by
No. 1/2010
s. 42(2)(Sch.
item 60) (as
amended by
No. 63/2010
s. 27).

(2) Into the Fund must be paid—

- (a) all fees paid under this Act;
- (b) all fines or penalties paid in respect of an offence against this Act;
- (c) all other money received by the Authority under this Act;
- (d) all other money required under this Act to be paid into the Fund.

S. 66(2)(c)
substituted by
No. 52/1998
s. 227(2).

S. 66(2)(d)
inserted by
No. 52/1998
s. 227(2).

s. 67

S. 66(3)
amended by
Nos 99/1995
s. 33(1),
47/1997 s. 35,
substituted by
No. 52/1998
s. 227(3).

(3) Subject to any directions given by the Minister under subsection (4), the following may be paid out of the Fund—

- (a) any fees paid under this Act that, in accordance with this Act or the regulations, are required to be refunded; and
- (b) the costs and expenses incurred in the administration of this Act.

S. 66(4)
amended by
No. 52/1998
s. 227(4)(a)(b).

(4) The Minister may give to the Authority written directions in relation to the purposes for which the Authority may spend money in exercising its functions under this Act and the extent to which the Authority may spend money for any particular purpose.

67 Advisory Committee

S. 67(1)
substituted by
No. 52/1998
s. 228(1).

(1) There shall be appointed an Advisory Committee consisting of persons appointed by the Governor in Council on the recommendation of the Minister.

S. 67(1A)
inserted by
No. 52/1998
s. 228(1),
amended by
No. 44/1999
s. 24(1)(a).

(1A) The functions of the Advisory Committee are to advise the Minister on—

S. 67(1A)(a)
amended by
Nos 44/1999
s. 24(1)(b),
1/2010
s. 42(2)(Sch.
item 61(a)) (as
amended by
No. 63/2010
s. 27).

- (a) issues related to the regulation and control of the sex work industry in Victoria;

-
- (b) the general operation of the sex work control industry in Victoria; S. 67(1A)(b) amended by No. 44/1999 s. 24(1)(c), 1/2010 s. 42(2)(Sch. item 61(a)) (as amended by No. 63/2010 s. 27).
- (c) liaison with the police force so as to assist the police force in carrying out its functions in relation to sex work; S. 67(1A)(c) amended by Nos 44/1999 s. 24(1)(d), 1/2010 s. 42(2)(Sch. item 61(a)) (as amended by No. 63/2010 s. 27).
- (d) the reference of relevant matters for investigation by the WorkCover Authority, the Australian Taxation Office or the Department of Immigration and Citizenship of the Commonwealth or any other body; S. 67(1A)(d) amended by Nos 44/1999 s. 24(1)(e), 73/2011 s. 13.
- (e) assistance for organisations involved in helping sex workers to leave the industry; S. 67(1A)(e) amended by Nos 44/1999 s. 24(1)(f), 1/2010 s. 42(2)(Sch. item 61(b)) (as amended by No. 63/2010 s. 27).
- (f) the development of educational programmes about the sex work industry for magistrates, police and community workers; S. 67(1A)(f) amended by Nos 44/1999 s. 24(1)(g), 1/2010 s. 42(2)(Sch. item 61(a)) (as amended by No. 63/2010 s. 27).

Sex Work Act 1994
No. 102 of 1994
Part 3—Licensing System

s. 67A

S. 67(1A)(g)
amended by
Nos 44/1999
s. 24(1)(h),
1/2010
s. 42(2)(Sch.
item 61(a)) (as
amended by
No. 63/2010
s. 27).

(g) the dissemination of information about the dangers (including dangers to health) inherent in sex work, especially street sex work.

S. 67(2)
amended by
No. 44/1999
s. 24(2).

- (2) The Advisory Committee may seek information from the Authority about relevant issues and trends.
- (3) The members of the Advisory Committee shall include—

S. 67(3)(a)
amended by
No. 1/2010
s. 42(2)(Sch.
item 61(a)) (as
amended by
No. 63/2010
s. 27).

(a) persons with knowledge of the sex work industry in Victoria; and

(b) persons who are representative of religious or community interests.

- (4) In recommending people for appointment as Committee members, the Minister must have regard to the desirability of ensuring that the Committee is comprised of both women and men.
- (5) A member is appointed for the term (not exceeding 5 years) specified in the instrument of appointment and is eligible for re-appointment.
- (6) A member is entitled to any travelling and other allowances approved by the Minister in respect of him or her.
- (7) The Governor in Council shall appoint one of the members as chairperson.

- (8) The Governor in Council may remove a member from office.
- (9) The Committee may regulate its own meeting procedure.
- (10) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

S. 67(10) substituted by Nos 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 item 165.2), 80/2006 s. 26(Sch. item 87).

* * * * *

S. 67(11) inserted by No. 52/1998 s. 228(2), repealed by No. 44/1999 s. 24(3).

- (12) The Advisory Committee must, as soon as practicable after the end of each year, prepare a report on its operations during that year and submit it to the Minister.

S. 67(12) inserted by No. 52/1998 s. 228(2).

68 Regulations

The Governor in Council may make regulations for or with respect to—

* * * * *

S. 68(a) repealed by No. 52/1998 s. 229(a).

- (b) matters or things to be included in, or to accompany, applications made under this Part;
- (c) particulars of matters required to be given or reported to the Authority;

S. 68(c) amended by No. 52/1998 s. 229(b).

s. 69

S. 68(d)
amended by
No. 1/2010
s. 42(2)(Sch.
item 62) (as
amended by
No. 63/2010
s. 27).

(d) requirements to be complied with by a sex work service provider to ensure the safety of persons working in the business;

S. 68(e)
amended by
No. 52/1998
s. 229(b).

(e) matters to be considered by the Authority in determining the suitability of an applicant for a licence;

(f) prescribing fees;

S. 68(fa)
inserted by
No. 99/1995
s. 33(2).

(fa) the refund, in whole or in part, of fees paid under this Act;

(g) prescribing forms;

S. 68(ga)
inserted by
No. 82/2008
s. 12.

(ga) prescribing offences to be infringement offences within the meaning of the **Infringements Act 2006**;

S. 68(gb)
inserted by
No. 82/2008
s. 12.

(gb) for the purposes of Parts 2 and 3, prescribing penalties not exceeding 10 penalty units for infringement offences prescribed under paragraph (ga);

(h) generally prescribing any other matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

Division 11—Transitional

69 Transitional (licence)

- (1) In this section *appointed day* means the day on which section 22(1) comes into operation.

- (2) A person who immediately before the appointed day was—
- (a) carrying on a business of a kind referred to in the definition of *brothel* in section 3 in respect of which there was or were then in force such permit or permits as was or were then required under the **Planning and Environment Act 1987** to authorise the use of the land for the purposes of that business; or
 - (b) carrying on business as an escort agency—
must, on and from that day, be deemed to hold a licence.
- (3) Subsection (2) ceases to apply to a person on the expiry of 3 months beginning with the appointed day unless the person has during that period applied under section 33 for a licence in which case it ceases to apply on whichever of the following events occurs last—
- (a) the Board grants a licence on the application;
 - (b) if the Board refuses to grant a licence on the application at any time before the commencement of section 224 of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**—
 - (i) the period allowed by section 56 (as in force immediately before that commencement) or clause 13 of Schedule 2 to the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998** for appealing to the Supreme Court expires without an appeal having been instituted; or

S. 69(3)(b)
amended by
No. 44/1999
s. 25(1)(a).

S. 69(3)(b)(i)
amended by
No. 44/1999
s. 25(1)(b).

S. 69(3)(b)
(ii)(B)
amended by
Nos 47/1997
s. 36(1),
24/2008 s. 86.

S. 69(3)(b)
(ii)(D)
amended by
No. 47/1997
s. 36(2).

S. 69(3)(c)
inserted by
No. 44/1999
s. 25(1)(c).

- (ii) if an appeal to the Supreme Court is instituted—
- (A) it is withdrawn; or
 - (B) an Associate Judge refuses the application for an order under Rule 58.09 of the General Rules of Procedure in Civil Proceedings 1996 and the period allowed by rules of court for appealing to a Judge against the refusal expires without an appeal having been brought or, if an appeal is brought, it is withdrawn or the refusal to make the order is affirmed; or
 - (C) it is heard and determined by a Judge and the case is remitted to the Board for re-hearing with or without any direction in law and, on the remittal, the Board grants a licence or again refuses to grant a licence; or
 - (D) it is dismissed and the period allowed by rules of court for appealing to the Court of Appeal expires without an appeal having been brought or, if an appeal to the Court of Appeal is brought, it is discontinued or abandoned or is finally disposed of;
- (c) if the Authority refuses to grant a licence on the application at any time on or after the commencement of section 224 of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**—

-
- (i) the period allowed by section 56 for applying to the Tribunal for review of that decision expires without an application having been made; or
 - (ii) if an application for review is made to the Tribunal—
 - (A) it is withdrawn; or
 - (B) it is dismissed or struck out by the Tribunal and the period allowed by section 148 of the **Victorian Civil and Administrative Tribunal Act 1998** for appealing from that decision expires without an application for leave to appeal having been made.

70 Transitional (manager approval)

- (1) In this section *appointed day* means the day on which section 49(1) comes into operation.
- (2) A person who immediately before the appointed day was managing on behalf of another person a business of a kind referred to in section 69(2) must, on and from that day, be deemed to hold an approval under section 52(1).
- (3) Subsection (2) ceases to apply to a person on the expiry of 3 months beginning with the appointed day unless the licensee has during that period applied under section 50(1) for the approval of that person as a manager of the prostitution service providing business in which case it ceases to apply on whichever of the following events occurs last—
 - (a) the Board approves of that person as a manager on the application;

s. 70

S. 70(3)(b)
amended by
No. 44/1999
s. 25(2)(a).

(b) if the Board refuses to approve of that person as a manager on the application at any time before the commencement of section 224 of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**—

S. 70(3)(b)(i)
amended by
No. 44/1999
s. 25(2)(b).

(i) the period allowed by section 56 (as in force immediately before that commencement) or clause 13 of Schedule 2 to the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998** for appealing to the Supreme Court expires without an appeal having been instituted; or

(ii) if an appeal to the Supreme Court is instituted—

(A) it is withdrawn; or

(B) an Associate Judge refuses the application for an order under Rule 58.09 of the General Rules of Procedure in Civil Proceedings 1996 and the period allowed by rules of court for appealing to a Judge against the refusal expires without an appeal having been brought or, if an appeal is brought, it is withdrawn or the refusal to make the order is affirmed; or

(C) it is heard and determined by a Judge and the case is remitted to the Board for re-hearing with or without any direction in law and, on the remittal, the Board approves, or again refuses to approve, of that person as a manager; or

S. 70(3)(b)
(ii)(B)
amended by
Nos 47/1997
s. 37(1),
24/2008 s. 86.

-
- (D) it is dismissed and the period allowed by rules of court for appealing to the Court of Appeal expires without an appeal having been brought or, if an appeal to the Court of Appeal is brought, it is discontinued or abandoned or is finally disposed of;
- (c) if the Authority refuses to approve of that person as a manager on the application at any time on or after the commencement of section 224 of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**—
- (i) the period allowed by section 56 for applying to the Tribunal for review of that decision expires without an application having been made; or
- (ii) if an application for review is made to the Tribunal—
- (A) it is withdrawn; or
- (B) it is dismissed or struck out by the Tribunal and the period allowed by section 148 of the **Victorian Civil and Administrative Tribunal Act 1998** for appealing from that decision expires without an application for leave to appeal having been made.
- S. 70(3)(b)
(ii)(D)
amended by
No. 47/1997
s. 37(2).
- S. 70(3)(c)
inserted by
No. 44/1999
s. 25(2)(c).

PART 4—PLANNING CONTROLS ON BROTHELS

Division 1—Definitions

71 Definitions

Words and expressions used in this Part have the same meanings as they have in the **Planning and Environment Act 1987**.

Division 2—Permits

72 Restriction on certain permit applications

Despite anything to the contrary in the **Planning and Environment Act 1987**, an application for a permit for a use or development of land for the purposes of the operation of a brothel may only be made by—

- (a) a licensee; or
- (ab) a person who has made an application for a licence under section 33; or
- (b) a person or two persons intending to rely on an exemption under section 23(1) from the requirement to hold a licence.

S. 72(ab)
inserted by
No. 1/2010
s. 71.

S. 72(b)
amended by
No. 99/1995
s. 34.

73 Matters to be considered by responsible authority

Without limiting section 60 of the **Planning and Environment Act 1987**, before deciding on an application for a permit for a use or development of land for the purposes of the operation of a brothel, the responsible authority must consider—

- (a) any other brothel in the neighbourhood;
- (b) the effect of the operation of a brothel on children in the neighbourhood;

- (c) except in the case of land within the area of the City of Melbourne bounded by Spring, Flinders, Spencer and LaTrobe Streets, whether the land is within 200 metres of a place of worship, hospital, school, education and care service premises, children's services centre or of any other facility or place regularly frequented by children for recreational or cultural activities and, if so, the effect on the community of a brothel being located within that distance of that facility or place;
- (d) other land use within the neighbourhood involving similar hours of operation and creating similar amounts of noise or traffic (including pedestrian traffic);
- (e) any guidelines about the size or location of brothels issued by the Minister administering the **Planning and Environment Act 1987**;
- (f) the amenity of the neighbourhood;
- (g) the provision of off-street parking;
- (h) landscaping of the site;
- (i) access to the site;
- (j) the proposed size of the brothel and the number of people that it is proposed will be working in it;
- (k) the proposed method and hours of operation of the brothel.

S. 73(c)
amended by
Nos 99/1995
s. 35, 80/2011
s. 79(Sch.
item 7.4).

74 Restriction on granting of permits

- (1) The responsible authority must refuse to grant a permit for a use or development of land for the purposes of the operation of a brothel if—

S. 74(1)(c)
amended by
No. 80/2011
s. 79(Sch.
item 7.5).

S. 74(1)(d)
amended by
No. 1/2010
s. 42(2)(Sch.
item 63) (as
amended by
No. 63/2010
s. 27).

- (a) the land is within an area that is zoned by a planning scheme as being primarily for residential use; or
 - (b) the land is within 100 metres or, in the case of land within the area of the City of Melbourne bounded by Spring, Flinders, Spencer and LaTrobe Streets, 50 metres of a dwelling other than a caretaker's house; or
 - (c) except in the case of land within the area of the City of Melbourne bounded by Spring, Flinders, Spencer and LaTrobe Streets, the land is within 200 metres of a place of worship, hospital, school, education and care service premises, children's services centre or of any other facility or place regularly frequented by children for recreational or cultural activities; or
 - (d) unless there exists special circumstances as set out in guidelines issued by the Minister administering the **Planning and Environment Act 1987**, more than 6 rooms in the proposed brothel are to be used for sex work.
- (2) For the purposes of subsection (1) distances are to be measured according to any route which reasonably may be used in travelling.
- (3) Despite section 71, in this section *development* does not include—
- (a) the exterior alteration or exterior decoration of a building; and
 - (b) the demolition or removal of a building or works.

74A Conditions on permits for licence applicants

A permit for the use or development of land for the purposes of the operation of a brothel granted by the responsible authority to an applicant for a licence under section 33 must include a condition that that use or development must not commence unless and until the person is granted the licence.

S. 74A
inserted by
No. 1/2010
s. 72.

75 Persons not to have interest in more than one brothel licence or permit

(1) A person must not have at any one time—

- (a) an interest in more than one current licence authorising the carrying on of a business of a kind referred to in the definition of *brothel* in section 3, including a deemed licence arising by force of section 69 authorising the carrying on of such a business; or
- (b) an interest in more than one unexpired permit granted for the use of land for the purposes of the operation of a brothel, being a permit under which the use has started.

S. 75(1)
substituted by
No. 99/1995
s. 36(1),
amended by
No. 48/1997
s. 70(10),
substituted by
No. 44/1999
s. 26.

Penalty: Level 6 imprisonment (5 years maximum) or a level 6 fine (600 penalty units maximum) or both.

(2) For the purposes of subsection (1)—

- (a) a person has an interest in a licence if the licence was granted to, or is deemed to be held by, the person or an associate of that person; and
- (b) a person does not have an interest in a licence granted to, or deemed to be held by, a business partner of that person if the licence or deemed licence authorises the business partner to carry on a sex work service providing business at the same premises as those at which that person is authorised to

S. 75(2)
amended by
No. 99/1995
s. 36(2),
substituted by
No. 44/1999
s. 26.

S. 75(2)(b)
amended by
No. 1/2010
s. 42(2)(Sch.
item 64) (as
amended by
No. 63/2010
s. 27).

Sex Work Act 1994
No. 102 of 1994
Part 4—Planning Controls on Brothels

s. 75

carry on such a business by a licence granted to, or deemed to be held by, that person; and

S. 75(2)(c)
amended by
No. 1/2010
s. 42(2)(Sch.
item 64) (as
amended by
No. 63/2010
s. 27).

- (c) a person does not have an interest in a licence granted to, or deemed to be held by, another person only because the person is an approved manager of a sex work service providing business carried on by the other person under the authority of that licence or deemed licence; and
- (d) a person has an interest in a permit if the permit was granted in respect of land owned or leased by that person or an associate of that person, whether alone or jointly with any other person.

S. 75(3)
substituted by
No. 44/1999
s. 26.

- (3) For the purposes of this section two persons are associated if one is—

S. 75(3)(a)
amended by
Nos 27/2001
s. 8(Sch. 6
item 5.3),
82/2008
s. 13(1).

- (a) a relative (other than an uninvolved relative) of the other; or
- (b) a business partner of the other; or
- (c) a person who has, or a person who is an associate of a body corporate which has, entered into a business arrangement or relationship with the other or with a body corporate of which the other is an associate—
 - (i) in respect of the use, occupation, management or otherwise of land; or

- (ii) that enables or will enable the person, or a body corporate of which the person is an associate, to exercise a significant influence over or with respect to the management or operation of a sex work service providing business carried on by the other or by a body corporate of which the other is an associate; or
- (d) directly receiving any income derived from a business carried on by the other; or
- (e) a body corporate and the other is a related body corporate within the meaning of section 9 of the Corporations Act; or
- (f) a person who is a lessee or sub-lessee of land used for the purposes of the operation of a brothel that is owned or leased by the other or by a body corporate of which the other is an associate; or
- (g) a body corporate and the other is an associate of the body corporate.
- (3A) For the purposes of subsection (3)(c), (f) and (g) a person is an associate of a body corporate if he or she—
- (a) is a director or secretary of the body corporate or a relative (other than an uninvolved relative) of such a director or secretary; or
- (b) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the body corporate and thereby is able or will be able to exercise a

S. 75(3)(ii) amended by No. 1/2010 s. 42(2)(Sch. item 64) (as amended by No. 63/2010 s. 27).

S. 75(3)(e) amended by No. 44/2001 s. 3(Sch. item 94.2).

S. 75(3A) inserted by No. 44/1999 s. 26.

S. 75(3A)(a) amended by Nos 27/2001 s. 8(Sch. 6 item 5.3), 82/2008 s. 13(2).

s. 75A

significant influence over or with respect to the management or operation of that business; or

(c) holds or will hold any relevant position (whether in his or her own right or on behalf of any other person) in the business of the body corporate.

S. 75(4)
inserted by
No. 99/1995
s. 36(3),
amended by
No. 11/2001
s. 3(Sch.
item 60).

(4) For the purposes of this section two persons are not associated only because one has borrowed money from the other (being an authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth) and the repayment of the debt is secured by a mortgage over or in respect of land owned by the debtor.

S. 75(5)
inserted by
No. 99/1995
s. 36(3).

(5) An offence against subsection (1) is an indictable offence.

S. 75A
inserted by
No. 12/2000
s. 3.

75A Amendment of permits under the Planning and Environment Act 1987

(1) If—

S. 75A(1)(a)
substituted by
No. 82/2008
s. 14(1).

(a) there is an existing permit under the **Planning and Environment Act 1987** for the use or development of land for the purposes of—

(i) the operation of a brothel; or

(ii) a massage parlour and the land is used for the purposes of the operation of a brothel; and

(b) an application or request for the amendment of that permit is made; and

(c) the amendment would have the effect of expanding or extending the use or development of the land for the purposes of the operation of the brothel—

the responsible authority or the Tribunal (as the case requires) must determine the application or request for the amendment in accordance with this Part as if it were an application for a permit for the use or development of the land for the purposes of the operation of a brothel.

- (2) This section applies to the amendment of a permit whether the permit was granted before, on or after 14 June 1995.
- (3) If an application or request for an amendment of a permit was made but not determined before the commencement of section 3 of the **Prostitution Control (Planning) Act 2000**, that application must be determined in accordance with this section.
- (4) In this section—

amendment means—

- (a) an amendment under Division 3 of Part 4 of the **Planning and Environment Act 1987**;
- (b) an amendment under Division 1A of Part 4 of the **Planning and Environment Act 1987**;
- (c) an amendment to which section 216 of the **Planning and Environment Act 1987** applies;
- (d) an amendment under a condition on a permit under the **Planning and Environment Act 1987**.

S. 75A(4)
def. of
amendment
amended by
No. 82/2008
s. 14(2).

76 Transitional provision

- (1) An application for a permit that was made under the **Planning and Environment Act 1987** before the commencement of this Division but which had not been determined before that commencement must be determined under that Act as affected by this Division.
- (2) An application, in accordance with a condition of the permit, for an extension of a temporary use permit granted under the **Planning and Environment Act 1987** before the commencement of this Division must be determined under that Act as if this Act had not been enacted, whether the application is made before or after the commencement of this Division.

Division 3—Application of Planning and Environment Act 1987

77 Offences under Planning and Environment Act 1987

- (1) Despite section 127 of the **Planning and Environment Act 1987**, a person who is convicted or found guilty of an offence against section 126 of that Act in relation to land used or developed for the purposes of the operation of a brothel is liable to—
 - (a) a penalty of not more than 1200 penalty units; and
 - (b) if the contravention or failure constituting the offence is of a continuing nature, a further penalty of not more than 60 penalty units for each day during which the contravention or failure continues after the conviction or finding.

S. 77(1)(a)
substituted by
No. 28/2000
s. 21(1).

S. 77(1)(b)
amended by
No. 28/2000
s. 21(2).

- (2) If a person is convicted or found guilty of an offence referred to in subsection (1), the court may declare that the person or an associate of the person is not eligible, for a period of up to 10 years specified by the court, to hold a permit granted by a responsible authority under the **Planning and Environment Act 1987** for a use or development of land for the purposes of the operation of a brothel.
- (3) For the purposes of subsection (2) two persons are associated if one is—
- (a) a relative (other than an uninvolved relative) of the other; or
 - (b) a business partner of the other; or
 - (c) a person who has, or a person who is an associate of a body corporate which has, entered into a business arrangement or relationship with the other or with a body corporate of which the other is an associate—
 - (i) in respect of the use, occupation, management or otherwise of land; or
 - (ii) that enables or will enable the person, or a body corporate of which the person is an associate, to exercise a significant influence over or with respect to the management or operation of a sex work service providing business carried on by the other or by a body corporate of which the other is an associate but not including an arrangement or relationship under which the person is

S. 77(3) substituted by No. 44/1999 s. 27.

S. 77(3)(a) amended by Nos 27/2001 s. 8(Sch. 6 item 5.3), 82/2008 s. 15(1).

S. 77(3)(c)(ii) amended by No. 1/2010 s. 42(2)(Sch. item 65) (as amended by No. 63/2010 s. 27).

or will be an approved manager of the business; or

- (d) directly receiving any income derived from a business carried on by the other; or
- (e) a body corporate and the other is a related body corporate within the meaning of section 9 of the Corporations Act; or
- (f) a person who is a lessee or sub-lessee of land used for the purposes of the operation of a brothel that is owned or leased by the other or by a body corporate of which the other is an associate; or
- (g) a body corporate and the other is an associate of the body corporate.

S. 77(3)(e)
amended by
No. 44/2001
s. 3(Sch.
item 94.2).

(3A) For the purposes of subsection (3)(c), (f) and (g) a person is an associate of a body corporate if he or she—

- (a) is a director or secretary of the body corporate or a relative (other than an uninvolved relative) of such a director or secretary; or
- (b) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the body corporate and thereby is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or

S. 77(3A)
inserted by
No. 44/1999
s. 27.

S. 77(3A)(a)
amended by
Nos 27/2001
s. 8(Sch. 6
item 5.3),
82/2008
s. 15(2).

- (c) holds or will hold any relevant position (whether in his or her own right or on behalf of any other person) in the business of the body corporate.

78 Powers of entry

Section 134(1) of the **Planning and Environment Act 1987** (what must be done before entry) does not apply to an entry of land that an authorised person believes on reasonable grounds is being used for the purposes of the operation of a brothel.

78A Entry to premises without planning permit—search warrant

S. 78A
inserted by
No. 73/2011
s. 9.

- (1) A member of the police force of or above the rank of senior sergeant may apply to a magistrate for the issue of a search warrant in relation to particular premises if the member believes on reasonable grounds that the premises are being used for the purposes of the operation of a brothel in contravention of section 126 of the **Planning and Environment Act 1987**.
- (2) If the magistrate to whom the application is made is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that the premises are being used for the operation of a brothel in contravention of section 126 of the **Planning and Environment Act 1987**, the magistrate may issue a search warrant.
- (3) Section 63(3), (4), (5) and (6) apply to an application for a search warrant under this section as if in section 63(3)—

- (a) a reference to "or vehicle" (wherever occurring) were omitted; and
- (b) a reference to "section 22(1) or (1A) or 24(1)" were a reference to "section 126 of the **Planning and Environment Act 1987**".

S. 78B
inserted by
No. 73/2011
s. 9.

**78B Entry to premises without planning permit—
without search warrant**

- (1) If outside office hours the Chief Commissioner of Police believes on reasonable grounds that premises are being used for the purposes of the operation of a brothel in contravention of section 126 of the **Planning and Environment Act 1987** and that relevant evidence is likely to be lost if entry to the premises is delayed until a search warrant is obtained, the Chief Commissioner may authorise entry to the premises in accordance with the procedure set out in subsection (2).
- (2) The Chief Commissioner of Police must—
 - (a) in writing—
 - (i) set out the grounds for the belief—
 - (A) that the premises are being used for the purposes of the operation of a brothel in contravention of section 126 of the **Planning and Environment Act 1987**; and
 - (B) that relevant evidence is likely to be lost if entry to the premises is delayed until a search warrant is obtained; and
 - (ii) name or describe the premises; and
 - (iii) name the member or members of the police force being authorised to enter the premises; and

- (b) without delay transmit a copy of the writing by facsimile machine to the office of the principal registrar of the Magistrates' Court and to the office of the Authority; and
 - (c) issue to the member or members of the police force named in the writing a copy of it signed by the Chief Commissioner.
- (3) Section 64(3), (4), (5), (6), (7), (8), (9) and (10) apply to an entry authority under this section as if—
- (a) a reference in section 64(3) to "the requirements of subsection (2)" were a reference to "the requirements of section 78B(2)"; and
 - (b) a reference in section 64(4)(a) to "section 22(1) or (1A) or 24(1)" were a reference to "section 126 of the **Planning and Environment Act 1987**".

78C Admissibility of evidence obtained under authority

S. 78C
inserted by
No. 73/2011
s. 9.

A court hearing a proceeding for an offence against section 126 of the **Planning and Environment Act 1987** must rule as inadmissible as part of the prosecution case any evidence obtained under an entry authority if the court is satisfied that the requirements of section 78B and section 64(3), (4), (5), (6), (7), (8), (9) and (10), as applied by section 78B, were not complied with.

Division 4—Miscellaneous

79 Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

PART 5—PROSCRIBED BROTHELS

80 Declaration of proscribed brothel

(1) The Magistrates' Court may declare premises to be a proscribed brothel if it is satisfied on the balance of probabilities—

S. 80(1)(a) substituted by No. 44/1999 s. 28(1).

(a) on the application of an authorised member of the police force, that—

S. 80(1)(a)(i) amended by No. 22/2001 s. 4(1).

(i) a business of a kind referred to in the definition of *brothel* in section 3 is being carried on at those premises or has been carried on at those premises at any time during the period of 14 days immediately before the date of the filing of the application; and

(ii) there is not in force—

(A) a licence authorising a person to carry on such a business at those premises; or

S. 80 (1)(a)(ii)(B) amended by No. 73/2011 s. 10(1).

(B) a permit granted under the **Planning and Environment Act 1987** for the use or development of those premises for the purposes of the operation of a brothel; or

S. 80(1)(ab) inserted by No. 73/1996 s. 72(1), repealed by No. 44/1999 s. 28(1).

* * * * *

S. 80(1)(b) amended by No. 22/2001 s. 4(2).

(b) on the application of an authorised officer of the responsible authority, that they are being used for the purposes of the operation of a brothel or have been so used at any time during the period of 14 days immediately

before the date of the filing of the application and that there has not been granted, or is not in force, in respect of them any permit required under the **Planning and Environment Act 1987** for their use or development for those purposes.

(2) An authorised member of the police force or an authorised officer of the responsible authority may only apply under subsection (1)(a)(ii)(B) or (b) with respect to premises that he or she believes on reasonable grounds are being used for the purposes of the operation of a brothel at the date of the filing of the application or have been so used at any time during the period of 14 days immediately before the date of the filing of the application and that there has not been granted, or is not in force, in respect of them any permit required under the **Planning and Environment Act 1987** for their use or development for those purposes.

S. 80(2)
amended by
Nos 22/2001
s. 4(3),
73/2011
s. 10(2).

(3) The Magistrates' Court may only make a declaration under subsection (1) if it is satisfied that notice of the application was at least 72 hours before the hearing—

(a) served on the owner or occupier of the premises which are the subject of the application; or

(b) published in a newspaper generally circulating in the area in which the premises are situated.

(3A) On the hearing of an application under subsection (1), the Magistrates' Court may take into consideration any evidence which it considers credible or trustworthy in the circumstances.

S. 80(3A)
inserted by
No. 47/1997
s. 38.

Sex Work Act 1994
No. 102 of 1994
Part 5—Proscribed Brothels

s. 80

S. 80(3AA)
inserted by
No. 69/2009
s. 54(Sch. Pt 1
item 45).

(3AA) Nothing in subsection (3A) prevents the application of Part 3.10 of the **Evidence Act 2008** to an application under subsection (1).

S. 80(3AB)
inserted by
No. 73/2011
s. 10(3).

(3AB) Without limiting subsection (3A), evidence which may be taken into consideration includes evidence that the premises to which the application relates have been used for the purposes of the operation of a brothel during a period before the 14 day period to which the application relates.

S. 80(3B)
inserted by
No. 44/1999
s. 28(2).

- (3B) The Magistrates' Court must dismiss an application under subsection (1)(a) to the extent that it is based on there not being in force a licence authorising a person to carry on at the premises which are the subject of the application a business of a kind referred to in the definition of *brothel* in section 3 if the owner or occupier of those premises proves that he or she is exempted by section 23 from the requirement to hold a licence.
- (4) For the purposes of subsection (3)(a) a notice is sufficiently served on 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 such an address or description of the premises as should ensure the delivery of the letter at those premises.
- (5) A declaration under subsection (1) may be made for an unlimited period or for a period specified by the Magistrates' Court and the declaration remains in force accordingly unless it is sooner rescinded.

81 Publication of declaration

- (1) As soon as possible after the making of a declaration under section 80(1) the Chief Commissioner of Police (if the application for it was made by a member of the police force) or the responsible authority (if the application for it was made by one of its officers)—
 - (a) must cause a notice of the making of the declaration to be published on two days in a newspaper generally circulating in the area in which the premises are situated; and
 - (b) must cause a notice of the making of the declaration to be served personally on the owner or the occupier, or a mortgagee, of the premises; and
 - (c) must cause a copy of the declaration to be posted up at or near to the entrance to the premises so as to be visible and legible to any person entering them.
- (2) If, in the opinion of the Chief Commissioner or an authorised officer of the responsible authority (as the case requires), personal service as required by subsection (1)(b) cannot be promptly effected, the notice may be sufficiently served for the purposes of that subsection by posting it in a prepaid letter addressed to "the owner" or "the occupier" (without name or further description) and bearing such an address or description of the premises as should ensure the delivery of the letter at those premises.
- (3) A person must not cover, remove, deface or destroy a copy of a declaration posted up under subsection (1)(c).

Penalty: 60 penalty units or imprisonment for 6 months.

- (4) In a proceeding under this Part the production of a copy of a newspaper containing a notice published under subsection (1)(a) is evidence and, in the absence of evidence to the contrary, is proof that the notice was duly published in that newspaper on the date appearing on that newspaper.

82 Offences with respect to proscribed brothels

- (1) A person must not be found in or entering or leaving premises in respect of which there is in force a declaration declaring those premises to be a proscribed brothel notice of the making of which was published in accordance with section 81(1)(a).

Penalty: 60 penalty units or imprisonment for 12 months.

- (2) In a proceeding for an offence against subsection (1) it is a defence to the charge for the accused to prove that he or she was in or entering or leaving the premises in ignorance of the making of the declaration or for some lawful purpose.
- (3) In a proceeding for an offence against subsection (1), the accused cannot as a defence to the charge rely on the fact that—
- (a) the Chief Commissioner of Police or the responsible authority (as the case requires) has failed to comply with section 81(1); or
 - (b) a declaration posted up under section 81(1)(c) has been covered, removed, defaced or destroyed.
- (4) If any premises in respect of which there is in force a declaration declaring those premises to be a proscribed brothel are used as a brothel at any time after service of notice of the making of the declaration on the owner or occupier in accordance with section 81(1)(b), the owner or

occupier (as the case requires) is guilty of an offence and liable to a penalty of not more than 120 penalty units or to imprisonment for not more than 12 months.

- (5) In a proceeding for an offence against subsection (4) it is a defence to the charge for the accused to prove that he or she took all reasonable steps to prevent the premises being used as a brothel.

83 Police powers with respect to proscribed brothels

- (1) An authorised member of the police force may without warrant apprehend and take before a bail justice or the Magistrates' Court to be dealt with according to law any person whom he or she finds in or entering or leaving premises in respect of which there is in force a declaration declaring those premises to be a proscribed brothel notice of the making of which has been published in accordance with section 81(1)(a).
- (2) An authorised member of the police force may at any time—
- (a) enter any premises to which subsection (1) applies; or
 - (b) pass through or over any other land or building in order to enter those premises—
- and for that purpose may break open doors, windows or partitions on those premises or do any other acts on those premises that may be necessary.
- (3) An authorised member of the police force exercising a power under subsection (2) must, on request, produce—
- (a) evidence of his or her status as an authorised member of the police force; and
 - (b) a copy of the declaration declaring the premises to be a proscribed brothel.

84 Rescission of declaration

(1) The Magistrates' Court may rescind a declaration made under section 80(1) and may do so on any terms, conditions, limitations or restrictions that it thinks fit which may include the giving of security to ensure that the premises are not again—

S. 84(1)(a)
substituted by
No. 44/1999
s. 28(3).

(a) used for the carrying on of a business of a kind referred to in the definition of *brothel* in section 3 in contravention of section 22(1) or (1A) or 21A(1); or

S. 84(1)(ab)
inserted by
No. 73/1996
s. 72(2),
repealed by
No. 44/1999
s. 28(3).

* * * * *

(b) used for the purposes of the operation of a brothel without there being in force in respect of them any permit required under the **Planning and Environment Act 1987** for their use or development for those purposes.

(2) The Magistrates' Court may act under subsection (1) on the application of—

(a) the owner or the occupier, or a mortgagee, of the declared premises; or

(b) an authorised member of the police force; or

(c) an authorised officer of the responsible authority.

(3) The Magistrates' Court may only rescind a declaration under subsection (1) on an application made under subsection (2)(a) if it is satisfied that notice of the application was at least 72 hours before the hearing served on a superintendent or inspector of police stationed within the police

district in which the declared premises are situated and on the responsible authority.

85 Proof of declaration or rescission

- (1) The Magistrates' Court must cause notice of the making of a declaration under section 80(1) or of its rescission under section 84(1) to be published in the Government Gazette.
- (2) Notice of rescission published under subsection (1) must include any terms, conditions, limitations or restrictions imposed by the Court.
- (3) In a proceeding under this Part the production of a copy of the Government Gazette containing a notice published under subsection (1) is evidence and, in the absence of evidence to the contrary, is proof that the declaration or rescission was duly made.

85A What constitutes evidence of proscribed brothel

- (1) For the purposes of section 80(3A), the Magistrates' Court may take the following matters into consideration—
 - (a) people entering and leaving premises consistent with the use of premises for sex work services (including number and gender of people and frequency of attendance at premises);
 - (b) appointments at the premises for what a reasonable person would believe were the purposes of sex work services;

S. 85A inserted by No. 82/2008 s. 16.

S. 85A(1)(a) amended by No. 1/2010 s. 42(2)(Sch. item 66) (as amended by No. 63/2010 s. 27).

S. 85A(1)(b) amended by No. 1/2010 s. 42(2)(Sch. item 66) (as amended by No. 63/2010 s. 27).

Sex Work Act 1994
No. 102 of 1994
Part 5—Proscribed Brothels

s. 85A

S. 85A(1)(c)
amended by
No. 1/2010
s. 42(2)(Sch.
item 66) (as
amended by
No. 63/2010
s. 27).

(c) advertising, where contact details are provided which can be linked to premises offering sex work services;

S. 85A(1)(d)
amended by
No. 1/2010
s. 42(2)(Sch.
item 66) (as
amended by
No. 63/2010
s. 27).

(d) books, accounts and other documents that contain information which is consistent with the use of premises for sex work services;

S. 85A(1)(d)
amended by
No. 1/2010
s. 42(2)(Sch.
item 66) (as
amended by
No. 63/2010
s. 27).

(e) the arrangement of, or other matters relating to, the premises, including the presence of furniture or other items in the premises that is consistent with the use of the premises for sex work services.

(2) In any proceeding under this Act in which it is required to establish that sexual services were being offered or provided at a premises, evidence of the presence on premises of materials commonly used in safe sex practices is inadmissible for the purpose of establishing that sexual services were being offered or provided at the premises.

PART 6—GENERAL

86 Who may bring proceedings for offences?

S. 86
substituted by
No. 103/2004
s. 61.

- (1) Subject to subsection (1A), proceedings for an offence against this Act or the regulations may only be brought by a member of the police force.

S. 86(1)
substituted by
No. 73/2011
s. 11(1).

Note

Proceedings for an offence against section 126 of the **Planning and Environment Act 1987** in relation to land used for the purposes of the operation of a brothel may be brought by a member of the police force under that Act.

- (1A) Proceedings for an offence against a provision referred to in section 26(a) or the regulations may be brought by—
- (a) the Director; or
 - (b) a person authorised by the Director for the purposes of this section.
- (2) In proceedings for an offence against this Act it must be presumed, in the absence of evidence to the contrary, that the person bringing the proceedings was authorised to bring the proceedings.
- (3) Subsections (1) and (1A) do not apply to a proceeding for an indictable offence in which a direct indictment is filed.

S. 86(1A)
inserted by
No. 73/2011
s. 11(1).

S. 86(3)
substituted by
No. 73/2011
s. 11(2).

S. 86A
inserted by
No. 103/2004
s. 61,
amended by
Nos 17/2007
s. 36(Sch.
item 11),
2/2008
s. 60(Sch.
item 9.2),
72/2010
s. 48(Sch.
item 18),
substituted by
No. 21/2012
s. 239(Sch. 6
item 42.6).

86A Application of Australian Consumer Law and Fair Trading Act 2012

- (1) Sections 195 and 196 and Part 8.2 (except sections 209 and 213) of the **Australian Consumer Law and Fair Trading Act 2012** extend and apply (with any necessary modifications) to this Act as if any reference in those provisions to the **Australian Consumer Law and Fair Trading Act 2012** were a reference to this Act.
- (2) For the purposes of subsection (1)—
 - (a) section 210 of the **Australian Consumer Law and Fair Trading Act 2012** applies as if a reference in that section to Part 3.1 or Part 6.3 of the **Australian Consumer Law and Fair Trading Act 2012** were a reference to this Act;
 - (b) section 212 of the **Australian Consumer Law and Fair Trading Act 2012** applies as if a reference to prescribed proceedings were a reference to—
 - (i) proceedings for an offence against a provision of this Act (except Division 8A of Part 3); or
 - (ii) proceedings on an application for an injunction under section 201, 202, 203, 205 or 206 of the **Australian Consumer Law and Fair Trading Act 2012** (as applied by subsection (1)) against a person alleged to have contravened a provision of this Act (except Division 8A of Part 3); or
 - (iii) proceedings on an application for an order under section 216, or for damages under section 217, of the **Australian Consumer Law and Fair Trading Act 2012** (as applied by subsection (1)).

87 Secrecy

(1) The following are bound by this section—

S. 87(1)
amended by
No. 99/1995
s. 37(1).

(a) a member of the Advisory Committee;

S. 87(1)(a)
amended by
No. 52/1998
s. 230(a).

(b) a member of the police force;

(c) any person employed under Part 3 of the **Public Administration Act 2004** or any other person whose services are being made use of by the Advisory Committee.

S. 87(1)(c)
amended by
Nos 46/1998
s. 7(Sch. 1),
52/1998
s. 230(b),
108/2004
s. 117(1)
(Sch. 3
item 165.3).

(2) A person bound by this section must not directly or indirectly, except in the exercise of powers or performance of functions under or in connection with this Act, make a record of, or divulge to any person, any information concerning a person acquired in the exercise of those powers or performance of those functions.

S. 87(2)
amended by
No. 99/1995
s. 37(2)(a)(b).

Penalty: 60 penalty units.

(3) Nothing in subsection (2) prevents a person bound by this section from—

S. 87(3)
substituted by
No. 99/1995
s. 37(3).

(a) producing a document containing specified information, or divulging specified information, to such persons as the Minister directs if the Minister certifies that it is necessary in the public interest that the document should be so produced or the information should be so divulged; or

- (b) producing a document containing information, or divulging information, to a prescribed authority or a prescribed class of person or the holder of a prescribed office; or
- (c) producing a document containing information, or divulging information, to a person who is expressly or impliedly authorised by the person to whom the information relates to obtain it.

S. 87(4)
inserted by
No. 99/1995
s. 37(3).

- (4) An authority or person to whom a document containing information is produced or information is divulged under subsection (3), and a person or employee under the control of that authority or person, is subject, in respect of that information, to the same rights, privileges, obligations and liabilities under this section as if that authority, person or employee were a person performing functions under this Act and had acquired the information in the performance and those functions.

S. 87(5)
inserted by
No. 99/1995
s. 37(3).

- (5) Subject to subsections (6) and (7), a person bound by this section is not, except for the purposes of this Act, required—
 - (a) to produce in a court a document that has come into his or her possession or under his or her control; or
 - (b) to divulge to a court any information that has come to his or her notice—

in the exercise of powers or performance of functions under or in connection with this Act.

S. 87(6)
inserted by
No. 99/1995
s. 37(3).

- (6) If—
 - (a) the Minister certifies that it is necessary in the public interest that specified information should be divulged to a court; or

(b) a person to whom information relates has expressly authorised it to be divulged to a court—

a person bound by this section may be required—

(c) to produce in the court any document containing the information; or

(d) to divulge the information to the court.

(7) A person bound by this section may be required—

S. 87(7)
inserted by
No. 99/1995
s. 37(3).

(a) to produce in a court a document that has come into his or her possession or under his or her control; or

(b) to divulge to a court any information that has come to his or her notice—

if the court is hearing and determining an indictable offence, including a committal proceeding into an indictable offence and a summary hearing of an indictable offence.

(8) In this section—

S. 87(8)
inserted by
No. 99/1995
s. 37(3).

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

produce includes permit access to.

88 Immunity

(1) A member of the police force is not personally liable for anything necessarily or reasonably done or omitted to be done in good faith—

S. 88(1)
amended by
No. 52/1998
s. 231(1).

(a) in the exercise of a power or the performance of a function under or in connection with this Act; or

(b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function under or in connection with this Act.

s. 88A

S. 88(2)
amended by
No. 52/1998
s. 231(2).

(2) If a member of the police force does or omits to do anything—

- (a) negligently in the exercise of a power or performance of a function under or in connection with this Act; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function under or in connection with this Act—

and the act or omission is necessary or reasonable in the exercise or intended exercise of that power or the performance or intended performance of that function, any liability that would, but for subsection (1), attach to the person because of that act or omission attaches instead to the Crown.

S. 88A
inserted by
No. 99/1995
s. 38.

88A Destruction of fingerprints etc.

S. 88A(1)
amended by
No. 52/1998
s. 232.

(1) The Chief Commissioner of Police must destroy any fingerprints obtained by the Authority or an authorised member of the police force under this Act and referred to the Chief Commissioner, and any record, copy or photograph of them, or cause them to be destroyed as soon as he or she has no further use for them.

Penalty: 10 penalty units.

(2) The Chief Commissioner of Police is to be considered to have no further use for fingerprints when—

S. 88A(2)(a)
amended by
Nos 44/1999
s. 29, 1/2010
s. 42(2)(Sch.
item 67) (as
amended by
No. 63/2010
s. 27).

- (a) they were obtained in connection with an application for a licence or the approval, or renewal of the approval, of a person as a manager of a sex work service providing business and the application is refused; or

(b) the licence or approval in connection with which they were obtained is cancelled or not renewed.

- (3) A person who in connection with an application for a licence or the approval, or renewal of the approval, of a person as a manager of a sex work service providing business has possession of fingerprints obtained by the Authority or an authorised member of the police force under this Act, or of a record, copy or photograph of them, must deliver them to the Chief Commissioner of Police, in accordance with his or her directions, so as to enable the Chief Commissioner to comply with subsection (1).

S. 88A(3) amended by Nos 52/1998 s. 232, 44/1999 s. 29, 1/2010 s. 42(2)(Sch. item 67) (as amended by No. 63/2010 s. 27).

Penalty: 10 penalty units.

89 Evidentiary provisions

- (1) If—
- (a) a person's age at a particular time is material in any proceeding for an offence against this Act; and
- (b) it is asserted on behalf of the prosecution that the person was at that time under the age of 18 years—

it must be presumed, in the absence of evidence to the contrary, that the person's age at that time was the age that is so asserted.

- (2) A certificate in the prescribed form purporting to be signed by the registrar certifying as to any matter that appears in or can be deduced from the register referred to in section 24 or 55(1) is admissible in evidence in any proceeding and, in the absence of evidence to the contrary, is proof of the matters contained in it.

S. 89(2) amended by No. 47/1997 s. 39.

- (3) A certificate purporting to be signed by the Chief Commissioner of Police certifying that a member of the police force named in it is an authorised member of the police force within the meaning of this Act is admissible in evidence in any proceeding and, in the absence of evidence to the contrary, is proof of the matter contained in it.
- (4) A certificate purporting to be issued by the responsible authority certifying that an officer of the responsible authority named in it is an authorised officer of the responsible authority within the meaning of this Act is admissible in evidence in any proceeding and, in the absence of evidence to the contrary, is proof of the matter contained in it.
- (5) Section 141 of the **Planning and Environment Act 1987** (evidence of planning scheme provisions and permits) applies to proceedings under this Act in the same manner and to the same extent as it applies to proceedings under that Act.

S. 89A
inserted by
No. 82/2008
s. 17.

89A Power to serve an infringement notice

- (1) If a member of the police force or an inspector has reason to believe that a person has committed an offence referred to in subsection (3) or a prescribed offence, he or she may serve an infringement notice on that person.
- (2) An offence referred to in subsection (3) and a prescribed offence for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

(3) An infringement notice may be served in respect of an offence against—

(a) section 40A(3);

(ab) section 41;

S. 89A(3)(ab)
inserted by
No. 1/2010
s. 73(1)(a).

(b) section 52A(3);

(c) section 58(a);

(d) section 58(b);

(e) section 58(c);

(f) section 59(3)(a);

(g) section 60(1);

(h) section 60(2);

S. 89A(3)(h)
amended by
No. 1/2010
s. 73(1)(b).

(i) section 61(1);

S. 89A(3)(i)
inserted by
No. 1/2010
s. 73(1)(c) (as
amended by
No. 63/2010
s. 33).

(ia) section 61(2);

S. 89A(3)(ia)
inserted by
No. 1/2010
s. 73(1)(c) (as
amended by
No. 63/2010
s. 33).

(j) section 61C(1);

S. 89A(3)(j)
inserted by
No. 1/2010
s. 73(1)(c) (as
amended by
No. 63/2010
s. 33).

s. 89A

S. 89A(3)(k)
inserted by
No. 1/2010
s. 73(1)(c) (as
amended by
No. 63/2010
s. 33).

(k) section 61C(2);

S. 89A(3)(l)
inserted by
No. 1/2010
s. 73(1)(c) (as
amended by
No. 63/2010
s. 33).

(l) section 61C(3).

(4) The infringement penalty for an offence referred to in—

S. 89A(4)(ab)
inserted by
No. 1/2010
s. 73(2)(a).

- (a) subsection (3)(a) is 1 penalty unit;
- (ab) subsection (3)(ab) is 3 penalty units;

S. 89A(4)(h)
amended by
No. 1/2010
s. 73(2)(b).

- (b) subsection (3)(b) is 1 penalty unit;
- (c) subsection (3)(c) is 2 penalty units;
- (d) subsection (3)(d) is 2 penalty units;
- (e) subsection (3)(e) is 2 penalty units;
- (f) subsection (3)(f) is 2 penalty units;
- (g) subsection (3)(g) is 1 penalty unit;
- (h) subsection (3)(h) is 1 penalty unit;

S. 89A(4)(i)
inserted by
No. 1/2010
s. 73(2)(c) (as
amended by
No. 36/2011
s. 35(2)).

(i) subsection (3)(i) is 1 penalty unit;

(ia) subsection (3)(ia) is 1 penalty unit;

S. 89A(4)(ia)
inserted by
No. 1/2010
s. 73(2)(c) (as
amended by
No. 36/2011
s. 35(2)).

(j) subsection (3)(j) is 1 penalty unit;

S. 89A(4)(j)
inserted by
No. 1/2010
s. 73(2)(c) (as
amended by
No. 36/2011
s. 35(2)).

(k) subsection (3)(k) is 1 penalty unit;

S. 89A(4)(k)
inserted by
No. 1/2010
s. 73(2)(c) (as
amended by
No. 36/2011
s. 35(2)).

(l) subsection (3)(l) is 1 penalty unit.

S. 89A(4)(l)
inserted by
No. 1/2010
s. 73(2)(c) (as
amended by
No. 36/2011
s. 35(2)).

90 Regulations

- (1) A power conferred by this Act to make regulations may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, as respects the cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or

different provisions for the same case or class of case for different purposes; or

- (ii) any such provision either unconditionally or subject to any specified condition.

(2) Regulations made under this Act may be made—

(a) so as to apply—

- (i) at all times or at a specified time; or
- (ii) throughout the whole of the State or in a specified part of the State; or
- (iii) as specified in both subparagraphs (i) and (ii); and

(b) so as to require a matter affected by the regulations to be—

- (i) in accordance with a specified standard or specified requirement; or
- (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
- (iii) as specified in both subparagraphs (i) and (ii); and

(c) so as to apply, adopt or incorporate any matter contained in any document whatsoever whether—

- (i) wholly or partially or as amended by the regulations; or
- (ii) as in force at the time the regulations are made or at any time before then; and

(d) so as to confer a discretionary authority or impose a duty on a specified person or a specified class of person; and

(e) so as to provide in a specified case or class of case for the exemption of people or things or a class of people or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and

S. 90(2)(e)
amended by
No. 99/1995
s. 39.

(f) so as to impose a penalty not exceeding 40 penalty units for a contravention of the regulations.

S. 90(2)(f)
inserted by
No. 99/1995
s. 39.

PART 7—TRANSITIONAL PROVISIONS

Pt 7
(Heading and
ss 91–98)
substituted as
Pt 7
(Heading and
s. 91) by
No. 47/1997
s. 40.

S. 91
substituted by
No. 47/1997
s. 40.

91 Prostitution Control (Amendment) Act 1997

- (1) The Prostitution Control Board is to be taken to be the same body in spite of changes to its structure made by the **Prostitution Control (Amendment) Act 1997** and no act, proceeding, matter or thing is to be affected because of those changes of structure.
- (2) The amendments made by section 6 of the **Prostitution Control (Amendment) Act 1997** to section 24(6) apply with respect to any application made before the commencement of section 6 by a person whose name appears in the register referred to in section 24 for the omission of that person's entry from the register in addition to each application made after that commencement.
- (3) The amendments made by section 22 of the **Prostitution Control (Amendment) Act 1997** to section 47(1) apply only in relation to a licensee who has been convicted or found guilty of an offence to which section 47(1)(ab) refers that occurred after the commencement of section 22.
- (4) The amendments made by section 29 of the **Prostitution Control (Amendment) Act 1997** to section 53(1) apply only in relation to an approved manager convicted or found guilty of an offence to which section 53(1)(ab) refers that occurred after the commencement of section 29.

92 Prostitution Control (Amendment) Act 1999

- (1) The amendments of section 22 of this Act made by sections 7 and 8 of the **Prostitution Control (Amendment) Act 1999** apply only to offences alleged to have been committed after the commencement of those sections.
- (2) For the purposes of subsection (1), if an offence is alleged to have been committed between two dates of which one is before and one is on or after the day of commencement of sections 7 and 8 of the **Prostitution Control (Amendment) Act 1999**, the offence is alleged to have been committed before that commencement.
- (3) The amendments of this Act made by sections 10 and 11 of the **Prostitution Control (Amendment) Act 1999** apply to—
 - (a) applications for a licence made before the commencement of those sections but not determined at that commencement; and
 - (b) applications for a licence made after that commencement.
- (4) The amendments of this Act made by sections 12 and 22 of the **Prostitution Control (Amendment) Act 1999** apply to and with respect to licensees and the licences of licensees, whether the licence was granted before or after the commencement of those sections.
- (5) Subject to subsection (6), the amendments of this Act made by section 13 of the **Prostitution Control (Amendment) Act 1999** apply to and with respect to licensees and the licences of licensees, whether the licence was granted before or after the commencement of that section.

S. 92
repealed by
No. 47/1997
s. 40,
new s. 92
inserted by
No. 44/1999
s. 30.

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- (6) The amendments of section 47 of this Act made by section 13 of the **Prostitution Control (Amendment) Act 1999** do not affect any application made to the Tribunal under section 47(1) before the commencement of section 13 of that Act that had not been finally determined before that commencement and any such application shall be determined as if that section of that Act had not come into operation.
- (7) The amendments of this Act made by sections 15 and 16(1), (2) and (3) of the **Prostitution Control (Amendment) Act 1999** apply to—
- (a) applications for an approval or the renewal of an approval made before the commencement of those sections but not determined at that commencement; and
 - (b) applications for an approval or the renewal of an approval made after that commencement.
- (8) Subject to subsection (9), the amendments of this Act made by sections 16(4) and (5), 17, 18 and 19 of the **Prostitution Control (Amendment) Act 1999** apply to and with respect to approved managers and the approvals of approved managers, whether the approval was granted or renewed before or after the commencement of those sections.
- (9) The substitution of a new section 53 of this Act made by section 18 of the **Prostitution Control (Amendment) Act 1999** does not affect any application made to the Tribunal under section 53(1) before the commencement of section 18 of that Act that had not been finally determined before that commencement and any such application shall be determined as if that section of that Act had not come into operation.

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- (10) The amendment of section 77 of this Act made by section 27 of the **Prostitution Control (Amendment) Act 1999** applies only with respect to declarations made by a court under section 77(2) of this Act after the commencement of section 27 of that Act.
- (11) The amendments of section 80 of this Act made by section 28(1) and (2) of the **Prostitution Control (Amendment) Act 1999** apply only with respect to applications made under section 80(1)(a) of this Act after the commencement of section 28(1) and (2) of that Act.
- (12) The amendment of section 84(1) of this Act made by section 28(3) of the **Prostitution Control (Amendment) Act 1999** applies to—
- (a) applications under section 84 of this Act made before the commencement of section 28(3) of that Act but not determined at that commencement; and
 - (b) applications under section 84 of this Act made after that commencement.

**93 Prostitution Control and Other Matters
Amendment Act 2008**

- (1) The amendments made to this Act by a relevant provision apply only to offences alleged to have been committed on or after the commencement of that provision.
- (2) For the purposes of subsection (1), if an offence is alleged to have been committed between two dates, one before and one after the commencement of a relevant provision, the offence is taken to be alleged to have been committed before the commencement of that provision.

S. 93
repealed by
No. 47/1997
s. 40,
new s. 93
inserted by
No. 82/2008
s. 18.

(3) In this section, *relevant provision* means a provision of any of the following—

- (a) section 3;
- (b) section 4;
- (c) section 13;
- (d) section 15;
- (e) section 16—

of the **Prostitution Control and Other Matters Amendment Act 2008**.

S. 94
repealed by
No. 47/1997
s. 40,
new s. 94
inserted by
No. 1/2010
s. 74.

94 Saving provision concerning change of Act name

Any reference to the **Prostitution Control Act 1994** in any Act, subordinate instrument, agreement or other document as far as it relates to any period after the commencement of section 42 of the **Consumer Affairs Legislation Amendment Act 2010** is to be treated as a reference to the **Sex Work Act 1994**, unless the contrary intention appears.

S. 95
repealed by
No. 47/1997
s. 40, new
s. 95
inserted by
No. 73/2011
s. 12.

95 Sex Work and Other Acts Amendment Act 2011

- (1) Section 37 as amended by section 6 of the **Sex Work and Other Acts Amendment Act 2011** applies to applications under section 33 made on or after the commencement of section 6 of that Act.
- (2) Section 48(3)(da) as amended by section 7 of the **Sex Work and Other Acts Amendment Act 2011** applies to applications under section 48(1) made on or after the commencement of section 7 of that Act.
- (3) Section 51(1)(b) as amended by section 8 of the **Sex Work and Other Acts Amendment Act 2011** applies to applications under section 50(1) made on or after the commencement of section 8 of that Act.

Sex Work Act 1994
No. 102 of 1994
Part 7—Transitional Provisions

s. 96

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**Ss 96–98
repealed by
No. 47/1997
s. 40.**

Sex Work Act 1994
No. 102 of 1994

Sch. 1

SCHEDULES

Sch. 1
amended by
Nos 47/1997
s. 41, 46/1998
s. 7(Sch. 1),
repealed by
No. 52/1998
s. 233.

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Sch. 2
amended by
Nos 47/1997
s. 42, 46/1998
s. 7(Sch. 1),
repealed by
No. 52/1998
s. 233.

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SCHEDULE 3

Sections 47(1) and 53(1)

Sch. 3
inserted by
No. 47/1997
s. 43,
amended by
No. 82/2008
s. 19.

DISCIPLINARY OFFENCES

1. An offence against any of the following sections of the Migration Act 1958 of the Commonwealth—

<i>Section</i>	<i>Description of offence</i>
233	(Persons concerned in bringing non-citizens into Australia in contravention of Act or harbouring illegal entrants)
234	(False papers etc.)
235	(Offences in relation to work)
236	(Offences relating to visas)
240	(Offence to arrange marriage to obtain permanent residence)
241	(Offence to arrange pretended de facto relationship to obtain permanent residence)
242	(Offence to arrange interdependency relationship to obtain permanent residence)
243	(Offences relating to an application for permanent residence because of marriage or de facto relationship)
244	(Offences relating to application for permanent residence because of interdependency)
245	(Offences of making false or unsupported statements)
245AB	(Allowing an unlawful non-citizen to work)
245AC	(Allowing a non-citizen to work in breach of a visa condition)
245AD	(Referring an unlawful non-citizen for work)
245AE	(Referring a non-citizen for work in breach of a visa condition)
280	(Restrictions on giving of immigration assistance)
281	(Restriction on charging fees for immigration assistance)
282	(Restriction on charging fees for immigration representatives)
283	(False representation that a person is a registered agent)

Sex Work Act 1994
No. 102 of 1994

Sch. 3

<i>Section</i>	<i>Description of offence</i>
284	(Restriction on self-advertising of the giving of immigration assistance)
285	(Restriction on other advertising of immigration assistance)

2. An offence against the following section of the Crimes Act 1914 of the Commonwealth—

<i>Section</i>	<i>Description of offence</i>
29B	(False representation).

3. An offence against any of the following sections of the Criminal Code Act 1995 of the Commonwealth—

<i>Section</i>	<i>Description of offence</i>
270.3	(Slavery offences)
270.6	(Sexual servitude offences)
270.7	(Deceptive recruiting for sexual services)
270.8	(Aggravated offences)
271.2	(Offence of trafficking in persons)
271.3	(Aggravated offence of trafficking in persons)
271.4	(Offence of trafficking in children)
271.5	(Offence of domestic trafficking in persons)
271.6	(Aggravated offence of domestic trafficking in persons)
271.7	(Offence of domestic trafficking in children)
271.8	(Offence of debt bondage)
271.9	(Offence of aggravated debt bondage)

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 21 October 1994

Legislative Council: 29 November 1994

The long title for the Bill for this Act was "A Bill to reform the law relating to prostitution, to repeal the **Prostitution Regulation Act 1986** and the **Town and Country Planning (Miscellaneous Provisions) Act 1961**, to amend the **Crimes Act 1958**, the **Evidence Act 1958** and the **Travel Agents Act 1986** and to make consequential amendments to certain other Acts and for other purposes."

The **Prostitution Control Act 1994** was assented to on 13 December 1994 and came into operation as follows:

Sections 1, 2 on 13 December 1994: section 2(1); rest of Act on 13 June 1995: section 2(3).

The title of this Act was changed from the **Prostitution Control Act 1994** to the **Sex Work Act 1994** by section 42(1) of the **Consumer Affairs Legislation Amendment Act 2010**, No. 1/2010.

Sex Work Act 1994
No. 102 of 1994

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Sex Work Act 1994** by Acts and subordinate instruments.

Miscellaneous Acts (Health and Justice) Amendment Act 1995, No. 99/1995

Assent Date: 5.12.95
Commencement Date: 5.12.95
Current State: All of Act in operation

Children's Services Act 1996, No. 53/1996

Assent Date: 3.12.96
Commencement Date: S. 60 on 1.6.98: Government Gazette 28.5.98 p. 1189
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Miscellaneous Acts (Further Omnibus Amendments) Act 1996, No. 73/1996

Assent Date: 17.12.96
Commencement Date: Pt 20 (ss 68–73) on 17.12.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Prostitution Control (Amendment) Act 1997, No. 47/1997

Assent Date: 11.6.97
Commencement Date: Ss 4–43 on 28.10.97: Government Gazette 9.10.97 p. 2820
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Sentencing and Other Acts (Amendment) Act 1997, No. 48/1997

Assent Date: 11.6.97
Commencement Date: S. 70 on 1.9.97: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998 (as amended by No. 101/1998)

Assent Date: 2.6.98
Commencement Date: Ss 193–233 on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Licensing and Tribunal (Amendment) Act 1998, No. 101/1998

Assent Date: 1.12.98
Commencement Date: Pt 5 (ss 10, 11) on 1.2.99: Government Gazette
24.12.98 p. 3204
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Fair Trading (Inspectors Powers and Other Amendments) Act 1999, No. 17/1999

Assent Date: 18.5.99
Commencement Date: S. 40 on 1.9.99: Government Gazette 19.8.99 p. 1901
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Prostitution Control (Amendment) Act 1999, No. 44/1999

Assent Date: 8.6.99
Commencement Date: Ss 4(1), 7–11, 13–20, 23–25, 27–31 on 8.6.99: s. 2(1);
ss 4(2)(3), 5, 6(1), 26 on 1.9.99: s. 2(3); ss 6(2), 12, 21,
22 on 1.2.00: s. 2(5)
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Prostitution Control (Planning) Act 2000, No. 12/2000

Assent Date: 18.4.00
Commencement Date: 19.4.00: s. 2
Current State: All of Act in operation

Planning and Environment (Amendment) Act 2000, No. 28/2000

Assent Date: 30.5.00
Commencement Date: S. 21 on 31.5.00: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Business Registration Acts (Amendment) Act 2000, No. 35/2000

Assent Date: 6.6.00
Commencement Date: S. 49 on 19.6.00: Government Gazette 15.6.00 p. 1248
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001,
No. 11/2001**

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 60) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Prostitution Control (Proscribed Brothels) Act 2001, No. 22/2001

Assent Date: 29.5.01
Commencement Date: 30.5.01: s. 2
Current State: All of Act in operation

Sex Work Act 1994
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Endnotes

Statute Law Amendment (Relationships) Act 2001, No. 27/2001

Assent Date: 12.6.01
Commencement Date: S. 8(Sch. 6 item 5) on 28.6.01: Government Gazette 28.6.01 p. 1428
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 94) on 15.7.01: s. 2
Current State: All of Act in operation

Australian Crime Commission (State Provisions) Act 2003, No. 52/2003

Assent Date: 16.6.03
Commencement Date: S. 52(Sch. 1 item 10) on 17.6.03: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Crimes (Controlled Operations) Act 2004, No. 16/2004

Assent Date: 18.5.04
Commencement Date: S. 55 on 2.11.08: Government Gazette 30.10.08 p. 2530
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Fair Trading (Enhanced Compliance) Act 2004, No. 103/2004

Assent Date: 21.12.04
Commencement Date: Ss 60, 61 on 22.12.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 165) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 32) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 87) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Fair Trading and Consumer Acts Amendment Act 2007, No. 17/2007

Assent Date: 29.5.07
Commencement Date: S. 36(Sch. item 11) on 30.5.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Fair Trading and Consumer Acts Further Amendment Act 2008, No. 2/2008

Assent Date: 11.2.08
Commencement Date: S. 60(Sch. item 9) on 12.2.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Motor Car Traders Amendment Act 2008, No. 4/2008

Assent Date: 4.3.08
Commencement Date: S. 32(Sch. item 27) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Relationships Act 2008, No. 12/2008

Assent Date: 15.4.08
Commencement Date: S. 73(1)(Sch. 1 item 49) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Courts Legislation Amendment (Associate Judges) Act 2008, No. 24/2008

Assent Date: 3.6.08
Commencement Date: S. 86 on 17.12.08: Special Gazette (No. 377) 16.12.08 p. 1
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Public Health and Wellbeing Act 2008, No. 46/2008

Assent Date: 2.9.08
Commencement Date: S. 283 on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Prostitution Control and Other Matters Amendment Act 2008, No. 82/2008

Assent Date: 11.12.08
Commencement Date: Ss 3(1)(2), 9, 11, 12, 14, 16–19 on 12.12.08: s. 2(1); ss 3(3)(4), 4, 5, 7(3), 10, 13, 15 on 1.3.09: s. 2(3); ss 6, 7(1)(2), 8 on 1.1.10: s. 2(4)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Justice Legislation Amendment Act 2009, No. 25/2009

Assent Date: 17.6.09
Commencement Date: Ss 27–33 on 3.9.09: Government Gazette 3.9.09 p. 2331
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Sex Work Act 1994
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Endnotes

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 98) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 1 item 45) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Consumer Affairs Legislation Amendment Act 2010, No. 1/2010 (as amended by Nos 63/2010, 36/2011)

Assent Date: 9.2.10
Commencement Date: Ss 47, 63 on 1.8.10: Government Gazette 22.7.10 p. 1628; ss 42, 44, 52, 53, 62, 64–67, 71, 72, 74, Sch. on 1.11.10: Government Gazette 14.10.10 p. 2404; s. 60 on 1.12.10: Government Gazette 14.10.10 p. 2404; ss 68(1)(2)(4), 69, 70 on 1.1.11: Special Gazette (No. 502) 20.12.10 p. 1; s. 68(3)(5) never proclaimed, repealed by No. 63/2010 s. 32; ss 43, 45, 46, 48–51, 54–59, 61, 73 on 1.9.11: s. 2(5)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Consumer Affairs Legislation Amendment (Reform) Act 2010, No. 63/2010 (as amended by No. 63/2010)

Assent Date: 28.9.10
Commencement Date: S. 74 on 1.11.10: Government Gazette 14.10.10 p. 2404
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Justice Legislation Further Amendment Act 2010, No. 64/2010

Assent Date: 28.9.10
Commencement Date: S. 69 on 1.1.11: s. 2(11)
Current State: This information relates only to the provision/s amending the **Sex Work Act 1994**

Marine Safety Act 2010, No. 65/2010

Assent Date: 28.9.10
Commencement Date: S. 420(Sch. 3 item 15) on 1.7.12: s. 2(2)
Current State: The information relates only to the provision/s amending the **Sex Work Act 1994**

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Endnotes

Fair Trading Amendment (Australian Consumer Law) Act 2010, No. 72/2010

Assent Date: 19.10.10
Commencement Date: S. 48(Sch. item 18) on 1.1.11: Special Gazette
(No. 502) 20.12.10 p. 1
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Sex Work and Other Acts Amendment Act 2011, No. 73/2011

Assent Date: 6.12.11
Commencement Date: Ss 14, 15 on 7.12.11: s. 2(1); ss 3–13 on 1.3.12:
Special Gazette (No. 54) 28.2.12 p. 1
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Children's Services Amendment Act 2011, No. 80/2011

Assent Date: 21.12.11
Commencement Date: S. 79(Sch. item 7) on 1.1.12: Special Gazette
(No. 423) 21.12.11 p. 2
Current State: This information relates only to the provision/s
amending the **Sex Work Act 1994**

Australian Consumer Law and Fair Trading Act 2012, No. 21/2012

Assent Date: 8.5.12
Commencement Date: S. 239(Sch. 6 item 42) on 1.7.12: Special Gazette
(No. 214) 28.6.12 p. 1
Current State: The information relates only to the provision/s
amending the **Sex Work Act 1994**

Endnotes

3. Explanatory Details

¹ S. 52: The amendment made to section 52 by section 218(2) of the **Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998**, No. 52/1998 was repealed, as from 1 July 1998, by section 21(c) of the **Licensing and Tribunal (Amendment) Act 1998**, No. 101/1998.