

Prostitution Control Regulations 2006

S.R. No. 64/2006

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STATUTORY RULES 2006

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Prostitution Control Act 1994

Prostitution Control Regulations 2006

The Governor in Council makes the following Regulations:

Dated: 6 June 2006

Responsible Minister:

MARSHA THOMSON
Minister for Consumer Affairs

RUTH LEACH
Clerk of the Executive Council

PART 1—PRELIMINARY

1. Objective

The objective of these Regulations is to prescribe for the purposes of the **Prostitution Control Act 1994**—

- (a) a list of sexually transmitted diseases; and
- (b) requirements for the safety of persons working in a prostitution business; and
- (c) safety matters relevant to the suitability of licence applicants; and
- (d) controls on the advertising by prostitution service providers; and
- (e) particulars to be given to the Authority by small owner-operated businesses; and
- (f) the form of registrar's certificates.

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Part 1—Preliminary

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2. Authorising provisions

These Regulations are made under sections 3, 18, 68 and 90 of the **Prostitution Control Act 1994**.

3. Commencement

These Regulations come into operation on 13 June 2006.

4. Revocation

The Prostitution Control Regulations 1995¹ are **revoked**.

5. Definitions

In these Regulations—

"business name" has the same meaning as in section 4(1) of the **Business Names Act 1962**;

"licensee" means the holder of a licence granted under Part 3 of the Act authorising the holder to carry on business as a prostitution service provider;

"the Act" means the **Prostitution Control Act 1994**.

PART 2—HEALTH AND SAFETY REQUIREMENTS

6. Sexually transmitted diseases

For the purposes of the definition of "sexually transmitted diseases" in section 3 of the Act, the following diseases or conditions are prescribed—

Chlamydia

Chancroid

Donovanosis

Genital and anal herpes (when lesions are visible)

Genital and anal warts (when lesions are visible)

Gonorrhoea

Infectious Syphilis

Note: Section 3 of the Act provides that HIV, as defined by section 3 of the **Health Act 1958**, is also a sexually transmitted disease.

7. Safety requirements

- (1) If a prostitute decides not to provide, or to stop providing, sexual services because he or she believes a situation is potentially violent or unsafe, the prostitution service provider or the approved manager must not—
- (a) dispute the prostitute's decision; or
 - (b) initiate or allow punitive action against the prostitute; or
 - (c) permit another person to do anything referred to in paragraph (a) or (b).

Penalty: 40 penalty units.

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Part 2—Health and Safety Requirements

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- (2) A licensee and the approved manager must ensure that persons acting as receptionists or telephone receptionists for the licensee's business do not—
- (a) misrepresent the qualities of any prostitute; or
 - (b) negotiate on behalf of a prostitute the sexual services to be provided by the prostitute.

Penalty: 40 penalty units.

- (3) If a business is, or includes a brothel, the prostitution service provider and the approved manager must ensure that—
- (a) all rooms used for prostitution have a concealed alarm button, or equivalent communication device, that is in working order and can be easily accessed by the prostitute throughout the delivery of sexual services; and
 - (b) all rooms used for prostitution have sufficient lighting to enable prostitutes to check for readily evident signs of sexually transmitted diseases; and
 - (c) a safe-sex sign containing an illustration that depicts the whole or a portion of an adult male wearing a condom is prominently displayed in the reception area of the business and in every room used for prostitution.

Penalty: 40 penalty units.

- (4) The prostitution service provider and the approved manager of a brothel must ensure that a prostitute is not required to clean or disinfect any bath or shower at the premises unless—

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Part 2—Health and Safety Requirements

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- (a) those facilities have been used by a person to whom sexual services have just been provided by that prostitute; and
 - (b) adequate protective clothing is provided.

Penalty: 20 penalty units.

- (5) The prostitution service provider and the approved manager of a brothel must ensure that no person working on the premises as a prostitute is required to clean any bath, shower, toilet or spa at the premises except as required under sub-regulation (4), unless—
 - (a) the prostitute is employed or contracted as a cleaner; and
 - (b) adequate protective clothing is provided.

Penalty: 20 penalty units.

- (6) If a business is, or includes an escort agency, to ensure the safety of prostitutes delivering sexual services away from the business premises, the prostitution service provider and the approved manager must—
 - (a) ensure regular contact with the prostitute is maintained by requiring the prostitute to confirm his or her arrival at each new premises and the completion of each visit; and
 - (b) ensure each prostitute has or is provided with a mobile telephone or an alternative communication device to enable contact with the prostitution service provider or the approved manager; and
 - (c) if the prostitute advises that he or she believes that a situation is potentially violent or unsafe, provide assistance to the prostitute as soon as possible; and

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Part 2—Health and Safety Requirements

(d) provide the prostitute with a free supply of condoms and water based lubricant.

Penalty: 40 penalty units.

(7) Sub-regulation (6), except paragraph (c) does not apply to a prostitution service provider who—

(a) satisfies the Director that alternative arrangements in his or her business provide greater safety; and

(b) ensures that these alternative arrangements are followed at all times in his or her business.

Note: The requirements of regulation 7 do not affect any duty of an employer under the **Occupational Health and Safety Act 2004**.

8. Safety matters relevant to suitability of applicants

For the purposes of section 38(1)(d) of the Act, it is a requirement that the applicant ensures—

(a) that all prostitutes, receptionists and managers are aware of the requirements of regulation 7; and

(b) that regulation 7 can and will be complied with at all times.

PART 3—ADVERTISING CONTROLS

9. Advertising controls

- (1) Every advertisement for a business carried on by a prostitution service provider must contain the letters "PCA" followed by—
 - (a) in the case of a prostitution service provider who is a small owner operator exempted by section 23 of the Act from the requirement to hold a licence, the exemption number allocated to that provider by the Authority; and
 - (b) in the case of a licensee, the licence number allocated to that provider by the Authority.
- (2) The letters "PCA" referred to in sub-regulation (1) and either the exemption number referred to in paragraph (a) or the licence number referred to in paragraph (b) must be clearly legible in a point type no smaller than the smallest point type appearing in the advertisement or 7 point type, whichever is the larger.
- (3) An advertisement for a business carried on by a prostitution service provider must not contain a licence number or exemption number which is false, or which the provider is no longer entitled to use.
- (4) An advertisement for a business carried on by a prostitution service provider—
 - (a) must not contain a photographic or other pictorial representation of a person unless it is restricted to the head and shoulders; and

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Part 3—Advertising Controls

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- (b) must not contain a photographic or other pictorial representation of a particular person unless that person has given written consent for that advertisement and a copy of the signed consent has been given to that person.
- (5) A person must not arrange for any photograph, pictorial representation, text or other material to appear in conjunction with an advertisement for a business carried on by a prostitution service provider unless that material is itself an advertisement for such a business.
- (6) An advertisement for a business carried on by a prostitution service provider—
- (a) must not refer to the race, colour or ethnic origin of the person offering sexual services; and
 - (b) must not refer to the health of, or any diagnostic procedures or medical testing undertaken by, the person offering sexual services; and
 - (c) may contain references to the sexual orientation of the person offering sexual services; and
 - (d) may state that safe sexual practices are engaged in and that condoms are always used.
- (7) An advertisement for a business carried on by a prostitution service provider must not exceed a size of 18 centimetres by 13 centimetres unless—
- (a) it appears in outdoor advertising; or
 - (b) it appears in an electronic communication; or
 - (c) it appears on the Internet.
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Part 3—Advertising Controls

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- (8) If 2 or more advertisements for a prostitution service provider are published in the same publication, apart from an advertisement referred to in paragraphs (a), (b) and (c) of sub-regulation (7), they must not form part of a unified whole which exceeds a size of 18 centimetres by 13 centimetres.
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PART 4—SMALL OWNER OPERATORS

10. Small owner-operated prostitution service providers

- (1) For the purposes of section 24 of the Act, the prescribed particulars are—
- (a) for each person working as a prostitution service provider in the business all names by which the prostitution service provider has been and is known, his or her date of birth and residential address; and
 - (b) all business names under which the prostitution business will be carried on; and
 - (c) the business address and all telephone numbers, and any electronic addresses used in carrying on the prostitution business; and
 - (d) if available, an Australian Business Number issued under A New Tax System (Australian Business Number) Act 1999 of the Commonwealth.
- (2) For the purposes of section 24 of the Act, if a business is, or includes a brothel, the prescribed particulars also include—
- (a) the name and address of the owner of the premises at which the business is conducted;
 - (b) if the premises are leased, the landlord's approval and a copy of the lease; and
 - (c) a copy of the planning permit granted by the responsible authority in respect of the business.
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Part 5—Other Matters

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PART 5—OTHER MATTERS

11. Certificate of Registrar

For the purposes of section 89(2) of the Act, the certificate must be in the form set out in the Schedule.

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SCHEDULE

Regulation 11

CERTIFICATE OF REGISTRAR

Prostitution Control Act 1994

With respect to the register referred to in *section 24/section 55(1) of the
Prostitution Control Act 1994, I certify that—

Dated:

Signed:

Registrar

Business Licensing Authority

*Delete if inapplicable

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Endnotes

ENDNOTES

- ¹ Reg. 4: S.R. No. 72/1995. Reprint No. 1 as at 1 November 2004.
Reprinted to S.R. No. 128/2004. Subsequently extended in operation by
S.R. No. 36/2005.