

# Prostitution Bill 2011

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## CONTENTS

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### **Part 1 — Preliminary**

1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Prostitution	4
5.	Delegation of CEO's functions	5
6.	Delegation of Commissioner's functions	5
7.	Service etc. of documents	6

### **Part 2 — General provisions about prostitution**

8.	Term used: public place	7
9.	Seeking prostitute in or in view of or within hearing of public place	7
10.	Seeking client in or in view of or within hearing of public place	8
11.	Seeking to induce person to act as prostitute	9
12.	Refusal to take part in act of prostitution	10
13.	Client not to take part in, or negotiate, act of prostitution if no licence applies to place	10
14.	Persons not to be in prostitution business place unless licences of operator and manager, or self-employed prostitute, displayed	11
15.	Prohibition on acts of prostitution with person in sexual servitude	12
16.	Promoting employment in prostitution industry	13
17.	Prohibition of certain sponsorships	13

**Part 3 — Conducting a prostitution business**

18.	Display of licence	15
19.	Operator not to act as prostitute	16
20.	Operator or manager must be present	16
21.	Person acting as prostitute in prostitution business must be an employee or contractor	16
22.	Person acting as prostitute in prostitution business must be licensed or verify identity etc.	17
23.	Manager not to act as prostitute on same shift	17
24.	Prostitution business not to operate in licensed premises	17
25.	Restrictions on alcohol	18
26.	Limit on number of prostitution businesses to be conducted in a place	18
27.	Advertising, signage restrictions	18
28.	Obligations of operators and managers as to information about right of refusal	20
29.	Refusal to work as prostitute does not affect entitlements	20

**Part 4 — Minimising risk of acquiring, transmitting sexually transmissible infections**

30.	Terms used	21
31.	Suitable sheath must be provided, used in certain acts of prostitution	21
32.	No representations as to STI infection status	22
33.	Prohibition on certain acts of prostitution for persons with STI	23
34.	Further minimising risk of STI acquisition, transmission	24
35.	Obligations of operators and managers as to health information	24

**Part 5 — Children**

36.	Causing, permitting or seeking to induce child to act as prostitute	26
37.	Obtaining payment for prostitution by child	26

38.	Agreement for prostitution by child	26
39.	Prostitution in place where child present	27
40.	Allowing child to be in place involving prostitution	27
41.	Obligations of prostitution business operators in relation to children	27
42.	Acting as prostitute for child	28
43.	Child not to seek services of prostitute	28
	<b>Part 6 — Licensing</b>	
	<b>Division 1 — Preliminary</b>	
44.	Terms used	30
	<b>Division 2 — Licences required for certain activities involving prostitution</b>	
45.	Operators to be licensed	31
46.	Managers to be licensed	32
47.	Prostitutes to be licensed or to verify identity etc. for operator	32
48.	Limiting numbers of licences that may be issued for areas, periods	32
	<b>Division 3 — Licence applications</b>	
49.	Application for operator's licence or renewal	33
50.	Application for manager's licence or renewal	34
51.	Application for prostitute's licence or renewal	35
52.	Taking of fingerprints and palm prints	36
53.	Further information relevant to application	38
54.	Report of Commissioner	39
55.	Issue, renewal of operator's licence	39
56.	One person may hold up to 3 operator's licences	42
57.	Issue, renewal of manager's licence	42
58.	Issue, renewal of prostitute's licence	44
59.	Reasons for refusal to issue, renew licence	45
	<b>Division 4 — Licence conditions</b>	
60.	Conditions generally	46
61.	Condition as to change of location of business	46
62.	Conditions as to size of business	47
63.	Conditions of operator's licences as to records to be kept	47
64.	Conditions imposed by CEO	48
65.	Compliance with conditions	49

	<b>Division 5 — Other matters about licences</b>	
66.	Duration of licence	50
67.	Licence not transferable	50
68.	Register of licence holders	50
69.	Inspection of register	51
70.	Licence document	52
71.	CEO to be notified of certain matters affecting licences	52
	<b>Division 6 — Suspension or revocation of licence</b>	
72.	Powers of CEO	55
73.	Suspension or revocation of a licence	56
74.	Notification of revoked licences	58
75.	Persons whose licence revoked not to work for prostitution business for 5 years	59
	<b>Division 7 — Offences relating to licences</b>	
76.	False or misleading information	59
77.	Offences in relation to determination under section 72	60
78.	Incriminating information, questions or documents	61
	<b>Division 8 — Planning and development controls</b>	
79.	Terms used	61
80.	Measurement of distances	63
81.	This Division does not affect licensing requirements	64
82.	This Division overrides planning schemes, approvals	64
83.	No prostitution businesses in residential areas	64
84.	Prostitution businesses in non-residential areas	65
85.	Prostitution businesses in non-residential areas in City of Perth inner zone	65
86.	Prostitution businesses in non-residential areas in rest of State	66
	<b>Division 9 — Governor's powers as to licences in certain areas and licence applications</b>	
87.	Terms used	68
88.	No licence area order	68
89.	Particular applicant order	69

---

90.	Effect of orders	70
91.	Orders not open to disallowance, challenge	70
<b>Part 7 — Enforcement</b>		
<b>Division 1 — Preliminary</b>		
92.	Term used: authorised person	71
93.	Reasonable force	71
94.	Hindering performance of functions	71
<b>Division 2 — Information and reports</b>		
95.	Confidential police information	71
96.	Commissioner's reports, opinions on licensing matters	73
<b>Division 3 — Authorised persons</b>		
97.	Authorised persons	73
98.	Identity cards	73
99.	Production or display of identity card	74
100.	Limitation on powers of authorised person	74
<b>Division 4 — Enforcement powers</b>		
101.	Terms used	75
102.	Police officer, authorised person, may enter place for certain purposes	75
103.	Obstructing person exercising power under s. 102	76
104.	Powers to obtain information	77
105.	Failure to comply with requirements under s. 104	79
106.	Police direction to move on	80
107.	Detain, search and seize without warrant	80
108.	Detain, search and seize with warrant	81
109.	Warrant may be obtained remotely	82
110.	Provisions about searching a person	83
111.	Retaining something seized but not forfeited	85
112.	Forfeiture and delivery on conviction	86
113.	Forfeiture and delivery other than on conviction	86
114.	Disposal of thing forfeited	88
115.	Powers to assist seizing things	88
<b>Division 5 — Prohibition orders</b>		
116.	Terms used	88
117.	Commissioner may apply for prohibition orders	89
118.	Evidence in support of application	89
119.	Relevant person to be given notice of application	90

---

Contents

---

120.	CEO may make prohibition orders	90
121.	Term of prohibition orders	91
122.	Applications to vary or revoke prohibition orders	92
123.	Respondent to be given notice of application	92
124.	CEO may vary or revoke prohibition orders	93
125.	Notification of orders	93
126.	Compliance with prohibition order	94
	<b>Division 6 — Barring notices</b>	
127.	Terms used	94
128.	Barring notices by Commissioner	95
	<b>Division 7 — Closure notices and closure orders</b>	
129.	Terms used	96
130.	Closure notice for interim closure of certain places	97
131.	Requirements for issue of closure notice	97
132.	Content of closure notice	99
133.	Service of closure notice	100
134.	Duration of closure notice	100
135.	Provisions about making closure order	101
136.	Term of closure order	102
137.	Service of closure order	103
138.	Breach of closure notice, closure order	103
	<b>Division 8 — Restraining orders</b>	
139.	Term used: restraining order	103
140.	Restraining order to prevent further offence	103
141.	Restraining order against person who could be required to move on	104
142.	Provisions about making the order	104
143.	Terms of restraining order	104
144.	Duration of restraining order	105
145.	Variation or cancellation	106
146.	Court to notify parties of decision	107
147.	When cancellation takes effect	108
148.	Provisions about children	108
149.	Order not to conflict with family order	109
150.	Regulations relating to restraining order applications	109
151.	Breach of restraining order	110
	<b>Division 9 — Undercover officers</b>	
152.	Undercover officers	110

---

<b>Part 8 — Review by State Administrative Tribunal</b>		
153.	Review	112
<b>Part 9 — Evidence</b>		
154.	Allegations in prosecution notices	113
155.	Presumptions about intention	113
156.	Presumptions about nature of advertisements	114
157.	Accused presumed to know if person is a child	114
158.	Person residing with child prostitute presumed to receive payment	114
159.	Accused presumed to have allowed presence of child	115
160.	Presumptions about operating or managing prostitution business without licence	115
161.	Presumptions about acting or operating as a prostitute without licence or without verifying identity etc. for operator	116
162.	Certificate evidence about licences	116
163.	Certificate that undercover officer was authorised	117
164.	Presumptions about authority to do certain things	117
165.	Possession of quantity of sheaths not evidence of offence	118
<b>Part 10 — Prostitution Account</b>		
166.	Prostitution Account	119
<b>Part 11 — General provisions</b>		
167.	Prosecutions	121
168.	Issue of infringement notice to be preferred for first offences under s. 47(1)	121
169.	Penalties for bodies corporate	122
170.	Protection from liability	122
171.	Exchange of information between State authorities	122
172.	Confidentiality	124
173.	Liability of managerial officer for offence by body corporate	124
174.	Liability of operator for offence by manager	125
175.	Regulations	125
176.	Review of Act	126

<b>Part 12 — Repeals, transitional provisions</b>		
<b>Division 1 — Repeals</b>		
177.	Prostitution legislation repealed	127
<b>Division 2 — Transitional provisions arising from the enactment of the <i>Prostitution Act 2011</i></b>		
178.	Terms used	127
179.	Duration of licences issued in first year	127
180.	Planning requirements as to existing prostitution businesses	127
181.	Licensing requirements for operators of existing prostitution businesses	130
182.	Restraining orders	131
183.	Undercover officers	132
<b>Part 13 — Amendments to other Acts</b>		
184.	<i>Community Protection (Offender Reporting) Act 2004</i> amended	133
185.	<i>The Criminal Code</i> amended	133
186.	<i>Criminal Property Confiscation Act 2000</i> amended	134
187.	<i>Evidence Act 1906</i> amended	134
188.	<i>Health Act 1911</i> amended	135
<b>Part XI — Sexually transmissible infections and disorders affecting the reproductive organs</b>		
299.	Term used: STI	136
189.	<i>Liquor Control Act 1988</i> amended	137
190.	<i>Sentencing Act 1995</i> amended	138
191.	<i>Western Australian College of Teaching Act 2004</i> amended	138
192.	<i>Workers' Compensation and Injury Management Act 1981</i> amended	139
12A.	Exclusion of unauthorised prostitutes other than minors and coerced persons	139
193.	<i>Working with Children (Criminal Record Checking) Act 2004</i> amended	141
194.	<i>Young Offenders Act 1994</i> amended	141

**Schedule 1 — Offences relevant to  
granting, renewing operator's or  
manager's licence**

**Defined Terms**



Western Australia

LEGISLATIVE ASSEMBLY

## **Prostitution Bill 2011**

**A Bill for**

**An Act —**

- **to make provisions about prostitution and for related purposes; and**
- **to repeal the *Prostitution Act 2000*, the *Prostitution Amendment Act 2008* and the *Prostitution (Restraining Orders) Regulations 2000*; and**
- **to amend certain other Acts as a consequence of the enactment of this Act.**

The Parliament of Western Australia enacts as follows:

**Part 1 — Preliminary**

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**1. Short title**

This is the *Prostitution Act 2011*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**3. Terms used**

In this Act, unless the contrary appears —

***act as a prostitute*** means to take part, as a prostitute, in an act of prostitution;

***act of prostitution*** means anything the doing of which amounts to prostitution;

***CEO*** means the chief executive officer of the Department;

***child*** means a person who is under 18 years of age;

***client*** has the meaning given in section 4;

***Commissioner*** means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

***confidential police information*** means any information or document classified by the Commissioner as confidential under section 95(1);

***Department*** means the department of the Public Service principally assisting the Minister in the administration of Part 6;

***document*** includes any tape, disk or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

- 1            **dwelling** means a place or a part of a place that is used as a  
2            person's residence and it does not matter that it is from time to  
3            time uninhabited;
- 4            **in**, in relation to a place, includes at or on the place;
- 5            **licence** means an operator's licence, a manager's licence, a  
6            prostitute's licence (general) or a prostitute's licence  
7            (self-employed);
- 8            **licence holder** means the holder of an operator's licence, a  
9            manager's licence, a prostitute's licence (general) or a  
10           prostitute's licence (self-employed);
- 11           **manage**, in relation to a prostitution business, means undertake  
12           the immediate management, direction or control of the conduct  
13           of the prostitution business;
- 14           **manager** means a person who manages a prostitution business;
- 15           **manager's licence** means a licence issued or renewed under  
16           section 57;
- 17           **operate**, in relation to a prostitution business, means —
- 18           (a) whether alone or with others, own, operate or conduct  
19           the prostitution business; or
- 20           (b) employ, engage, supervise or direct any person who  
21           undertakes the immediate management, direction or  
22           control of the conduct of the prostitution business; or
- 23           (c) employ, engage, supervise or direct any person who acts  
24           as a prostitute for the prostitution business; or
- 25           (d) exercise or exert, or be in a position to exercise or exert,  
26           control or substantial influence over the manner in  
27           which the prostitution business is conducted;
- 28           **operator** means a person who operates a prostitution business;
- 29           **operator's licence** means a licence issued or renewed under  
30           section 55;
- 31           **owner**, in relation to land, means each registered proprietor of  
32           the land;

**s. 4**

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1 *place* means anywhere at all, and includes anywhere in or on  
2 something that is moving or can move;  
3 *prescribed* means prescribed by regulation;  
4 *prohibited drug* has the meaning given in the *Misuse of Drugs*  
5 *Act 1981* section 3(1);  
6 *proprietary company* has the meaning given in the  
7 *Corporations Act 2001* (Commonwealth) section 9;  
8 *prostitute* has the meaning given in section 4;  
9 *prostitute's licence (general)* means a licence of that name  
10 issued or renewed under section 58;  
11 *prostitute's licence (self-employed)* means a licence of that  
12 name issued or renewed under section 58;  
13 *prostitution* has the meaning given in section 4;  
14 *prostitution business* means a business involving one or more  
15 persons taking part in, or being available to take part in, acts of  
16 prostitution whether the acts of prostitution take place in the  
17 place in which the business is conducted or elsewhere;  
18 *self-employed prostitute* means a person who solely owns,  
19 operates and conducts a prostitution business in which —  
20 (a) only that person takes part in acts of prostitution with  
21 clients of the business; and  
22 (b) that person has full control over his or her individual  
23 earnings from taking part in acts of prostitution;  
24 *work* includes to work under a contract of employment or a  
25 contract for services.

26 **4. Prostitution**

27 When this Act refers to *prostitution* it means prostitution in  
28 which payment is consideration for the sexual stimulation of a  
29 person (the *client*) by means of physical contact between the  
30 client and another person (the *prostitute*), or between either of  
31 them and anything controlled by or emanating from the other,  
32 and it is irrelevant whether payment is in money or any other  
33 form.

- 1    **5.       Delegation of CEO’s functions**
- 2       (1)   The CEO may delegate to a person any power or duty of the  
3       CEO under another provision of this Act.
- 4       (2)   The delegation must be in writing signed by the CEO.
- 5       (3)   A person to whom a power or duty is delegated under this  
6       section cannot delegate that power or duty.
- 7       (4)   A person exercising or performing a power or duty that has been  
8       delegated to the person under this section is to be taken to do so  
9       in accordance with the terms of the delegation unless the  
10      contrary is shown.
- 11      (5)   Nothing in this section limits the ability of the CEO to perform  
12      a function through an officer or agent.
- 13    **6.       Delegation of Commissioner’s functions**
- 14      (1)   The Commissioner may delegate to a person any power or duty  
15      of the Commissioner under another provision of this Act except  
16      a function given by section 95(1), 128 or 152(2).
- 17      (2)   However, the Commissioner may delegate the Commissioner’s  
18      functions —
- 19          (a)   under section 95(1) or 152(2) to a police officer of or  
20          above the rank of Assistant Commissioner of Police; or
- 21          (b)   under section 128 to a police officer of or above the rank  
22          of Inspector.
- 23      (3)   The delegation must be in writing signed by the Commissioner.
- 24      (4)   A person to whom a power or duty is delegated under this  
25      section cannot delegate that power or duty.
- 26      (5)   A person exercising or performing a power or duty that has been  
27      delegated to the person under this section is to be taken to do so  
28      in accordance with the terms of the delegation unless the  
29      contrary is shown.

**s. 7**

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1 (6) Nothing in this section limits the ability of the Commissioner to  
2 perform a function through an officer or agent.

3 **7. Service etc. of documents**

4 If a provision of this Act requires that a notice or copy of an  
5 order is to be given, served or sent the notice or copy of the  
6 order may be given, served or sent in accordance with the  
7 *Interpretation Act 1984* section 76.

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**Part 2 — General provisions about prostitution**

**8. Term used: public place**

In this Part —

***public place*** means —

- (a) any place to which the public, or any section of the public, have or are permitted to have access whether on payment or otherwise; or
- (b) a school, university or other place of education, other than a part of it to which neither students nor the public usually have access; or
- (c) a privately owned place that is unoccupied or is occupied by a person who is not an owner of the place and does not have the authority of an owner.

**9. Seeking prostitute in or in view of or within hearing of public place**

- (1) A person must not, in or in the view or within hearing of a public place, seek another person to act as a prostitute.
- (2) A person who contravenes subsection (1) is guilty of a crime if the person whom the offender sought to act as a prostitute, or any of them if there were more than one, was a child at the time the offence was committed.

Penalty:

- (a) for a simple offence, imprisonment for 2 years;
  - (b) for a crime, imprisonment for 14 years.
- (3) For the purposes of subsection (1), a person (the ***offender***) seeks another person to act as a prostitute if the offender —
    - (a) invites or requests another person to act as a prostitute;
    - or

**s. 10**

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- 1 (b) loiters in or frequents a place for the purpose of, or with  
2 the intention of —
- 3 (i) inviting or requesting another person to act as a  
4 prostitute; or
- 5 (ii) receiving an invitation for another person to act  
6 as a prostitute.
- 7 (4) It makes no difference —
- 8 (a) whether or not the offender is the prospective client; or
- 9 (b) whether or not a particular person is sought to act as a  
10 prostitute; or
- 11 (c) whether the offender makes or intends to make the  
12 invitation or request directly or through someone else to,  
13 or intends to receive the invitation directly or through  
14 someone else from, the person whom the offender seeks  
15 to act as a prostitute.

16 **10. Seeking client in or in view or within hearing of public place**

- 17 (1) A person must not, in or in the view or within hearing of a  
18 public place, seek another person to be a prostitute's client.
- 19 Penalty:
- 20 (a) if the person whom the offender sought to be a  
21 prostitute's client, or any of them if there were more  
22 than one, was a child at the time the offence was  
23 committed, imprisonment for 3 years;
- 24 (b) in any other case, imprisonment for one year.
- 25 (2) For the purposes of subsection (1), a person (the *offender*) seeks  
26 another person to be a prostitute's client if the offender —
- 27 (a) invites or requests another person to be a prostitute's  
28 client; or
- 29 (b) loiters in or frequents a place for the purpose of, or with  
30 the intention of —
- 31 (i) inviting or requesting another person to be a  
32 prostitute's client; or

- 1 (ii) receiving an invitation for another person to be a  
2 prostitute's client.
- 3 (3) It makes no difference —
- 4 (a) whether or not the offender, or any particular person, is  
5 the prospective prostitute; or
- 6 (b) whether or not a particular person is sought to be a  
7 client; or
- 8 (c) whether the offender makes or intends to make the  
9 invitation or request directly or through someone else to,  
10 or intends to receive the invitation directly or through  
11 someone else from, the person whom the offender seeks  
12 to be a prostitute's client.

13 **11. Seeking to induce person to act as prostitute**

- 14 (1) A person must not —
- 15 (a) assault or threaten to assault anyone; or
- 16 (b) intimidate anyone; or
- 17 (c) supply or offer to supply to anyone a prohibited drug; or
- 18 (d) make a false representation or use any false pretence or  
19 other fraudulent means; or
- 20 (e) use any power or authority arising out of —
- 21 (i) any occupational or vocational position held by  
22 the person; or
- 23 (ii) any relationship existing, or that used to exist,  
24 between the person and anyone;
- 25 or
- 26 (f) make an accusation or disclosure (whether true or  
27 false) —
- 28 (i) of any offence committed by anyone; or
- 29 (ii) of any other misconduct that is likely to damage  
30 seriously the reputation of anyone; or
- 31 (iii) that anyone is unlawfully in Australia;

**s. 12**

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1 or  
2 (g) do anything else, or refrain from doing anything,  
3 with the intention of inducing another person who is not a child  
4 to act, or continue to act, as a prostitute or to surrender the  
5 proceeds of acting as a prostitute.

6 (2) A person who contravenes subsection (1) is guilty of a crime.  
7 Penalty: imprisonment for 10 years.  
8 Summary conviction penalty: imprisonment for 3 years.

9 **12. Refusal to take part in act of prostitution**

10 (1) Despite anything in a contract to take part in an act of  
11 prostitution, a person may, at any time, refuse to take part in, or  
12 to continue to take part in, an act of prostitution.

13 (2) The fact that a person has entered into a contract to take part in  
14 an act of prostitution does not of itself constitute consent for the  
15 purposes of the criminal law if he or she does not consent, or  
16 withdraws his or her consent, to taking part in a sexual act.

17 (3) Nothing in this section affects a right (if any) to rescind or  
18 cancel, or to recover damages for, a contract for taking part in  
19 an act of prostitution that is not undertaken.

20 **13. Client not to take part in, or negotiate, act of prostitution if**  
21 **no licence applies to place**

22 (1) A person must not, as a client, take part in an act of prostitution  
23 in a place which the person knows or could be reasonably  
24 expected to know —

25 (a) is not a place to which a current operator's licence  
26 applies; or

27 (b) is not a place to which a current prostitute's licence  
28 (self-employed) applies.

- 1           Penalty:
- 2           (a) if the person was not a child at the time the offence
- 3                 was committed —
- 4                 (i) for a first offence, a fine of \$6 000;
- 5                 (ii) for a second or subsequent offence, a fine of
- 6                         \$6 000 or imprisonment for one year;
- 7           (b) if the person was a child at the time the offence was
- 8                 committed, a fine of \$2 000.
- 9   (2) A person must not, in any place, enter into, or offer to enter into,
- 10         an agreement under which the person would take part, as a
- 11         client, in an act of prostitution in a place which the person
- 12         knows or could be reasonably expected to know —
- 13           (a) is not a place to which a current operator’s licence
- 14                 applies; or
- 15           (b) is not a place to which a current prostitute’s licence
- 16                 (self-employed) applies.
- 17         Penalty:
- 18           (a) if the person was not a child at the time the offence
- 19                 was committed —
- 20                 (i) for a first offence, a fine of \$6 000;
- 21                 (ii) for a second or subsequent offence, a fine of
- 22                         \$6 000 or imprisonment for one year;
- 23           (b) if the person was a child at the time the offence was
- 24                 committed, a fine of \$2 000.

25   **14. Persons not to be in prostitution business place unless**

26         **licences of operator and manager, or self-employed**

27         **prostitute, displayed**

- 28   (1) A person must not enter or remain in a place in which the
- 29         person knows or could be reasonably expected to know that a
- 30         prostitution business is being conducted unless —
- 31           (a) the person knows, or it is reasonable for the person to
- 32                 assume, that each of section 18(1), (2) or (4), as is
- 33                 relevant to the case, is being complied with; or

**s. 15**

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1 (b) the person has a lawful excuse for entering or remaining  
2 in the place.

3 Penalty:

4 (a) for a first offence, a fine of \$6 000;

5 (b) for a second or subsequent offence, a fine of \$6 000  
6 or imprisonment for one year.

7 (2) Without limiting subsection (1)(b), a person has a lawful excuse  
8 for entering or remaining in a place in which a prostitution  
9 business is being conducted if the person does so on behalf of  
10 an organisation that provides support, health services, education  
11 and information to people working in the prostitution industry.

12 **15. Prohibition on acts of prostitution with person in sexual**  
13 **servitude**

14 (1) A person must not take part in an act of prostitution as a client if  
15 the prostitute is being compelled by another person to take part  
16 in the act of prostitution.

17 (2) A person who contravenes subsection (1) is guilty of a crime if  
18 the person knows or could be reasonably expected to know that  
19 the prostitute is being compelled to take part in the act of  
20 prostitution.

21 Penalty:

22 (a) for a simple offence, imprisonment for 2 years;

23 (b) for a crime —

24 (i) if the prostitute was a child or an incapable  
25 person at the time the offence was committed,  
26 imprisonment for 20 years;

27 (ii) otherwise, imprisonment for 14 years.

- 1       (3) In subsection (2) —  
2           *incapable person* means a person who, because of intellectual  
3           disability, mental illness, brain damage or senility, is  
4           incapable —  
5           (a) of understanding the nature and effect of an act of  
6           prostitution; or  
7           (b) of guarding himself or herself against sexual  
8           exploitation.
- 9       **16. Promoting employment in prostitution industry**  
10       A person must not publish or cause to be published a statement  
11       that is intended or likely to induce a person to seek to —  
12       (a) work as, or act as, a prostitute; or  
13       (b) work in any other capacity for a prostitution business.  
14       Penalty: a fine of \$50 000.
- 15       **17. Prohibition of certain sponsorships**  
16       (1) In this section —  
17       *sponsorship* includes —  
18       (a) a scholarship, prize, gift or other like benefit; and  
19       (b) any financial arrangement (other than a bona fide  
20       contract of employment or a bona fide contract for  
21       services) for directly promoting or publicising a person  
22       or business as referred to in subsection (2)(a) or (b)  
23       through any medium.
- 24       (2) A person must not, in this State, promote or publicise, or agree  
25       to promote or publicise —  
26       (a) any person as a prostitute; or  
27       (b) any prostitution business,  
28       under a contract, or an arrangement (whether or not legally  
29       binding), under which a sponsorship is provided, or to be  
30       provided, by another person.  
31       Penalty: a fine of \$50 000.

**Prostitution Bill 2011**

**Part 2**                    General provisions about prostitution

**s. 17**

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- 1            (3) A person (whether inside or outside this State) must not provide,  
2                    or agree to provide, in this State a sponsorship under a contract  
3                    or arrangement of a kind referred to in subsection (2).  
4                    Penalty: a fine of \$50 000.

**Part 3 — Conducting a prostitution business****18. Display of licence**

- (1) Each operator of a prostitution business that is being conducted in a place must ensure that the current licence of each operator of the business or a certified copy of the licence is displayed in the place —
- (a) so that it is visible to a person on entering the place; and
  - (b) at all times during which the business is being conducted in the place, whether or not the, or any other, operator is in the place.

Penalty: a fine of \$12 000.

- (2) A manager of a prostitution business that is being conducted in a place must ensure that the manager's current licence or a certified copy of the licence is displayed in the place when the manager is managing the business so that it is visible to a person on entering the place.

Penalty: a fine of \$12 000.

- (3) Subsections (1) and (2) do not apply to a self-employed prostitute.

- (4) A self-employed prostitute must ensure that his or her current prostitute's licence (self-employed) or a certified copy of the licence is displayed in the place to which the licence applies when the person is conducting the business in the place so that it is visible to a person on entering the place.

Penalty: a fine of \$2 000.

- (5) Subsection (4) applies whether or not another self-employed prostitute conducts a prostitution business in the same place.

- (6) A person must not alter or deface a licence.

Penalty: a fine of \$12 000.

**s. 19**

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1 **19. Operator not to act as prostitute**

2 (1) An individual who is an operator of a prostitution business must  
3 not take part in, or be available to take part in, an act of  
4 prostitution whether for the prostitution business or otherwise.

5 Penalty: a fine of \$50 000.

6 (2) Subsection (1) does not apply to a self-employed prostitute.

7 **20. Operator or manager must be present**

8 (1) A person who operates a prostitution business must ensure that  
9 either an operator of the business who is an individual, or a  
10 manager of the business, is present in the place in which the  
11 business is conducted at all times during which the place is open  
12 for business.

13 Penalty:

14 (a) for a first offence, a fine of \$24 000;

15 (b) for a second or subsequent offence, imprisonment for  
16 3 years.

17 (2) A person who manages a prostitution business must be in the  
18 place in which the business is conducted at all times during  
19 which the person is managing the business.

20 Penalty:

21 (a) for a first offence, a fine of \$24 000;

22 (b) for a second or subsequent offence, imprisonment for  
23 3 years.

24 **21. Person acting as prostitute in prostitution business must be**  
25 **an employee or contractor**

26 A person who operates or manages a prostitution business must  
27 ensure that a person (the *prostitute*) does not act as a prostitute  
28 for the business unless —

29 (a) the prostitute has entered into a contract of service with,  
30 or been engaged to work for the purposes of the business

1 under a contract for services by, a person who operates  
2 the business; and

3 (b) whenever acting as a prostitute for the business, the  
4 prostitute is acting in the course of his or her  
5 employment or engagement under that contract.

6 Penalty: a fine of \$50 000.

7 **22. Person acting as prostitute in prostitution business must be**  
8 **licensed or verify identity etc.**

9 A person who operates or manages a prostitution business must  
10 ensure that a person (the *prostitute*) does not act as a prostitute  
11 for the business unless —

12 (a) the prostitute holds a current prostitute's licence  
13 (general); or

14 (b) an operator of the business is satisfied, and has  
15 reasonable grounds to be satisfied —

16 (i) as to the prostitute's identity; and

17 (ii) that the prostitute has reached 18 years of age;  
18 and

19 (iii) that the prostitute is either an Australian citizen  
20 or is permanently resident in Australia.

21 Penalty: a fine of \$50 000.

22 **23. Manager not to act as prostitute on same shift**

23 A person who holds a manager's licence and a prostitute's  
24 licence (general) must not manage a prostitution business during  
25 any period in which the person takes part in, or is available to  
26 take part in, an act of prostitution for the prostitution business.

27 Penalty: a fine of \$50 000.

28 **24. Prostitution business not to operate in licensed premises**

29 A person must not operate a prostitution business in licensed  
30 premises as defined in the *Liquor Control Act 1988* section 3(1).

31 Penalty: a fine of \$50 000.

**s. 25**

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1 **25. Restrictions on alcohol**

2 A person who operates or manages a prostitution business must  
3 ensure that —

- 4 (a) alcohol is not available for consumption by any client of  
5 the business; and  
6 (b) no client is permitted to bring alcohol to a place in  
7 which the business is conducted.

8 Penalty: a fine of \$50 000.

9 **26. Limit on number of prostitution businesses to be conducted**  
10 **in a place**

11 A self-employed prostitute must not conduct his or her  
12 prostitution business in a place if —

- 13 (a) a prostitution business other than that of another  
14 self-employed prostitute is conducted in the place; or  
15 (b) more than one other self-employed prostitute conducts a  
16 prostitution business in the place.

17 Penalty: a fine of \$50 000.

18 **27. Advertising, signage restrictions**

19 (1) A person must not publish, place, or seek to place, an  
20 advertisement —

- 21 (a) for a prostitution business; or  
22 (b) to the effect that a particular person is available to act as  
23 a prostitute,

24 unless the advertisement is permitted under subsection (2) and  
25 whichever of subsection (3) or (4) that applies in the case.

26 Penalty: a fine of \$50 000.

27 (2) An advertisement is permitted if it —

- 28 (a) appears on a webpage, in a directory or in the classified  
29 advertisement section of a newspaper or periodical; and

- 1           (b) does not contain the number for any mobile telephone;  
2           and
- 3           (c) is in accordance with the regulations.
- 4       (3) An advertisement for a prostitution business other than that of a  
5       self-employed prostitute is permitted if it displays the licence  
6       number of an operator of the business.
- 7       (4) An advertisement for one or 2 self-employed prostitutes is  
8       permitted if it displays the licence number of each  
9       self-employed prostitute who is the subject of the advertisement.
- 10      (5) It is a defence to a charge of an offence under subsection (1) for  
11      the accused to prove that he or she believed on reasonable  
12      grounds that the advertisement that is the subject of the charge  
13      was not, as is applicable in the case —
- 14           (a) for a prostitution business; or
- 15           (b) to the effect that a particular person is available to act as  
16           a prostitute.
- 17      (6) Subsection (5) —
- 18           (a) applies to an accused who is alleged to have published  
19           the advertisement that is the subject of the charge; but
- 20           (b) does not apply to an accused who is alleged to have  
21           placed, or to have sought to place, the advertisement that  
22           is the subject of the charge.
- 23      (7) The regulations may provide for the following matters —
- 24           (a) the content (whether statements, words or images) that  
25           cannot be the subject of, or must be included in —
- 26               (i) advertisements mentioned in subsection (1); or
- 27               (ii) signs for prostitution businesses;
- 28           (b) the dimensions and colour of advertisements mentioned  
29           in subsection (1) that appear in a directory or in the  
30           classified advertisement section of a newspaper or  
31           periodical;

**s. 28**

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- 1 (c) the location, display, dimensions and colour of, and  
2 material constituting, signs for prostitution businesses;
- 3 (d) the colour of, and other means of attracting attention in  
4 relation to, buildings in which prostitution businesses  
5 are conducted.
- 6 (8) If there is any inconsistency between a local planning scheme as  
7 defined in the *Planning and Development Act 2005* section 4(1)  
8 and a regulation mentioned in subsection (7), the regulation  
9 prevails to the extent of the inconsistency.
- 10 (9) Nothing in this section affects the operation of the *Local*  
11 *Government Act 1995* section 3.7.
- 12 **28. Obligations of operators and managers as to information**  
13 **about right of refusal**
- 14 A person who operates or manages a prostitution business must  
15 ensure that information is displayed prominently in the place in  
16 which the business is conducted regarding the right of a  
17 prostitute to refuse to take part in, or continue to take part in, an  
18 act of prostitution.  
19 Penalty: a fine of \$12 000.
- 20 **29. Refusal to work as prostitute does not affect entitlements**
- 21 (1) In this section —  
22 *refuse* means refuse to take part in acts of prostitution in  
23 general, rather than a refusal to take part in a particular act of  
24 prostitution or at a particular time.
- 25 (2) A person's entitlements under the *Workers' Compensation and*  
26 *Injury Management Act 1981* may not be lost or affected in any  
27 way by his or her being capable of working as a prostitute if he  
28 or she refuses to do, or to continue to do, that kind of work.

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**Part 4 — Minimising risk of acquiring, transmitting  
sexually transmissible infections**

**30. Terms used**

In this Part —

*bodily fluid* means semen, vaginal secretions, saliva or blood;

*sheath* means a condom, dam or other physical barrier that —

(a) prevents the transmission of bodily fluid from one person to another; and

(b) meets the prescribed standards (if any);

*STI* means a prescribed sexually transmissible infection or a prescribed blood borne virus;

*STI-risk contact* means any of the following —

(a) direct contact between any part of the genital or anal area of one person and any part of the genital or anal area of another person;

(b) direct contact between the genital or anal area of one person and the mouth area (including the lips or tongue) of another person.

**31. Suitable sheath must be provided, used in certain acts of prostitution**

(1) For the purposes of this section, a sheath is suitable for particular kind of STI-risk contact if it is designed to prevent the bodily fluid of a person having that kind of contact from going on to any part of the body of another person.

(2) A person must not take part in an act of prostitution that involves a particular kind of STI-risk contact without using a sheath that is suitable for that kind of contact.

Penalty: a fine of \$10 000.

**Prostitution Bill 2011**

**Part 4** Minimising risk of acquiring, transmitting sexually transmissible infections

**s. 32**

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- 1 (3) Each person who operates or manages a prostitution business  
2 must ensure that there is issued, free of charge, to each  
3 prostitute working for the business and to each client sheaths —  
4 (a) that are suitable for each particular kind of STI-risk  
5 contact that may be involved in acts of prostitution in  
6 which that prostitute and client take part; and  
7 (b) in sufficient quantity to ensure that a suitable sheath is  
8 available to be used for each particular kind of STI-risk  
9 contact that may be involved in acts of prostitution in  
10 which that prostitute and client take part.

11 Penalty: a fine of \$12 000.

- 12 (4) Each person who operates or manages a prostitution business  
13 must ensure that all reasonable steps are taken to prevent a  
14 prostitute working for the business taking part in an act of  
15 prostitution that involves a particular kind of STI-risk contact  
16 unless the prostitute uses a sheath that is suitable for that kind of  
17 contact.

18 Penalty: a fine of \$12 000.

- 19 (5) Subsections (3) and (4) do not apply to a self-employed  
20 prostitute.

21 **32. No representations as to STI infection status**

- 22 (1) A person must not, for the purpose of taking part in an act of  
23 prostitution, state or imply that a medical examination of that  
24 person means that he or she is not infected, or is not likely to be  
25 infected, with an STI.

26 Penalty: a fine of \$10 000.

- 27 (2) A person who operates a prostitution business must ensure that  
28 no person working for the business states or implies that a  
29 medical examination of a prostitute working for the business  
30 means that the prostitute is not infected, or is not likely to be  
31 infected, with an STI.

32 Penalty: a fine of \$12 000.

1 (3) A person who manages a prostitution business must not state or  
2 imply that a medical examination of a prostitute working for the  
3 business means that the prostitute is not infected, or is not likely  
4 to be infected, with an STI.

5 Penalty: a fine of \$12 000.

6 (4) Subsection (1) applies to a self-employed prostitute but  
7 subsections (2) and (3) do not.

8 **33. Prohibition on certain acts of prostitution for persons with**  
9 **STI**

10 (1) A person who knows, or could reasonably be expected to know,  
11 that he or she has an STI must not take part in an act of  
12 prostitution involving STI-risk contact.

13 Penalty:

14 (a) for a first offence, a fine of \$20 000;

15 (b) for a second or subsequent offence, imprisonment for  
16 3 years.

17 (2) A person must not permit or encourage another person to act as  
18 a prostitute and engage in an act of prostitution involving  
19 STI-risk contact if the first-mentioned person knows, or could  
20 reasonably be expected to know, that the other person has an  
21 STI.

22 Penalty:

23 (a) for a first offence, a fine of \$20 000;

24 (b) for a second or subsequent offence, imprisonment for  
25 3 years.

26 (3) It is a defence to a charge of an offence under subsection (2) for  
27 the accused to prove that he or she exercised all due diligence as  
28 ought to have been exercised having regard to the nature of the  
29 accused's functions in a prostitution business and to all the  
30 circumstances to prevent a person whom the accused knows, or  
31 could reasonably be expected to know, has an STI, from acting  
32 as a prostitute for the prostitution business.

**s. 34**

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1 (4) For the purposes of subsection (1) and (2) it makes no  
2 difference whether or not a sheath is used in the act of  
3 prostitution involving STI-risk contact.

4 **34. Further minimising risk of STI acquisition, transmission**

5 (1) A person who takes part in an act of prostitution must take all  
6 other reasonable steps to minimise the risk of acquiring or  
7 transmitting an STI.

8 Penalty: a fine of \$10 000.

9 (2) Each person who operates or manages a prostitution business  
10 must ensure that all other reasonable steps are taken to minimise  
11 the risk of a prostitute working for the business, or in the case of  
12 a self-employed prostitute, himself or herself, or a client of the  
13 business acquiring or transmitting an STI.

14 Penalty:

15 (a) if the person is a self-employed prostitute, a fine of  
16 \$10 000;

17 (b) otherwise, a fine of \$12 000.

18 **35. Obligations of operators and managers as to health**  
19 **information**

20 (1) In this section —  
21 **health information** means information —

22 (a) about minimising the risk of acquiring or transmitting  
23 STIs and the treatment of STIs; and

24 (b) that has been provided or recommended by the  
25 department of the Public Service principally assisting in  
26 the administration of the *Health Act 1911* or an Act that  
27 repeals and substantially replaces that Act.

28 (2) Each person who operates or manages a prostitution business —

29 (a) must ensure that all reasonable steps are taken to give  
30 health information (whether oral or written) to clients of  
31 the business; and

- 1           (b)   except in the case of a self-employed prostitute, must  
2                    ensure that all reasonable steps are taken to give health  
3                    information (whether oral or written) to prostitutes  
4                    working for the business; and
- 5           (c)   must ensure that health information is displayed  
6                    prominently in the place in which the business is  
7                    conducted.
- 8           Penalty: a fine of \$10 000.

**Part 5 — Children**

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**36. Causing, permitting or seeking to induce child to act as prostitute**

- (1) A person must not cause or permit a child to act, or continue to act, as a prostitute.
- (2) A person must not do anything with the intention of inducing a child to act, or continue to act, as a prostitute.
- (3) A person who contravenes subsection (1) or (2) is guilty of a crime.  
Penalty: imprisonment for 14 years.

**37. Obtaining payment for prostitution by child**

- (1) A person must not receive a payment, in money or any other form, knowing that it or any part of it has been derived, directly or indirectly, from a child taking part in an act of prostitution, whether as a prostitute or as a client.
- (2) A person who contravenes subsection (1) is guilty of a crime.  
Penalty: imprisonment for 14 years.
- (3) It is a defence to a charge of an offence under subsection (1) for the accused to prove that the payment was received in the ordinary course of a business unrelated to prostitution.

**38. Agreement for prostitution by child**

- (1) A person must not enter into, or offer to enter into, an agreement under which a child is to act as a prostitute, whether for that person or anyone else.
- (2) A person who contravenes subsection (1) is guilty of a crime.  
Penalty: imprisonment for 14 years.

1 **39. Prostitution in place where child present**

2 (1) A person must not take part, whether as a prostitute or as a  
3 client, in an act of prostitution in a place where the person  
4 knows that a child is present.

5 Penalty:

6 (a) for a first offence, a fine of \$24 000;

7 (b) for a second or subsequent offence, imprisonment for  
8 3 years.

9 (2) For the purposes of subsection (1), the place extends as far as  
10 the limits up to which either a prostitute or a client taking part in  
11 the act of prostitution exercises, or is able to exercise, control  
12 over who is allowed to be there.

13 (3) It makes no difference whether control is, or is able to be,  
14 exercised solely or in common with others.

15 **40. Allowing child to be in place involving prostitution**

16 A person must not allow a child to enter or remain in a place in  
17 which the person knows or could be reasonably expected to  
18 know —

19 (a) an act of prostitution is, or may be, taking place; or

20 (b) a prostitution business is being conducted.

21 Penalty:

22 (a) for a first offence, a fine of \$24 000;

23 (b) for a second or subsequent offence, imprisonment for  
24 3 years.

25 **41. Obligations of prostitution business operators in relation to**  
26 **children**

27 (1) A person who operates a prostitution business must ensure that  
28 a child does not work as a prostitute for the business.

**s. 42**

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- 1 (2) A person who contravenes subsection (1) is guilty of a crime.  
2 Penalty: imprisonment for 5 years.  
3 Summary conviction penalty: imprisonment for 3 years.
- 4 (3) A person who operates or manages a prostitution business must  
5 ensure that no child is present in a place at which an act of  
6 prostitution is, or may be, taking place for the business.  
7 Penalty:  
8 (a) for a first offence, a fine of \$24 000;  
9 (b) for a second or subsequent offence, imprisonment for  
10 3 years.
- 11 **42. Acting as prostitute for child**  
12 A person must not act as a prostitute for a client who is a child.  
13 Penalty: imprisonment for 9 months.
- 14 **43. Child not to seek services of prostitute**  
15 (1) A child must not seek another person to act as a prostitute.  
16 Penalty: a fine of \$2 000.
- 17 (2) For the purposes of subsection (1), a child seeks another person  
18 to act as a prostitute if the child —  
19 (a) invites or requests another person to act as a prostitute;  
20 or  
21 (b) loiters in or frequents a place for the purpose of, or with  
22 the intention of —  
23 (i) inviting or requesting another person to act as a  
24 prostitute; or  
25 (ii) receiving an invitation for another person to act  
26 as a prostitute.
- 27 (3) It makes no difference —  
28 (a) whether or not the child is the prospective client; or

- 1 (b) whether or not a particular person is sought to act as a  
2 prostitute; or  
3 (c) whether the child makes or intends to make the  
4 invitation or request directly or through someone else to,  
5 or intends to receive the invitation directly or through  
6 someone else from, the person whom the child seeks to  
7 act as a prostitute.

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## **Part 6 — Licensing**

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### **Division 1 — Preliminary**

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#### **44. Terms used**

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In this Part —

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***health and drug management plan***, in relation to a prostitution business or a proposed prostitution business, means a document setting out —

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- (a) the steps that will be taken to minimise the risk of any prostitute working for the business, and any client of the business, acquiring or transmitting an STI as defined in section 30; and

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- (b) how it is proposed to prevent, monitor and deal with the use of prohibited drugs in the place in which the business is conducted;

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***incapable person*** means a person who, because of intellectual disability, mental illness, brain damage or senility —

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- (a) is incapable of understanding the nature and effect of an act of prostitution; or

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- (b) is incapable of guarding himself or herself against sexual exploitation; or

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- (c) in relation to a pending charge against an accused person, is incapable of understanding the nature of the act that is the subject of the charge;

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***officer***, in relation to a company, means a person who is a director, secretary or shareholder of the company;

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***responsible planning authority***, in relation to a place, means the responsible planning authority, as defined in section 79, for the planning scheme, as defined in that section, that applies to the place.

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1 **Division 2 — Licences required for certain activities**  
2 **involving prostitution**

3 **45. Operators to be licensed**

4 (1) A person who is an individual must not operate a prostitution  
5 business in a place unless —

6 (a) he or she holds a current operator's licence for the  
7 business and the licence applies to the place; and

8 (b) each other individual with whom the person operates the  
9 business holds a current operator's licence for the  
10 business and the licence applies to the place.

11 Penalty: a fine of \$50 000 or imprisonment for 3 years.

12 (2) Subsection (1) does not apply to a self-employed prostitute.

13 (3) It is a defence to a charge of an offence under subsection (1) for  
14 the accused to prove that at the time the accused was operating  
15 the prostitution business at the place —

16 (a) the accused was an officer of a company; and

17 (b) the company held a current operator's licence for the  
18 business and the licence applied to the place.

19 (4) A company must not operate a prostitution business in a place  
20 unless —

21 (a) it is a proprietary company; and

22 (b) all of its officers are individuals; and

23 (c) either —

24 (i) it is the sole operator of the business; or

25 (ii) it operates the business with no person other than  
26 an officer of the company;

27 and

28 (d) it holds a current operator's licence for the business and  
29 the licence applies to the place.

30 Penalty: a fine of \$250 000.

1 **46. Managers to be licensed**

2 (1) A person must not manage a prostitution business unless he or  
3 she holds a current manager's licence.

4 Penalty: a fine of \$50 000 or imprisonment for 3 years.

5 (2) Subsection (1) does not apply to a self-employed prostitute.

6 **47. Prostitutes to be licensed or to verify identity etc. for**  
7 **operator**

8 (1) A person who has reached 18 years of age must not act as a  
9 prostitute in a place unless —

10 (a) a current operator's licence applies to the place and  
11 either —

12 (i) the person holds a current prostitute's licence  
13 (general); or

14 (ii) there has been compliance with section 22(b) in  
15 respect of the person;

16 or

17 (b) the person holds a current prostitute's licence  
18 (self-employed) and the licence applies to the place.

19 Penalty: a fine of \$6 000.

20 (2) A self-employed prostitute must not operate a prostitution  
21 business in a place unless he or she holds a current prostitute's  
22 licence (self-employed) for the business and the licence applies  
23 to the place.

24 Penalty: a fine of \$6 000.

25 **48. Limiting numbers of licences that may be issued for areas,**  
26 **periods**

27 The regulations may provide for —

28 (a) the maximum number of each kind of licence that can be  
29 issued whether generally or for a particular area of the  
30 State or during a particular period; and

- 1           (b) the procedure for determining which persons are to be  
2           issued licences if the number of eligible persons seeking  
3           a licence exceeds the number of licences that can be  
4           issued.

5                           **Division 3 — Licence applications**

6   **49. Application for operator’s licence or renewal**

- 7       (1) An application for the issue or renewal of an operator’s licence  
8       for a prostitution business that is proposed to be, or is, operated  
9       by —  
10       (a) one individual, must be made by that individual; or  
11       (b) more than one individual, can be made only if the  
12       applicant is one of those individuals.
- 13       (2) An application for the issue or renewal of an operator’s licence  
14       for a prostitution business that is proposed to be, or is, operated  
15       by a company —  
16       (a) must be made by at least one officer of the company, on  
17       behalf of the company; and  
18       (b) may be made by more than one officer, on behalf of the  
19       company.
- 20       (3) An application for the issue or renewal of an operator’s licence  
21       for a prostitution business must —  
22       (a) be made to the CEO in a manner and form approved by  
23       the CEO; and  
24       (b) be accompanied by any document or information  
25       specified in the form for either or both of the  
26       following —  
27       (i) verifying the applicant’s identity and age;  
28       (ii) relating to any other applicable matter referred to  
29       in section 55;  
30       and

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 3** Licence applications

**s. 50**

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- 1 (c) be accompanied by the health and drug management  
2 plan for the business; and
- 3 (d) give details of the applicant's residential and contact  
4 addresses; and
- 5 (e) be accompanied by the prescribed fee (if any).
- 6 (4) An application for the issue of an operator's licence for a  
7 prostitution business must also —
- 8 (a) state the address of the place in which the prostitution  
9 business is proposed to be conducted (the *place*); and
- 10 (b) state that the proposed prostitution business will involve  
11 one or more persons taking part in, or available to take  
12 part in, acts of prostitution only in the place and not  
13 elsewhere; and
- 14 (c) be accompanied by evidence of the responsible planning  
15 authority's approval for the prostitution business to be  
16 conducted in the place; and
- 17 (d) for a prostitution business proposed to be operated by  
18 2 or more individuals, state the name and address of  
19 each other individual with whom the applicant proposes  
20 to operate the prostitution business; and
- 21 (e) for a prostitution business proposed to be operated by a  
22 company, state the name and address of each other  
23 person with whom the company proposes to operate the  
24 prostitution business.

25 **50. Application for manager's licence or renewal**

- 26 (1) An applicant for the issue or renewal of a manager's licence  
27 must be an individual.
- 28 (2) An application for the issue or renewal of a manager's licence  
29 must —
- 30 (a) be made to the CEO in a manner and form approved by  
31 the CEO; and

- 1 (b) be accompanied by any document or information  
2 specified in the form for either or both of the  
3 following —  
4 (i) verifying the applicant’s identity and age;  
5 (ii) relating to any other applicable matter referred to  
6 in section 57;  
7 and  
8 (c) give details of the applicant’s residential and contact  
9 addresses; and  
10 (d) be accompanied by the prescribed fee (if any).

11 **51. Application for prostitute’s licence or renewal**

- 12 (1) An applicant for the issue or renewal of a prostitute’s licence  
13 (general) or a prostitute’s licence (self-employed) must be an  
14 individual.
- 15 (2) An application for the issue or renewal of a prostitute’s licence  
16 (general) or a prostitute’s licence (self-employed) must —  
17 (a) be made to the CEO in a manner and form approved by  
18 the CEO; and  
19 (b) be accompanied by any document or information  
20 specified in the form for either or both of the  
21 following —  
22 (i) verifying the applicant’s identity and age;  
23 (ii) relating to any other applicable matter referred to  
24 in section 58;  
25 and  
26 (c) be accompanied by the prescribed fee (if any).
- 27 (3) An application for the issue of a prostitute’s licence  
28 (self-employed) must also —  
29 (a) state the address of the place in which the prostitution  
30 business is proposed to be conducted (the *place*); and

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 3** Licence applications

**s. 52**

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- 1 (b) state whether or not another self-employed prostitute  
2 will conduct a prostitution business in the place; and
- 3 (c) state that the applicant exercises, or is able to exercise,  
4 (whether solely or in common with others) control over  
5 who is allowed to be in the place; and
- 6 (d) state that the proposed prostitution business will involve  
7 the applicant (but no other prostitute) taking part in acts  
8 of prostitution with clients of the business, only in the  
9 place and not elsewhere; and
- 10 (e) be accompanied by evidence of the responsible planning  
11 authority's approval for the prostitution business to be  
12 conducted in the place.
- 13 (4) An application for the issue or renewal of a prostitute's licence  
14 (self-employed) must also be accompanied by the health and  
15 drug management plan for the prostitution business.

16 **52. Taking of fingerprints and palm prints**

- 17 (1) In this section —  
18 **applicant**, in the case of an application for the issue or renewal  
19 of an operator's licence made by an officer of a company,  
20 includes —
- 21 (a) each other applicant (if any); and  
22 (b) each other person who is an officer of the company,  
23 and in the case of an application for the renewal of an operator's  
24 licence includes each new officer of the company about whom  
25 the CEO is notified under section 71(1).
- 26 (2) The CEO may in writing require an applicant for the issue or  
27 renewal of a licence to attend a place and there have his or her  
28 fingerprints and palm prints taken by —
- 29 (a) a police officer; or  
30 (b) a person of a class specified in the regulations for the  
31 purposes of this subsection.

- 1       (3) Subsection (2) does not apply to an applicant for the issue or  
2       renewal of a prostitute’s licence (general) or a prostitute’s  
3       licence (self-employed) unless the CEO reasonably suspects that  
4       a matter relating to the applicant’s identity has not been  
5       disclosed in the application.
- 6       (4) The CEO does not have to consider an application, or consider  
7       it further, until there is compliance with each requirement under  
8       subsection (2) relevant to the application.
- 9       (5) An application for the issue or renewal of a licence must set out  
10      an election to be made by the applicant as to whether any  
11      fingerprints and palm prints taken from the applicant under this  
12      section, and any copy of them —
- 13           (a) can be kept by the Commissioner indefinitely; or  
14           (b) must be dealt with in accordance with subsections (9)  
15           and (10).
- 16      (6) The fingerprints and palm prints of an applicant who makes an  
17      election referred to in subsection (5)(a) must be kept by the  
18      Commissioner in accordance with that election and, unless the  
19      applicant subsequently changes the election, subsections (9)  
20      and (10) do not apply in respect of those prints or copies.
- 21      (7) Before making an election referred to in subsection (5) the  
22      applicant must be informed as to the following matters —
- 23           (a) that the prints taken may be compared with or put in a  
24           forensic database, as defined in the *Criminal*  
25           *Investigation (Identifying People) Act 2002* section 61;  
26           (b) that the prints taken may provide evidence that could be  
27           used in court against the applicant;  
28           (c) that the applicant may subsequently change an election  
29           made under subsection (5) by notifying the  
30           Commissioner;  
31           (d) that the applicant may obtain legal advice before  
32           deciding whether or not to have the prints taken and  
33           making an election under subsection (5);

- 1 (e) such other matters as may be prescribed.
- 2 (8) The information in subsection (7) may be provided in writing.
- 3 (9) If an election is made under subsection (5)(b), then the  
4 Commissioner must cause fingerprints and palm prints taken  
5 under this section and any copy of them to be destroyed —  
6 (a) if the relevant licence is not granted or renewed; or  
7 (b) when the relevant licence ceases to have effect.
- 8 (10) If a review is available under section 153, the destruction of  
9 fingerprints and palm prints under subsection (9) is not required  
10 until —  
11 (a) the time for applying for a review has expired; and  
12 (b) if an application for a review is made, it has been  
13 determined in a way that does not result in the issue or  
14 continuation of the relevant licence.
- 15 (11) If a person subsequently changes an election made under  
16 subsection (5) and elects that prints taken must be dealt with in  
17 accordance with subsections (9) and (10), and the time for  
18 destroying the prints under those provisions has already passed,  
19 the Commissioner must cause the prints and any copy of them  
20 to be destroyed as soon as is practicable after the election is  
21 changed.
- 22 (12) The CEO must provide the Commissioner with any information  
23 that the Commissioner requires to comply with subsection (11).
- 24 **53. Further information relevant to application**
- 25 (1) An applicant for the issue or renewal of a licence must provide  
26 the CEO with any additional document or information that the  
27 CEO requires, in any particular case, that is or could be relevant  
28 to making a decision on the application.
- 29 (2) If the CEO requires under subsection (1) that an additional  
30 document or information be provided, the CEO does not have to  
31 consider the application, or consider it further, until the  
32 applicant complies with the requirement.

1 **54. Report of Commissioner**

- 2 (1) The CEO must send to the Commissioner a copy of each  
3 application for the issue or renewal of a licence and request a  
4 report on the eligibility and suitability —
- 5 (a) of the proposed or current licence holder to hold the  
6 licence that is the subject of the application; and
- 7 (b) of each applicant as defined in section 52(1) to operate  
8 the prostitution business that is the subject of the  
9 application.
- 10 (2) Subsection (1) does not apply to an application for the issue or  
11 renewal of a prostitute's licence (general) or a prostitute's  
12 licence (self-employed) unless the CEO reasonably suspects that  
13 the applicant may not be eligible or suitable to hold the licence.
- 14 (3) The Commissioner must provide a report to the CEO as soon as  
15 practicable after receipt of the copy of the application or such  
16 longer period as is agreed between the Commissioner and the  
17 CEO.

18 **55. Issue, renewal of operator's licence**

- 19 (1) Subsections (2), (3), (4) and (5) apply to an application for the  
20 issue or renewal of an operator's licence for a prostitution  
21 business.
- 22 (2) The CEO may, on an application, issue or renew an operator's  
23 licence if satisfied that each applicant —
- 24 (a) has complied with section 49; and
- 25 (b) is an individual who has reached 18 years of age; and
- 26 (c) is either an Australian citizen or is permanently resident  
27 in Australia; and
- 28 (d) is ordinarily resident in Western Australia; and
- 29 (e) will not hold a manager's licence during the currency of  
30 the operator's licence if issued or renewed; and

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 3** Licence applications

**s. 55**

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- 1 (f) will not hold a prostitute's licence (general) or a  
2 prostitute's licence (self-employed) during the currency  
3 of the operator's licence if issued or renewed; and
- 4 (g) is not the subject of a violence restraining order as  
5 defined in the *Restraining Orders Act 1997* section 3;  
6 and
- 7 (h) complies with any other prescribed matter.
- 8 (3) The CEO may, on an application, issue or renew an operator's  
9 licence if satisfied that each applicant and, in the case of an  
10 application on behalf of a company, the company —
- 11 (a) has not had any licence issued under this Act revoked  
12 within the period of 5 years ending on the day on which  
13 the application is made; and
- 14 (b) has no charge pending of an alleged offence under the  
15 law of this State, the Commonwealth, another State or a  
16 Territory that involves an act of violence against the  
17 person or involves a victim who was a child or incapable  
18 person; and
- 19 (c) has not been declared under the *Misuse of Drugs*  
20 *Act 1981* section 32A to be a drug trafficker; and
- 21 (d) has not been found guilty of an offence —  
22 (i) set out in Schedule 1; or  
23 (ii) under the law of the Commonwealth, another  
24 State or a Territory, that the CEO considers to be  
25 substantially similar to an offence set out in  
26 Schedule 1;
- 27 and
- 28 (e) has not been convicted, in this or another State or a  
29 Territory, of any indictable offence, including an offence  
30 under a law of the Commonwealth, any other State or a  
31 Territory, that is triable by jury that the CEO considers  
32 would make it inappropriate for the CEO to issue the  
33 licence; and
- 34 (f) is a person suitable to hold an operator's licence; and

- 1           (g) complies with any other prescribed matter.
- 2       (4) The CEO may, on an application, issue or renew an operator’s  
3       licence if satisfied that the health and drug management plan for  
4       the prostitution business or proposed prostitution business is  
5       appropriate.
- 6       (5) The CEO may, on an application, issue or renew an operator’s  
7       licence if satisfied that the application complies with any other  
8       prescribed matter.
- 9       (6) The CEO may issue an operator’s licence to, or renew the  
10      operator’s licence of, a company if the CEO is satisfied that the  
11      company complies with section 45(4)(a) and (b) and will  
12      comply with section 45(4)(c) during the currency of the  
13      operator’s licence if issued or renewed.
- 14      (7) On an application for the issue of an operator’s licence for a  
15      prostitution business the CEO may issue an operator’s licence if  
16      satisfied that —
- 17           (a) the proposed prostitution business will involve one or  
18           more persons taking part in, or available to take part in,  
19           acts of prostitution only in the place stated in the  
20           application under section 49(4)(a) and not elsewhere;  
21           and
- 22           (b) the responsible planning authority has given its approval  
23           for the prostitution business to be conducted in that  
24           place; and
- 25           (c) the approval is in accordance with the provisions of  
26           Division 8.
- 27      (8) On an application by or on behalf of a person for the person’s  
28      first operator’s licence for a prostitution business the CEO may  
29      issue the operator’s licence if satisfied that neither the person  
30      nor any applicant will hold an operator’s licence for another  
31      prostitution business during the currency of the operator’s  
32      licence if issued.

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 3** Licence applications

**s. 56**

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- 1 (9) If an application for the issue or renewal of an operator's licence  
2 is made by one or more officers of a company on behalf of the  
3 company, the CEO may issue or renew the licence if satisfied,  
4 with respect to each other person who is an officer of the  
5 company —  
6 (a) of any matter referred to in this section of which the  
7 CEO would need to be satisfied if that person were an  
8 applicant; and  
9 (b) that each of those persons who has been required under  
10 section 52(2) to have his or her fingerprints or palm  
11 prints taken has complied with the requirement.
- 12 (10) The CEO must not renew an operator's licence if, since the  
13 licence was issued or most recently renewed, the land that is  
14 used for the purposes of the prostitution business to which the  
15 licence relates has become part of a residential area as defined  
16 in section 79.
- 17 (11) The CEO must not issue or renew an operator's licence unless  
18 the CEO is satisfied as to each of the matters referred to in this  
19 section that applies to the particular application.

20 **56. One person may hold up to 3 operator's licences**

21 A separate operator's licence may be issued to one person for  
22 2 or 3 prostitution businesses operated by the person if the first  
23 operator's licence held by the person has been renewed and  
24 none of the following persons has been convicted of an offence  
25 under this Act —

- 26 (a) each operator of the business;  
27 (b) if the operator is a company, each of its officers;  
28 (c) each manager of the business.

29 **57. Issue, renewal of manager's licence**

- 30 (1) On an application for the issue or renewal of a manager's  
31 licence, the CEO may issue or renew the licence if satisfied  
32 that —  
33 (a) the applicant has complied with section 50; and

- 1            (b) the applicant is an individual who has reached 18 years  
2            of age; and
- 3            (c) the applicant is either an Australian citizen or is  
4            permanently resident in Australia; and
- 5            (d) the applicant is ordinarily resident in Western Australia;  
6            and
- 7            (e) the applicant will not hold, or be an applicant for, an  
8            operator’s licence during the currency of the manager’s  
9            licence if issued or renewed; and
- 10          (f) the applicant has not had any licence issued under this  
11          Act revoked within the period of 5 years ending on the  
12          day on which the application is made; and
- 13          (g) the applicant has no charge pending of an alleged  
14          offence under the law of this State, the Commonwealth,  
15          another State or a Territory that involves an act of  
16          violence against the person or involves a victim who  
17          was a child or incapable person; and
- 18          (h) the applicant has not been declared under the *Misuse of*  
19          *Drugs Act 1981* section 32A to be a drug trafficker; and
- 20          (i) the applicant has not been found guilty of an offence —  
21              (i) set out in Schedule 1; or  
22              (ii) under the law of the Commonwealth, another  
23              State or a Territory, that the CEO considers to be  
24              substantially similar to an offence set out in  
25              Schedule 1;
- 26          and
- 27          (j) the applicant has not been convicted, in this or another  
28          State or a Territory, of any indictable offence, including  
29          an offence under a law of the Commonwealth, any other  
30          State or a Territory, that is triable by jury that the CEO  
31          considers would make it inappropriate for the CEO to  
32          issue the licence; and

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 3** Licence applications

**s. 58**

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- 1 (k) the applicant is not the subject of a violence restraining  
2 order as defined in the *Restraining Orders Act 1997*  
3 section 3; and
- 4 (l) the applicant is a person suitable to hold a manager's  
5 licence; and
- 6 (m) the applicant complies with any other prescribed matter;  
7 and
- 8 (n) the application complies with any other prescribed  
9 matter.
- 10 (2) The CEO must not issue or renew a manager's licence unless  
11 the CEO is satisfied as to each of the matters referred to in this  
12 section that applies to the particular application.

13 **58. Issue, renewal of prostitute's licence**

- 14 (1) On an application for the issue or renewal of a prostitute's  
15 licence (general) or a prostitute's licence (self-employed), the  
16 CEO may issue or renew the licence if satisfied that —
- 17 (a) the applicant has complied with section 51; and
- 18 (b) the applicant is an individual who has reached 18 years  
19 of age; and
- 20 (c) the applicant is either an Australian citizen or is  
21 permanently resident in Australia; and
- 22 (d) the applicant will not hold an operator's licence during  
23 the currency of the prostitute's licence (general) or a  
24 prostitute's licence (self-employed) if issued or  
25 renewed; and
- 26 (e) the applicant has not had any licence issued under this  
27 Act revoked within the period of 5 years ending on the  
28 day on which the application is made; and
- 29 (f) the applicant is a person suitable to hold the licence that  
30 is the subject of the application; and
- 31 (g) the applicant complies with any other prescribed matter;  
32 and

- 1           (h) the application complies with any other prescribed  
2           matter.
- 3       (2) On an application for the issue of a prostitute’s licence  
4       (self-employed) the CEO may issue the licence if satisfied  
5       that —
- 6           (a) no more than one other self-employed prostitute will  
7           conduct a prostitution business in the place stated in the  
8           application under section 51(3)(a) (the *place*); and
- 9           (b) the proposed prostitution business will involve the  
10          applicant (but no other prostitute) taking part in acts of  
11          prostitution with clients of the business, only in the  
12          place and not elsewhere; and
- 13          (c) the applicant exercises, or is able to exercise, (whether  
14          solely or in common with others) control over who is  
15          allowed to be in the place; and
- 16          (d) the responsible planning authority has given its approval  
17          for the prostitution business to be conducted in the  
18          place; and
- 19          (e) the approval is in accordance with the provisions of  
20          Division 8.
- 21       (3) On an application for the issue or renewal of a prostitute’s  
22       licence (self-employed) the CEO may issue or renew the licence  
23       if satisfied that the health and drug management plan for the  
24       prostitution business or proposed prostitution business is  
25       appropriate.
- 26       (4) The CEO must not issue or renew a prostitute’s licence  
27       (general) or a prostitute’s licence (self-employed) unless the  
28       CEO is satisfied as to each of the matters referred to in this  
29       section that applies to the particular application.

30       **59. Reasons for refusal to issue, renew licence**

- 31       (1) The CEO must —
- 32           (a) record the grounds on which a decision to refuse to issue  
33           or renew a licence is based, and the reasons for the  
34           decision; and

- 1 (b) as soon as is practicable after making the decision, give  
2 to the person to whom the decision relates written notice  
3 of the decision, together with those grounds and reasons,  
4 and the person's right of review under section 153.
- 5 (2) Nothing in subsection (1) requires or authorises the CEO to  
6 disclose confidential police information.

7 **Division 4 — Licence conditions**

8 **60. Conditions generally**

- 9 (1) A licence is subject to —
- 10 (a) any conditions imposed by the CEO under section 64;  
11 and  
12 (b) any other conditions imposed under this Act.
- 13 (2) The regulations may provide for conditions of licences.

14 **61. Condition as to change of location of business**

- 15 (1) It is a condition of every operator's licence and every  
16 prostitute's licence (self-employed) that there must be no  
17 change in the location of the place in which the prostitution  
18 business to which the licence applies is conducted without the  
19 approval of the CEO.
- 20 (2) An application for the CEO's approval under subsection (1)  
21 must be accompanied by —
- 22 (a) evidence of the responsible planning authority's  
23 approval for the prostitution business to be conducted in  
24 the new place; and  
25 (b) the prescribed fee (if any).
- 26 (3) The CEO must not approve a change in the location of the place  
27 in which the prostitution business is conducted unless the CEO  
28 is satisfied that —
- 29 (a) the responsible planning authority has given its approval  
30 for the prostitution business to be conducted in the new  
31 place; and

- 1           (b) the approval is in accordance with the requirements of  
2           Division 8; and  
3           (c) it is otherwise appropriate to approve the change.

4   **62.    Conditions as to size of business**

5           It is a condition of every operator's licence that —

- 6           (a) the place in which the prostitution business to which the  
7           licence applies is conducted must not have more than  
8           the prescribed number of rooms in which persons may  
9           take part in acts of prostitution; and  
10          (b) no more than the prescribed number of persons act, or  
11          are available to act, as prostitutes in the place at the  
12          same time.

13   **63.    Conditions of operator's licences as to records to be kept**

14          (1) In this section —

15           ***business***, in relation to an operator, means the prostitution  
16           business to which the operator's licence applies.

17          (2) It is a condition of every operator's licence that the operator  
18          must ensure that there is kept, for the prescribed period —

- 19           (a) a record of the licence number of each licensed  
20           prostitute who enters into a contract of service with, or  
21           is engaged to work for the purposes of the business  
22           under a contract for services by, a person who operates  
23           the business; and  
24           (b) a copy of the licence of each prostitute mentioned in  
25           paragraph (a); and  
26           (c) a record of the name, date of birth and residency status  
27           of each unlicensed prostitute who enters into a contract  
28           of service with, or is engaged to work for the purposes  
29           of the business under a contract for services by, a person  
30           who operates the business; and  
31           (d) a record of the start and finish dates for each contract  
32           mentioned in paragraph (a) or (c).

- 1 (3) It is a condition of every operator's licence that the operator  
2 must ensure that —
- 3 (a) there is kept a paper copy of each document that  
4 provides proof of the name, date of birth and residency  
5 status of each unlicensed prostitute mentioned in  
6 subsection (2)(c); and
- 7 (b) no copy of the document is made or kept in electronic  
8 form; and
- 9 (c) the copy is kept secure from unauthorised access; and
- 10 (d) the copy is kept for the period that expires 3 months  
11 after the last day on which the unlicensed prostitute  
12 worked for the business; and
- 13 (e) the copy is destroyed on the expiration of that period.
- 14 (4) It is a condition of every operator's licence mentioned in  
15 subsection (2) or (3) that the operator must ensure that any  
16 record or document kept as required under either of those  
17 subsections can be inspected at any time by, and on the request  
18 of, the CEO, an authorised person as defined in section 92 or a  
19 police officer.
- 20 (5) A request mentioned in subsection (4) must not be made unless  
21 it is made for compliance purposes as defined in section 101(1).

22 **64. Conditions imposed by CEO**

- 23 (1) The CEO may impose conditions on a licence —
- 24 (a) when issuing or renewing the licence; or
- 25 (b) during the currency of the licence.
- 26 (2) The CEO may vary or revoke conditions imposed under this  
27 section on the CEO's own initiative or on application of the  
28 licence holder.
- 29 (3) An application of a licence holder must be accompanied by the  
30 prescribed fee (if any).

- 1 (4) Without affecting the generality of the CEO's discretion to  
2 impose conditions under this section, the CEO may impose  
3 conditions —
- 4 (a) as to the maximum number of staff that may, at the same  
5 time, be in a place in which a prostitution business is  
6 being conducted; or
- 7 (b) which the CEO considers to be in the public interest; or
- 8 (c) which the CEO considers desirable in order to minimise  
9 the offence, annoyance, disturbance or inconvenience  
10 that might be caused to those who reside or work in the  
11 vicinity of the place at which the prostitution business is  
12 conducted, or to persons in or making their way to or  
13 from a place of public worship, hospital or school, in  
14 consequence of activities in the place or the conduct of  
15 those making their way to or from the place.
- 16 (5) The imposition, variation or revocation of a condition during the  
17 currency of the registration of a person does not take effect until  
18 written notice, including reasons for the decision, and notice of  
19 the person's right of review under section 153, has been given  
20 to the person.
- 21 (6) Nothing in subsection (5) requires or authorises the CEO to  
22 disclose confidential police information.

23 **65. Compliance with conditions**

- 24 (1) A person to whom a licence is issued must not contravene a  
25 condition of the licence.  
26 Penalty: a fine of \$50 000.
- 27 (2) Each officer of a company that holds an operator's licence must  
28 ensure that the conditions of the licence are not contravened.  
29 Penalty: a fine of \$50 000.

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**Division 5 — Other matters about licences**

**66. Duration of licence**

- (1) A licence may be issued or renewed for a period not exceeding 3 years.
- (2) The duration of a licence must be stated in the licence.
- (3) If a licence is renewed after, but within 28 days of, the day on which it expired, the renewal is to be taken for all purposes to have taken effect on the day immediately after the day on which the licence expired.

**67. Licence not transferable**

A licence is not transferable.

**68. Register of licence holders**

- (1) The CEO must keep an accurate and up-to-date register, in such manner and form as the CEO determines, of all holders of —
  - (a) current and former operator’s licences; and
  - (b) current and former manager’s licences; and
  - (c) current prostitute’s licences (general); and
  - (d) current prostitute’s licences (self-employed).
- (2) In respect of each licence holder mentioned in subsection (1)(a) and (b) the CEO must record —
  - (a) the name of the licence holder; and
  - (b) the business address or other address of the licence holder; and
  - (c) the conditions imposed under section 64 that are current; and
  - (d) details of the suspension or revocation of a licence of the licence holder under section 73; and
  - (e) such other information, if any, as is prescribed.

- 1 (3) In respect of each licence holder mentioned in subsection (1)(a)  
2 the CEO must also record —
- 3 (a) the name and address of any other individual with whom  
4 the operator, if an individual, operates or operated the  
5 operator’s prostitution business; and
- 6 (b) the address of the place in which the operator’s  
7 prostitution business is or was conducted.
- 8 (4) In respect of each licence holder mentioned in subsection (1)(c)  
9 and (d) the CEO must record —
- 10 (a) the name of the licence holder; and
- 11 (b) the conditions imposed under section 64 that are current;  
12 and
- 13 (c) details of the suspension or revocation of a licence of the  
14 licence holder under section 73; and
- 15 (d) in the case of a self-employed prostitute, the address of  
16 the place in which the prostitution business is  
17 conducted; and
- 18 (e) such other information, if any, as is prescribed.
- 19 (5) The CEO must cause to be removed from the register all the  
20 details about the holder of a prostitute’s licence (general) or a  
21 prostitute’s licence (self-employed) that no longer has effect as  
22 soon as practicable after the licence ceases to have effect.
- 23 (6) Subsection (5) applies despite any requirement under the *State*  
24 *Records Act 2000* in relation to the keeping and destruction of  
25 records.

26 **69. Inspection of register**

- 27 (1) In this section —
- 28 ***officer*** means —
- 29 (a) a police officer; or
- 30 (b) a person of a class specified in the regulations for the  
31 purposes of this definition.

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 5** Other matters about licences

**s. 70**

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- 1 (2) The register must be available for inspection by an officer  
2 during normal office hours.
- 3 (3) The register may be made available electronically for inspection  
4 by an officer.
- 5 (4) An officer may, on application to the CEO in respect of the  
6 register or an entry in the register, and payment of the  
7 prescribed fee (if any), obtain a certified copy of the register or  
8 the entry.
- 9 (5) No fee is payable under subsection (4) if the application is made  
10 by a police officer for the purpose of performing a function of a  
11 police officer under this Act.

12 **70. Licence document**

- 13 (1) A licence that is issued or renewed must be in a form approved  
14 by the CEO.
- 15 (2) The CEO must give the licence holder a new licence if the CEO  
16 renews a licence.
- 17 (3) The CEO may, on payment of the prescribed fee (if any), issue a  
18 certified copy of a licence to the holder of the licence.
- 19 (4) If a licence is suspended or revoked the person who was the  
20 holder of the licence must, as soon as practicable after the  
21 suspension or revocation, ensure that the licence document is  
22 returned to the CEO.  
23 Penalty: a fine of \$6 000.
- 24 (5) Subsection (4) does not apply if the person has a reasonable  
25 excuse.

26 **71. CEO to be notified of certain matters affecting licences**

- 27 (1) A person who holds an operator's licence must ensure that the  
28 CEO is given notice in writing of any notifiable matter as  
29 defined in subsection (2) within 7 days after becoming aware of  
30 the matter.  
31 Penalty: a fine of \$24 000 or imprisonment for 2 years.

- 1       (2) In subsection (1) —  
2       **notifiable matter**, in relation to a prostitution business, means  
3       any of the following —
- 4           (a) a charge of the commission of an offence under this Act  
5               being made against —
- 6               (i) an operator or a manager of the business; or  
7               (ii) a person who is an officer of the company if a  
8               company is the licence holder;
- 9           (b) a charge of the commission of an indictable offence  
10               being made against —
- 11               (i) an operator or a manager of the business; or  
12               (ii) a person who is an officer of the company if a  
13               company is the licence holder;
- 14           (c) if a company is the licence holder, a person ceasing to  
15               be an officer of the company or a person, not already an  
16               officer of the company, becoming an officer of the  
17               company, and that person's name and address;
- 18           (d) a change in the name or address of any operator of the  
19               business and, if a company is the licence holder, any  
20               officer of the company;
- 21           (e) the name and address of any person who joins the  
22               licence holder in operating the business whether or not,  
23               if a company is the licence holder, that person is also an  
24               officer of the company.
- 25       (3) A person who holds a prostitute's licence (self-employed) must  
26       give the CEO notice in writing of any notifiable matter as  
27       defined in subsection (4) within 7 days after becoming aware of  
28       the matter.
- 29       Penalty: a fine of \$24 000.

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 5** Other matters about licences

**s. 71**

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- 1 (4) In subsection (3) —  
2 **notifiable matter**, in relation to a licence holder, means any of  
3 the following —  
4 (a) a charge of the commission of an offence under this Act  
5 being made against the licence holder;  
6 (b) a charge of the commission of an indictable offence  
7 being made against the licence holder;  
8 (c) a change in the name or address of the licence holder;  
9 (d) another self-employed prostitute ceasing to conduct a  
10 prostitution business in the same place as that of the  
11 licence holder;  
12 (e) another self-employed prostitute starting to conduct a  
13 prostitution business in the same place as that of the  
14 licence holder.
- 15 (5) A person who holds a manager’s licence or a prostitute’s licence  
16 (general) must give the CEO notice in writing of any notifiable  
17 matter as defined in subsection (6) within 7 days after becoming  
18 aware of the matter.  
19 Penalty: a fine of \$24 000.
- 20 (6) In subsection (5) —  
21 **notifiable matter**, in relation to a licence holder, means any of  
22 the following —  
23 (a) a charge of the commission of an offence under this Act  
24 being made against the licence holder;  
25 (b) a charge of the commission of an indictable offence  
26 being made against the licence holder;  
27 (c) a change in the name or address of the licence holder.

1           **Division 6 — Suspension or revocation of licence**

2   **72. Powers of CEO**

3       (1) The CEO may for the purposes of determining whether or not a  
4       licence should be suspended or revoked —

5           (a) require a person to produce to the CEO any document or  
6           other thing concerning the determination that is in the  
7           possession or under the control of the person; and

8           (b) inspect any document or other thing produced to the  
9           CEO and retain it for such reasonable period as the CEO  
10          thinks fit, and make copies of a document or any of its  
11          contents; and

12          (c) require a person —

13           (i) to give the CEO such information as the CEO  
14           requires; and

15           (ii) to answer any question put to that person,  
16           in relation to the determination.

17       (2) A requirement made under subsection (1)(a) —

18           (a) must be made by notice in writing given to the person  
19           required to produce the document or other thing; and

20           (b) must specify the time at or within which the document  
21           or other thing must be produced; and

22           (c) may, by its terms, require that the document or other  
23           thing required be produced at a place and by means  
24           specified in the requirement; and

25           (d) where the document required is not in a readable format,  
26           must be treated as a requirement to produce —

27           (i) the document itself; and

28           (ii) the contents of the document in a readable  
29           format.

- 1 (3) A requirement made under subsection (1)(c) —
- 2 (a) may be made orally or by notice in writing served on the
- 3 person required to give information or answer a
- 4 question, as the case may be; and
- 5 (b) must specify the time at or within which the information
- 6 must be given or the question must be answered, as the
- 7 case may be; and
- 8 (c) may, by its terms, require that the information or answer
- 9 required —
- 10 (i) be given orally or in writing; or
- 11 (ii) be given at or sent or delivered to a place
- 12 specified in the requirement; or
- 13 (iii) in the case of written information or answers be
- 14 sent or delivered by means specified in the
- 15 requirement; or
- 16 (iv) be verified by statutory declaration.
- 17 (4) If under subsection (1)(a) the CEO requires a person to produce
- 18 any document or other thing concerning the determination that
- 19 is in the possession or under the control of the person, the CEO
- 20 must inform that person that the person is required under this
- 21 Act to produce the document or thing.
- 22 (5) If under subsection (1)(c) the CEO requires a person to give
- 23 information or answer a question, the CEO must inform that
- 24 person that the person is required under this Act to give the
- 25 information or answer the question.

26 **73. Suspension or revocation of a licence**

- 27 (1) The CEO must not suspend or revoke a licence unless the CEO
- 28 has first informed the licence holder that the CEO is considering
- 29 suspending or revoking the licence, as is applicable to the case,
- 30 and has given the licence holder a reasonable opportunity to be
- 31 heard or make written representations.

- 1           (2) The CEO may by notice given to a licence holder suspend the  
2           licence for a period specified in the notice or revoke the licence  
3           if—
- 4           (a) the CEO is no longer satisfied as to any matter about  
5           which the CEO would be required to be satisfied before  
6           issuing or renewing the licence; or
- 7           (b) the CEO is satisfied that the licence holder has breached  
8           a provision of this Act, whether or not a prosecution has  
9           commenced; or
- 10          (c) in the case where the licence holder is a company, the  
11          CEO is satisfied that an officer of the company has  
12          breached a provision of this Act, whether or not a  
13          prosecution has commenced; or
- 14          (d) in the case of an operator’s licence, the CEO is satisfied  
15          that an operator of the prostitution business, the manager  
16          of the business or a prostitute working for the business  
17          has failed to comply with the approved health and drug  
18          management plan for the business; or
- 19          (e) in the case of a manager’s licence, the CEO is satisfied  
20          that the manager, or an operator of a prostitution  
21          business or a prostitute working for a prostitution  
22          business, when being managed by the licence holder,  
23          has failed to comply with the approved health and drug  
24          management plan for the business; or
- 25          (f) in the case of a prostitute’s licence (general), the CEO is  
26          satisfied that the licence holder has failed to comply  
27          with the approved health and drug management plan for  
28          a prostitution business for which the licence holder  
29          works or has worked; or
- 30          (g) in the case of a prostitute’s licence (self-employed), the  
31          CEO is satisfied that the licence holder has failed to  
32          comply with the approved health and drug management  
33          plan for the licence holder’s prostitution business; or

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 6** Suspension or revocation of licence

**s. 74**

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1 (h) the CEO comes to know of any other matter that would  
2 prevent the CEO from issuing the licence if an  
3 application were only then being made for it.

4 (3) In subsection (2)(d), (e) and (f) —

5 ***approved health and drug management plan*** means the health  
6 and drug management plan that accompanied the application for  
7 the issue or most recent renewal, as is relevant in the case, of the  
8 operator's licence for the prostitution business and that satisfied  
9 the CEO as being appropriate.

10 (4) In subsection (2)(g) —

11 ***approved health and drug management plan*** means the health  
12 and drug management plan that accompanied the application for  
13 the issue or most recent renewal, as is relevant in the case, of the  
14 prostitute's licence (self-employed) and that satisfied the CEO  
15 as being appropriate.

16 (5) The suspension or revocation of a licence takes effect when  
17 written notice of it, including the reasons for the decision to  
18 suspend or revoke the licence, and notice of the person's right  
19 of review under section 153(1), has been given to the person.

20 (6) Nothing in subsection (5) requires or authorises the CEO to  
21 disclose confidential police information.

22 (7) A licence is of no effect while it is suspended.

23 **74. Notification of revoked licences**

24 The CEO —

25 (a) may notify any person who holds an operator's  
26 licence —

27 (i) that a person has had a licence revoked; and

28 (ii) the day on which the revocation took effect;

29 and

30 (b) must give to a person notified under paragraph (a)  
31 information about any setting aside of the CEO's

1 decision to revoke the licence by the State  
2 Administrative Tribunal.

3 **75. Persons whose licence revoked not to work for prostitution**  
4 **business for 5 years**

5 (1) An operator of a prostitution business who, under section 74, is  
6 notified that a person's licence has been revoked must ensure  
7 that the person does not work for the prostitution business, in  
8 any capacity, during the period of 5 years starting on the day on  
9 which the revocation took effect.

10 Penalty: a fine of \$10 000.

11 (2) A person who has had a licence revoked must not work for any  
12 prostitution business, in any capacity, during the period of  
13 5 years starting on the day on which the revocation took effect.

14 Penalty: a fine of \$10 000.

15 **Division 7 — Offences relating to licences**

16 **76. False or misleading information**

17 (1) A person must not do any of the things set out in  
18 subsection (2) —

19 (a) in relation to an application under this Part; or

20 (b) in relation to the compliance, or purported compliance,  
21 with a requirement under section 53(1) to give the CEO  
22 a document or information.

23 Penalty: a fine of \$24 000 or imprisonment for 2 years.

24 (2) The things to which subsection (1) applies are —

25 (a) making a statement which the person knows is false or  
26 misleading in a material particular; or

27 (b) making a statement which is false or misleading in a  
28 material particular, with reckless disregard as to whether  
29 or not the statement is false or misleading in a material  
30 particular; or

- 1 (c) providing, or causing to be provided, information that  
2 the person knows is false or misleading in a material  
3 particular; or  
4 (d) providing, or causing to be provided, information that is  
5 false or misleading in a material particular, with reckless  
6 disregard as to whether the information is false or  
7 misleading in a material particular.

8 **77. Offences in relation to determination under section 72**

- 9 (1) Where under section 72 a person is required to give any  
10 information, answer any question, or produce any document or  
11 thing that person must not, without reasonable excuse (proof of  
12 which lies on the person) —  
13 (a) fail to give that information or answer that question at or  
14 within the time specified in the requirement; or  
15 (b) give any information or answer that is false in any  
16 particular; or  
17 (c) fail to produce that document or thing at or within the  
18 time specified in the requirement.

19 Penalty: a fine of \$24 000 or imprisonment for 2 years.

- 20 (2) It is a defence to a charge of an offence under subsection (1)(a)  
21 or (c) for the accused to prove —  
22 (a) that, in the case of an alleged offence arising out of a  
23 requirement made orally under section 72, the CEO did  
24 not, when making the requirement, inform the accused  
25 that he or she was required under this Act to give the  
26 information or answer the question, as the case may be;  
27 or  
28 (b) that, in the case of an alleged offence arising out of a  
29 requirement made by notice in writing under section 72,  
30 the notice did not state that he or she was required under  
31 this Act to give the information, answer the question, or  
32 produce the document or thing, as the case may be; or

- 1 (c) that the time specified in the requirement did not afford  
2 the accused sufficient notice to enable him or her to  
3 comply with the requirement; or  
4 (d) that, in any case, the CEO did not, before making the  
5 requirement, have reasonable grounds to believe that  
6 compliance with the requirement would assist the CEO  
7 in making the determination.

8 **78. Incriminating information, questions or documents**

9 An individual is not excused from complying with a  
10 requirement under section 72 on the ground that the answer to a  
11 question or the production of a document or other thing might  
12 incriminate the individual or render the individual liable to a  
13 penalty, but neither —

- 14 (a) an answer given by the individual that was given to  
15 comply with the requirement; nor  
16 (b) the fact that a document or other thing produced by the  
17 individual to comply with the requirement was  
18 produced,

19 is admissible in evidence in any civil or criminal proceedings  
20 against the individual other than proceedings for an offence  
21 under section 77(1)(b).

22 **Division 8 — Planning and development controls**

23 **79. Terms used**

24 In this Division —

25 ***caretaker's dwelling*** means a dwelling that is —

- 26 (a) on the same land as, or part of, a building, operation or  
27 plant; and  
28 (b) occupied by a supervisor of the building, operation or  
29 plant;

30 ***City of Perth inner zone*** means the area of land in the Perth  
31 local government district that is bounded by the Mitchell

1 Freeway to the west, Newcastle Street to the north, Victoria  
2 Avenue and Lord Street to the east and the Swan River to the  
3 south, but does not include the area of land that is bounded by  
4 Fitzgerald Street, Aberdeen Street, Shenton Street and James  
5 Street;

6 **planning scheme** means any of the following —

- 7 (a) a planning scheme as defined in the *Planning and*  
8 *Development Act 2005* section 4(1);  
9 (b) a prescribed redevelopment scheme;  
10 (c) a master plan as defined in the *Hope Valley-Wattleup*  
11 *Redevelopment Act 2000* section 3(1);  
12 (d) an interim development order as defined in the *Planning*  
13 *and Development Act 2005* section 4(1);

14 **protected place** means —

- 15 (a) a hospital; or  
16 (b) a place used for education, worship, the care or  
17 recreation of children, or to provide community support  
18 or welfare; or  
19 (c) a place of a kind that is prescribed; or  
20 (d) a place that is used for a prescribed purpose;

21 **residential area** means an area, zone or precinct, however  
22 described, in which the use of land for residential purposes is  
23 permitted by the applicable planning scheme, whether or not  
24 subject to conditions, without the need for the responsible  
25 planning authority to exercise its discretion to grant planning  
26 approval for such use;

27 **responsible planning authority**, in relation to —

- 28 (a) a local planning scheme as defined in the *Planning and*  
29 *Development Act 2005* section 4(1), means the local  
30 government which is responsible for the local planning  
31 scheme; or

- 1 (b) an improvement scheme as defined in the *Planning and*  
2 *Development Act 2005* section 4(1), means the WAPC;  
3 or  
4 (c) a region planning scheme as defined in the *Planning and*  
5 *Development Act 2005* section 4(1), means the WAPC;  
6 or  
7 (d) a prescribed redevelopment scheme, means the authority  
8 prescribed in relation to that scheme for the purposes of  
9 this definition; or  
10 (e) a master plan as defined in the *Hope Valley-Wattleup*  
11 *Redevelopment Act 2000* section 3(1), means the  
12 Western Australian Land Authority established under  
13 the *Western Australian Land Authority Act 1992*  
14 section 5(1); or  
15 (f) a local interim development order as defined in the  
16 *Planning and Development Act 2005* section 4(1),  
17 means the local government responsible for the  
18 enforcement of the order; or  
19 (g) a regional interim development order as defined in the  
20 *Planning and Development Act 2005* section 4(1),  
21 means the WAPC or local government exercising the  
22 powers of the WAPC;  
23 **WAPC** means the Western Australian Planning Commission  
24 established by the *Planning and Development Act 2005*  
25 section 7.

26 **80. Measurement of distances**

27 For the purposes of this Division the distance between a  
28 protected place or a residence and a prostitution business must  
29 be measured between —

- 30 (a) the boundary of the land on which the protected place or  
31 residence is built that is closest to the prostitution  
32 business; and

- 1 (b) the wall of the building in which the prostitution  
2 business is conducted or proposed to be conducted that  
3 is closest to the protected place or residence.

4 **81. This Division does not affect licensing requirements**

5 Nothing in this Division affects a requirement under Division 2  
6 for a person to hold a licence in relation to a prostitution  
7 business.

8 **82. This Division overrides planning schemes, approvals**

9 (1) The provisions of this Division apply despite the provisions of  
10 any planning scheme.

11 (2) A provision in a planning scheme that is inconsistent with a  
12 provision of this Division is of no effect to the extent of the  
13 inconsistency.

14 (3) For the purposes of section 55(7)(b), 58(2)(d) or 61(3)(a), a  
15 responsible planning authority's approval for a prostitution  
16 business to be conducted in a place has no effect to the extent  
17 that the approval is inconsistent with a provision of this  
18 Division.

19 **83. No prostitution businesses in residential areas**

20 (1) Land in a residential area must not be used for the purposes of a  
21 prostitution business.

22 (2) Despite subsection (1), land in a residential area may continue  
23 to be used for the purposes of a prostitution business —

24 (a) if it did not become part of a residential area until after  
25 an operator's licence in relation to the business was  
26 issued; and

27 (b) for the duration of the operator's licence or, if the  
28 licence has been renewed, for the duration of the most  
29 recent renewal.

1 **84. Prostitution businesses in non-residential areas**

- 2 (1) Land that is not in a residential area may be used for the  
3 purposes of a prostitution business if —
- 4 (a) a development application is made for approval to use  
5 the land for that purpose; and
- 6 (b) the responsible planning authority's decision on the  
7 application permits the land to be used for that purpose;  
8 and
- 9 (c) the land is not land to which section 85(2)(a), (b) or (c)  
10 applies or if it is, the use is in accordance with  
11 section 85(3); and
- 12 (d) the land is not land to which section 86(2)(a), (b) or (c)  
13 applies or if it is, the use is in accordance with  
14 section 86(3).
- 15 (2) A planning scheme may require that a development application  
16 that is made for approval to use land for the purposes of a  
17 prostitution business must be advertised in accordance with the  
18 provisions of the *Planning and Development Act 2005*,  
19 including regulations made under that Act, relating to the  
20 advertisement of development applications.

21 **85. Prostitution businesses in non-residential areas in City of**  
22 **Perth inner zone**

- 23 (1) In this section —
- 24 **land (CPIZ)** means land that —
- 25 (a) is within the City of Perth inner zone; and  
26 (b) is not in a residential area.
- 27 (2) Land (CPIZ) must not be used for the purposes of a prostitution  
28 business if —
- 29 (a) the distance between the prostitution business and any  
30 protected place, wherever situated, is less than 100 m; or  
31 (b) the land comprises a building that contains a dwelling  
32 other than a caretaker's dwelling; or

- 1 (c) in the opinion of the City of Perth, the land is in an area  
2 that contains a significant number of dwellings  
3 (although not a residential area).
- 4 (3) Despite subsection (2), land (CPIZ) may continue to be used for  
5 the purposes of a prostitution business if —
- 6 (a) the business was established after this Division came  
7 into operation; and
- 8 (b) after the issue of an operator’s licence in relation to the  
9 business —
- 10 (i) a protected place is situated less than 100 m from  
11 the business; or
- 12 (ii) a dwelling, other than a caretaker’s dwelling, is  
13 established in the building in which the business  
14 is conducted; or
- 15 (iii) the City of Perth forms the opinion that the area  
16 in which the business is located contains a  
17 significant number of dwellings (although not a  
18 residential area);
- 19 and
- 20 (c) if a development application was made for approval to  
21 use land in a way mentioned in paragraph (b), the  
22 responsible planning authority to which the application  
23 was made had, before making a decision on the  
24 application, informed the applicant of each prostitution  
25 business to which paragraph (b) would apply if the use  
26 was permitted.

27 **86. Prostitution businesses in non-residential areas in rest of**  
28 **State**

- 29 (1) In this section —
- 30 ***land (rest of WA)*** means land that —
- 31 (a) is within any area of the State other than the City of  
32 Perth inner zone; and
- 33 (b) is not in a residential area.

- 1 (2) Land (rest of WA) must not be used for the purposes of a  
2 prostitution business if —
- 3 (a) the distance between the prostitution business and any  
4 residence (other than a caretaker's dwelling), wherever  
5 situated, is less than 100 m; or
- 6 (b) the distance between the prostitution business and any  
7 protected place, wherever situated, is less than 200 m; or
- 8 (c) in the opinion of the responsible planning authority for  
9 the land in which the business is located, the land is in  
10 an area that contains a significant number of dwellings  
11 (although not a residential area).
- 12 (3) Despite subsection (2), land (rest of WA) may continue to be  
13 used for the purposes of a prostitution business if —
- 14 (a) the business was established after this Division came  
15 into operation; and
- 16 (b) after the issue of an operator's licence in relation to the  
17 business —
- 18 (i) a residence, other than a caretaker's dwelling, is  
19 situated less than 100 m from the business; or
- 20 (ii) a protected place is situated less than 200 m from  
21 the business; or
- 22 (iii) the responsible planning authority for the land in  
23 which the business is located forms the opinion  
24 that the area in which the business is located  
25 contains a significant number of dwellings  
26 (although not a residential area);
- 27 and
- 28 (c) if a development application was made for approval to  
29 use land in a way mentioned in paragraph (b), the  
30 responsible planning authority to which the application  
31 was made had, before making a decision on the  
32 application, informed the applicant of each prostitution  
33 business to which paragraph (b) would apply if the use  
34 was permitted.

1 **Division 9 — Governor's powers as to licences in certain areas**  
2 **and licence applications**

3 **87. Terms used**

4 In this Division —

5 ***no licence area order*** means an order made under section 88(1);  
6 ***order*** means a no licence area order or a particular applicant  
7 order;

8 ***particular applicant order*** means an order made under  
9 section 89(1).

10 **88. No licence area order**

11 (1) The Governor may, for any reason, make an order that the CEO  
12 must not issue a licence to any person to operate or manage a  
13 prostitution business in an area of the State that is specified in  
14 the order.

15 (2) The Governor may, for any reason, vary or revoke a no licence  
16 area order.

17 (3) Before a no licence area order is made, varied or revoked the  
18 Minister must, at least 14 days before the day on which the  
19 order is proposed to be made, varied or revoked —

20 (a) publish in the *Gazette* notice of the intention to make,  
21 vary or revoke the order so that persons likely to be  
22 affected by the making, variation or revocation of the  
23 order may make representations in writing to the  
24 Minister; and

25 (b) inform the local government of the district in which the  
26 area is located of the intention to make, vary or revoke  
27 the order so that the local government may make  
28 representations in writing to the Minister.

29 (4) Before a no licence area order is made, varied or revoked the  
30 Minister must have regard to each matter raised in the

1 representations received in deciding whether to recommend that  
2 the Governor makes, varies or revokes a no licence area order.

3 (5) A no licence area order, or a variation or revocation of a no  
4 licence area order, takes effect on the day on which it is  
5 published in the *Gazette*.

6 **89. Particular applicant order**

7 (1) The Governor may for any reason, after an application for a  
8 licence is made but before the licence is issued, make an order  
9 that the CEO must not issue the licence.

10 (2) The Governor may, for any reason, vary or revoke a particular  
11 applicant order.

12 (3) Before a particular applicant order is made or varied the  
13 Minister must, at least 14 days before the day on which the  
14 order is proposed to be made or varied give notice of the  
15 intention to make or vary the order to the applicant so that the  
16 applicant may make representations in writing to the Minister.

17 (4) Before a particular applicant order is made or varied the  
18 Minister must have regard to each matter raised in the  
19 representations received in deciding whether to recommend that  
20 the Governor makes or varies a particular applicant order.

21 (5) A particular applicant order, or a variation or revocation of a  
22 particular applicant order, takes effect on the day on which the  
23 order or advice of the variation or revocation is given to the  
24 CEO.

25 (6) A copy of a particular applicant order or advice of an order's  
26 variation or revocation must be given to the applicant before the  
27 expiry of the period of 7 days after the order or advice is given  
28 to the CEO but a failure to do so does not affect the effect of the  
29 order, variation or revocation.

**Prostitution Bill 2011**

**Part 6** Licensing

**Division 9** Governor's powers as to licences in certain areas and licence applications

**s. 90**

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- 1 **90. Effect of orders**
- 2 (1) A no licence area order has effect according to its tenor
- 3 even if —
- 4 (a) land that is in the area of the State that is the subject of
- 5 the order may, under Division 8, be used for the
- 6 purposes of a prostitution business; and
- 7 (b) the responsible planning authority —
- 8 (i) has given, in accordance with Division 8, its
- 9 approval for a prostitution business to be
- 10 conducted in a place in the area; or
- 11 (ii) would have given, in accordance with
- 12 Division 8, its approval for a prostitution
- 13 business to be conducted in a place in the area,
- 14 but for the order.
- 15 (2) A planning scheme, as defined in section 79, that applies to land
- 16 that is in the area of the State that is the subject of a no licence
- 17 area order is to be taken to not permit the use of the land for
- 18 purposes of a prostitution business while the order is in effect.
- 19 (3) A particular applicant order has effect according to its tenor
- 20 even if the CEO would have issued a licence to the applicant
- 21 under section 55(2), but for the order.
- 22 **91. Orders not open to disallowance, challenge**
- 23 (1) An order is not subsidiary legislation for the purposes of the
- 24 *Interpretation Act 1984*.
- 25 (2) An order made or purportedly made may not be challenged,
- 26 appealed against, reviewed, quashed or called into question on
- 27 any grounds whatsoever before any court, tribunal, body or
- 28 person in any legal proceedings, or restrained, removed or
- 29 otherwise affected by proceedings for any injunctive,
- 30 declaratory or other relief, remedy or order whether by way of
- 31 prerogative writ or otherwise.
- 32 (3) Subsection (2) does not limit judicial review for jurisdictional
- 33 error.

**Part 7 — Enforcement**

**Division 1 — Preliminary**

**92. Term used: authorised person**

In this Part —

*authorised person* means a person designated under section 97(1) as an authorised person.

**93. Reasonable force**

A police officer may use any force that is reasonably necessary, and may call on any assistance necessary, in order to exercise a power under this Part.

**94. Hindering performance of functions**

A person must not delay, obstruct or otherwise hinder a police officer or any other person in the performance of any function that the police officer or other person has under this Act.

Penalty: imprisonment for 2 years.

**Division 2 — Information and reports**

**95. Confidential police information**

- (1) The Commissioner may, for the purposes of this section, classify any information or document held by the Commissioner as confidential.
- (2) The CEO must not publish or disclose to any person any confidential police information that is provided by the Commissioner to the CEO for the purposes of this Act.
- (3) Subsection (2) applies despite any other provision of this Act but does not apply to prevent the CEO from disclosing confidential police information to —
  - (a) a court or the State Administrative Tribunal; or

**Prostitution Bill 2011**

**Part 7** Enforcement

**Division 2** Information and reports

**s. 95**

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- 1 (b) a person to whom the Commissioner authorises its  
2 disclosure.
- 3 (4) If the CEO makes a decision solely or partly on the basis of  
4 confidential police information —
- 5 (a) to refuse to issue or renew a licence; or  
6 (b) to impose, vary or revoke a licence condition; or  
7 (c) to suspend or revoke a licence; or  
8 (d) to make a prohibition order under section 120 or an  
9 order varying or revoking a prohibition order; or  
10 (e) to refuse to give approval under section 180 or about the  
11 imposition of a condition on an approval,
- 12 the CEO is not required to give any reasons for the decision  
13 other than that the decision is made in the public interest.
- 14 (5) In any proceedings under this Act (other than proceedings for an  
15 offence), a court or the State Administrative Tribunal —
- 16 (a) must, on the application of the Commissioner, take all  
17 reasonable steps to maintain the confidentiality of  
18 confidential police information, including steps —
- 19 (i) to receive evidence and hear argument about  
20 confidential police information in private and in  
21 the absence of any party to the proceedings other  
22 than the CEO or the Commissioner or their  
23 representatives; and
- 24 (ii) to prohibit the publication of evidence about  
25 confidential police information;
- 26 and
- 27 (b) may take evidence consisting of or relating to  
28 confidential police information by way of an affidavit of  
29 a member of the Police Force of or above the rank of  
30 Superintendent.

1 **96. Commissioner’s reports, opinions on licensing matters**

2 In addition to providing to the CEO reports under section 54(3),  
3 the Commissioner may, at any time, provide the CEO  
4 information and give the Commissioner’s opinion about any of  
5 the following —

- 6 (a) whether a licence holder continues to be eligible or  
7 suitable to hold the licence;
- 8 (b) the imposition, variation or revocation of licence  
9 conditions;
- 10 (c) the suspension or revocation of a licence.

11 **Division 3 — Authorised persons**

12 **97. Authorised persons**

- 13 (1) The CEO may, by instrument in writing, designate a public  
14 service officer employed in the Department as an authorised  
15 person for the purposes of this Act.
- 16 (2) A person may be designated to be an authorised person for a  
17 fixed or indefinite period.
- 18 (3) The CEO may, by instrument in writing, revoke a designation at  
19 any time.

20 **98. Identity cards**

- 21 (1) The CEO must give an identity card to each person designated  
22 by the CEO as an authorised person.
- 23 (2) An identity card must —
  - 24 (a) identify the person as an authorised person; and
  - 25 (b) contain a recent photograph of the person.
- 26 (3) A person must, within 14 days of ceasing to be an authorised  
27 person, return the person’s identity card to the CEO.  
28 Penalty: a fine of \$5 000.

1 (4) Subsection (3) does not apply if the person has a reasonable  
2 excuse.

3 (5) An authorised person must carry his or her identity card at all  
4 times when exercising powers or performing functions as an  
5 authorised person.

6 **99. Production or display of identity card**

7 (1) An authorised person may exercise a power in relation to  
8 someone only if —

9 (a) the authorised person first produces the authorised  
10 person's identity card for the other person's inspection;  
11 or

12 (b) the authorised person has the identity card displayed so  
13 it is clearly visible to the other person.

14 (2) However, if for any reason it is not practicable to comply with  
15 subsection (1) before exercising the power, the authorised  
16 person may exercise the power and then produce the identity  
17 card for inspection by the person at the first reasonable  
18 opportunity.

19 **100. Limitation on powers of authorised person**

20 (1) An authorised person must act —

21 (a) in accordance with the CEO's directions; and

22 (b) subject to any limitation on the powers of that person  
23 mentioned in subsection (2).

24 (2) The powers of an authorised person may be limited —

25 (a) under a condition specified in the person's instrument of  
26 designation as an authorised person; or

27 (b) by written notice given by the CEO to the person.

28 (3) The CEO may, at any time, revoke or vary a condition of  
29 designation mentioned in subsection (2)(a) or a notice  
30 mentioned in subsection (2)(b).

**Division 4 — Enforcement powers**

**101. Terms used**

(1) In this Division —

***compliance purposes*** means any one or more of the following —

- (a) monitoring whether a provision of this Act has been, or is being, complied with;
- (b) investigating a suspected contravention of a provision of this Act;

***juvenile justice team*** means a juvenile justice team under the *Young Offenders Act 1994* Part 5 Division 2.

(2) For the purposes of this Division a person is lawfully entitled to possess something if —

- (a) the person owns it or is authorised by the owner to possess it; and
- (b) the possession is not prohibited by law or is authorised, justified or excused by law.

**102. Police officer, authorised person, may enter place for certain purposes**

(1) For compliance purposes a police officer may, without a warrant and at any time, enter a place if the officer reasonably suspects that —

- (a) the place is not a dwelling; and
- (b) a prostitution business is being conducted in the place.

(2) An authorised person may, without a warrant and at any time, enter a place in which a prostitution business is conducted and to which a licence applies to ascertain whether —

- (a) each person operating the prostitution business holds a current operator's licence or, in the case of a self-employed prostitute, a current prostitute's licence (self-employed); or

**Prostitution Bill 2011**

**Part 7** Enforcement

**Division 4** Enforcement powers

**s. 103**

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- 1 (b) the person managing the prostitution business at the time  
2 holds a current manager's licence and is present in the  
3 place; or
- 4 (c) in relation to any person who acts, or who is available to  
5 act, as a prostitute in the prostitution business either —  
6 (i) the person holds a current prostitute's licence  
7 (general); or  
8 (ii) there is compliance with section 22(b) in respect  
9 of the person;
- 10 or
- 11 (d) each of section 18(1), (2) or (4), as is relevant to the  
12 case, is being complied with.
- 13 (3) A police officer or an authorised person who enters a place  
14 under subsection (1) or (2) may require a person in the place  
15 apparently operating, managing or working for a prostitution  
16 business to give the police officer or authorised person his or  
17 her name and address and provide proof of his or her identity.
- 18 (4) A police officer who enters a place under subsection (1) may —  
19 (a) search the place and inspect any articles and records  
20 kept there; and  
21 (b) stop, detain and search anyone in the place; and  
22 (c) seize anything that the police officer suspects on  
23 reasonable grounds will afford evidence as to the  
24 commission of an offence.

25 **103. Obstructing person exercising power under s. 102**

- 26 (1) A person must not prevent or attempt to prevent —  
27 (a) a police officer from entering a place under  
28 section 102(1); or  
29 (b) an authorised person from entering a place under  
30 section 102(2); or

1 (c) otherwise obstruct or impede a police officer or  
2 authorised person in the exercise of his or her powers  
3 under section 102.

4 Penalty: a fine of \$24 000 or imprisonment for 2 years.

5 (2) If required under section 102(3) by a police officer or authorised  
6 person to give the police officer or authorised person his or her  
7 name and address or provide proof of his or her identity, a  
8 person must not fail to give the police officer or authorised  
9 person his or her name and address or provide proof of his or  
10 her identity.

11 Penalty: a fine of \$24 000 or imprisonment for 2 years.

12 **104. Powers to obtain information**

13 (1) A police officer may, for compliance purposes —

14 (a) require a person to produce to the police officer any  
15 document or other thing that is in the possession or  
16 under the control of the person; and

17 (b) inspect any document or other thing produced to the  
18 police officer and retain it for such reasonable period as  
19 the police officer thinks fit, and make copies of a  
20 document or any of its contents; and

21 (c) require a person —

22 (i) to give the police officer such information as the  
23 police officer requires; and

24 (ii) to answer any question put to that person.

25 (2) A requirement made under subsection (1) to produce a  
26 document or other thing —

27 (a) must be made in writing given to the person required to  
28 produce the document or other thing; and

29 (b) must specify the time at or within which the document  
30 or other thing must be produced; and

**Prostitution Bill 2011**

**Part 7** Enforcement

**Division 4** Enforcement powers

**s. 104**

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- 1 (c) may, by its terms, require that the document or other  
2 thing required be produced at a place and by means  
3 specified in the requirement; and
- 4 (d) where the document required is not in a readable format,  
5 must be treated as a requirement to produce —
- 6 (i) the document itself; and  
7 (ii) the contents of the document in a readable  
8 format.
- 9 (3) A requirement made under subsection (1) to give information or  
10 answer a question —
- 11 (a) may be made orally or in writing served on the person  
12 required to give information or answer a question, as the  
13 case may be; and
- 14 (b) must specify the time at or within which the information  
15 must be given or the question must be answered, as the  
16 case may be; and
- 17 (c) may, by its terms, require that the information or answer  
18 required —
- 19 (i) be given orally or in writing; or  
20 (ii) be given at or sent or delivered to a place  
21 specified in the requirement; or
- 22 (iii) in the case of written information or answers, be  
23 sent or delivered by means specified in the  
24 requirement; or
- 25 (iv) be verified by statutory declaration.
- 26 (4) If under subsection (1) the police officer requires a person to  
27 give information or answer a question, the police officer must  
28 inform the person that the person is required under this Act to  
29 give the information or answer the question.

1 **105. Failure to comply with requirements under s. 104**

2 (1) A person must not, without lawful excuse, refuse or fail to  
3 produce a document or other thing as required under  
4 section 104.

5 Penalty: imprisonment for 2 years.

6 (2) A person must not, without lawful excuse, refuse or fail to  
7 answer a question or otherwise give information when required  
8 to do so under section 104.

9 Penalty: imprisonment for 2 years.

10 (3) Where an individual is required under section 104 to answer a  
11 question or otherwise give information or produce anything,  
12 none of the following is admissible in evidence in any civil or  
13 criminal proceedings against the individual other than  
14 proceedings for perjury or for an offence arising from the false  
15 or misleading nature of the answer or information given —

16 (a) an answer given by the individual that was given to  
17 comply with the requirement;

18 (b) the fact that any information that was given by the  
19 individual to comply with the requirement was given;

20 (c) the fact that anything that was produced by the  
21 individual to comply with the requirement was  
22 produced.

23 (4) Nothing in this Act prevents —

24 (a) an individual from refusing to answer a question or  
25 otherwise give information or produce a document or  
26 other thing because the answer or information might, or  
27 the document or thing contains information that might,  
28 incriminate the individual or render the individual liable  
29 to a penalty; or

30 (b) a person refusing to answer a question or otherwise give  
31 information or produce a document or other thing  
32 because the answer or information would relate to, or

1 the document or thing contains, information in respect  
2 of which the person claims legal professional privilege.

3 (5) A document or thing —

4 (a) that is produced in compliance with a requirement under  
5 section 104; and

6 (b) for which a person entitled to possession of it claims  
7 legal professional privilege for all or some of the  
8 information in it,

9 must be dealt with in accordance with the *Criminal*  
10 *Investigation Act 2006* section 151 as if it were a business  
11 record produced under an order to produce issued under  
12 section 53 of that Act.

13 **106. Police direction to move on**

14 (1) A police officer who has reason to suspect that a person has  
15 committed, or intends to commit, an offence under section 9  
16 or 10 in relation to a public place may, in writing in a form  
17 approved by the Commissioner, direct the person to move away  
18 from that place and a surrounding area specified in the direction,  
19 and stay away from it for a period of not more than 24 hours  
20 specified in the direction.

21 (2) A person must not, without lawful excuse, contravene a  
22 direction given under subsection (1).

23 Penalty:

24 (a) for a first offence, a fine of \$6 000;

25 (b) for a second or subsequent offence, imprisonment for  
26 one year.

27 **107. Detain, search and seize without warrant**

28 (1) In this section —

29 *conveyance* means anything used or capable of being used to  
30 transport people or goods by air, land or water, and it does not  
31 matter how it is propelled or that it may ordinarily be stationary;

- 1            **offence** means an offence under this Act.
- 2            (2) A police officer may without a warrant stop, detain and search  
3 anyone whom the police officer suspects on reasonable grounds  
4 to be —
- 5            (a) committing an offence; or  
6            (b) carrying anything that will afford evidence as to the  
7 commission of an offence.
- 8            (3) A police officer may without a warrant stop, detain and search  
9 any conveyance where the police officer suspects on reasonable  
10 grounds that there is —
- 11            (a) anyone who is committing an offence; or  
12            (b) anything that will afford evidence as to the commission  
13 of an offence.
- 14            (4) The power to stop and detain a conveyance includes the power  
15 to detain anyone in or on the conveyance for as long as is  
16 reasonably necessary to search the conveyance even though,  
17 until the conveyance has been searched, the person may not be  
18 suspected of anything because of which the person can be  
19 detained under subsection (2).
- 20            (5) A police officer may without a warrant seize anything that the  
21 police officer suspects on reasonable grounds will afford  
22 evidence as to the commission of an offence.

23            **108. Detain, search and seize with warrant**

- 24            (1) If a justice is satisfied that there are reasonable grounds for  
25 suspecting that there is in a place anything that will afford  
26 evidence as to the commission of an offence under this Act, the  
27 justice may grant a warrant of search and seizure in relation to  
28 that place.
- 29            (2) A warrant under subsection (1) authorises any police officer at  
30 any time, with such assistance as the police officer thinks  
31 necessary and with such force as is reasonably necessary —
- 32            (a) to enter the place at any time; and

**Prostitution Bill 2011**

**Part 7** Enforcement

**Division 4** Enforcement powers

**s. 109**

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- 1 (b) to search the place; and  
2 (c) to stop, detain and search anyone in the place; and  
3 (d) to seize anything that the police officer suspects on  
4 reasonable grounds will afford evidence as to the  
5 commission of an offence under this Act.
- 6 (3) The authority given by a warrant lapses at the end of a period of  
7 30 days after it was granted and, until it lapses or the purpose  
8 for which it was given is satisfied, the authority it gives may be  
9 exercised from time to time unless the warrant expressly limits  
10 that authority.
- 11 **109. Warrant may be obtained remotely**
- 12 (1) An application for a warrant under section 108 may be initially  
13 submitted by telephone, fax, radio or another form of  
14 communication if the applicant considers it necessary because  
15 of urgent circumstances or the applicant's remote location.
- 16 (2) Before submitting an application under this section, the  
17 applicant must prepare a written application setting out the  
18 grounds for seeking the warrant and describing the place to  
19 which the warrant relates.
- 20 (3) If an application is submitted under this section, the information  
21 in the written application required by subsection (2) must be  
22 verified by affidavit and, if it is necessary to do so, the  
23 application may be submitted before the affidavit has been  
24 sworn.
- 25 (4) When issuing a warrant upon an application submitted under  
26 this section, the justice must —
- 27 (a) complete and sign the warrant; and  
28 (b) inform the applicant of the terms of the warrant and the  
29 date on which and the time at which it was signed; and  
30 (c) record on the warrant the reasons for issuing the  
31 warrant; and  
32 (d) send a copy of the warrant to the applicant.

- 1 (5) If a warrant is issued upon an application submitted under this  
2 section, the applicant may complete a form of warrant in the  
3 terms indicated by the justice under subsection (4)(b) if the  
4 applicant writes on it the name of the justice who issued the  
5 warrant and the date on which, and the time at which, it was  
6 signed.
- 7 (6) If the applicant completes a form of warrant in accordance with  
8 subsection (5), the applicant must send to the justice who signed  
9 the warrant, not later than the day next following the day on  
10 which the warrant ceases to have effect, the form of warrant  
11 completed by the person and the affidavit sworn in connection  
12 with the warrant.
- 13 (7) On receiving the documents referred to in subsection (6), the  
14 justice must attach them to the warrant signed by the justice and  
15 deal with the documents in the manner in which the justice  
16 would have dealt with the affidavit if the application for the  
17 warrant had not been submitted under this section.
- 18 (8) A form of warrant completed in accordance with subsection (5)  
19 must be treated as the warrant itself.

20 **110. Provisions about searching a person**

- 21 (1) In this section —
- 22 ***medical practitioner*** means a person who is registered under the  
23 *Health Practitioner Regulation National Law (Western*  
24 *Australia)* in the medical profession;
- 25 ***registered nurse*** means a person who is registered under the  
26 *Health Practitioner Regulation National Law (Western*  
27 *Australia)* in the nursing and midwifery profession whose name  
28 is entered on Division 1 of the Register of Nurses kept under  
29 that Law as a registered nurse.
- 30 (2) A police officer cannot conduct a search of a person under this  
31 Part unless of the same sex as the person searched.

**Prostitution Bill 2011**

**Part 7** Enforcement

**Division 4** Enforcement powers

**s. 110**

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- 1 (3) If a police officer of the same sex as the person to be searched is  
2 not immediately available to conduct the search, another police  
3 officer may —
- 4 (a) cause the search to be conducted, under the direction of  
5 a police officer, by another person of the same sex as the  
6 person to be searched; or
- 7 (b) detain the person for as long as is reasonably necessary  
8 for the person to be searched in accordance with this  
9 section; or
- 10 (c) convey or conduct the person to a place where the  
11 person can be searched in accordance with this section.
- 12 (4) Nothing in this Part authorises a search by way of an  
13 examination of the body cavities of a person unless it is  
14 conducted —
- 15 (a) under subsection (6) by a medical practitioner or a  
16 registered nurse; and
- 17 (b) in accordance with subsection (7) if relevant.
- 18 (5) A police officer may arrange for a medical practitioner or  
19 registered nurse nominated by the police officer to examine the  
20 body cavities of the person to be searched and may —
- 21 (a) detain the person until the arrival of that medical  
22 practitioner or registered nurse; or
- 23 (b) convey or conduct the person to that medical  
24 practitioner or registered nurse.
- 25 (6) A medical practitioner or registered nurse may conduct an  
26 examination arranged by a police officer under subsection (5)  
27 and no action lies against the medical practitioner or registered  
28 nurse in respect of anything reasonably done for the purposes of  
29 the examination.
- 30 (7) A strip search or an examination of the body cavities of a person  
31 who is a child or an incapable person (the ***protected person***)  
32 must, if practicable, be done in the presence of a responsible  
33 person or some other person who can provide the protected

1 person with support and represent the protected person's  
2 interests.

3 (8) In subsection (7) —

4 **incapable person** means a person who, because of intellectual  
5 disability, mental illness, brain damage or senility, is incapable  
6 of understanding the general nature and effect of, and the reason  
7 for and the consequences of undergoing, an examination of the  
8 person's body cavities;

9 **responsible person**, in relation to a child, has the meaning given  
10 to that term in the *Criminal Investigation Act 2006* section 73;

11 **responsible person**, in relation to an incapable person, has the  
12 meaning given to that term in the *Criminal Investigation*  
13 *Act 2006* section 73;

14 **strip search** means a search that involves any action referred to  
15 in the *Criminal Investigation Act 2006* section 64(1).

16 **111. Retaining something seized but not forfeited**

17 (1) This section applies to anything seized under this Act that —

- 18 (a) is not forfeited to the Crown; and  
19 (b) a court has not ordered to be delivered to a person under  
20 section 112(1)(b) or 113(6).

21 (2) A police officer may retain anything to which this section  
22 applies if —

- 23 (a) it is required —  
24 (i) for the investigation of an offence under this Act  
25 or the prosecution of someone for an offence  
26 under this Act; or  
27 (ii) for the purposes of a matter that is being dealt  
28 with by a juvenile justice team;

29 or

- 30 (b) no person has satisfied the Commissioner that the person  
31 is lawfully entitled to possess it.

- 1 (3) Anything to which this section applies that cannot be retained  
2 under subsection (2) must be returned to the person from whom  
3 it was seized.

4 **112. Forfeiture and delivery on conviction**

- 5 (1) A court convicting a person of an offence under this Act may  
6 order that —
- 7 (a) anything relating to the offence, whether or not it has  
8 been seized and retained by a police officer under this  
9 Act, is forfeited to the Crown; or
- 10 (b) anything relating to the offence that has been seized and  
11 retained by a police officer under this Act be delivered  
12 to another person who is lawfully entitled to possess it.
- 13 (2) A person claiming to be lawfully entitled to possess anything in  
14 respect of which an order may be made under subsection (1)(b)  
15 may, in connection with the making of an order —
- 16 (a) be heard in the proceedings for the offence; and
- 17 (b) make an application under the *Criminal Procedure*  
18 *Act 2004* section 71 as if the person were a party to the  
19 prosecution for the offence; and
- 20 (c) appeal against the order under the *Criminal Appeals*  
21 *Act 2004* Part 2.

22 **113. Forfeiture and delivery other than on conviction**

- 23 (1) A person claiming to be lawfully entitled to possess anything  
24 seized and retained under this Act may, if the application is not  
25 prevented by subsection (2) and the last day for applying has not  
26 passed, apply to the Magistrates Court for an order that the thing  
27 be delivered to the person.
- 28 (2) An application cannot be made under subsection (1) for an order  
29 for the delivery of anything if —
- 30 (a) an order has been made under section 112(1) for its  
31 forfeiture or delivery; or

- 1 (b) a relevant juvenile justice team matter that has  
2 commenced has not been finally disposed of by the  
3 team; or
- 4 (c) a relevant charge that has been laid has not been  
5 withdrawn or heard and determined.
- 6 (3) In subsection (2) —  
7 **relevant charge** means a charge of an offence to which the thing  
8 that was seized relates;  
9 **relevant juvenile justice team matter** means a matter to which  
10 the thing that was seized relates that is or was being dealt with  
11 by a juvenile justice team.
- 12 (4) The last day for applying for an order under subsection (1) is the  
13 21st day after the day on which the thing was seized unless the  
14 last day for applying is postponed by subsection (5).
- 15 (5) If, for any part of the time when an application could otherwise  
16 be made in accordance with subsection (4), the making of the  
17 application is prevented by subsection (2)(b) or (c), the last day  
18 for applying (whether under subsection (4) or as postponed by  
19 this subsection) is postponed until the 21st day after the day on  
20 which the making of the application ceases to be prevented by  
21 subsection (2)(b) or (c).
- 22 (6) On an application under subsection (1), the court may order that  
23 the thing seized be delivered to the person making the  
24 application if the court is satisfied on the balance of  
25 probabilities that the person is lawfully entitled to possess it.
- 26 (7) The court may adjourn the application if it is satisfied that the  
27 thing seized should, for the time being, continue to be retained  
28 because it is required for a reason described in  
29 section 111(2)(a).
- 30 (8) If the last day for applying under subsection (1) for an order for  
31 the delivery of a thing has passed and either no application has  
32 been made or each application made has been dealt with without

1 ordering that the thing be delivered to a person, that thing is  
2 forfeited to the Crown.

3 **114. Disposal of thing forfeited**

4 (1) If anything is forfeited to the Crown under this Act, the  
5 Commissioner may direct that it be sold, destroyed, or otherwise  
6 disposed of, as the Commissioner thinks fit, unless  
7 subsection (2) prevents the Commissioner from giving the  
8 direction.

9 (2) If anything is forfeited to the Crown —

- 10 (a) by an order under section 112(1)(a); or  
11 (b) after an order dismissing an application under  
12 section 113(1),

13 the Commissioner is not to give a direction under subsection (1)  
14 before the expiration of the time allowed for instituting an  
15 appeal against the order or, if an appeal is lodged within that  
16 time, before the determination of the appeal.

17 **115. Powers to assist seizing things**

18 The *Criminal Investigation Act 2006* sections 146 to 150, with  
19 any necessary changes, apply to and in respect of seizing a thing  
20 that is or may be seized under this Act.

21 **Division 5 — Prohibition orders**

22 **116. Terms used**

23 In this Division —

24 ***employer*** includes a person who engages another person to  
25 work under a contract for services;

26 ***prohibition order*** means an order made under section 120;

27 ***relevant person*** means the person who, as the case requires, is  
28 the subject of —

- 29 (a) an application under section 117; or

1 (b) a prohibition order;  
2 *specified* means specified in a prohibition order.

3 **117. Commissioner may apply for prohibition orders**

4 The Commissioner may apply to the CEO in a form approved  
5 by the CEO for an order to be made in respect of a person  
6 that —

- 7 (a) prohibits the relevant person from working for —  
8 (i) a specified business involving the provision of  
9 prostitution; or  
10 (ii) a prostitution business of a specified class; or  
11 (iii) any prostitution business;  
12 or  
13 (b) prohibits the relevant person from entering —  
14 (i) a specified place in which a prostitution business  
15 is conducted; or  
16 (ii) a place in which a prostitution business of a  
17 specified kind is conducted; or  
18 (iii) any place in which a prostitution business is  
19 conducted.

20 **118. Evidence in support of application**

- 21 (1) An application under section 117 must —  
22 (a) set out the reasons in support of the Commissioner's  
23 opinion that a prohibition order should be made in  
24 respect of the relevant person; and  
25 (b) set out any other information and be accompanied by  
26 any document that the Commissioner considers relevant  
27 to the application.

- 1 (2) Without limiting subsection (1), the Commissioner is authorised  
2 to include in or with the application —
- 3 (a) details of any criminal convictions of the relevant person  
4 for offences under the law of the Commonwealth or a  
5 State or Territory; and
- 6 (b) any information that the Commissioner has regarding  
7 any involvement, or suspected involvement, of the  
8 relevant person in serious and organised crime as  
9 defined in the *Australian Crime Commission (Western*  
10 *Australia) Act 2004* section 3(1).

11 **119. Relevant person to be given notice of application**

- 12 (1) The CEO must give the relevant person a written notice that —
- 13 (a) states that the application has been made and explains  
14 the proposed effect of the order applied for; and
- 15 (b) describes the information and documents provided in  
16 support of the application; and
- 17 (c) informs the relevant person that he or she will be given a  
18 reasonable opportunity to make submissions or to be  
19 heard in relation to the application.
- 20 (2) Nothing in subsection (1) requires or authorises the CEO to  
21 disclose confidential police information.

22 **120. CEO may make prohibition orders**

- 23 (1) The CEO may dispose of the application —
- 24 (a) by making a prohibition order; or
- 25 (b) by dismissing the application; or
- 26 (c) at the request of the Commissioner — by discontinuing  
27 the application.
- 28 (2) The CEO may make a prohibition order that —
- 29 (a) prohibits the relevant person from working for —
- 30 (i) a specified business involving the provision of  
31 prostitution; or

- 1                   (ii) a prostitution business of a specified class; or  
2                   (iii) any prostitution business;  
3                   or  
4           (b) prohibits the relevant person from entering —  
5                   (i) a specified place in which a prostitution business  
6                   is conducted; or  
7                   (ii) a place in which a prostitution business of a  
8                   specified kind is conducted; or  
9                   (iii) any place in which a prostitution business is  
10                  conducted.
- 11       (3) The CEO may make a prohibition order only if satisfied that it  
12       is in the public interest to do so after —  
13           (a) having given the relevant person a reasonable  
14           opportunity to make submissions or to be heard in  
15           relation to the application; and  
16           (b) having regard to —  
17                   (i) any information or document provided by the  
18                   Commissioner in or with the application; and  
19                   (ii) any information or document provided by the  
20                  relevant person under paragraph (a).
- 21       (4) A prohibition order has effect subject to such terms or  
22       conditions as the CEO thinks fit and specifies in the order.

23       **121. Term of prohibition orders**

- 24       (1) The CEO must specify in a prohibition order the term for which  
25       the prohibition order remains in force.
- 26       (2) The term cannot be for less than one year or more than 5 years  
27       after the prohibition order is made, but an application may be  
28       made for a further prohibition order.

1 **122. Applications to vary or revoke prohibition orders**

2 (1) The Commissioner or the relevant person may apply to the CEO  
3 in a form approved by the CEO for an order varying or revoking  
4 a prohibition order.

5 (2) If the application is made —

6 (a) by the Commissioner, the relevant person is the  
7 respondent; or

8 (b) by the relevant person, the Commissioner is the  
9 respondent.

10 (3) The application must —

11 (a) set out the reasons in support of the applicant's opinion  
12 that the prohibition order should be varied or revoked;  
13 and

14 (b) set out any other information and be accompanied by  
15 any document that the applicant considers relevant to the  
16 application.

17 **123. Respondent to be given notice of application**

18 (1) The CEO must give the respondent a written notice that —

19 (a) states that the application under section 122 has been  
20 made and explains the proposed effect of the order  
21 applied for; and

22 (b) describes the information and documents provided in  
23 support of the application; and

24 (c) informs the respondent that he or she will be given a  
25 reasonable opportunity to make submissions or to be  
26 heard in relation to the application.

27 (2) Nothing in subsection (1) requires or authorises the CEO to  
28 disclose confidential police information.

1 **124. CEO may vary or revoke prohibition orders**

- 2 (1) The CEO may dispose of an application under section 122 —
- 3 (a) by making an order that varies or revokes a prohibition
- 4 order; or
- 5 (b) by dismissing the application; or
- 6 (c) at the request of the applicant — by discontinuing the
- 7 application.
- 8 (2) The CEO may make an order varying or revoking a prohibition
- 9 order only if satisfied that it is in the public interest to do so —
- 10 (a) having given the respondent a reasonable opportunity to
- 11 make submissions or to be heard in relation to the
- 12 application; and
- 13 (b) having regard to —
- 14 (i) any information or document provided by the
- 15 applicant in or with the application; and
- 16 (ii) any information or document provided by the
- 17 respondent under paragraph (a).

18 **125. Notification of orders**

- 19 (1) If the CEO makes a prohibition order, the CEO must give a
- 20 copy of the order —
- 21 (a) to the relevant person; and
- 22 (b) to the Commissioner; and
- 23 (c) if the order is made under section 120(2)(a) and the
- 24 CEO is aware that the relevant person is working for a
- 25 business to which the order applies — to the relevant
- 26 person's employer.
- 27 (2) If the CEO makes an order varying or revoking a prohibition
- 28 order, the CEO must give a copy of the order —
- 29 (a) to the applicant and the respondent; and

- 1 (b) if a copy of the prohibition order that was varied or  
2 revoked was given to the relevant person's employer  
3 under subsection (1)(c), to that employer.
- 4 (3) The CEO is also to give to the applicant and the respondent  
5 written notice of the reasons for the decision to make the order,  
6 and the right of review under section 153.
- 7 (4) Nothing in subsection (3) requires or authorises the CEO to  
8 disclose confidential police information.
- 9 (5) If the State Administrative Tribunal varies or sets aside a  
10 decision of the CEO to make, vary or revoke a prohibition  
11 order, the CEO must so inform the relevant person's employer if  
12 the employer was given a copy of the order under  
13 subsection (1)(c).

14 **126. Compliance with prohibition order**

- 15 (1) A person who is given a copy of a prohibition order under  
16 section 125(1)(a) must comply with the order.  
17 Penalty: a fine of \$10 000.
- 18 (2) A person who is given a copy of a prohibition order under  
19 section 125(1)(c) must not allow the relevant person to continue  
20 working for a business to which the order applies in  
21 contravention of the order.  
22 Penalty: a fine of \$10 000.

23 **Division 6 — Barring notices**

24 **127. Terms used**

- 25 In this Division —  
26 *approved* means approved by the Commissioner;  
27 *notice* means a notice under section 128(1);  
28 *specified* means specified in a notice.

1 **128. Barring notices by Commissioner**

- 2 (1) The Commissioner may give a notice to a person prohibiting the  
3 person from entering —
- 4 (a) a specified place in which a prostitution business is  
5 conducted; or
- 6 (b) a place in which a prostitution business of a specified  
7 kind is conducted; or
- 8 (c) any place in which a prostitution business is conducted.
- 9 (2) The Commissioner may give a notice only if the Commissioner  
10 believes, on reasonable grounds, that the person has, in a place  
11 in which a prostitution business is conducted —
- 12 (a) been violent or disorderly; or  
13 (b) contravened a provision of any written law.
- 14 (3) The notice must be in an approved form.
- 15 (4) The Commissioner is also to give with a notice the reasons for  
16 the decision to give the notice, and the person's rights of review  
17 under subsection (10) and section 153.
- 18 (5) Nothing in subsection (4) requires or authorises the  
19 Commissioner to disclose confidential police information.
- 20 (6) The notice has effect from the day the notice is given to the  
21 person until the first of the following days —
- 22 (a) the specified day;  
23 (b) if the notice is revoked under subsection (9) — the day  
24 that the notice of revocation is given to the person;  
25 (c) if the decision to give the notice is set aside on review  
26 under subsection (11) or section 153 — the day of that  
27 decision.
- 28 (7) The specified day cannot be more than 12 months after the day  
29 on which the notice is given to the person.

- 1 (8) A person who is given a notice must not enter a place in  
2 contravention of the notice.  
3 Penalty: a fine of \$10 000.
- 4 (9) The Commissioner may revoke a notice by giving to the person  
5 a notice of revocation in an approved form.
- 6 (10) A person who is aggrieved by a decision of the Commissioner  
7 to give a notice may apply to the Commissioner for a review of  
8 the decision.
- 9 (11) The Commissioner, in dealing with an application under  
10 subsection (10) may affirm, vary or set aside the decision that is  
11 being reviewed.
- 12 (12) The Commissioner —
- 13 (a) may give a copy of a notice to any person who holds an  
14 operator’s licence or a manager’s licence if the  
15 Commissioner is of the opinion that it is necessary to do  
16 so to minimise the risk of harm or injury to any person;  
17 and
- 18 (b) must give to a person given a copy of a notice under  
19 paragraph (a) —
- 20 (i) a copy of a notice of revocation concerning that  
21 notice; and
- 22 (ii) information about any variation or setting aside  
23 of the decision to give the notice made by the  
24 Commissioner under subsection (10) or by the  
25 State Administrative Tribunal.

26 **Division 7 — Closure notices and closure orders**

27 **129. Terms used**

28 In this Division —

29 ***closure notice*** means a notice issued under section 130;

30 ***closure offence provision*** means section 11(1), 15(1), 36(1)  
31 or (2), 37(1) or 38(1);

1            *closure order* means an order made under section 135(2);  
2            *specified* means specified in a closure notice or closure order.

3        **130. Closure notice for interim closure of certain places**

4            A police officer may issue a notice —

- 5            (a) to prohibit any person, other than a person who owns or  
6            regularly occupies a specified place, from entering or  
7            remaining in the place; or  
8            (b) to prohibit a specified visitor or specified class of visitor  
9            to a specified place from entering or remaining in the  
10           place.

11        **131. Requirements for issue of closure notice**

12        (1) A closure notice may be issued under subsection (2) or (3).

13        (2) A closure notice may be issued in relation to a specified place if  
14        the issuing police officer believes on reasonable grounds —

- 15            (a) that an offence under, or an act of prostitution in  
16            circumstances mentioned in, a closure offence  
17            provision —  
18            (i) has occurred in the specified place; or  
19            (ii) is occurring in the specified place; or  
20            (iii) is likely to occur in the specified place if a  
21            closure order is not made in relation to the place;

22            and

23            (b) that the making of a closure order is necessary to  
24            prevent any offence under, or any act of prostitution in  
25            circumstances mentioned in, a closure offence provision  
26            from occurring in the specified place.

27        (3) A closure notice may be issued in relation to a specified place  
28        if —

- 29            (a) the issuing police officer believes on reasonable grounds  
30            that —  
31            (i) a prostitution business is being conducted in the  
32            specified place; and

- 1 (ii) the specified place is not a place to which a  
2 current operator's licence, or a current  
3 prostitute's licence (self-employed), applies;  
4 and  
5 (b) the Commissioner has received a written complaint  
6 alleging that a prostitution business is being conducted  
7 in the specified place —  
8 (i) from the Department; or  
9 (ii) from a local government; or  
10 (iii) from 3 unrelated adults.
- 11 (4) In subsection (3)(b)(iii) —  
12 **3 unrelated adults** means 3 adults each of whom —  
13 (a) resides in different dwellings; and  
14 (b) is not —  
15 (i) a child or step-child; or  
16 (ii) a parent or step-parent; or  
17 (iii) a sibling or step-brother or step-sister; or  
18 (iv) an aunt or uncle; or  
19 (v) a spouse or former spouse; or  
20 (vi) a de facto partner or former de facto partner,  
21 of either of the other 2 adults.
- 22 (5) A closure notice cannot be issued unless a police officer who is  
23 an Assistant Commissioner, the Deputy Commissioner or the  
24 Commissioner authorises, orally or in writing, the issue of the  
25 notice.
- 26 (6) An authority under subsection (5) given orally must be  
27 confirmed in writing as soon as is practicable.
- 28 (7) A closure notice cannot be issued unless —  
29 (a) an application has been made to the Magistrates Court  
30 for a closure order in relation to the specified premises;  
31 and

- 1 (b) reasonable steps have been taken to establish the identity  
2 of each person who —  
3 (i) owns, or regularly occupies, the specified place;  
4 or  
5 (ii) owns, or regularly occupies, another place that is  
6 adjacent to the specified place whose access to  
7 the other place would be impeded if a closure  
8 order is made in relation to the specified place;  
9 and  
10 (c) reasonable steps have been taken to inform each person  
11 mentioned in paragraph (b) of the date, time and place  
12 of the hearing of the application for a closure order in  
13 relation to the specified place.

14 **132. Content of closure notice**

- 15 (1) A closure notice must —  
16 (a) be in a form approved by the Commissioner; and  
17 (b) state either or both of the following —  
18 (i) that a person, other than a person who owns, or  
19 regularly occupies a specified place, must not  
20 enter or remain in the place;  
21 (ii) that a specified visitor or specified class of  
22 visitor to a specified place must not enter or  
23 remain in the place;  
24 and  
25 (c) state that failure to comply with the notice is an offence;  
26 and  
27 (d) specify the matters mentioned in section 131(2)(a)  
28 and (b) or 131(3)(a) and (b) that are relevant to the case;  
29 and  
30 (e) state the date, time and place of the hearing of the  
31 application for a closure order in relation to the specified  
32 place; and

1 (f) state that failure to comply with a closure order is an  
2 offence.

3 (2) If section 131(3)(b)(iii) applies in a case, it is not necessary to  
4 specify in the closure notice the identities of the 3 unrelated  
5 adults.

6 **133. Service of closure notice**

7 (1) A closure notice is of no effect unless a copy of it —

8 (a) is affixed to a prominent part of the specified place and  
9 to each door to the place; and

10 (b) is given —

11 (i) to at least one person who owns or regularly  
12 occupies the place; and

13 (ii) to at least one person who regularly occupies  
14 each of the other places that is adjacent to the  
15 specified place whose access to the other place  
16 would be impeded if a closure order is made in  
17 relation to the specified place.

18 (2) A police officer may enter and remain in a specified place for  
19 the purpose of —

20 (a) affixing a closure notice to a prominent part of the  
21 specified place and to each door to the place; or

22 (b) giving a notice to a person in accordance with  
23 subsection (1)(b).

24 (3) The CEO must be given a copy of each closure notice.

25 **134. Duration of closure notice**

26 A closure notice has effect when section 133(1) has been  
27 complied with until the application for the closure order in  
28 relation to the specified premises is finalised.

1 **135. Provisions about making closure order**

- 2 (1) The Magistrates Court must endeavour to ensure that the first  
3 listing date for an application for a closure order is not more  
4 than 7 days after the application is made.
- 5 (2) On an application for a closure order in relation to a specified  
6 place the Magistrates Court may order either or both of the  
7 following —
- 8 (a) that a person, other than a person who owns, or regularly  
9 occupies the specified place, must not enter or remain in  
10 the place;
- 11 (b) that a specified visitor or specified class of visitor to the  
12 specified place must not enter or remain in the place.
- 13 (3) A closure order may be made under subsection (4) or (5).
- 14 (4) The Magistrates Court may make a closure order if it is satisfied  
15 (on the balance of probabilities) —
- 16 (a) that an offence under, or an act of prostitution in  
17 circumstances mentioned in, a closure offence  
18 provision —
- 19 (i) has occurred in the specified place; or  
20 (ii) is occurring in the specified place; or  
21 (iii) is likely to occur in the specified place if a  
22 closure order is not made in relation to the place;
- 23 and
- 24 (b) that the making of a closure order is necessary to  
25 prevent any offence under, or any act of prostitution in  
26 circumstances mentioned in, a closure offence provision  
27 from occurring in the specified place.
- 28 (5) The Magistrates Court may make a closure order if it is satisfied  
29 (on the balance of probabilities) that —
- 30 (a) a prostitution business is being conducted in the  
31 specified place; and

**Prostitution Bill 2011**

**Part 7** Enforcement

**Division 7** Closure notices and closure orders

**s. 136**

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- 1 (b) the specified place is not a place to which a current  
2 operator's licence, or a current prostitute's licence  
3 (self-employed), applies.
- 4 (6) The Magistrates Court is not to make a closure order unless it is  
5 satisfied —
- 6 (a) that reasonable steps have been taken to establish the  
7 identity of each person who —
- 8 (i) owns, or regularly occupies, the specified place;  
9 or
- 10 (ii) owns, or regularly occupies, another place that is  
11 adjacent to the specified place whose access to  
12 the other place would be impeded if a closure  
13 order is made in relation to the specified place;
- 14 and
- 15 (b) that reasonable steps have been taken to inform each  
16 person mentioned in paragraph (a) of the date, time and  
17 place of the hearing of the application.
- 18 (7) If a court makes a closure order it may make such ancillary  
19 orders as it thinks appropriate in relation to —
- 20 (a) restrictions on access to a specified part or parts of a  
21 specified place; or
- 22 (b) restrictions on access by a specified person or specified  
23 class of persons including a person who owns, regularly  
24 occupies, or visits a specified place; or
- 25 (c) any other matter relevant to the enforcement of the  
26 order.

27 **136. Term of closure order**

- 28 (1) The court must specify in a closure order the term for which the  
29 closure order remains in force.
- 30 (2) The term cannot be for more than 6 months after the closure  
31 order is made.

- 1 (3) An application may be made for the term of a closure order to  
2 be extended but the extended term cannot be for more than  
3 6 months after the original closure order was made.

4 **137. Service of closure order**

- 5 (1) A closure order is of no effect unless a copy of it is affixed to a  
6 prominent part of the specified place and to each door to the  
7 place.
- 8 (2) A police officer may enter and remain in a specified place for  
9 the purpose of affixing a closure order to a prominent part of the  
10 specified place and to each door to the place.
- 11 (3) The CEO must be given a copy of each closure order.

12 **138. Breach of closure notice, closure order**

13 A person must not enter or remain in a place in contravention of  
14 a closure notice or a closure order.

15 Penalty: a fine of \$12 000 or imprisonment for one year.

16 **Division 8 — Restraining orders**

17 **139. Term used: restraining order**

18 In this Division, unless the contrary intention appears —  
19 ***restraining order*** means a restraining order made under  
20 section 140 or 141.

21 **140. Restraining order to prevent further offence**

22 A court may make a restraining order if the court —

- 23 (a) finds that a person has committed —
- 24 (i) an offence under section 9 or 10; or
- 25 (ii) an offence under this Act that is prescribed for  
26 the purposes of this section;
- 27 and

- 1 (b) is satisfied that, unless restrained, the person is  
2 subsequently likely to commit an offence of a similar  
3 kind; and  
4 (c) considers that making the order would be appropriate in  
5 the circumstances.

6 **141. Restraining order against person who could be required to**  
7 **move on**

- 8 (1) If circumstances arise that would give sufficient grounds for a  
9 police officer to give a person a direction under section 106 and  
10 that person has previously been given a direction under that  
11 provision, the police officer may apply for a restraining order  
12 against the person.  
13 (2) The application must be made —  
14 (a) if the person against whom the order is sought is a child,  
15 to the Children’s Court; or  
16 (b) otherwise, to the Magistrates Court.  
17 (3) If the court to which the application is made considers it  
18 appropriate in the circumstances to do so, it may make a  
19 restraining order.

20 **142. Provisions about making the order**

- 21 (1) A court is not to make a restraining order against a person  
22 unless the person has been given an opportunity to be heard on  
23 the matter.  
24 (2) If a restraining order has been, or is about to be, made against a  
25 person and the person is present, the court may, in order to  
26 facilitate service of the restraining order, order the person to  
27 remain in a place designated by the court for a period of not  
28 more than one hour until the order is served on the person.

29 **143. Terms of restraining order**

- 30 (1) If the restraining order is made under section 140, it may  
31 impose any restraints on the lawful activities and behaviour of

1 the person against whom it is made that the court considers  
2 appropriate to prevent the person from subsequently committing  
3 an offence similar in kind to the offence the person is found to  
4 have committed or from subsequently giving a police officer  
5 grounds for giving the person a direction under section 106.

6 (2) If the restraining order is made under section 141, it may  
7 impose any restraints on the lawful activities and behaviour of  
8 the person against whom it is made that the court considers  
9 appropriate to prevent the person from subsequently giving a  
10 police officer grounds for giving the person a direction under  
11 section 106.

12 (3) Without limiting the restraints that may be imposed, the order  
13 may restrain the person against whom it is made from —

14 (a) being in or near a specified place or in a specified  
15 locality or place; or

16 (b) engaging in behaviour of a specified kind, either at all or  
17 in a specified place, at a specified time, or in a specified  
18 manner.

19 (4) In subsection (3) —

20 *specified* means specified in the order.

21 (5) A restraint may be imposed absolutely or on any terms the court  
22 considers appropriate.

23 (6) A restraining order may restrain the person against whom it is  
24 made from entering or remaining in a place, or restrict the  
25 person's access to a place, even if the person has a legal or  
26 equitable right to be there.

27 **144. Duration of restraining order**

28 (1) A restraining order takes effect when it is served on the person  
29 against whom it is made or, if a later time is specified in the  
30 order, at that time.

1 (2) Unless it is cancelled sooner, a restraining order remains in  
2 effect for the period specified in the order or, if no period is  
3 specified, for one year from the day on which it took effect.

4 **145. Variation or cancellation**

5 (1) An application for the court to vary or cancel a restraining order  
6 may be made by a police officer nominated by the  
7 Commissioner or, with the leave of the court, by the person  
8 against whom the order was made.

9 (2) The application must be made —

10 (a) if the person against whom the order was made is a  
11 child, to the Children’s Court; or

12 (b) otherwise, to the Magistrates Court,

13 and must be accompanied by an affidavit in support of the  
14 application.

15 (3) If subsection (1) requires the leave of the court for an  
16 application to be made, an application seeking leave must be  
17 accompanied by an affidavit disclosing all facts material to the  
18 application, whether supporting or adverse to the application,  
19 that are known to the applicant.

20 (4) Neither the application nor the affidavit can be served on the  
21 person upon whose application the restraining order was made  
22 (the *respondent*) unless the court orders under subsection (6)  
23 that they must be served on the respondent.

24 (5) Even though the giving of leave may not be prevented by  
25 subsection (7), the court may refuse the application for leave if  
26 it considers that —

27 (a) the affidavit does not disclose everything required by  
28 subsection (3) to be disclosed; or

29 (b) the facts disclosed by the affidavit do not give sufficient  
30 reason to vary or cancel the restraining order.

- 1       (6) Before the court grants an application for leave it must —  
2           (a) order that a copy of the application and accompanying  
3           affidavit be served on the respondent; and  
4           (b) give the respondent an opportunity to oppose the  
5           application for leave.
- 6       (7) Leave is not to be given unless the court is satisfied there has  
7       been a substantial change in the relevant circumstances since the  
8       restraining order was made.
- 9       (8) The person against whom a restraining order was made and the  
10       respondent must be given an opportunity to be heard at the  
11       hearing of an application to vary or cancel the order.
- 12       (9) At the hearing of the application to vary or cancel a restraining  
13       order, the court may receive as evidence any record of evidence  
14       given or affidavit filed in connection with an application for  
15       leave mentioned in subsection (3).
- 16       (10) The court may dispose of the application to vary or cancel a  
17       restraining order by —  
18           (a) dismissing the application; or  
19           (b) making a new restraining order in addition to the  
20           original restraining order; or  
21           (c) cancelling the original restraining order with or without  
22           making a new restraining order.
- 23       (11) Anything in this Division that applies to a restraining order  
24       made in the first instance also applies to a new restraining order  
25       made under this section.

26       **146. Court to notify parties of decision**

27       If a person who was entitled to be given an opportunity to be  
28       heard was not present when the court disposed of the  
29       application to vary or cancel a restraining order, the registrar  
30       must notify the person of how the application was disposed of.

1 **147. When cancellation takes effect**

2 The cancellation of a restraining order has effect —

- 3 (a) if another restraining order is made when the original  
4 order is cancelled, at the time the new order takes effect;  
5 or  
6 (b) otherwise, at the conclusion of the hearing at which the  
7 order was cancelled.

8 **148. Provisions about children**

9 (1) A restraining order must not be made against a child who is  
10 under 10 years of age.

11 (2) In an application to vary or cancel a restraining order against a  
12 child, the *Young Offenders Act 1994* section 45 applies as if the  
13 matter were proceedings for an offence.

14 (3) If the Children's Court hears an application for a restraining  
15 order under section 141 against a person or an application to  
16 vary or cancel a restraining order against a person in the belief  
17 that the person is a child when in fact the person is not a  
18 child —

- 19 (a) as soon as it becomes aware the person is not a child, the  
20 Children's Court must transfer the matter to the  
21 Magistrates Court; and  
22 (b) the Children's Court proceedings are not, for that  
23 reason, invalidated; and  
24 (c) an order made by the Children's Court before it became  
25 aware the person was not a child, is as valid and has the  
26 same effect as if it had been made by the Magistrates  
27 Court.

- 1 (4) If the Magistrates Court hears an application for a restraining  
2 order under section 141 against a person or an application to  
3 vary or cancel a restraining order against a person in the belief  
4 that the person is not a child when in fact the person is a  
5 child —
- 6 (a) as soon as it becomes aware the person is a child, the  
7 Magistrates Court must transfer the matter to the  
8 Children’s Court; and
- 9 (b) the Magistrates Court proceedings are not, for that  
10 reason, invalidated; and
- 11 (c) an order made by the Magistrates Court before it  
12 became aware the person was a child, is as valid and has  
13 the same effect as if it had been made by the Children’s  
14 Court.
- 15 (5) If a court transfers a matter to another court under this section,  
16 the registrar of each court must give effect to the transfer.

17 **149. Order not to conflict with family order**

18 If a court does not have jurisdiction to adjust a family order,  
19 within the meaning of the *Restraining Orders Act 1997*  
20 section 5, the court is not to make a restraining order that  
21 conflicts with that family order.

22 **150. Regulations relating to restraining order applications**

23 The regulations may provide for —

- 24 (a) the making of applications for the making, variation or  
25 cancellation of restraining orders; and
- 26 (b) the making of applications seeking leave to make an  
27 application for the variation or cancellation of  
28 restraining orders; and
- 29 (c) the procedure on the hearing of such applications.

1 **151. Breach of restraining order**

2 A person must not contravene a restraining order made against  
3 the person.

4 Penalty: a fine of \$5 000.

5 **Division 9 — Undercover officers**

6 **152. Undercover officers**

7 (1) In this section —

8 *Minister* means the Minister responsible for the administration  
9 of the *Police Act 1892*;

10 *offence* means an offence under this Act;

11 *undercover officer* means a police officer acting as an  
12 undercover officer under this section.

13 (2) The Commissioner may, in writing, authorise a police officer to  
14 act as an undercover officer and may in writing revoke that  
15 authority.

16 (3) Before authorising a police officer to act as an undercover  
17 officer the Commissioner must ensure that the police officer is a  
18 suitable person to have the functions of, and the immunity given  
19 to, an undercover officer.

20 (4) The identity or purpose of an undercover officer may, for the  
21 time being, be concealed or misrepresented for the purpose of  
22 detecting the commission of an offence.

23 (5) An undercover officer may do anything specified in the  
24 authorisation given by the Commissioner for the purpose of  
25 detecting the commission of an offence.

26 (6) If an undercover officer does anything as described in  
27 subsection (5) —

28 (a) the Commissioner and the undercover officer do not  
29 commit an offence and are not liable as a party to an  
30 offence committed by another person; and

- 1           (b) the undercover officer's evidence in any proceedings  
2           against another person for an offence in connection with  
3           which the undercover officer did anything as described  
4           in subsection (5) is not the evidence of an accomplice.
- 5       (7) The Commissioner is required, whenever requested to do so by  
6       the Minister, to give the Minister a report in writing containing  
7       such particulars of the activities of undercover officers as the  
8       Minister requires.

1 **Part 8 — Review by State Administrative Tribunal**

2 **153. Review**

- 3 (1) A person who is aggrieved by a decision of the CEO —  
4 (a) to refuse to issue or renew a licence; or  
5 (b) about the imposition, variation or revocation of a licence  
6 condition; or  
7 (c) to suspend or revoke a licence; or  
8 (d) to make a prohibition order under section 120 or an  
9 order varying or revoking a prohibition order; or  
10 (e) to refuse to give approval under section 180 or about the  
11 imposition of a condition on an approval,

12 may apply to the State Administrative Tribunal for a review of  
13 the decision.

14 (2) The Commissioner is a party to a review under subsection (1).

15 (3) A person who is aggrieved by a decision of the Commissioner  
16 to give a barring notice under section 128(1) may apply to the  
17 State Administrative Tribunal for a review of the decision,  
18 whether or not the person has made an application under  
19 section 128(10).

20 (4) Subsection (3) applies only if the notice —

- 21 (a) has effect for one month or longer; or  
22 (b) has effect for any shorter period that, when added to the  
23 period of any barring notice previously given to the  
24 person in respect of the place or a place of the particular  
25 class (as the case requires) that is the subject of the  
26 notice, results in the person being prohibited from that  
27 place or that class of place for longer than one month in  
28 any 12 month period.

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## Part 9 — Evidence

1  
2 **154. Allegations in prosecution notices**

3 (1) In this section —

4 *specified* means specified in the prosecution notice.

5 (2) In proceedings for an offence under this Act, an allegation in the  
6 prosecution notice that at a specified time a licence of a  
7 specified kind was or was not in effect in relation to a specified  
8 person is to be taken to be proved in the absence of evidence to  
9 the contrary.

10 (3) In proceedings for an offence under section 18(1), (2) or (4), 19,  
11 20(1) or (2), 21, 22, 23, 24, 25, 26, 28, 31(3) or (4), 32(3),  
12 34(2), 35(2) or 41(1) or (3), an allegation in the prosecution  
13 notice that a specified person was operating, managing or  
14 conducting a prostitution business is to be taken to be proved in  
15 the absence of evidence to the contrary.

16 (4) In proceedings for an offence under section 17(2) or (3), an  
17 allegation in the prosecution notice that a contract or  
18 arrangement was for the promotion or publicising of a specified  
19 person as a prostitute or a specified prostitution business is to be  
20 taken to be proved in the absence of evidence to the contrary.

21 **155. Presumptions about intention**

22 (1) If, in proceedings for an offence under section 9(1) or 10(1), it  
23 is proved that the accused was loitering in or frequenting a place  
24 in circumstances giving reasonable grounds for suspecting that  
25 the accused had an intention described in section 9(3)(b)  
26 or 10(2)(b), it is to be presumed that the accused had that  
27 intention unless the contrary is proved.

28 (2) If, in proceedings for an offence under section 36(2), it is  
29 proved that the accused was doing something in circumstances  
30 giving reasonable grounds for suspecting that the person had an  
31 intention described in section 36(2), it is to be presumed that the  
32 accused had that intention unless the contrary is proved.

**s. 156**

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1 **156. Presumptions about nature of advertisements**

2 (1) If, in proceedings for an offence under section 27(1), it is  
3 proved that there are reasonable grounds for suspecting that an  
4 advertisement was —

- 5 (a) for a prostitution business; or  
6 (b) to the effect that a particular person is available to act as  
7 a prostitute,

8 it is to be presumed that the advertisement was for a prostitution  
9 business, or to the effect that a particular person is available to  
10 act as a prostitute, unless the contrary is proved.

11 (2) Subsection (1) —

12 (a) applies if the accused is alleged to have placed, or to  
13 have sought to place, the publication of the  
14 advertisement that is the subject of the charge; but

15 (b) does not apply if the accused is alleged to have  
16 published the advertisement that is the subject of the  
17 charge.

18 **157. Accused presumed to know if person is a child**

19 If, in proceedings for an offence under this Act, it is relevant  
20 whether or not a person was a child, it is to be conclusively  
21 presumed that the accused knew that the person was a child  
22 unless it is proved that, having taken all reasonable steps to find  
23 out the age of the person concerned, the accused believed on  
24 reasonable grounds, at the time the offence is alleged to have  
25 been committed, that the person concerned had reached 18 or  
26 more years of age.

27 **158. Person residing with child prostitute presumed to receive  
28 payment**

29 If in proceedings for an offence under section 37(1) it is proved  
30 that, at the time of the offence, the accused was residing with a  
31 prostitute who was a child, the accused is presumed to be guilty  
32 of the offence unless the contrary is proved.

1 **159. Accused presumed to have allowed presence of child**

2 If, in proceedings for an offence under section 40, it is proved  
3 that a child was in a place at a particular time, the accused is  
4 conclusively presumed to have allowed the child to enter or  
5 remain in the place unless it is proved that the accused did not  
6 know, and could not reasonably have known, that a child was in  
7 the place at that time.

8 **160. Presumptions about operating or managing prostitution**  
9 **business without licence**

10 If, in proceedings for an offence under section 45(1) or (4)  
11 or 46(1), it is proved that the accused was present in a place  
12 and —

13 (a) the content, or manner of publication, of an  
14 advertisement gave reasonable grounds for suspecting  
15 that —

16 (i) a prostitution business was being conducted in  
17 the place; or

18 (ii) a particular person was available to act as a  
19 prostitute in the place;

20 or

21 (b) also present in or outside the place were one or more  
22 persons who had been convicted of, or dealt with by  
23 way of infringement notice for, an offence under  
24 Part 2, 3, 5 or 6 of this Act or under the *Prostitution*  
25 *Act 2000* Part 2 or 3; or

26 (c) the content, or manner, of a communication given by a  
27 person in the place gave reasonable grounds for  
28 suspecting that that person or another person was  
29 available to take part in an act of prostitution, whether in  
30 the place or elsewhere,

31 it is to be presumed that the accused was operating or managing  
32 a prostitution business, as is relevant to the case, unless the  
33 contrary is proved.

**s. 161**

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1 **161. Presumptions about acting or operating as a prostitute**  
2 **without licence or without verifying identity etc. for**  
3 **operator**

4 If, in proceedings for an offence under section 47(1) or (2), it is  
5 proved that the accused was present in a place and —

6 (a) the content, or manner of publication, of an  
7 advertisement gave reasonable grounds for suspecting  
8 that —

9 (i) a prostitution business was being conducted in  
10 the place; or

11 (ii) a particular person was available to act as a  
12 prostitute in the place;

13 or

14 (b) also present in or outside the place were one or more  
15 persons who had been convicted of, or dealt with by  
16 way of infringement notice for, an offence under  
17 Part 2, 3, 5 or 6 of this Act or under the *Prostitution*  
18 *Act 2000* Part 2 or 3; or

19 (c) the content, or manner, of a communication given by a  
20 person in the place gave reasonable grounds for  
21 suspecting that that person or another person was  
22 available to take part in an act of prostitution, whether in  
23 the place or elsewhere,

24 it is to be presumed that the accused was acting as a prostitute,  
25 or operating a prostitution business, in the place, as is relevant  
26 to the case, unless the contrary is proved.

27 **162. Certificate evidence about licences**

28 (1) In this section —  
29 *specified* means specified in a certificate.

- 1           (2) For the purposes of any proceedings under this Act, a certificate  
2           purporting to be signed by the CEO or any person authorised by  
3           the CEO for that purpose and stating any of the following —
- 4               (a) that on a specified date or during a specified period a  
5               person specified in the certificate was or was not the  
6               holder of an operator’s licence, a manager’s licence, a  
7               prostitute’s licence (general) or a prostitute’s licence  
8               (self-employed);
- 9               (b) any condition imposed under section 64 in respect of a  
10              specified licence;
- 11              (c) any other matter contained in the register at any time in  
12              respect of a specified licence or specified person,
- 13           is evidence of the facts stated in the certificate.

14   **163. Certificate that undercover officer was authorised**

- 15           A certificate purporting to be signed by the Commissioner or  
16           any person authorised by the Commissioner for that purpose and  
17           stating that the person named in that certificate was, at the time  
18           or during the period specified in that certificate —
- 19               (a) a police officer acting as an undercover officer under  
20               section 152; and
- 21               (b) authorised to do anything stated in the certificate,
- 22           is evidence of the facts stated in the certificate.

23   **164. Presumptions about authority to do certain things**

- 24           (1) In the absence of evidence to the contrary, proof is not required  
25           in any proceedings for an offence under this Act —
- 26               (a) that the prosecutor is authorised to commence the  
27               prosecution; or
- 28               (b) that the prosecutor has the Commissioner’s approval if  
29               required under section 167(3); or

**s. 165**

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- 1 (c) that a signature on the prosecution notice alleging the  
2 offence is the signature of a person authorised to  
3 commence the prosecution.
- 4 (2) In the absence of evidence to the contrary, proof is not required  
5 in any proceedings under this Act —
- 6 (a) that what purports to be a certificate under section 162  
7 or 163, is the certificate that it purports to be; or
- 8 (b) of the signature or proof that the person signing was a  
9 person who could give the certificate.
- 10 (3) For the purposes of any proceedings under this Act, it is not  
11 necessary to prove the appointment or authorisation of —
- 12 (a) the CEO; or
- 13 (b) the Commissioner, an Assistant Commissioner or  
14 Deputy Commissioner of Police or any other police  
15 officer; or
- 16 (c) an authorised person as defined in section 92,  
17 and a signature purporting to be the signature of such an office  
18 holder is evidence of the signature it purports to be.

19 **165. Possession of quantity of sheaths not evidence of offence**

- 20 (1) In this section —  
21 ***being involved in prostitution*** includes the following —
- 22 (a) taking part in, or seeking to take part in, an act of  
23 prostitution;
- 24 (b) inviting or otherwise seeking another person to take part  
25 in an act of prostitution;
- 26 (c) being involved in any business through which  
27 prostitution is provided.
- 28 (2) In proceedings for an offence under this Act, evidence relating  
29 to a person's possession of any quantity of sheaths as defined in  
30 section 30 is not, of itself, evidence of that person, or any other  
31 person, being involved in prostitution.

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## Part 10 — Prostitution Account

### 166. Prostitution Account

(1) In this Part —

*Minister* means the Minister to whom the administration of this Part is for the time being committed by the Governor.

(2) An agency special purpose account called the Prostitution Account is established under the *Financial Management Act 2006* section 16.

(3) There is to be credited to the Account —

(a) the prescribed proportion of each fee paid under Part 6; and

(b) each fine paid in respect of a conviction for an offence under this Act; and

(c) the money paid as a modified penalty stated in each infringement notice issued for an alleged offence under this Act; and

(d) any money appropriated by Parliament for the purposes of the Account; and

(e) any money received by way of donation, or otherwise lawfully received, for the Account.

(4) For the purposes of the *Financial Management Act 2006* and the *Auditor General Act 2006* the Account is to be administered by the department of the Public Service principally assisting the Minister in the administration of this Part.

(5) Money standing to the credit of the Account may be paid out of the Account at the direction of the Minister, as reimbursement or otherwise —

(a) for a purpose associated with the administration of this Act including the provision of support and information to people who wish to stop working in the prostitution industry; or

**Prostitution Bill 2011**

**Part 10** Prostitution Account

**s. 166**

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- 1 (b) for a purpose associated with the enforcement of this
- 2 Act; or
- 3 (c) for the purpose of refunding, in whole or in part, a fee if
- 4 the refund is in accordance with the regulations.

**Part 11 — General provisions**

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**167. Prosecutions**

- (1) A prosecution for an offence under this Act can be commenced only by a police officer.
- (2) Despite subsection (1), a prosecution for an offence under Part 3 or 6 or section 16, 17(2), 94 or 103(1) or (2) can be commenced by the CEO.
- (3) A prosecution for an offence under section 45(1) or (4), 46(1) or 47(1) or (2) requires the approval of the Commissioner if the prosecutor intends to rely on one or more of the presumptions under section 160 or 161.
- (4) Subsections (1), (2) and (3) do not limit the functions of the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1991* section 11.
- (5) All prosecutions for simple offences under this Act must be heard in a court of summary jurisdiction constituted by a magistrate.

**168. Issue of infringement notice to be preferred for first offences under s. 47(1)**

- (1) A police officer is to issue an infringement notice in preference to commencing a prosecution for an offence under section 47(1) if —
  - (a) the alleged offender has not been convicted of an offence under section 47(1); and
  - (b) the alleged offender has not been dealt with by way of infringement notice for an offence under section 47(1); and
  - (c) it is otherwise appropriate to do so having regard to the circumstances of the alleged offender or the offence.

**s. 169**

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1           (2) Nothing in subsection (1) affects a decision as to whether to  
2           issue an infringement notice for a second or subsequent offence  
3           under section 47(1).

4           **169. Penalties for bodies corporate**

5           The provision in this Act of a penalty for a body corporate does  
6           not affect the operation of the *Sentencing Act 1995* section 40(5)  
7           in relation to an offence under this Act that does not provide for  
8           a penalty for a body corporate.

9           **170. Protection from liability**

10          (1) An action in tort does not lie against a person for anything that  
11          the person has done, in good faith, in the performance or  
12          purported performance of a function under this Act.

13          (2) The protection given by subsection (1) applies even though the  
14          thing done as described in subsection (1) may have been  
15          capable of being done whether or not this Act had been enacted.

16          (3) Despite subsection (1), the State is not relieved of any liability  
17          that it might have for a person having done anything as  
18          described in that subsection.

19          (4) In this section, a reference to the doing of anything includes a  
20          reference to an omission to do anything.

21          **171. Exchange of information between State authorities**

22          (1) A State authority specified in subsection (4) may disclose to  
23          another State authority specified in subsection (4) any  
24          information that is, or could reasonably be expected to be,  
25          relevant to the performance of a function of the State authority  
26          to which the information is disclosed.

27          (2) If an administrative head mentioned in subsection (4), in  
28          writing, requests another administrative head mentioned in  
29          subsection (4) to disclose any information, the administrative  
30          head receiving the request must comply with the request.

- 1 (3) Nothing in this section requires or authorises the disclosure of  
2 confidential police information.
- 3 (4) The State authorities specified in this subsection are —
- 4 (a) the CEO (who is the administrative head) and persons  
5 employed in the Department; and
- 6 (b) the Commissioner (who is the administrative head),  
7 police officers, and persons employed in the department  
8 of the Public Service principally assisting in the  
9 administration of the *Police Act 1892*; and
- 10 (c) the chief executive officer of the department of the  
11 Public Service principally assisting in the administration  
12 of the *Young Offenders Act 1994* (who is the  
13 administrative head) and persons employed in that  
14 department; and
- 15 (d) the chief executive officer of the department of the  
16 Public Service principally assisting in the administration  
17 of the *Children and Community Services Act 2004* (who  
18 is the administrative head) and persons employed in that  
19 department.
- 20 (5) The authority given by this section to disclose information  
21 applies even though the disclosure may be contrary to any duty  
22 of confidentiality imposed by law or otherwise arising and  
23 whether or not the duty of confidentiality arose before this Act  
24 commenced but, without limiting the authority given by this  
25 section to disclose information, a person to whom confidential  
26 information is disclosed under this section is bound by the same  
27 duty of confidentiality as applied to the person making the  
28 disclosure.
- 29 (6) A person making a disclosure under this section incurs no civil  
30 or criminal liability as a result of the disclosure, and is not to be  
31 regarded for any purpose as being in breach of the duty of  
32 confidentiality.

**s. 172**

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1    **172.    Confidentiality**

2            (1) A person who is or has been engaged in the performance of  
3            functions under this Act must not, directly or indirectly, record,  
4            disclose or make use of any information obtained in the  
5            performance of those functions except —

- 6                    (a) in the course of duty; or
- 7                    (b) as required or allowed by this Act or any other written  
8                    law; or
- 9                    (c) for the purpose of proceedings for an offence under this  
10                   Act; or
- 11                   (d) with the written authority of the person to whom the  
12                   information relates; or
- 13                   (e) in prescribed circumstances.

14            Penalty: a fine of \$5 000.

15            (2) Subsection (1) does not apply to the disclosure of statistical or  
16            other information that could not reasonably be expected to lead  
17            to the identification of any person to whom it relates.

18    **173.    Liability of managerial officer for offence by body corporate**

19            (1) In this section —  
20            *managerial officer* means —

- 21                    (a) a director or secretary of the body; or
- 22                    (b) a person who at any time takes responsibility for the  
23                    management of a business conducted by the body; or
- 24                    (c) if the body is a proprietary company, a person who is a  
25                    shareholder of the body.

26            (2) If a body corporate is found to have committed an offence under  
27            this Act, each person who is a managerial officer of the body is  
28            to be treated as having committed the offence unless the person  
29            proves that —

- 30                    (a) the offence was committed without the person's consent  
31                    or connivance; and

- 1 (b) the person exercised all such due diligence to prevent  
2 the commission of the offence as ought to have been  
3 exercised having regard to the nature of the person's  
4 functions and to all the circumstances.

5 **174. Liability of operator for offence by manager**

- 6 (1) If a person who holds a manager's licence commits an offence  
7 under this Act as the holder of that licence, each person who  
8 holds an operator's licence for the prostitution business  
9 concerned is to be treated as having committed the offence and  
10 is liable to the penalty prescribed for the offence committed by  
11 the person who holds the manager's licence.
- 12 (2) A person who holds an operator's licence for a prostitution  
13 business is not to be treated as having committed the offence as  
14 mentioned in subsection (1) if the person proves that —
- 15 (a) the offence was committed without the person's consent  
16 or connivance; and
- 17 (b) the person exercised all such due diligence to prevent  
18 the commission of the offence as ought to have been  
19 exercised having regard to the nature of the person's  
20 functions and to all the circumstances.

21 **175. Regulations**

- 22 (1) The Governor may make regulations prescribing all matters that  
23 are required or permitted by this Act to be prescribed or are  
24 necessary or convenient to be prescribed for giving effect to the  
25 purposes of this Act.
- 26 (2) Without limiting subsection (1), regulations may prescribe the  
27 fees to be paid for the purposes of this Act and the persons  
28 liable for payment.
- 29 (3) Without limiting the *Interpretation Act 1984* section 45A, a  
30 power conferred under this Act to prescribe a fee for a licence  
31 includes power to prescribe a fee that will allow recovery of

**s. 176**

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- 1            expenditure for the provision of support and information to  
2            people who wish to stop working in the prostitution industry.
- 3            (4)    The regulations may provide that contravention of a regulation  
4            is an offence, and provide, for an offence against the  
5            regulations, a penalty not exceeding a fine of \$6 000.
- 6            **176.    Review of Act**
- 7            (1)    The Minister must carry out a review of the operation and  
8            effectiveness of this Act as soon as is practicable after the third  
9            anniversary of the commencement of this section.
- 10          (2)    The Minister must prepare a report based on the review and, as  
11          soon as is practicable after the report is prepared, cause it to be  
12          laid before each House of Parliament.

1                    **Part 12 — Repeals, transitional provisions**

2                                    **Division 1 — Repeals**

3 **177.      Prostitution legislation repealed**

4        (1) These Acts are repealed:

5                    (a) the *Prostitution Act 2000*;

6                    (b) the *Prostitution Amendment Act 2008*.

7        (2) The *Prostitution (Restraining Orders) Regulations 2000* are  
8        repealed.

9                                    **Division 2 — Transitional provisions arising from the**  
10                                    **enactment of the *Prostitution Act 2011***

11 **178.      Terms used**

12                    In this Division —

13                    *commencement day* means the day on which section 177(1)  
14                    comes into operation;

15                    *repealed Act* means the *Prostitution Act 2000*.

16 **179.      Duration of licences issued in first year**

17                    Despite section 66(1), a licence that is issued in the period  
18                    ending 12 months after commencement day may be issued for a  
19                    period not exceeding 3 years and 6 months.

20 **180.      Planning requirements as to existing prostitution businesses**

21        (1) This section —

22                    (a) applies despite the provisions of Part 6 Division 8; and

23                    (b) does not apply to a prostitution business operated by a  
24                    self-employed prostitute.

25        (2) Land may be used for the purposes of a prostitution business in  
26        accordance with the approval of the CEO under this section.

**Prostitution Bill 2011**

**Part 12** Repeals, transitional provisions

**Division 2** Transitional provisions arising from the enactment of the Prostitution Act 2011

**s. 180**

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- 1 (3) An application for the CEO's approval under this section must  
2 be made —
- 3 (a) before the expiry of the period of 3 months starting on  
4 commencement day; and
- 5 (b) in the prescribed manner.
- 6 (4) The CEO must not approve the use of land for the purposes of a  
7 prostitution business unless —
- 8 (a) the CEO has informed the local government of the  
9 district in which the land is located about the  
10 application; and
- 11 (b) the CEO has asked the local government whether it is  
12 opposed to the land being continued to be used for the  
13 prostitution business; and
- 14 (c) the local government is not so opposed.
- 15 (5) The CEO must not approve the use of land for the purposes of a  
16 prostitution business if there is in effect an order under  
17 section 88(1) that prevents the CEO from issuing a licence to  
18 any person to operate a prostitution business in the area in  
19 which the land is located.
- 20 (6) Subject to subsections (4) and (5), the CEO may approve the  
21 use of land for the purposes of a prostitution business for a  
22 period not exceeding 18 months starting on commencement day,  
23 if the CEO is satisfied —
- 24 (a) that the land was being used for the prostitution business  
25 as at commencement day and had been so used on a  
26 continuous basis since 6 September 2008 or earlier; and
- 27 (b) having regard to all the matters mentioned in  
28 subsection (7), that the business is being, and will  
29 continue to be, managed appropriately.

- 1       (7) In considering an application the CEO must liaise with the local  
2       government of the district in which the land is located and the  
3       Commissioner with regard to —
- 4           (a) whether the way in which the business has been  
5           conducted has been the subject of complaints from  
6           persons living or working in the area; and
- 7           (b) whether the way in which the business is conducted  
8           causes, or is likely to cause, disturbance in the  
9           neighbourhood; and
- 10          (c) whether conducting the business interferes, or is likely  
11          to interfere, with the amenity of the neighbourhood.
- 12       (8) If a person applies for an operator’s licence to operate the  
13       business (whether or not on behalf of a company) and the CEO  
14       decides to refuse to issue the licence, an approval under this  
15       section in relation to the business ceases to have effect when the  
16       later of the following events occurs —
- 17           (a) the period for a review under section 153 of the decision  
18           expires without an application for a review being made;
- 19           (b) a review of the decision is finalised and the decision is  
20           upheld;
- 21           (c) a judicial review (for jurisdictional error) of an order  
22           made or purportedly made under section 88(1) or 89(1)  
23           in relation to the operator, or the area in which the  
24           business is located, is finalised and the order is upheld,
- 25       but in any event the approval ceases to have effect when the  
26       period for which the approval was given expires.
- 27       (9) The regulations may provide for matters relating to dealing with  
28       applications including the imposition of conditions on an  
29       approval and giving notice of the right of review under  
30       section 153.
- 31       (10) The regulations cannot require or authorise the CEO to disclose  
32       confidential police information.

**Prostitution Bill 2011**

**Part 12** Repeals, transitional provisions

**Division 2** Transitional provisions arising from the enactment of the  
Prostitution Act 2011

**s. 181**

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- 1 **181. Licensing requirements for operators of existing**  
2 **prostitution businesses**
- 3 (1) In this section —
- 4 ***existing prostitution business*** means a prostitution business that  
5 may be the subject of an application under section 180.
- 6 (2) Sections 18(1) and 45(1) and (4)(d) do not apply to an operator  
7 of an existing prostitution business who makes an application  
8 for an operator's licence for the business before the period of  
9 3 months starting on commencement day expires, until the later  
10 of the following —
- 11 (a) the day on which the licence is issued;
- 12 (b) if the CEO decides to refuse to issue the licence, the day  
13 on which the period of 7 days expires after the period  
14 for a review of the decision under section 153 expires  
15 without an application for a review being made;
- 16 (c) if the CEO decides to refuse to issue the licence and the  
17 decision is reviewed under section 153, the day on  
18 which the period of 7 days expires after the review is  
19 finalised;
- 20 (d) if there is a judicial review (for jurisdictional error) of an  
21 order made or purportedly made under section 88(1)  
22 or 89(1) in relation to the operator, or the area in which  
23 the business is located, the day on which the period of  
24 7 days expires after the review is finalised.
- 25 (3) Sections 49(4)(c) and 55(7)(b) do not apply to an application for  
26 the first operator's licence for an existing prostitution business  
27 but the CEO must not issue the licence unless the CEO has  
28 given approval under section 180 in relation to the business.
- 29 (4) Sections 55(8) and 56 do not apply to an application for the first  
30 operator's licence for an existing prostitution business.
- 31 (5) Section 62(a) does not apply to the first operator's licence for an  
32 existing prostitution business and instead, it is a condition of the  
33 licence that the place in which the prostitution business is

1           conducted has, after the licence is granted, no more than the  
2           number of rooms in which persons may take part in acts of  
3           prostitution than it had before the licence was granted.

4           (6) Sections 66(1) and 179 do not apply to the first operator's  
5           licence for an existing prostitution business and instead, the  
6           duration of the licence is not to exceed the period during which  
7           an approval under section 180 in relation to the business has  
8           effect.

9           **182.    Restraining orders**

10          (1) A restraining order that was made under section 37 of the  
11          repealed Act and that was in effect immediately before  
12          commencement day is, on and from commencement day, to be  
13          taken to be a restraining order made under section 140 on the  
14          terms applying to the restraining order immediately before  
15          commencement day.

16          (2) A restraining order that was made under section 38 of the  
17          repealed Act and that was in effect immediately before  
18          commencement day is, on and from commencement day, to be  
19          taken to be a restraining order made under section 141 on the  
20          terms applying to the restraining order immediately before  
21          commencement day.

22          (3) An application for a restraining order, or to vary or cancel a  
23          restraining order, that had been made under Part 5 of the  
24          repealed Act, but not finalised before commencement day is, on  
25          and from commencement day, to be taken to be an application  
26          for a restraining order, or to vary or cancel a restraining order,  
27          as is relevant to the case, under Part 7 Division 8.

28          (4) An appeal under section 47 of the repealed Act that was started,  
29          but not finalised, before commencement day must be dealt with  
30          as if the repealed Act had not been repealed by section 177(1),  
31          and a restraining order that is made or varied as a result of such  
32          an appeal is to be taken to be a restraining order under Part 7  
33          Division 8 on the terms applying to it when made or varied on  
34          the appeal.

**Prostitution Bill 2011**

**Part 12** Repeals, transitional provisions

**Division 2** Transitional provisions arising from the enactment of the  
Prostitution Act 2011

**s. 183**

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1 (5) Subsections (1) and (2) apply only to restraining orders under  
2 the repealed Act that are not the subject of an appeal mentioned  
3 in subsection (4).

4 **183. Undercover officers**

5 An authority under section 35 of the repealed Act to act as an  
6 undercover officer that was in effect immediately before  
7 commencement day is, on and from commencement day, to be  
8 taken to be an authority under section 152(2) on the terms  
9 applying to the authority immediately before commencement  
10 day.

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**Part 13 — Amendments to other Acts**

**184. Community Protection (Offender Reporting) Act 2004 amended**

- (1) This section amends the *Community Protection (Offender Reporting) Act 2004*.
- (2) In Schedule 2 delete the item relating to the *Prostitution Act 2000* and insert:

*Prostitution Act 2011*

s. 36                      Causing, permitting, or seeking to induce child to act as prostitute

s. 37                      Obtaining payment for prostitution by a child

**185. The Criminal Code amended**

- (1) This section amends *The Criminal Code*.
- (2) Delete sections 190 and 191.
- (3) In section 192(1)(b) delete “girl, who is not a common prostitute or of known immoral character,” and insert:

girl

- (4) In section 557K(1) in the definition of *child sex offender* delete paragraph (h) and insert:

(h) an offence committed under the *Prostitution Act 2011* section 9(1), 10(1), 36, 37, 38 or 42 that was committed against or in respect of a child; or

**s. 186**

---

1 **186. *Criminal Property Confiscation Act 2000* amended**

2 (1) This section amends the *Criminal Property Confiscation*  
3 *Act 2000*.

4 (2) In section 131(2):

5 (a) after paragraph (f) insert:

6

7 (ga) for a purpose associated with the administration  
8 of the *Prostitution Act 2011* including the  
9 provision of support and information to people  
10 who wish to stop working in the prostitution  
11 industry; and

12

13 (b) after each of paragraphs (a) to (e) insert:

14

15 and

16

17 **187. *Evidence Act 1906* amended**

18 (1) This section amends the *Evidence Act 1906*.

19 (2) In section 36A(1) in the definition of ***sexual offence***:

20 (a) delete paragraph (a) and insert:

21

22 (a) under *The Criminal Code* section 186 or the  
23 *Prostitution Act 2011* section 11, 38 or 42; or

24

25 (b) after each of paragraphs (b) and (ba) insert:

26

27 or

28

29 (3) In the Second Schedule Part 1 delete “s. 191 Procuration”.

1 (4) In Schedule 7 Part A clause 1(1)(a) delete “*Prostitution Act 2000*”  
2 and insert:

3

4 *Prostitution Act 2011*

5

6 (5) In Schedule 7 Part B in the item relating to *The Criminal Code*  
7 delete “191 Procuration”.

8 (6) In Schedule 7 Part B delete the item relating to the *Prostitution*  
9 *Act 2000* and insert:

10

*Prostitution Act 2011*

9(1) Seeking prostitute in or in view of or within  
hearing of public place

10(1) Seeking client in or in view of or within  
hearing of public place

36 Causing, permitting, or seeking to induce  
child to act as prostitute

37 Obtaining payment for prostitution by child

38 Agreement for prostitution by child

39 Prostitution in place where child present

40 Allowing child to be in place involving  
prostitution

42 Acting as prostitute for child

11

12 **188. *Health Act 1911* amended**

13 (1) This section amends the *Health Act 1911*.

14 (2) In section 3(1) delete the definition of *venereal disease*.

**s. 188**

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1 (3) In section 248 delete “venereal disease” and insert:

2

3 gonorrhoea, syphilis (including congenital syphilis),  
4 soft chancre, venereal warts or granuloma

5

6 (4) Delete the heading to Part XI and insert:

7

8 **Part XI — Sexually transmissible infections and**  
9 **disorders affecting the reproductive organs**

10

11 (5) Before section 300 insert:

12

13 **299. Term used: STI**

14 In this Part —

15 **STI** means a prescribed sexually transmissible  
16 infection or a prescribed blood borne virus.

17

18 (6) Delete section 310(2).

19 (7) In section 330A(1) delete “venereal and other”.

20 (8) In the provisions listed in the Table:

21 (a) delete “a venereal disease” (each occurrence) and insert:

22

23 an STI

24

25 (b) delete “any venereal disease” (each occurrence) and  
26 insert:

27

28 an STI

29

- 1 (c) delete “from venereal disease” (each occurrence) and  
2 insert:  
3  
4 an STI  
5

**Table**

s. 300(1) and (2)	s. 300A(1)
s. 307(1), (2), (3), (4) and (5)	s. 309(2) and (3)
s. 310(1)	s. 311(2)
s. 313(1)	s. 314(2)
s. 377(3a)	

- 6  
7 Note:  
8 1. The heading to amended section 300 is to read:  
9 **Notification of STI**  
10 2. The heading to amended section 310 is to read:  
11 **Offence to knowingly infect with STI**  
12 3. The heading to amended section 311 is to read:  
13 **Certain medical practitioners to treat STI free of charge**

14 **189. *Liquor Control Act 1988* amended**

- 15 (1) This section amends the *Liquor Control Act 1988*.  
16 (2) In section 115(1)(b) delete “thief, prostitute” and insert:  
17  
18 thief  
19  
20 (3) In section 115(4a)(e) delete “prostitute,”.

**s. 190**

---

1 **190. *Sentencing Act 1995* amended**

2 (1) This section amends the *Sentencing Act 1995*.

3 (2) In Schedule 1 insert in alphabetical order:

4

<i>Prostitution Act 2011</i>	Prostitution Account
------------------------------	----------------------

5

6 **191. *Western Australian College of Teaching Act 2004* amended**

7 (1) This section amends the *Western Australian College of*  
8 *Teaching Act 2004*.

9 (2) In Schedule 2 item 1 delete “s. 191 Procuring person to be prostitute  
10 etc.”.

11 (3) In Schedule 2 delete item 2 and insert:

12

**2. *Prostitution Act 2011***

s. 16 Promoting employment in prostitution  
industry

s. 36 Causing, permitting, or seeking to  
induce child to act as prostitute

s. 37 Obtaining payment for prostitution by  
child

s. 38 Agreement for prostitution by child

s. 39 Prostitution in place where child  
present

s. 40 Allowing child to be in place involving  
prostitution

s. 42 Acting as prostitute for child

13

1 **192. *Workers' Compensation and Injury Management Act 1981***  
2 **amended**

- 3 (1) This section amends the *Workers' Compensation and Injury*  
4 *Management Act 1981*.
- 5 (2) After section 11A insert:  
6

7 **12A. Exclusion of unauthorised prostitutes other than**  
8 **minors and coerced persons**

- 9 (1) In this section the following terms have the meaning  
10 given to them in the *Prostitution Act 2011* section 3 —

11 *act as a prostitute*

12 *operator's licence*

13 *prostitute's licence (general)*

14 *self-employed prostitute*

- 15 (2) A person is deemed not to be a worker for the purposes  
16 of this Act while the person acts as a prostitute in a  
17 place —

18 (a) that is not a place to which a current operator's  
19 licence applies; or

20 (b) to which a current operator's licence applies  
21 but —

22 (i) without holding a current prostitute's  
23 licence (general); or

24 (ii) there has not been compliance with the  
25 *Prostitution Act 2011* section 22(b) in  
26 respect of the person.

- 27 (3) Subsection (2) does not apply to a person who, at the  
28 time the injury occurred, was acting as a prostitute  
29 and —

30 (a) had not reached 18 years of age; or

**s. 192**

---

- 1 (b) was working under coercion.
- 2 (4) A self-employed prostitute is not a worker for the  
3 purposes of this Act.  
4
- 5 (3) In section 22 delete “If it” and insert:  
6
- 7 (1) If it  
8
- 9 (4) At the end of section 22 insert:  
10
- 11 (2) The failure by a worker who is a prostitute to comply  
12 with the *Prostitution Act 2011* section 31(2), 32(1),  
13 33(1) or 34(1) amounts to serious and wilful  
14 misconduct for the purposes of subsection (1)(c) unless  
15 the claimant proves that there was a reasonable excuse  
16 for the failure.  
17
- 18 (5) After section 31F(7) insert:  
19
- 20 (8A) Despite subsection (6), a worker is entitled to  
21 compensation under this Division in respect of an  
22 impairment that is AIDS if the impairment resulted  
23 from taking part in an act of prostitution in the course  
24 of the worker’s employment as a prostitute and when  
25 the act of prostitution occurred —
- 26 (a) it occurred in a place to which a current  
27 operator’s licence applied and either —
- 28 (i) the worker held a current prostitute’s  
29 licence (general); or
- 30 (ii) there had been compliance with the  
31 *Prostitution Act 2011* section 22(b) in  
32 respect of the worker;



**s. 194**

---

1 (2) In Schedule 2 delete item 2A and insert:  
2

**2A. Prostitution Act 2011**

- s. 11 Seeking to induce person to act as prostitute
- s. 36 Causing, permitting, or seeking to induce child to act as prostitute
- s. 37 Obtaining payment for prostitution by child
- s. 38 Agreement for prostitution by child

3



**Prostitution Bill 2011**

**Schedule 1** Offences relevant to granting, renewing operator's or manager's licence

---

- 1 s. 281
- 2 s. 292
- 3 s. 293
- 4 s. 297
- 5 s. 306
- 6 s. 320(2) or (3)
- 7 s. 321(2) or (3)
- 8 s. 321A(4)
- 9 s. 324
- 10 s. 325
- 11 s. 326
- 12 s. 327
- 13 s. 328
- 14 s. 329
- 15 s. 330(2) or (3)
- 16 s. 331B
- 17 s. 331C
- 18 s. 331D
- 19 s. 332
- 20 s. 333
- 21 s. 338A
- 22 s. 338B
- 23 s. 338C
- 24 s. 343
- 25 s. 396

1 s. 397

2 s. 398

3 s. 409

4 s. 563A

5 *Criminal Property Confiscation Act 2000*

6 s. 50(1)

7 *Criminal Code Act 1995 (Commonwealth)*

8 s. 480.4

9 s. 480.5

10

11

12



Defined Terms

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**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
3 unrelated adults .....	131(4)
act as a prostitute.....	3
act of prostitution .....	3
applicant.....	52(1)
approved .....	127
approved health and drug management plan.....	73(3), 73(4)
authorised person .....	92
being involved in prostitution .....	165(1)
bodily fluid.....	30
business.....	63(1)
caretaker's dwelling.....	79
CEO .....	3
child .....	3
City of Perth inner zone .....	79
client .....	3, 4
closure notice .....	129
closure offence provision .....	129
closure order .....	129
commencement day .....	178
Commissioner .....	3
compliance purposes.....	101(1)
confidential police information.....	3
conveyance.....	107(1)
Department.....	3
document.....	3
dwelling .....	3
employer .....	116
existing prostitution business .....	181(1)
health and drug management plan .....	44
health information.....	35(1)
in .....	3
incapable person .....	15(3), 44, 110(8)
juvenile justice team .....	101(1)
land (CPIZ) .....	85(1)
land (rest of WA) .....	86(1)
licence .....	3
licence holder.....	3
manage .....	3
manager.....	3

Defined Terms

manager’s licence .....	3
managerial officer .....	173(1)
medical practitioner .....	110(1)
Minister .....	152(1), 166(1)
no licence area order .....	87
notice .....	127
notifiable matter .....	71(2), 71(4), 71(6)
offence .....	107(1), 152(1)
offender .....	9(3), 10(2)
officer .....	44, 69(1)
operate .....	3
operator .....	3
operator’s licence .....	3
order .....	87
owner .....	3
particular applicant order .....	87
place .....	3, 49(4), 51(3), 58(2)
planning scheme .....	79
prescribed .....	3
prohibited drug .....	3
prohibition order .....	116
proprietary company .....	3
prostitute .....	3, 4, 21, 22
prostitute’s licence (general) .....	3
prostitute’s licence (self-employed) .....	3
prostitution .....	3, 4
prostitution business .....	3
protected person .....	110(7)
protected place .....	79
public place .....	8
refuse .....	29(1)
registered nurse .....	110(1)
relevant charge .....	113(3)
relevant juvenile justice team matter .....	113(3)
relevant person .....	116
repealed Act .....	178
residential area .....	79
respondent .....	145(4)
responsible person .....	110(8)
responsible planning authority .....	44, 79
restraining order .....	139
self-employed prostitute .....	3
sheath .....	30
specified .....	116, 127, 129, 143(4), 154(1), 162(1)
sponsorship .....	17(1)

**Defined Terms**

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STI .....	30
STI-risk contact.....	30
strip search .....	110(8)
undercover officer.....	152(1)
WAPC.....	79
work .....	3