

NORTHERN TERRITORY OF AUSTRALIA
PROSTITUTION REGULATION ACT 1992

No. 6 of 1992

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NORTHERN TERRITORY OF AUSTRALIA

No. 6 of 1992

AN ACT

to make provision with respect to prostitution, to
establish a licensing system for escort agency
businesses, and for related purposes

[Assented to 8 April 1992]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART 1 - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Prostitution Regulation Act 1992*.

2. COMMENCEMENT

The various provisions of this Act shall come into operation on such date or dates as is or are fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act, unless the contrary intention appears -

"Board" means the Escort Agency Licensing Board established by section 21(1);

"brothel" means premises to which people resort for the purpose of prostitution, but does not include premises forming part of a hotel which are used for the purpose of providing prostitution services in cases only where the person providing the services does so as the result of an agreement or arrangement entered into or initiated elsewhere;

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"dangerous drug" has the same meaning as in the *Misuse of Drugs Act*;

"de facto partner" means -

- (a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her;

"director", in relation to a body corporate, includes any person occupying or acting in the position of director of the body corporate, by whatever name called and whether or not validly appointed to occupy, or duly authorised to act in, the position;

"escort agency business" means a business that arranges, otherwise than for people attending in person for that purpose (whether at the premises where the business is carried on or at any other place), the provision of prostitution services elsewhere than on those premises;

"hotel" means an establishment which provides, or is held out as providing, accommodation for members of the public as a commercial enterprise, but does not include an apartment house, guest-house, boarding-house, lodging-house or hostel;

"licence" means a manager's licence or an operator's licence, and "licensee" includes a holder of either type of licence;

"manager" means a person appointed or authorised by the operator of an escort agency business to carry on or conduct the escort agency business but does not include a person whose principal duty is to act as a receptionist and arrange for the provision of prostitution services;

"manager's licence" means a licence under Part 3 to manage an escort agency business on behalf of a body corporate or another individual;

"officer", in relation to a body corporate, includes a director of the body corporate, any other person concerned in the management of the body corporate, and its secretary;

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"operator's licence" means a licence under Part 3 to carry on an escort agency business;

"premises" includes a part of any premises;

"prostitution" means the provision by one person to another (whether or not of a different sex) of sexual services of any description in return for payment or reward to any person, and "prostitute" and "prostitution services" shall be construed accordingly;

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

"publish" means -

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

"Registrar" means the Registrar of the Board appointed under section 23(1)(a), and includes a person appointed under section 23(1)(b) whilst acting as Registrar.

PART 2 - OFFENCES CONNECTED WITH PROSTITUTION

Division 1 - Brothels

4. KEEPING OR MANAGING BROTHEL

A person who keeps or manages a brothel is guilty of an offence.

Penalty: \$20,000.

5. ALLOWING PREMISES TO BE USED AS BROTHEL

A person who, being the owner, landlord or occupier of premises, permits or allows the premises to be used as a brothel is guilty of an offence.

Penalty: \$20,000.

Prostitution Regulation

Division 2 - Escort Agency Businesses

6. OPERATORS AND MANAGERS OF ESCORT AGENCY BUSINESSES TO BE LICENSED

(1) Subject to subsection (4), an individual shall not carry on an escort agency business unless -

- (a) the individual holds an operator's licence in respect of the business; and
- (b) the business is managed either by the individual or by an individual who is authorised to do so by a manager's licence.

Penalty: \$10,000.

(2) A body corporate shall not carry on an escort agency business unless -

- (a) it holds an operator's licence in respect of the business; and
- (b) the business is managed by an individual who is authorised to do so by a manager's licence.

Penalty: \$10,000.

(3) An individual shall not manage an escort agency business on behalf of a body corporate or another individual unless he or she is authorised to do so by a manager's licence.

Penalty: \$10,000.

(4) Subsection (1) does not require an individual who carries on an escort agency business to be licensed where -

- (a) the escort agency business arranges for the provision of prostitution services by that individual and no other;
- (b) the individual does not carry on the escort agency business in partnership or otherwise in association or conjunction with any other person; and
- (c) the individual is the only person employed in the escort agency business.

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7. LICENSED OPERATOR NOT TO HAVE UNLICENSED PARTNER, &c.

The holder of an operator's licence shall not carry on the business to which the licence relates in partnership with, or otherwise in association or conjunction with, a person who is not also licensed to carry on that business.

Penalty: \$10,000.

8. BREACH OF TERMS OF LICENCE

The holder of an operator's licence or a manager's licence shall not contravene or fail to comply with any condition or restriction to which the licence is subject.

Penalty: \$10,000.

9. PROHIBITION ON ARRANGING PROVISION OF SERVICES BY PERSONS CONVICTED OF VIOLENT OR DRUG OFFENCES

(1) The holder of an operator's licence may apply in the prescribed manner to the Commissioner of Police for a certificate under this section in respect of an individual described in the application.

(2) An application under subsection (1) must be accompanied by a statutory declaration by the individual with respect to the prescribed matters.

(3) Within 7 days after receiving an application under subsection (1) accompanied by the statutory declaration required by subsection (2), the Commissioner of Police shall cause a search to be made of the records available to the Commissioner, and -

(a) if it appears from the search that the individual to whom the application relates has not at any time during the immediately preceding 10 years been convicted of a violent offence or a relevant drug offence as defined in subsection (11), or of an attempt to commit such an offence -

(i) issue a certificate to that effect to the applicant; and

(ii) notify the individual in writing that a certificate has been so issued; or

(b) if it appears from the search that the individual has been so convicted, refuse to issue such a certificate and -

(i) notify the applicant in writing of the refusal; and

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- (ii) notify the individual in writing of the refusal, specifying in the notification the conviction or convictions by reason of which the issue of a certificate is refused.

(4) The holder of an operator's licence or manager's licence who, in the course of the business to which the licence relates, arranges for the provision of prostitution services by an individual other than the holder of a licence in respect of that business is guilty of an offence unless a certificate under this section is in force in respect of that individual at the time when the arrangement is made.

Penalty: \$10,000.

(5) Where a person other than a licensee is authorised by a licensee to make arrangements for the provision of prostitution services on behalf of an escort agency business, an arrangement made by that person shall be treated for the purposes of subsection (4) as having been made by that licensee.

(6) Where -

- (a) a certificate under this section is in force in respect of an individual; and
- (b) an arrangement for the provision of prostitution services by that individual is made for the first time in the course of an escort agency business, the holder of the operator's licence in respect of which is not the person to whom the certificate was issued,

the holder of that operator's licence shall, not later than 7 days after the arrangement is made, notify the Commissioner of Police in writing of the making thereof.

Penalty: \$2,000.

(7) Where an escort agency business ceases, otherwise than for reasons of a temporary nature, to make arrangements for the provision of prostitution services by an individual in respect of whom a certificate under this section is in force, the holder of the operator's licence in respect of the business shall, not later than 7 days after the cessation, notify the Commissioner of Police in writing thereof.

Penalty: \$2,000.

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(8) Where the holder of an operator's licence has given a notice under subsection (7) in respect of an individual, he or she shall, not later than 7 days after an arrangement for the provision of prostitution services by that individual is made in the course of the business in question for the first time after the giving of that notice, notify the Commissioner of Police in writing of the making of the arrangement.

Penalty: \$2,000.

(9) If it appears to the Commissioner of Police that an individual in respect of whom a certificate is in force under this section has been convicted of a violent offence or a relevant drug offence as defined in subsection (11) (whether committed before or after the issue of the certificate) or of an attempt to commit such an offence, the Commissioner shall -

- (a) cancel the certificate by a notice in writing served on the person to whom it was issued;
- (b) give written notice of the cancellation to any person who has given the Commissioner a notification under subsection (6) or (8) in relation to the individual, other than a person who, subsequently to the last giving of such a notification has given in relation to the individual a notification under subsection (7); and
- (c) notify the individual in writing of the cancellation, specifying in the notification the conviction or convictions in question.

(10) A notice under subsection (9)(a) shall require the person on whom it is served to surrender the certificate to the Commissioner not later than 14 days after the date on which the notice is served, and a person who fails to comply with the requirement is guilty of an offence.

Penalty: \$2,000.

(11) In this section -

"relevant drug offence" means an offence against -

- (a) section 5, 6(1) or (2), 7, 8, 9 or 11 of the *Misuse of Drugs Act*; or
- (b) a corresponding law (as defined in subsection (12)),

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being an offence punishable on conviction (except where dealt with summarily) by imprisonment for 5 years or more;

"violent offence" means an offence involving the use or threat of violence against another person irrespective of the penalty that may be imposed on conviction.

(12) In subsection (11)(b), "corresponding law" means -

(a) a law (including a repealed law) of the Commonwealth, or of a State or another Territory of the Commonwealth; or

(b) a repealed law of the Territory,

which makes (or, when in force, made) provision substantially similar to a provision specified in subsection (11)(a).

Division 3 - Other Offences

10. SOLICITING, &c., IN PUBLIC PLACE

(1) A person shall not, for the purposes of prostitution -

(a) solicit or accost any person in a public place; or

(b) loiter in a public place.

Penalty: \$2,000.

(2) A person shall not -

(a) in a public place, invite or solicit any person to prostitute himself or herself with the first-mentioned person or a third person; or

(b) loiter in or frequent a public place for the purpose of -

(i) inviting or soliciting any person to prostitute himself or herself with the first-mentioned person or a third person; or

(ii) being accosted by or on behalf of a prostitute.

Penalty: \$2,000.

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11. FORCING ADULT TO BECOME OR REMAIN A PROSTITUTE

A person who, for the purpose of inducing a person who has attained the age of 18 years to engage or continue to engage in prostitution -

- (a) assaults, or threatens to assault, that person or any other person;
- (b) intimidates that person or any other person;
- (c) supplies, offers to supply, or causes to be supplied, a dangerous drug to that person or any other person; or
- (d) makes a false representation or uses any false pretence or other fraudulent means,

is guilty of an offence.

Penalty: Imprisonment for 5 years.

12. FORCING ADULT TO PROVIDE FINANCIAL SUPPORT OUT OF PROSTITUTION

A person who, for the purpose of inducing a person who has attained the age of 18 years to provide or continue to provide him or her with a payment or payments derived (directly or indirectly) from an act or acts of prostitution taken part in by the second-mentioned person -

- (a) assaults, or threatens to assault, that person or any other person;
- (b) intimidates that person or any other person; or
- (c) supplies, or offers to supply, a dangerous drug to that person or any other person,

is guilty of an offence.

Penalty: Imprisonment for 5 years.

13. CAUSING OR INDUCING INFANT TO TAKE PART IN PROSTITUTION

A person shall not cause or induce an infant to take part, or to continue to take part, in the provision of prostitution services.

Penalty: Where the offence is committed in respect of an infant who has not attained the age of 14 years - imprisonment for 14 years.

In any other case - imprisonment for 7 years.

Prostitution Regulation

14. ALLOWING INFANT TO TAKE PART IN PROSTITUTION

(1) A person who carries on or manages a business involving the provision, or arranging for the provision, of prostitution services shall not allow an infant to take part in the provision of such services.

Penalty: Where the offence is committed in respect of an infant who has not attained the age of 14 years - imprisonment for 14 years.

In any other case - imprisonment for 7 years.

(2) A person having the care or control of an infant shall not allow that infant to take part in the provision of prostitution services.

Penalty: Where the offence is committed in respect of an infant who has not attained the age of 14 years - imprisonment for 14 years.

In any other case - imprisonment for 7 years.

15. OBTAINING PAYMENT IN RESPECT OF PROSTITUTION SERVICES PROVIDED BY INFANT

(1) A person who, except in the ordinary course of a business unrelated to prostitution, receives a payment knowing that it or any part of it has been derived (directly or indirectly) from prostitution services provided by an infant is guilty of an offence.

Penalty: Where the offence is committed in respect of an infant who has not attained the age of 14 years - imprisonment for 14 years.

In any other case - imprisonment for 7 years.

(2) If it is proved to a court that a person is cohabiting with a prostitute who is an infant, that person is to be taken to be contravening subsection (1) unless the court is satisfied to the contrary.

(3) A prosecution for an offence against subsection (1) shall, if the person accused was an infant at the time when the offence is alleged to have been committed, be commenced only with the consent of the Director of Public Prosecutions.

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16. ENTERING INTO AGREEMENT FOR PROVISION OF PROSTITUTION SERVICES BY INFANT

A person shall not enter into an agreement, or offer to enter into an agreement, under which an infant is to provide prostitution services to that person or another person in return for payment or in exchange for dangerous drugs.

Penalty: Where the offence is committed in respect of an infant who has not attained the age of 14 years - imprisonment for 14 years.

In any other case - imprisonment for 7 years.

17. PROHIBITION ON PROSTITUTION BY INFANTS

An infant who offers to provide or who provides prostitution services is guilty of an offence.

Penalty: Imprisonment for 2 years.

18. BELIEF BY ACCUSED THAT INFANT WAS OF AGE

In proceedings for an offence against section 13, 14(1) or (2), 15(1) or 16, it is not necessary for the prosecution to prove that the accused knew that the person concerned was an infant, but it is a defence for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused reasonably believed at the time when the offence is alleged to have been committed that the person had attained the age of 18 years.

19. ADVERTISING OFFENCES

(1) A person shall not publish, or cause to be published, an advertisement for prostitution services which contravenes or fails to comply with any requirement, prohibition or restriction prescribed for the purposes of this subsection.

Penalty: \$2,000.

(2) A person shall not cause an advertisement for prostitution services to be broadcast or televised.

Penalty: \$2,000.

(3) A person shall not publish, or cause to be published, an advertisement which is intended, or is likely, to induce a person -

(a) to seek employment as a prostitute; or

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- (b) to provide prostitution services for clients of a business that arranges the provision of such services.

Penalty: \$2,000.

(4) Where an advertisement invites persons to work in, or obtain work through, a business that arranges the provision of prostitution services, it shall be treated for the purposes of subsection (3) as intended to induce persons to provide prostitution services for clients of the business unless it is clear from the face of the advertisement that the work to which it relates does not involve providing such services.

(5) Where an advertisement has been published, broadcast or televised for or relating to a business that provides, or arranges for the provision of, prostitution services, the person who was carrying on the business at the time when the advertisement was published, broadcast or televised shall be taken for the purposes of this section as having caused the publication, broadcasting or televising unless the court is satisfied to the contrary.

(6) Regulations made for the purposes of subsection (1), may -

- (a) make provision with respect to the size, form and content of advertisements for prostitution services, or any class or description of prostitution services; or
- (b) prohibit the advertising of prostitution services, or any class or description of prostitution services -
 - (i) in a specified publication or class or description of publications; or
 - (ii) in a specified manner.

20. MEDICAL EXAMINATIONS

(1) For the purposes of this section, "sexually transmitted disease" means -

- (a) a disease specified in Schedule 5 of the *Notifiable Diseases Act*;
- (b) the disease known as acquired immune deficiency syndrome in any of its stages; and
- (c) any other disease specified by the Minister for the purpose of this section by notice in the *Gazette*.

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(2) A licensee shall take all reasonable steps to ensure that the fact of a prostitute's attendance at a medical examination or the result of such an examination is not used for the purpose of inducing a person to believe that the prostitute is not infected with a sexually transmitted disease.

(3) A prostitute shall not, for the purpose of prostitution, use the fact of the prostitute's attendance at a medical examination or the result of such an examination for the purpose of inducing a person to believe that the prostitute is not infected with a sexually transmitted disease.

Penalty: \$2,000.

PART 3 - LICENSING OF OPERATORS AND MANAGERS OF ESCORT AGENCY BUSINESSES

Division 1 - Licensing Board and Registrar

21. ESCORT AGENCY LICENSING BOARD

(1) There is hereby established a Board to be known as the Escort Agency Licensing Board.

(2) The Board shall consist of 3 members, who shall be appointed by the Minister and of whom -

- (a) one shall be a legal practitioner;
- (b) one shall be a person nominated by the Minister having responsibility for health, being a person appearing to that Minister to have experience or expertise in the field of community health; and
- (c) one shall be a person nominated by the Minister having responsibility for social welfare, being a person appearing to that Minister to have experience or expertise in the field of community welfare.

(3) The Minister shall appoint one of the members of the Board to be its Chairman.

(4) The appointment of a member shall be notified in the *Gazette*, and shall take effect on and from -

- (a) the date of publication of the notification; or
- (b) if the notification specifies a later date - that later date.

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(5) The Schedule has effect with respect to members of the Board (including the appointment of persons to act in the place of members) and with respect to the Board's meetings and proceedings.

22. FUNCTIONS AND POWERS OF BOARD

- (1) The functions of the Board are -
 - (a) to determine in accordance with this Part -
 - (i) applications by individuals or bodies corporate for the grant or renewal of a licence to carry on an escort agency business (an operator's licence); and
 - (ii) applications by individuals for the grant or renewal of a licence to manage an escort agency business on behalf of a body corporate or individual (a manager's licence);
 - (b) to decide the conditions or restrictions (if any) to which licences are to be subject;
 - (c) to cancel and suspend licences in accordance with this Part;
 - (d) to request of the Commissioner of Police the investigation by members of the Police Force of complaints relating to the operation or management of any escort agency business in respect of which an operator's licence is in force;
 - (e) to liaise with the Commissioner of Police so as to assist the Board and members of the Police Force in carrying out their respective functions; and
 - (f) to liaise or consult with persons who, or bodies, groups or associations that, the Board considers may assist it in carrying out its functions.

(2) The Board has, in addition to the powers expressly conferred on it by this Part, power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions or the exercise of those powers.

23. REGISTRAR

- (1) The Minister -
 - (a) shall appoint a person who is an employee within the meaning of the *Public Service Act* to be the Registrar of the Board; and

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- (b) may appoint such a person to act from time to time as Registrar of the Board during the absence of the Registrar from the Territory or from duty or during a vacancy in the office of Registrar.

(2) Subject to subsection (3), the Registrar may, by instrument in writing, delegate to a person who is an employee within the meaning of the *Public Service Act* any function or power conferred on the Registrar by this Part or regulations made for the purposes of this Part.

(3) The power of delegation conferred by subsection (2) is not itself capable of being delegated.

(4) A function or power delegated under subsection (2) shall, when performed or exercised by the delegate, be deemed to have been performed or exercised by the Registrar.

(5) A delegation under subsection (2) does not prevent the performance of a function or the exercise of a power by the Registrar.

Division 2 - Grant, Renewal, Effect and Duration of Licences

24. ELIGIBILITY FOR GRANT OR RENEWAL OF LICENCE

(1) To be eligible to be granted an operator's licence or a manager's licence in respect of an escort agency business, or to have such a licence renewed, an individual -

- (a) must have attained the age of 18 years;
- (b) must be resident in the Territory;
- (c) must not have been convicted -
 - (i) at any time, of a disqualifying offence as defined in subsection (3), or of an attempt to commit such an offence; or
 - (ii) within the preceding 10 years, of a disqualifying offence as defined in subsection (4), or of an attempt to commit such an offence;
- (d) must not be the spouse, de facto partner, homosexual partner, business partner or business associate of an individual who has been convicted as mentioned in paragraph (c); and

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(e) must not have entered into a business arrangement or relationship in respect of the operation of the escort agency business with -

(i) an individual who has been convicted as mentioned in paragraph (c); or

(ii) a body corporate any officer of which has been so convicted.

(2) For a body corporate to be eligible to be granted an operator's licence in respect of an escort agency business, or to have such a licence renewed -

(a) its shareholders must not include a body corporate;

(b) each of its officers must satisfy the requirements in subsection (1)(a), (b), (c) and (d); and

(c) the body corporate must not itself have entered into any such business arrangement or relationship as is described in subsection (1)(e).

(3) In subsection (1)(c)(i), "disqualifying offence" means an offence against -

(a) section 11, 12, 13, 14(1) or (2), 15(1) or 16 of this Act;

(b) section 127, 128, 129, 130, 131, 132, 192 or 201 of the *Criminal Code*; or

(c) a corresponding law (as defined in subsection (5)),

being, in the case of an offence against section 127 of the *Criminal Code* or a law which is a corresponding law in relation to that section, an offence involving a male person who, at the time of the offence, had not attained the age of 14 years.

(4) In subsection (1)(c)(ii), "disqualifying offence" means an offence against -

(a) section 5, 6(1) or (2), 7, 8, 9 or 11 of the *Misuse of Drugs Act*; or

(b) a corresponding law (as defined in subsection (5)),

being an offence punishable on conviction (except where dealt with summarily) by imprisonment for 5 years or more.

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(5) In subsections (3)(c) and (4)(b), "corresponding law" means -

(a) a law (including a repealed law) of the Commonwealth, or of a State or another Territory of the Commonwealth; or

(b) a repealed law of the Territory,

which makes (or, when in force, made) provision substantially similar to a provision specified in subsection (3)(a) or (b) or, as the case requires, subsection (4)(a).

(6) This section, so far as it renders a person ineligible for the grant or renewal of a licence if he or she, or some other person, has been convicted as mentioned in subsection (1)(c)(ii), has effect subject to section 28(3).

25. APPLICATIONS FOR GRANT OR RENEWAL

(1) An application to the Board for the grant or renewal of a licence -

(a) must be in writing in the prescribed form;

(b) must state -

(i) the name, address, occupation and date of birth of the applicant; or

(ii) where the applicant is a body corporate, the name and registered address of the body corporate and the name, address, occupation and date of birth of each of the body corporate's officers;

(c) must contain such other particulars as are prescribed;

(d) must be signed by the applicant or, where the applicant is a body corporate, must bear the seal of the body corporate and be signed by each of its officers; and

(e) must be accompanied by -

(i) the prescribed application fee;

(ii) where the applicant is a body corporate - an application by an individual for the grant or renewal, as the case may require, of a manager's licence in respect of the business to which the body corporate's application relates; and

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(iii) such other things as are prescribed.

(2) An application for the renewal of a licence shall be made not later than 2 months before the date on which the licence is due to expire.

(3) If, before an application is determined, a change occurs in any of the particulars specified in the application, the applicant shall, as soon as possible after the occurrence of the change, give to the Board written notice of the change signed by the applicant or, where the applicant is a body corporate, each of its officers.

(4) If an application is withdrawn before it has been determined, the Board may in its absolute discretion refund (wholly or in part) the fee that accompanied the application.

26. FALSE OR MISLEADING STATEMENTS IN APPLICATIONS

(1) A person shall not, in or in relation to an application for the grant or renewal of a licence, make a statement that is false or misleading by reason of the inclusion of any false or misleading matter or the omission of any material matter.

Penalty: \$2,000.

(2) It is a defence to a charge under subsection (1) for the accused to prove that, at the time the statement was made, the accused -

- (a) believed on reasonable grounds that the false matter was true or, as the case requires, that the misleading matter was not misleading; or
- (b) in the case of an omission -
 - (i) believed on reasonable grounds that no material matter had been omitted; or
 - (ii) did not know that the omitted matter was material.

27. POLICE, &c., TO BE NOTIFIED OF APPLICATIONS

(1) Where an application for the grant or renewal of a licence has been duly made to the Board, the Registrar shall give a copy of it to -

- (a) the Commissioner of Police; and
- (b) such persons and bodies as are prescribed for the purposes of this paragraph.

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(2) On receiving a copy of the application, the Commissioner of Police shall cause such enquiries to be made as the Commissioner considers necessary for the purpose of advising the Board in the discharge of its functions under section 28, and shall report the results of those enquiries to the Registrar within 28 days of receiving the copy.

(3) A person or body to whom a copy of an application is given pursuant to subsection (1)(b) may, within 28 days of receiving it, make written representations to the Registrar with respect to the application.

28. BOARD TO BE SATISFIED THAT APPLICANT BOTH ELIGIBLE AND SUITABLE

(1) Where an application for the grant or renewal of a licence has been duly made, the Board shall -

(a) if the conditions specified in subsection (2) are satisfied - grant a licence to the applicant or, as the case requires, renew the applicant's licence; and

(b) in any other case, subject to subsection (3), refuse the grant or renewal.

(2) The conditions are -

(a) that the Board is satisfied that the applicant is eligible under section 24 to be granted a licence or, as the case may be, to have the applicant's licence renewed; and

(b) that the Board is also satisfied -

(i) in the case of an operator's licence - that the personal character of the applicant or, where the applicant is a body corporate, of each of its officers is such that he or she is a suitable person to carry on an escort agency business; and

(ii) in the case of a manager's licence - that the personal character of the applicant is such that he or she is a suitable person to manage an escort agency business.

(3) Where during the period of 10 years preceding the making of an application the applicant or some other person has been convicted of a disqualifying offence as defined in section 24(4), or of an attempt to commit such

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an offence, the Board may if it considers that there are adequate grounds for doing so, disregard the conviction for the purposes of determining the applicant's eligibility, and grant a licence or renew one accordingly.

(4) Where an individual who applies for the grant or renewal of a licence, or an officer of a body corporate which so applies, has at any time during the period of 10 years preceding the making of the application been convicted -

- (a) in the Territory, of a crime; or
- (b) elsewhere, of an offence that would be a crime if committed in the Territory,

the Board shall, for the purposes of subsection (2)(b), treat that individual or officer as not a suitable person to carry on or manage an escort agency business unless, in the opinion of the Board, there are adequate grounds for disregarding the conviction.

(5) The Board shall -

- (a) not later than 14 days after granting or renewing a licence, notify the Minister in writing of the grant or renewal; and
- (b) not later than 14 days after deciding to refuse the grant or renewal of a licence, notify the applicant in writing of the refusal.

29. BOARD MAY IMPOSE CONDITIONS OR RESTRICTIONS

(1) The Board may, as it considers necessary or desirable -

- (a) grant a licence subject to conditions or restrictions; or
- (b) on renewing a licence, vary any condition or restriction to which the licence is subject, or impose conditions or restrictions to which the licence is to be subject.

(2) Without limiting the generality of subsection (1), the conditions and restrictions to which a licence may be made subject include conditions or restrictions relating to the working conditions of persons providing prostitution services, matters concerning their health and welfare and the health and welfare of the community generally.

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(3) Where the Board imposes or varies a condition or restriction under subsection (1), it shall cause the condition, restriction or variation to be endorsed on the licence, and shall notify the Minister thereof in writing.

30. EFFECT AND DURATION OF LICENCE

(1) An operator's licence authorises the licensee, during the currency of the licence, to carry on an escort agency business in accordance with any conditions or restrictions to which the licence is subject.

(2) A manager's licence authorises the licensee, during the currency of the licence and in accordance with any conditions or restrictions to which the licence is subject, to manage an escort agency business on behalf of a body corporate or individual named in the licence.

(3) A licence is incapable of transfer by the licensee, and cannot vest in a person other than the licensee by operation of law.

(4) Subject to this Part, a licence remains in force for one year beginning with the date on which it is granted or on which its renewal takes effect.

(5) Where an application for the renewal of a licence has been made within the time allowed by section 25(2) but, at the time when the licence would (but for this subsection) expire, the Board has not determined the application, the licence shall continue in force by virtue of this subsection (but subject to this Act) until whichever of the following events last occurs:

- (a) the Board renews or refuses to renew the licence;
- (b) where it refuses to renew it -
 - (i) the period allowed by or under section 36 for appealing to the Tribunal expires without an appeal having been lodged; or
 - (ii) where an appeal to the Tribunal is lodged, it is withdrawn or, if it proceeds to a hearing, the Board renews the licence pursuant to a direction of the Tribunal or, on reconsideration of its refusal pursuant to such a direction, renews the licence or again refuses to renew it;
- (c) where the Board has refused to renew the licence, and the Tribunal has affirmed the Board's decision -

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- (i) the period allowed by section 40 for appealing to the Supreme Court expires without an appeal having been brought; or
- (ii) where an appeal to the Supreme Court is brought it is either withdrawn or finally disposed of.

(6) Where the Board has refused to renew a licence and, at the time when the licence would (but for this subsection) expire, the licensee has a right of appeal under this Part to the Tribunal or the Supreme Court, the licence shall continue in force by virtue of this subsection (but subject to this Act) until whichever of the events specified in subsection (5)(b) and (c) last occurs.

(7) A manager's licence granted or renewed in respect of a business during the term of the operator's licence relating to that business expires at the end of that term.

Division 3 - Cancellation, Suspension, &c., of Licence

31. MANDATORY CANCELLATION

(1) Subject to subsection (4), the Board shall (on an application by the Commissioner of Police or without any such application) cancel a licence if it is satisfied that -

- (a) the licensee; or
- (b) in the case of a licence held by a body corporate, an officer of the body corporate,

has since the licence was granted or last renewed been convicted of a disqualifying offence as defined in subsection (2), or of an attempt to commit such an offence.

(2) In subsection (1), "disqualifying offence" means an offence against -

- (a) section 9(4), 11, 12, 13, 14(1) or (2), 15(1) or 16 of this Act;
- (b) section 127, 128, 129, 130, 131, 132, 192 or 201 of the *Criminal Code*;
- (c) section 5, 6(1) or (2), 7, 8, 9 or 11 of the *Misuse of Drugs Act*; or

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- (d) a corresponding law (as defined in subsection (3)),

being -

- (e) in the case of an offence against section 127 of the *Criminal Code* or a law which is a corresponding law in relation to that section, an offence involving a male person who, at the time of the offence, had not attained the age of 14 years; and
- (f) in the case of an offence against any of the provisions specified in paragraph (c) or a law which is a corresponding law in relation to any of those provisions, an offence punishable on conviction (except where dealt with summarily) by imprisonment for 5 years or more.

(3) In subsection (2)(d), "corresponding law" means -

- (a) a law (including a repealed law) of the Commonwealth, or of a State or another Territory of the Commonwealth; or
- (b) a repealed law of the Territory,

which makes (or, when in force, made) provision substantially similar to a provision specified in subsection (2)(a), (b) or (c).

(4) Where a person to whom subsection (1) applies has been convicted of an offence which is a disqualifying offence by virtue of subsection (2)(c) and (f), or subsection (2)(d) and (f) in their application to the provisions specified in subsection (2)(c), or of an attempt to commit such an offence, the Board may if it considers that there are adequate grounds for doing so disregard the conviction for the purposes of this section and refrain accordingly from cancelling the licence in question.

(5) Where the Board cancels an operator's licence under this section or section 32, it shall also cancel any manager's licence relating to the business to which the operator's licence relates.

(6) The Board shall cancel a licence under this section by serving on the holder of the licence notice in writing that it is cancelled.

32. DISCRETIONARY CANCELLATION, SUSPENSION, &c.

- (1) The powers of the Board under this section are -
 - (a) to cancel a licence;

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- (b) to suspend a licence for such period as the Board thinks fit; and
- (c) to vary any condition or restriction to which a licence is subject or impose conditions or restrictions to which a licence is to be subject.

(2) Section 29(2) has effect for the purposes of subsection (1)(c) as it has effect for the purposes of section 29(1).

(3) The Board may (on an application made by the Commissioner of Police or without any such application) exercise a power under this section in relation to a licence if it is satisfied -

- (a) that since the licence was granted or last renewed ("the relevant time") -
 - (i) the licensee has contravened or failed to comply with a condition or restriction to which the licence is subject; or
 - (ii) the business to which the licence relates has been conducted in such a way as to make the exercise of the power desirable;
- (b) that since the relevant time, the licensee or, where the licensee is a body corporate, an officer of the body corporate has been convicted -
 - (i) in the Territory, of a crime; or
 - (ii) elsewhere, of an offence that would be a crime if committed in the Territory;
- (c) in the case of a licence held by an individual, that the licensee has since the relevant time ceased to be a suitable person to carry on or, as the case requires, manage an escort agency business;
- (d) in the case of a licence held by a body corporate, that an officer of the body corporate -
 - (i) has since the relevant time ceased to be a suitable person to carry on an escort agency business; or
 - (ii) having become an officer of the body corporate since the relevant time, is not a suitable person to carry on an escort agency business; or

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- (e) that the licensee has failed to comply with section 45(1).

(4) Where the Board cancels a manager's licence under this section or section 31, it may also if it thinks fit cancel the operator's licence relating to the business to which the manager's licence relates.

- (5) The Board shall -

- (a) cancel or suspend a licence under this section by serving on the licensee a notice in writing that it is cancelled or suspended;
- (b) impose a condition or restriction on a licence, or vary a condition or restriction to which a licence is subject, by serving on the licensee a notice in writing of the condition, restriction or variation; and
- (c) except in the case of the cancellation of a licence, send a copy of any notice under this subsection to the Minister.

Division 4 - Appeals to Tribunal

33. THE TRIBUNAL

(1) Appeals against decisions of the Board and the Commissioner of Police shall lie in accordance with this Part and regulations made for the purposes of this Part to a magistrate appointed for the purposes of this Division by the Chief Magistrate.

(2) The Chief Magistrate may appoint more than one magistrate for the purposes of this Division.

(3) A magistrate for the time being appointed pursuant to subsection (1) is in this Part referred to as the Tribunal.

34. WHAT DECISIONS APPEALABLE, AND WHO MAY APPEAL

(1) The following are decisions of the Board for the purposes of this Part, and there is indicated in relation to each of them the person or persons entitled to appeal:

- (a) a decision to grant or renew a licence - the Minister;
- (b) a decision to refuse the grant or renewal of a licence - the applicant for its grant or renewal;

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- (c) a decision, made on an application for the grant or renewal of a licence, as to the conditions or restrictions to which the licence is to be subject - the applicant and the Minister;
 - (d) a decision made on a licensee's application under section 43 for the removal or variation of a condition or restriction - the licensee and the Minister;
 - (e) a decision to cancel a licence pursuant to section 31 (except section 31(5)) or 32 - the person whose licence is cancelled;
 - (f) a decision to exercise in relation to a licence any other power conferred by section 32 - the licensee and the Minister.
- (2) Where the Commissioner of Police has refused to issue a certificate under section 9 in respect of an individual, or has cancelled a certificate issued under that section in respect of an individual, the individual may appeal against the refusal or the cancellation on the ground -
- (a) that the individual has not in fact been convicted of the offence, or any of the offences, specified in the notification of refusal or cancellation given to the individual under that section; or
 - (b) that notwithstanding that the individual has been convicted of such an offence, there are adequate grounds for disregarding it for the purposes of that section.

35. BOARD TO GIVE REASONS FOR DECISION

- (1) A person entitled to appeal against a decision of the Board may, by notice in writing lodged with the Registrar within the time allowed by subsection (2), request the Board to give the reasons for its decision.
- (2) A request under subsection (1) shall be lodged with the Registrar -
- (a) not later than 28 days after the date on which the person entitled to appeal is notified by the Board in writing of the decision in question; or
 - (b) in the case of an appeal under section 34(1)(c) by an applicant for the grant or renewal of a licence - not later than 28 days after the issue of a licence to the applicant or, as the case may require, the renewal of the applicant's licence.

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(3) Subject to subsection (4), the Board shall, not later than 28 days after the lodging of a request under subsection (1) with the Registrar, furnish the person making the request with a statement of its reasons for the decision and the evidence or other matters to which it had regard in reaching the decision.

(4) Subsection (3) does not require the Board to disclose to a person any information -

(a) where, in the opinion of the Board, the disclosure of the information -

(i) may prejudice the conduct of an investigation by a member of the Police Force;

(ii) may prejudice the proper administration of the law;

(iii) may reveal the identity of an informant;

(iv) may endanger the life or well being of a person; or

(v) may disclose procedures for preventing, detecting or investigating offences; or

(b) which the Board, in its absolute discretion, regards as having been communicated to the Board on a confidential basis.

36. MACHINERY FOR APPEALS

(1) An appeal to the Tribunal shall be instituted by lodging with the Registrar, within the time allowed by or under this section, a written notice of appeal in the prescribed form.

(2) Subject to subsection (4), an appeal against a decision of the Board shall be lodged -

(a) within the time allowed by section 35(2) for making a request to the Board under section 35(1); or

(b) where such a request is made, not later than 28 days after the Board has complied with the request.

(3) Subject to subsection (4), an appeal against the refusal of the Commissioner of Police to issue a certificate under section 9 in respect of an individual, or the

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cancellation by the Commissioner of a certificate issued under that section in respect of an individual, shall be lodged not later than 28 days after the giving to the individual of the notification of refusal or cancellation required by that section.

(4) Regulations may -

- (a) enable a person who is entitled to appeal against a decision of the Board or the Commissioner of Police to apply to the Tribunal, during the period allowed by this section for lodging a notice of appeal, for an extension of that period; and
- (b) prescribe the procedure to be followed in relation to such an application,

and the Tribunal may on such an application grant such an extension if it considers it reasonable to do so in the circumstances of the case.

(5) Where an appeal has been duly instituted, the Registrar shall -

- (a) fix a date for the hearing of the appeal by the Tribunal;
- (b) in the case of an appeal against a decision of the Board, give notice in writing of the hearing -
 - (i) to the appellant;
 - (ii) where the appellant is not the Minister - to the Minister;
 - (iii) where the appellant is the Minister -
 - (A) in the case of a decision referred to in section 34(a) or (c) - to the applicant for the grant or renewal of the licence; or
 - (B) in the case of a decision referred to in section 34(d) or (f) - to the licensee;
 - (iv) to the Board;
 - (v) to the Commissioner of Police; and
 - (vi) to any persons or bodies for the time being prescribed for the purposes of section 27(1)(b); and

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- (c) in the case of an appeal against a refusal of the Commissioner of Police to issue a certificate under section 9, or against the cancellation of such a certificate - give notice in writing of the hearing to the appellant and the Commissioner.

(6) In the case of an appeal against a decision of the Board, the Commissioner of Police and the persons and bodies referred to in subsection (5)(b)(vi) are entitled to make to the Tribunal representations in writing with respect to the subject matter of an appeal, and the Registrar's notices under subsection (5)(b) shall inform them of that right.

(7) The Board shall, at the request of the Tribunal, furnish the Tribunal with all the material that was before the Board in its making of a decision against which an appeal has been duly instituted.

(8) An appeal to the Tribunal shall, unless the Tribunal otherwise decides, be by way of a rehearing.

37. POWERS OF TRIBUNAL

(1) The Tribunal may on an appeal against a decision of the Board -

- (a) affirm the decision;
- (b) make any other decision that the Board could have made, and direct the Board to take any action necessary to give effect to the Tribunal's decision in substitution for that of the Board; or
- (c) remit the decision to the Board with a direction to reconsider it,

and the Board has power to do all such things as are necessary to comply with a direction under paragraph (b) or to give effect to a decision made by the Board after complying with a direction under paragraph (c).

(2) On an appeal against the refusal of the Commissioner of Police to issue a certificate under section 9 in respect of an individual, or the cancellation by the Commissioner of a certificate issued under that section in respect of an individual, the Tribunal -

- (a) if satisfied that the individual has not been convicted of the offence, or any of the offences, specified in the notification of refusal or cancellation given to the individual

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under that section - shall, as the case requires, direct the Commissioner to issue a certificate to the individual or quash the cancellation; and

- (b) in any other case shall, subject to subsection (3), dismiss the appeal.

(3) If on an appeal to which subsection (2) applies it appears to the Tribunal that the individual has been convicted of an offence specified in the notification there referred to, but that there are adequate grounds for disregarding the offence for the purposes of section 9, it shall direct that the offence be so disregarded and exercise the appropriate power conferred on it by subsection (2)(a).

(4) The Tribunal has power on an appeal to make orders as to costs as follows:

- (a) where the Minister is the appellant, it may order the Minister to pay an amount by way of costs to any other person appearing at the hearing;
- (b) where the appellant is a person other than the Minister, it may -
 - (i) if of the opinion that the appeal was frivolous or vexatious or brought otherwise than in good faith - order the appellant to pay an amount by way of costs to any other person appearing at the hearing; or
 - (ii) if of the opinion that it is reasonable to do so having regard to the complexity of the case - order the Board or the Commissioner of Police to pay an amount by way of costs to the appellant.

(5) The person in whose favour an order is made under subsection (4) may recover the amount specified in the order from the person against whom it is made as a debt due and payable.

(6) Where a decision of the Board cancelling an operator's licence is quashed by the Tribunal on appeal, the cancellation of a manager's licence by the Board under section 31(5) on the cancellation of the operator's licence is revoked and the manager's licence is re-instated as if the Board had not exercised its power under that subsection.

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Division 5 - Procedure, &c., of Board and Tribunal

38. PROCEDURE GENERALLY

(1) In exercising their respective functions under this Part, the Board and the Tribunal -

- (a) must act fairly and according to equity and good conscience, without regard to technicalities and legal forms;
- (b) are not required to conduct matters formally; and
- (c) are not bound by any rules or practice as to evidence, but may each inform itself in relation to any matter in such manner as it thinks fit.

(2) Notwithstanding subsection (1)(a), the Board and the Tribunal -

- (a) are not required to hear any person other than a person appearing to the Board or the Tribunal to have a direct interest in the matter to be decided by the Board or, as the case may be, the subject matter of the appeal to the Tribunal;
- (b) may determine the manner in which a person is to be heard; and
- (c) are not required to inform a person of anything relating to a matter before the Board or Tribunal which the Board or Tribunal, in its absolute discretion, regards as being of a confidential nature.

39. POWER TO SUMMON WITNESSES, REQUIRE PRODUCTION OF DOCUMENTS, &c.

(1) If it appears to the Chairman of the Board, or to the Tribunal, that a person is capable of furnishing information, giving evidence or producing documents that is or are material to a matter before the Board or the Tribunal, the Chairman or the Tribunal may by notice in writing require that person to appear before the Board or the Tribunal at a time and place specified in the notice, and to produce any such documents as are in that person's possession or under his or her control.

(2) The members of the Board or, as the case may be, the Tribunal may -

- (a) examine on oath any person appearing before the Board or the Tribunal pursuant to a notice under subsection (1), or otherwise present before the Board or Tribunal; and

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- (b) inspect any documents produced pursuant to such a notice,

and, for the purposes of paragraph (a), the Chairman of the Board and the Tribunal each has power to administer an oath.

(3) A person who, without reasonable excuse, fails to comply with a notice under subsection (1) or refuses to answer a question put to him or her by a member of the Board or the Tribunal is guilty of an offence.

Penalty: \$2,000.

Division 6 - Appeals to Supreme Court

40. APPEALS TO SUPREME COURT ON POINT OF LAW

(1) A person who has appealed to the Tribunal and is aggrieved by the Tribunal's decision on the appeal may, in accordance with the Rules of the Supreme Court, appeal to the Supreme Court on a question of law.

(2) Subject to subsection (4), an appeal to the Supreme Court shall be brought not later than 28 days after the date of the Tribunal's decision.

(3) A person entitled to appeal to the Supreme Court may, not later than 28 days after the giving of the Tribunal's decision, request the Tribunal in writing to state its reasons for the decision, and the Tribunal shall comply with the request in writing not later than 28 days after receiving it.

(4) Where a person has made a request to the Tribunal under subsection (3), the time for bringing an appeal against its decision shall expire 28 days after the Tribunal has complied with the request.

(5) On an appeal under this section, the Supreme Court may by order -

- (a) confirm the Tribunal's decision;
- (b) quash that decision, with or without substituting for it any other decision that the Tribunal could have made, and direct the Board or the Commissioner of Police to take such action as may be necessary to give effect to the order; or
- (c) remit the matter to the Tribunal with a direction to reconsider it in the light of any directions on the law contained in the order,

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and the Board has power to do all such things as may be necessary to comply with a direction under paragraph (b).

Division 7 - Registers

41. REGISTERS TO BE KEPT

(1) The Registrar shall keep 2 registers, to be known respectively as the Public Register of Escort Agency Licences and the Private Register of Escort Agency Licences.

(2) On the grant of an operator's licence, the Registrar shall enter in such of the registers as the Board directs in accordance with subsection (3) -

- (a) the name of the licensee, and the name and address of the business to which the licence relates (or, if more than one, of each such business); and
- (b) full details of the licence (including any conditions or restrictions to which the licence is subject),

and on the grant of a manager's licence, the Registrar shall enter the like particulars and details in the register in which the relevant operator's licence is registered.

(3) In deciding what direction to give for the purposes of subsection (2), the Board shall, unless in the circumstances of a particular case it considers it desirable to depart therefrom, observe the principle that a licence should be entered in the Public Register if the number of persons by whom it is intended that prostitution services should be provided on a regular basis (including a regular part-time basis) exceeds 3, and in the Private Register if that number is 3 or less.

(4) Subject to subsection (5), the Registrar shall enter in the register in which details of a licence are for the time being registered -

- (a) the prescribed particulars contained in any application for renewal of the licence, and details of the Board's decision on the application;
- (b) details of any other decision of the Board with respect to the licence; and
- (c) details of any appeal under this Part with respect to the licence, and of the results of any such appeal.

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(5) Where a licence ceases to be in force for any reason other than its suspension, the Registrar shall remove from the register all entries relating to the licence (but, in the case of the cancellation of a licence by the Board, not until such time as no right of appeal, or further appeal, lies under this Part in respect of the cancellation).

(6) If it appears to the Board to be necessary to do so having regard to the principle referred to in subsection (3), or to be desirable to do so for any other reason, the Board may direct the Registrar to transfer the entries relating to a licence from one register to the other.

(7) For the purposes of subsection (3), where the licensee of the operator's licence under consideration is the holder of one or more other operator's licences, the total number of persons by whom it is intended that prostitution services should be provided under that licence and the other licence or licences shall be taken into account in determining whether, for the purposes of the licence under consideration, the number of persons exceeds 3.

42. ACCESS TO REGISTERS .

(1) The Public Register of Escort Agency Licences may be inspected at any reasonable time by -

(a) a member of the Police Force; or

(b) on payment of the prescribed fee, any other person,

and a person inspecting the register may take copies of any entries in it.

(2) The Private Register of Escort Agency Licences may be inspected only by the Commissioner of Police or a member of the Police Force authorised in writing by the Commissioner of Police.

Division 8 - Miscellaneous

43. REMOVAL OR VARIATION OF CONDITIONS, &c., ON APPLICATION OF LICENSEE

(1) The Board may, on an application by a licensee made in writing in the prescribed form and accompanied by the prescribed fee, remove or vary any condition or restriction to which the licence is for the time being subject.

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(2) The Board shall remove or vary a condition or restriction by notice in writing served on the licensee, and shall send a copy of the notice to the Minister.

(3) If an application under subsection (1) is withdrawn before it has been determined, the Board may in its absolute discretion refund (wholly or in part) the fee that accompanied the application.

44. POLICE TO BE NOTIFIED OF BOARD'S DECISIONS, &c.

The Registrar shall notify the Commissioner of Police of all decisions of the Board (as enumerated in section 34) and of the results of all appeals brought under this Part in respect of decisions of the Board.

45. REGISTRAR AND POLICE TO BE NOTIFIED OF CHANGES IN LICENSEE'S PARTICULARS

(1) If at any time after a licence is granted or renewed a change occurs in any of the particulars specified in the application for its grant or renewal, the licensee shall, within 7 days after the occurrence of the change, give to the Registrar written notice of the change signed by the licensee.

(2) On receiving a notice under subsection (1), the Registrar shall amend the appropriate register to accord with the notice, and shall send a copy of the notice to the Commissioner of Police.

46. REGISTRAR'S CERTIFICATE AS EVIDENCE

(1) A document in the prescribed form, signed by the Registrar and certifying as to any matter which appears in, or can be deduced from, a register kept under section 41, is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matter certified.

(2) For the purposes of subsection (1), a document that purports to have been signed by the Registrar shall be taken to have been so signed unless the contrary is proved.

47. PROTECTION FOR THINGS DONE UNDER PART 3

No action or proceeding lies against a person employed or engaged or otherwise concerned in, or in connection with, the administration or enforcement of this Part for or in respect of anything done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Part.

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PART 4 - MISCELLANEOUS

48. OFFENCES BY BODIES CORPORATE

(1) Subject to subsection (2), where a body corporate is convicted of an offence under this Act, each officer of the body corporate shall be deemed to have committed that offence, and is liable to be proceeded against and punished accordingly.

(2) In proceedings brought against a person by virtue of subsection (1), it is a defence for the person to prove that the offence was committed without the person's knowledge and that he or she used all due diligence to prevent the commission of the offence.

49. SERVICE OF NOTICES, &c.

Where by or under this Act a notice or other document is required to be given to or served on a person, it may -

- (a) in the case of an individual, be given or served by delivering it to the individual personally, or by sending it by prepaid post addressed to the individual at his or her place of business (if any) or last known place of residence; and
- (b) in the case of a body corporate, be given or served by delivering it personally to an individual who is, or apparently is, concerned in the management of the body corporate, or by sending it by prepaid post addressed to the body corporate at its place of business.

50. CONFIDENTIALITY

A person other than a member of the Police Force acting in the course of his or her duties as a member shall not divulge or communicate information which the person acquires by reason of being employed or engaged or otherwise concerned in or in connection with the administration or enforcement of this Act except -

- (a) with the consent of the person to whom the information relates; or
- (b) in connection with the administration or enforcement of this Act.

Penalty: \$5,000.

51. DELEGATION BY COMMISSIONER OF POLICE

(1) Subject to subsection (2), the Commissioner of Police may, by instrument in writing, delegate to a member of the Police Force any function or power conferred on the Commissioner by or under this Act.

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(2) The power of delegation conferred by subsection (1) is not itself capable of being delegated.

(3) A function or power delegated under subsection (1) shall, when performed or exercised by the delegate, be deemed to have been performed or exercised by the Commissioner.

(4) A delegation under subsection (1) does not prevent the performance of a function or the exercise of a power by the Commissioner.

52. POWER OF POLICE TO ENTER CERTAIN PREMISES

(1) In this section "authorised member" means a member of the Police Force authorised in writing by the Commissioner of Police or a member of the Police Force of or above the rank of Sergeant.

(2) An authorised member may, at any time, enter premises which are or are reported to be, or which are reasonably believed to be, a brothel.

(3) An authorised member may, at any time, enter and inspect premises from which the holder of an operator's licence carries on an escort agency business for the purpose of -

- (a) ascertaining whether the provisions of this Act are being complied with;
- (b) ascertaining whether the conditions or restrictions, if any, of the operator's licence or any manager's licence in respect of the escort agency business are being complied with; or
- (c) investigating a complaint on a request by the Board made of the Commissioner of Police under section 22(1)(d).

(4) If an authorised member demands entry to premises under the power conferred by this section and entry is refused or delayed for such a time as to make it appear that wilful delay is intended, the authorised member may break into the premises and, for that purpose, may use such force as is necessary.

(5) A person who prevents, hinders or obstructs an authorised member entering premises under the power conferred by this section or from exercising the authorised member's powers under this section is guilty of an offence.

Penalty: \$5,000 or imprisonment for 2 years.

Prostitution Regulation

(6) Where an authorised member enters premises under the power conferred by this section, the Commissioner of Police shall, as soon as practicable, but in any event not later than 48 hours after the exercise of the power, serve a notice, in the prescribed form, on the Chairman of the Board giving details of the circumstances of the exercise of the power.

53. REPORTS ON OPERATION OF ACT

(1) As soon as practicable after the end of each period of 12 months beginning with the date on which Division 2 of Part 2 and Part 3 come into operation, the Chairman of the Board shall report to the Minister on the operation during that period of the provisions of this Act relating to escort agency businesses, and on the participation of members of the Police Force in administering and enforcing those provisions, and the Minister shall lay a copy of the report before the Assembly.

(2) As soon as practicable after the end of a period of 5 years beginning with the date referred to in subsection (1), the Minister shall lay before the Assembly a report on the operation of the provisions of this Act relating to escort agency businesses during that 5 year period.

54. REGULATIONS

The Administrator may make regulations, not inconsistent with this Act, prescribing matters -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to Part 3.

55. REPEAL OF ACT OF SOUTH AUSTRALIA

The *Suppression of Brothels Act, 1907* of the State of South Australia (No. 931 of 1907) in its application to the Territory as a law of the Territory is repealed.

56. TRANSITIONAL

(1) In this section, "appointed day" means the day on which the provisions of this Act relating to escort agency businesses come into operation.

- (2) A person who was -
 - (a) carrying on an escort agency business; or

Prostitution Regulation

- (b) managing an escort agency business on behalf of another person,

immediately before the appointed day shall, on and from that day, be deemed for all purposes to hold an operator's licence or, as the case requires, a manager's licence.

(3) Subsection (2) shall cease to apply to a person on the expiry of 3 months beginning with the appointed day unless the person has during that period duly applied for an operator's licence or a manager's licence as the case may be, in which case it shall cease to apply on whichever of the following events last occurs:

- (a) the Board grants a licence on the application;
- (b) where the Board refuses to grant a licence on the application -
 - (i) the period allowed by or under section 36 for appealing to the Tribunal under Part 3 expires without an appeal having been lodged; or
 - (ii) where an appeal to the Tribunal is lodged, it is withdrawn, or, if it proceeds to a hearing, the Board grants a licence pursuant to a direction of the Tribunal or, on reconsideration of its refusal pursuant to such a direction, grants a licence or again refuses to grant one;
- (c) where the Board has refused to grant a licence, and the Tribunal has affirmed the Board's decision -
 - (i) the period allowed by section 40 for appealing to the Supreme Court expires without an appeal having been brought; or
 - (ii) where an appeal to the Supreme Court is brought, it is either withdrawn or finally disposed of.

(4) Where an individual was, immediately before the appointed day, providing prostitution services under arrangements made by an escort agency business, a certificate under section 9 shall be deemed to be in force in respect of that individual as from the appointed day.

(5) Subsection (4) shall cease to apply to an individual on the expiry of 3 months beginning with the appointed day unless an application for a certificate under section 9 in respect of the individual has been duly made during that period, in which case it shall cease to apply on whichever of the following events last occurs:

Prostitution Regulation

- (a) the Commissioner of Police grants a certificate on the application;
 - (b) where the Commissioner refuses to grant a certificate on the application -
 - (i) the period allowed by or under section 36 for appealing to the Tribunal under Part 3 expires without an appeal having been lodged; or
 - (ii) where an appeal is lodged, it is withdrawn or, if it proceeds to a hearing, a certificate is issued in respect of the individual pursuant to a direction by the Tribunal;
 - (c) where a certificate is not issued as mentioned in paragraph (b)(ii) -
 - (i) the period allowed by section 40 for appealing to the Supreme Court expires without an appeal having been brought; or
 - (ii) where an appeal to the Supreme Court is brought, it is either withdrawn or finally disposed of.
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SCHEDULE

Section 21(5)

FURTHER PROVISIONS WITH RESPECT TO BOARD

Part 1 - Members

1. TERMS OF OFFICE AND CONDITIONS OF SERVICE (NON-PUBLIC SERVANTS)

(1) This clause applies only to members who are not employees within the meaning of the *Public Service Act*.

(2) Subject to this Schedule, a member holds office for a term specified in his or her instrument of appointment, being a term not exceeding 3 years, but is eligible for reappointment at the end of that term.

(3) Where a member's term of office expires at a time when the member is engaged in the determination of a matter by the Board, the member continues in office until the matter has been determined.

Prostitution Regulation

(4) A member holds office on such terms and conditions (including terms and conditions relating to remuneration, fees, allowances and expenses) as are specified in his or her instrument of appointment.

2. POWER OF MINISTER TO REMOVE OR SUSPEND MEMBER

The Minister may at any time remove or suspend a member from office.

3. RESIGNATION

A member may at any time resign from office by delivering a signed letter of resignation to the Minister.

4. VACATION OF OFFICE

The office of a member becomes vacant if the member -

- (a) dies;
- (b) is removed from office pursuant to clause 2, or resigns in accordance with clause 3; or
- (c) is convicted in the Territory of a crime, or is convicted elsewhere of an offence that would be a crime if committed in the Territory.

5. APPOINTMENT OF ACTING MEMBERS

(1) The Minister may, in addition to appointing members of the Board pursuant to section 21(2), appoint persons to act from time to time in the place of members of the Board.

(2) A person appointed to act in the place of a member shall be -

- (a) where the member was appointed pursuant to section 21(2)(a) - a legal practitioner; and
- (b) where the member was appointed pursuant to section 21(2)(b) or (c) - a person nominated by the Minister specified in, and appearing to that Minister to have the experience or expertise described in, section 21(2)(b) or (c), as the case may be.

(3) A person appointed to act in the place of a member may so act -

- (a) during any period when the member is ill, absent or suspended from office; or

Prostitution Regulation

- (b) if the member is unable or unwilling for any reason to act as such in respect of a particular matter - in respect of that matter.
- (4) A person acting in the place of a member by virtue of this clause -
 - (a) has all the functions, duties and powers of that member; and
 - (b) unless the person is an employee within the meaning of the *Public Service Act*, shall be paid such remuneration, fees, allowances and expenses as are fixed by the Minister by whom he or she was appointed.

Part 2 - Meetings and Proceedings

6. MEETINGS

(1) The Chairman of the Board shall call such meetings of the Board as are necessary for the performance of its functions and the exercise of its powers.

(2) The Chairman shall preside at all meetings of the Board.

(3) Questions arising at the meeting shall be decided by a majority of the votes of the members constituting the Board.

(4) The Board shall keep full and accurate records of its proceedings.

(5) Subject to this clause, and to Part 3 and regulations made for the purposes of Part 3, the Board may regulate its proceedings as it thinks fit.

7. DISCLOSURE OF INTEREST

(1) A member who has an interest of any description in a matter being considered, or to be considered, by the Board shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose that interest at a meeting of the Board.

(2) The Board shall cause particulars of a disclosure made under subclause (1) to be noted in the records of its proceedings.

(3) Where a member has, to the member's knowledge, an interest of any description in a matter referred to in subclause (1), the member shall not take part in any deliberation or decision of the Board in relation to that matter.

Penalty: \$5,000.

Prostitution Regulation

8. VALIDITY OF PROCEEDINGS

A proceeding or decision of the Board is not invalid by reason only of -

- (a) a defect or irregularity relating to the appointment of a member or person to act in the place of a member;
 - (b) a person having acted in the place of a member when the occasion for that person to do so had not arisen, or had ceased; or
 - (c) a person's contravention, or failure to comply with, clause 7.
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