



Australian Capital Territory

Prostitution Amendment Act 2018

A2018-25

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Australian Capital Territory

Prostitution Amendment Act 2018

A2018-25

An Act to amend the *Prostitution Act 1992*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Prostitution Amendment Act 2018*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Prostitution Act 1992*.

Note This Act also amends other legislation (see sch 1).

4 Legislation repealed

The *Prostitution Regulation 1993* (SL1993-19) is repealed.

5 Long title

substitute

An Act to regulate certain aspects of sex work

6 Section 1

substitute

1 Name of Act

This Act is the *Sex Work Act 1992*.

**7 Offences against Act—application of Criminal Code etc
Section 3A, note 1**

insert

- s 12 (Registration notice etc to be given to commissioner—commercial operators)
- s 13 (Annual notice to be given to commissioner—commercial operators)
- s 14 (Other notices to be given to commissioner—commercial operators and former commercial operators)
- s 26A (Commercial operator must provide health and safety equipment).

**8 Objects
Section 4 (b)**

omit

prostitutes

substitute

sex workers

9 Section 4 (d)

omit

exploitation in relation to prostitution

substitute

sexual exploitation

10 **Definitions for pt 2
Section 5, definitions**

omit the definitions of
annual notice
commercial operator
registration notice
sole operator

11 **Section 5, definitions of sole operator brothel and sole
operator escort agency**

omit
prostitute
substitute
sex worker

12 **Sections 7 and 8**

omit

13 **Register
Section 11 (1)**

omit
brothels and escort agencies
substitute
commercial brothels and commercial escort agencies

14 Section 11 (2)

omit

brothel or escort agency

substitute

commercial brothel or commercial escort agency

15 Section 11 (4) to (6)

omit

16 Sections 12 to 14

substitute

**12 Registration notice etc to be given to commissioner—
commercial operators**

- (1) A person commits an offence if—
- (a) the person is an operator of a commercial brothel or commercial escort agency; and
 - (b) both of the following are not given to the commissioner at least 7 days before the day the brothel or escort agency begins to operate:
 - (i) a registration notice;
 - (ii) a required police report in relation to the brothel or escort agency.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) In this section:

registration notice, in relation to a commercial brothel or commercial escort agency, means a written notice containing the following particulars in relation to the brothel or escort agency:

- (a) its business name (if any) and address;
- (b) the name and home address of each person in day-to-day control of the brothel or escort agency;
- (c) if the owner (or an owner) of the brothel or escort agency is an individual—the name and home address of each individual who is an owner;
- (d) if the owner (or an owner) of the brothel or escort agency is a corporation—the following for each corporation that is an owner:
 - (i) its name and business address;
 - (ii) the name and home address of each director and each shareholder;
- (e) for each interested person in relation to the brothel or escort agency—a statement about whether or not the person has been convicted, or found guilty, of a disqualifying offence.

Note 1 If a form is approved under s 30 for a notice, the form must be used.

Note 2 A fee may be determined under s 29 for a notice under this section.

13 Annual notice to be given to commissioner—commercial operators

- (1) A person commits an offence if—
 - (a) the person is an operator of a commercial brothel or commercial escort agency; and

- (b) an annual notice for the year for the brothel or escort agency is not given to the commissioner before 1 October of that year.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) In this section:

annual notice, in relation to a commercial brothel or commercial escort agency, means a written notice containing the following particulars in relation to the brothel or escort agency:

- (a) its business name (if any) and address;
- (b) the name and home address of each person in day-to-day control of the brothel or escort agency;
- (c) if the owner (or an owner) of the brothel or escort agency is an individual—the name and home address of each individual who is an owner;
- (d) if the owner (or an owner) of the brothel or escort agency is a corporation—the following for each corporation that is an owner:
 - (i) its name and business address;
 - (ii) the name and home address of each director and each shareholder;
- (e) for each interested person in relation to the brothel or escort agency—a statement about whether or not the person has been convicted, or found guilty, of a disqualifying offence.

Note 1 If a form is approved under s 30 for a notice, the form must be used.

Note 2 A fee may be determined under s 29 for a notice under this section.

14 Other notices to be given to commissioner—commercial operators and former commercial operators

- (1) A person commits an offence if—
- (a) the person is an operator of a commercial brothel or commercial escort agency; and
 - (b) any information given to the commissioner in a notice under this division changes; and
 - (c) written notice of the new information is not given to the commissioner within 7 days after the day the information changes.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
- (a) the person is an operator of a commercial brothel or commercial escort agency; and
 - (b) the brothel or escort agency stops operating; and
 - (c) written notice that the brothel or escort agency stopped operating is not given to the commissioner within 7 days after the last day the brothel or escort agency operated.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**17 Police report to be given before person becomes interested person
Section 16**

omit

brothel or escort agency

substitute

commercial brothel or commercial escort agency

**18 Brothels—other than in prescribed location
Section 18 (3)**

omit

prostitute

substitute

sex worker

**19 Soliciting
New section 19 (3)**

insert

(3) In this section:

public place means any street, road, public park, reserve, or any building, premises or other place that the public are entitled to use or that is open to, or used by, the public (whether on payment or otherwise).

20 **Causing child to provide commercial sexual services etc**
Section 20 (4)

omit

Strict

substitute

Absolute

21 **Section 21 heading**

substitute

21 **Proceeds of commercial sexual services by child**

22 **Section 21 (2)**

omit

prostitution

substitute

sex work

23 **Sections 24 and 25**

omit

24 **Medical tests and examinations**
Section 26

omit

authorised nurse practitioner

substitute

nurse practitioner

25 Section 26

omit

prostitute

substitute

sex worker

26 Section 26

omit

prostitute's

substitute

sex worker's

27 New section 26A

insert

26A Commercial operator must provide health and safety equipment

- (1) A person commits an offence if the person—
 - (a) is the operator of a commercial brothel or commercial escort agency; and
 - (b) fails to provide a sex worker employed at the brothel, or from the escort agency, prophylactics in sufficient quantity to allow the sex worker to comply with section 27 (3).

Maximum penalty: 40 penalty units.

- (2) A person commits an offence if the person—
 - (a) is the operator of a commercial brothel or commercial escort agency; and

- (b) fails to—
 - (i) provide a sex worker employed at the brothel, or from the escort agency, personal protective equipment; and
 - (ii) take reasonable steps to ensure the sex worker uses the personal protective equipment to minimise the risk to the sex worker’s health or safety.

Maximum penalty: 40 penalty units.

- (3) A person commits an offence if the person—
 - (a) is the operator of a commercial brothel or commercial escort agency; and
 - (b) provides a sex worker employed at the brothel, or from the escort agency, prophylactics or personal protective equipment; and
 - (c) charges, or imposes a levy on, the sex worker for the prophylactics or personal protective equipment.

Maximum penalty: 40 penalty units.

- (4) In this section:

commercial brothel—see section 5.

commercial escort agency—see section 5.

personal protective equipment, in relation to sex work, means anything used or worn by a sex worker to minimise risk to the sex worker’s health or safety from engaging in sex work.

Examples—personal protective equipment

dental dams, latex gloves, water-based lubricants, sponges

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

28 Use of prophylactics
Section 27 (3), new note

insert

Note It is also an offence not to take reasonable precautions against transmitting a notifiable condition (see [Public Health Regulation 2000](#), s 21 (1)).

29 Regulation-making power
Section 32 (2) (g) to (i)

omit

prostitutes

substitute

sex workers

30 New section 34

insert

34 Sex Work Regulation 2018—sch 4

- (1) The provisions set out in schedule 4 are taken, on the commencement of this section, to be a regulation made under section 32.
- (2) To remove any doubt and without limiting subsection (1), the regulation may be amended or repealed as if it had been made by the Executive under section 32.
- (3) Also to remove any doubt, the regulation is taken—
 - (a) to have been notified under the [Legislation Act](#) on the day the *Prostitution Amendment Act 2018* is notified; and
 - (b) to have commenced on the commencement of this section; and
 - (c) not to be required to be presented to the Legislative Assembly under the [Legislation Act](#), section 64 (1).

- (4) Subsections (1) to (3) are laws to which the [Legislation Act](#), section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) This section and schedule 4 expire on the day they commence.

**31 Disqualifying offences—this Act
Schedule 2, item 5, column 3**

omit

child prostitution

substitute

commercial sexual services by child

32 Schedule 2, item 7

omit

33 Schedule 2, item 8, column 3

omit

prostitute

substitute

sex worker

34 Schedule 2, new item 8A

insert

8A	26A	obligation to supply health and safety equipment
----	-----	--

**35 Disqualifying offences—foreign countries
Schedule 3, section 3.1 (1) (f)**

omit

prostitution

substitute

provision of commercial sexual services

36 **New schedule 4**

insert

Schedule 4 **Sex Work Regulation 2018**

(see s 34)



Australian Capital Territory

Sex Work Regulation 2018

Subordinate Law SL2018-

made under the

Sex Work Act 1992

1 **Name of regulation**

This regulation is the *Sex Work Regulation 2018*.

2 Locations

For the Act, section 18 (1), the following locations are prescribed:

- (a) the division of Fyshwick in the Central Canberra district;
- (b) the division of Mitchell in the Gungahlin district.

37 Dictionary, note 2

insert

- nurse practitioner

38 Dictionary, definitions of *annual notice* and *authorised nurse practitioner*

omit

39 Dictionary, definition of *brothel*

omit

prostitution

substitute

sex work

40 Dictionary, definition of *commercial operator*

omit

41 Dictionary, definition of *commercial sexual services*

omit

prostitute

substitute

person providing the sexual services

42 Dictionary, definition of *employed*

omit

prostitute

substitute

sex worker

43 Dictionary, definition of *escort agency*

omit

prostitution

substitute

sex work

44 Dictionary, definition of *nurse practitioner position*

omit

45 Dictionary, definition of *premises used by a single prostitute*

omit

46 Dictionary, new definition of *premises used by a single sex worker*

insert

premises used by a single sex worker means premises used by not more than 1 sex worker other than—

- (a) premises adjacent to or, for town houses, units or apartments, in the same block as, other premises that are used for sex work; or

- (b) premises at which the provision of commercial sexual services is arranged by a person (other than the sex worker) who arranges clients for other sex workers; or
- (c) premises to which clients are referred by other sex workers, or from which clients are referred to other sex workers.

47 Dictionary

omit the definitions of

prostitute

prostitution

public place

registration notice

scope of practice

48 Dictionary, new definition of sex work

insert

sex work means the provision of commercial sexual services by an adult.

49 Dictionary, definition of sole operator

omit

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Children and Young People Act 2008

[1.1] Section 344, example 4

omit

through prostitution

substitute

with money received in exchange for sexual services

Part 1.2 Crimes (Child Sex Offenders) Act 2005

[1.2] Schedule 2, part 2.1, item 13 to 16

substitute

13	<i>Sex Work Act 1992</i> , section 19 (2)	accosting child for commercial sexual services	
14	<i>Sex Work Act 1992</i> , section 20 (1)	causing child under 12 to provide commercial sexual services	
15	<i>Sex Work Act 1992</i> , section 20 (3)	causing child 12 or older to provide commercial sexual services	
16	<i>Sex Work Act 1992</i> , section 21 (1)	proceeds of commercial sexual services by child	

Part 1.3 **Fair Trading (Australian Consumer Law) Act 1992**

**[1.3] Section 34 (2), definition of *consumer and trader
legislation*, paragraph (d)**

substitute

(d) the *Sex Work Act 1992*;

Part 1.4 **Spent Convictions Act 2000**

[1.4] Section 19 (8)

omit

Prostitution Act 1992

substitute

Sex Work Act 1992

Part 1.5 **Supreme Court Act 1933**

[1.5] Schedule 2, section 2.1, definition of *Prostitution Act*

omit

[1.6] Schedule 2, section 2.1, new definition of *Sex Work Act*

insert

Sex Work Act means the *Sex Work Act 1992*.

[1.7] Schedule 2, part 2.2, items 32 and 33

substitute

32	Sex Work Act	20	causing child to provide commercial sexual services etc
33	Sex Work Act	21	receiving proceeds of commercial sexual services by child

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 June 2018.

2 Notification

Notified under the [Legislation Act](#) on 8 August 2018.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Prostitution Amendment Bill 2018, which was passed by the Legislative Assembly on 31 July 2018.

Clerk of the Legislative Assembly