

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Attorney-General)

## Prostitution Amendment Bill 2002

### Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Acts amended	2
4 Registration Part 2	3
5 Operating a brothel Section 9	12
6 Child on premises Section 14	13
7 Infected persons Section 15	13
8 Medical examination Section 17 (1)	13

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## Contents

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		Page
9	Section 17 (3)	13
10	Use of prophylactics	
	Section 18 (1)	14
11	Section 18 (2)	14
12	Evidentiary certificate	
	Section 19	14
13	New sections 21A and 21B	14
14	New section 23	15
15	New schedules 1 to 3	16
16	Dictionary, new definitions	19
17	Dictionary, definition of <i>employing</i>	19
18	Dictionary, new definition of <i>interested person</i>	19
19	Dictionary, definition of <i>operator</i>	19
20	Dictionary, new definition of <i>police report</i>	19
21	Dictionary, definition of <i>registrar</i>	20
22	Dictionary, new definitions	20
23	Dictionary, definition of <i>sexually transmitted disease</i>	20
24	Dictionary, new definitions	20
25	Sexually Transmitted Diseases Act 1956, section 4, definition of <i>sexually transmitted disease</i>	21
26	Spent Convictions Act 2000, new section 19 (7A)	21
27	Spent Convictions Act 2000, section 19	21
<b>Schedule 1</b>	<b>Technical amendments</b>	<b>22</b>

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## Prostitution Amendment Bill 2002

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### A Bill for

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

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

1 **1 Name of Act**

2 This Act is the *Prostitution Amendment Act 2002*.

3 **2 Commencement**

4 This Act commences on a day fixed by the Minister by written  
5 notice.

6 *Note 1* The naming and commencement provisions automatically commence on  
7 the notification day (see *Legislation Act 2001*, s 75).

8 *Note 2* A single day or time may be fixed, or different days or times may be  
9 fixed, for the commencement of different provisions (see *Legislation*  
10 *Act 2001*, s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the  
12 notification day, it automatically commences on the first day after that  
13 period (see *Legislation Act 2001*, s 79).

14 **3 Acts amended**

15 (1) This Act (other than sections 25, 26 and 27) amends the *Prostitution*  
16 *Act 1992*.

17 *Note* The *Prostitution Act 1992* is amended in the body of this Act and in  
18 sch 1.

19 (2) Section 25 amends the *Sexually Transmitted Diseases Act 1956*.

20 (3) Sections 26 and 27 amend the *Spent Convictions Act 2000*.

1 **4 Registration**  
2 **Part 2**

3 *substitute*

4 **Part 2 Registration**

5 **Division 2.1 Interpretation**

6 **4A Definitions for pt 2**

7 In this part:

8 *annual notice*—see section 4D.

9 *commercial brothel* means a brothel other than a sole operator  
10 brothel.

11 *commercial escort agency* means an escort agency other than a sole  
12 operator escort agency.

13 *commercial operator* means an operator of a commercial brothel or  
14 commercial escort agency.

15 *disqualifying offence*—see section 4B.

16 *interested person*, in relation to a commercial brothel or commercial  
17 escort agency, means any of the following:

- 18 (a) each operator;  
19 (b) each owner who is an individual;  
20 (c) each director of an owner that is a corporation.

21 *police report*, for a person, is a report by a police officer about the  
22 person's criminal record made on a form that—

- 23 (a) contains a consent by the person to a police officer making  
24 inquiries about the person's criminal record; and

- 1 (b) contains imprints of the fingers and palms of both hands of the  
2 person.

3 *Note* If a form is approved under s 21A (Approved forms) for a police report,  
4 the form must be used.

5 **registration notice**—see section 4C.

6 **required police report**, in relation to a commercial brothel or  
7 commercial escort agency, means a police report for each interested  
8 person in relation to the brothel or escort agency.

9 **sole operator** means a prostitute who—

10 (a) solely owns and operates the business of a sole operator  
11 brothel; or

12 (b) solely owns and operates a sole operator escort agency.

13 **sole operator brothel** means a brothel—

14 (a) the premises of which are premises used by a single prostitute;  
15 and

16 (b) the business of which is solely owned and operated by the  
17 single prostitute.

18 **sole operator escort agency** means an escort agency solely owned  
19 and operated by a single prostitute.

20 **the operator**, of a commercial brothel or commercial escort  
21 agency—

22 (a) if there is only 1 operator of the brothel or escort agency—the  
23 operator; or

24 (b) if there are 2 or more operators of the brothel or escort  
25 agency—each operator.

---

**4B Meaning of *disqualifying offence***

(1) In this part:

*disqualifying offence* means—

(a) an offence against any of the following:

(i) a provision of the *Crimes Act 1900* mentioned in schedule 1;

(ii) a provision of this Act mentioned in schedule 2;

(iii) the *Proceeds of Crime Act 1991*, section 74 (Money laundering);

(iv) the *Drugs of Dependence Act 1989*, section 164 (about sale or supply of a drug of dependence or a prohibited substance (other than cannabis));

(v) the *Drugs of Dependence Act 1989*, section 165 (about sale or supply of cannabis); or

*Note* A reference to an offence against a Territory law includes a reference to an offence against the *Crimes Act 1900*, pt 9 (Aiding and abetting, accessories, attempts, incitement and conspiracy) that relates to the law (see *Legislation Act 2001*, s 189).

(b) an offence against a law of the Commonwealth, a State or another Territory corresponding to an offence mentioned in paragraph (a); or

(c) an offence against a law of the Commonwealth, a State or another Territory corresponding to a provision of the *Crimes Act 1900*, part 9 in relation to an offence mentioned in paragraph (a); or

(d) an offence against the *Migration Act 1958* (Cwlth), section 232A (Organising bringing groups of non-citizens into Australia), section 233 (1) (about bringing etc non-citizens into Australia in contravention of the Act) or section 233A (Other offences relating to groups of non-citizens etc); or

- 1 (e) an offence against a Commonwealth law corresponding to a  
2 provision of the *Crimes Act 1900*, part 9 in relation to an  
3 offence mentioned in paragraph (d); or
- 4 (f) an offence against a law of a foreign country of a kind  
5 mentioned in schedule 3.
- 6 (2) To remove any doubt, this section applies to offences committed  
7 before or after the commencement of this section.

8 **4C Meaning of *registration notice***

- 9 (1) In this part:

10 *registration notice*, in relation to a brothel or escort agency, means a  
11 written notice containing the following particulars in relation to the  
12 brothel or escort agency:

- 13 (a) its business name (if any) and address;
- 14 (b) the name and home address of each person in day-to-day  
15 control of the brothel or escort agency;
- 16 (c) if the owner (or an owner) of the brothel or escort agency is an  
17 individual—the name and home address of each individual  
18 who is an owner;
- 19 (d) if the owner (or an owner) of the brothel or escort agency is a  
20 corporation—the following for each corporation that is an  
21 owner:
- 22 (i) its name and business address;
- 23 (ii) the name and home address of each director and each  
24 shareholder.

25 *Note 1* A fee may be determined under s 21 (Determination of fees) for a notice  
26 under this section.

27 *Note 2* If a form is approved under s 21A (Approved forms) for a notice, the  
28 form must be used.



- 1 (2) If the brothel or escort agency is a commercial brothel or  
2 commercial escort agency, the registration notice must also state, for  
3 each interested person in relation to the brothel or escort agency,  
4 whether or not the person has been convicted, or found guilty, of a  
5 disqualifying offence.

6 **4D Meaning of *annual notice***

- 7 (1) In this part:

8 *annual notice*, in relation to a brothel or escort agency, means a  
9 written notice containing the following particulars in relation to the  
10 brothel or escort agency:

- 11 (a) its business name (if any) and address;
- 12 (b) the name and home address of each person in day-to-day  
13 control of the brothel or escort agency;
- 14 (c) if the owner (or an owner) of the brothel or escort agency is an  
15 individual—the name and home address of each individual  
16 who is an owner;
- 17 (d) if the owner (or an owner) of the brothel or escort agency is a  
18 corporation—the following for each corporation that is an  
19 owner:
- 20 (i) its name and business address;
- 21 (ii) the name and home address of each director and each  
22 shareholder.

23 *Note 1* A fee may be determined under s 21 (Determination of fees) for a notice  
24 under this section.

25 *Note 2* If a form is approved under s 21A (Approved forms) for a notice, the  
26 form must be used.

- 27 (2) If the brothel or escort agency is a commercial brothel or  
28 commercial escort agency, the annual notice must also state, for  
29 each interested person in relation to the brothel or escort agency,

1           whether or not the person has been convicted, of found guilty, of a  
2           disqualifying offence.

## 3           **Division 2.2                   Registrar, register and notices**

### 4           **5           Registrar of Brothels and Escort Agencies**

5           The chief executive must appoint a public servant as the Registrar of  
6           Brothels and Escort Agencies.

7           *Note 1* For the making of appointments (including acting appointments), see  
8           *Legislation Act 2001*, pt 19.3.

9           *Note 2* In particular, a person may be appointed for a particular provision of a  
10          law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made  
11          by naming a person or nominating the occupant of a position (see  
12          s 207).

### 13          **6           Functions of registrar**

14          The functions of the registrar are—

15          (a) to keep a register of information provided by operators of  
16          brothels and escort agencies, and to make the register available  
17          for public inspection, in accordance with this Act; and

18          (b) to exercise any other function given to the registrar under this  
19          Act or any other Territory law.

### 20          **6A       Register**

21          (1) The registrar must keep a register of information provided by  
22          operators of brothels and escort agencies in notices under this part.

23          (2) Subsection (1) does not require the registrar to include or keep in the  
24          register information about a brothel or escort agency that has ceased  
25          to operate.

26          (3) The registrar must make information in the register available for  
27          public inspection.

- 1 (4) However, the registrar must not make the names or addresses of sole  
2 operators available for public inspection.
- 3 (5) Subsection (4) does not prevent inspection of names or addresses of  
4 sole operators by an authorised person if the registrar is satisfied that  
5 the person wishes to inspect them in the exercise of the person's  
6 functions.
- 7 (6) In this section:
- 8 *authorised person* means—
- 9 (a) a police officer; or  
10 (b) a public servant; or  
11 (c) a person prescribed under the regulations.

12 **6B Registration notice etc to be given to registrar**

- 13 (1) The operator of a brothel or escort agency must not, without  
14 reasonable excuse, fail to give the registrar a registration notice for  
15 the brothel or escort agency and, if the operator is a commercial  
16 operator, the required police report at least 7 days before the brothel  
17 or escort agency begins to operate.
- 18 Maximum penalty: 100 penalty units, imprisonment for 1 year or  
19 both.
- 20 (2) If there are 2 or more operators of a commercial brothel or  
21 commercial escort agency, it is sufficient if 1 of them complies with  
22 subsection (1) in relation to the brothel or escort agency.

23 **7 Annual notices**

- 24 (1) The operator of a brothel or escort agency must not, without  
25 reasonable excuse, fail to give the registrar an annual notice for the  
26 brothel or escort agency before 1 October in each year.
- 27 Maximum penalty: 100 penalty units, imprisonment for 1 year or  
28 both.

- 1 (2) If there are 2 or more operators of a commercial brothel or  
2 commercial escort agency, it is sufficient if 1 of them complies with  
3 subsection (1) in relation to the brothel or escort agency in relation  
4 to a year.

5 **7A Other notices to be given by operators and former**  
6 **operators**

- 7 (1) If any of the particulars in the notice (or last notice) given to the  
8 registrar under this part by the operator (or an operator) of a brothel  
9 or escort agency change, the operator must not, without reasonable  
10 excuse, fail to give written notice to the registrar of the new  
11 particulars within 7 days after the day the particulars change.

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

- 14 (2) If a brothel or escort agency ceases to operate, the person who was  
15 the operator immediately before it ceased to operate (a *former*  
16 *operator*) must not, without reasonable excuse, fail to give written  
17 notice to the registrar of the cessation within 7 days after the day of  
18 the cessation.

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

- 21 (3) If there are 2 or more operators or former operators of a commercial  
22 brothel or commercial escort agency, it is sufficient if 1 of them  
23 complies with a requirement under this section in relation to the  
24 brothel or agency.

- 25 (4) In this section:

26 *particulars* includes the statement required by section 4C (2) or  
27 4D (2).

---

1 **Division 2.3 Interested people—offences**

2 **7B Interested person—disqualifying offence**

3 (1) A person who has been convicted or found guilty of a disqualifying  
4 offence must not—

5 (a) become an interested person in relation to a commercial  
6 brothel or commercial escort agency; or

7 (b) continue to be an interested person in relation to a commercial  
8 brothel or commercial escort agency.

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

11 (2) Any other interested person (the *other interested person*) in relation  
12 to a commercial brothel or commercial escort agency commits an  
13 offence if—

14 (a) an interested person mentioned in subsection (1) becomes, or  
15 continues to be, an interested person in relation to the brothel  
16 or escort agency; and

17 (b) the other interested person knows that, or is reckless as to  
18 whether, a person who becomes, or continues to be, an  
19 interested person in relation to the brothel or escort agency is  
20 an interested person mentioned in subsection (1).

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

1 **7C Police report to be given before person becomes**  
2 **interested person**

3 A person must not, without reasonable excuse, fail to give the  
4 registrar a police report for the person at least 7 days before the  
5 person becomes an interested person in relation to a brothel or escort  
6 agency.

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

9 **5 Operating a brothel**  
10 **Section 9**

11 *substitute*

12 **9 Brothels—other than in prescribed location**

13 (1) A person must not operate a brothel other than in a prescribed  
14 location.

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

17 (2) Each owner of a brothel that operates other than in a prescribed  
18 location commits an offence.

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

21 (3) This section does not apply to an escort agency or premises used by  
22 a single prostitute.

1 **6 Child on premises**  
2 **Section 14**

3 *omit*

4 The operator

5 *substitute*

6 An operator or owner

7 **7 Infected persons**  
8 **Section 15**

9 *omit*

10 The operator

11 *substitute*

12 Each operator and owner

13 **8 Medical examination**  
14 **Section 17 (1)**

15 *omit*

16 The operator

17 *substitute*

18 Each operator and owner

19 **9 Section 17 (3)**

20 *substitute*

21 (3) This section does not prevent the use by an operator or owner of a  
22 brothel or escort agency of an examination by a doctor, or the results  
23 of an examination by the doctor, to satisfy himself or herself that a  
24 prostitute is not infected with a sexually transmitted disease.

1 **10 Use of prophylactics**  
2 **Section 18 (1)**

3 *omit*

4 The operator

5 *substitute*

6 Each operator and owner

7 **11 Section 18 (2)**

8 *omit*

9 The operator

10 *substitute*

11 An operator or owner

12 **12 Evidentiary certificate**  
13 **Section 19**

14 *omit*

15 **13 New sections 21A and 21B**

16 *insert*

17 **21A Approved forms**

18 (1) The registrar may, in writing, approve forms for this Act.

19 *Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

20 (2) If the registrar approves a form for a particular purpose, the  
21 approved form must be used for that purpose.

22 (3) An approved form is a notifiable instrument.

23 *Note* A notifiable instrument must be notified under the *Legislation Act 2001*.



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**21B False or misleading information**

A person must not, without reasonable excuse, in relation to a notice or any other document given to the registrar under this Act—

- (a) give information that the person knows is false or misleading in a material particular; or
- (b) omit anything without which the document is, to the person's knowledge, misleading in a material particular; or
- (c) fail to disclose a material fact of which the person has knowledge.

Maximum penalty: 50 penalty units.

**14 New section 23**

*insert*

**23 Transitional—registration notices etc for existing commercial brothels and commercial escort agencies**

- (1) This section applies to the operator of a commercial brothel or commercial escort agency if the brothel or escort agency—
  - (a) was operating before the commencement of this section; and
  - (b) does not cease to operate within 3 months after the commencement.
- (2) Section 6B (Registration notice etc to be given to registrar) applies to the operator as if the brothel or escort agency had begun to operate 3 months after the commencement of this section.
- (3) This section expires on the expiry day.
- (4) In this section:  
*expiry day* means the first day after the 6 month period beginning on the commencement of this section.

1 **15 New schedules 1 to 3**

2 *insert*

3 **Schedule 1 Disqualifying**  
4 **offences—Crimes Act 1900**

5 (see s 4B, def *disqualifying offence*, par (a) (i))

6

column 1	column 2	column 3
item	section	description
1	12	murder
2	19	intentionally inflicting grievous bodily harm
3	20	recklessly inflicting grievous bodily harm
4	22	assault with intent to commit certain indictable offences
5	32 (1) (a)	make demand with threat to kill or inflict grievous bodily harm
6	32 (2) (a)	make demand with threat to endanger health etc
7	35	stalking
8	36	torture
9	38	kidnapping
10	51	sexual assault in the first degree
11	52	sexual assault in the second degree
12	53	sexual assault in the third degree
13	54	sexual intercourse without consent
14	55	sexual intercourse with young person
15	57	act of indecency in the first degree
16	58	act of indecency in the second degree
17	59	act of indecency in the third degree
18	60	act of indecency without consent
19	61	acts of indecency with young people
20	62	incest and similar offences
21	63	abduction

column 1	column 2	column 3
item	section	description
22	64	employment of young people for pornographic purposes
23	65	possession of child pornography
24	79	sexual servitude offences
25	80	deceptive recruiting for sexual services

1 **Schedule 2**            **Disqualifying offences—this**  
2                                    **Act**

3 (see s 4B, def *disqualifying offence*, par (a) (ii))  
4

column 1	column 2	column 3
item	section	description
1	8	duress used to induce person to provide commercial sexual services
2	9	brothel operating other than in prescribed location
3	10 (2)	accost a child for the purpose of offering or getting commercial sexual services
4	11	cause or permit child to provide commercial sexual services
5	12	receive proceeds of child prostitution
6	14	permit child on premises
7	15	obligations when prostitute infected with sexually transmitted disease
8	17	obligations in relation to medical examination of prostitute
9	18	obligations about use of prophylactics

1 **Schedule 3**                    **Disqualifying**  
2    **offences—foreign countries**

3 (see s 4B, def *disqualifying offence*, par (f))

4 **1**            **Kinds of offences**

5 (1) An offence that consists of or involves—

6 (a) murder; or

7 (b) torture, abduction or kidnapping; or

8 (c) sexual assault; or

9 (d) sexual servitude; or

10 (e) child pornography; or

11 (f) violence, intimidation or coercion related to prostitution; or

12 (g) causing serious physical harm to another person; or

13 (h) money laundering; or

14 (i) illegal immigration; or

15 (j) supplying illegal drugs.

16 (2) An offence that consists of, or involves, in relation to an offence  
17 mentioned in subclause (1)—

18 (a) aiding and abetting the commission of the offence, or

19 (b) being an accessory after the fact; or

20 (c) attempting, inciting a person, or conspiring, to commit the  
21 offence.

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**16 Dictionary, new definitions**

*insert*

*annual notice*, for part 2 (Registration)—see section 4D.

*commercial brothel*, for part 2 (Registration)—see section 4A.

*commercial escort agency*, for part 2 (Registration)—see section 4A.

*commercial operator*, for part 2 (Registration)—see section 4A.

*disqualifying offence*, for part 2 (Registration)—see section 4B.

**17 Dictionary, definition of *employing***

*substitute*

*employed*—a prostitute is *employed* at a brothel or from an escort agency if the prostitute provides commercial sexual services at the brothel, or from the escort agency, under a contract of service or a contract for services.

**18 Dictionary, new definition of *interested person***

*insert*

*interested person*, for part 2 (Registration)—see section 4A.

**19 Dictionary, definition of *operator***

*substitute*

*operator*, of a brothel or escort agency, includes a person in day-to-day control of the brothel or escort agency.

**20 Dictionary, new definition of *police report***

*insert*

*police report*, for part 2 (Registration)—see section 4A.

1 **21 Dictionary, definition of *registrar***

2 *substitute*

3 *registrar* means the Registrar of Brothels and Escort Agencies under  
4 section 5.

5 **22 Dictionary, new definitions**

6 *insert*

7 *registration notice*, for part 2 (Registration)—see section 4C.

8 *required police report*, for part 2 (Registration)—see section 4A.

9 **23 Dictionary, definition of *sexually transmitted disease***

10 *substitute*

11 *sexually transmitted disease*—see the *Sexually Transmitted*  
12 *Diseases Act 1956*, section 4 (Interpretation).

13 *Note* Under the *Sexually Transmitted Diseases Act 1956*, s 4 a *sexually*  
14 *transmitted disease* is chancroid, chlamydial disease, donovanosis,  
15 gonorrhoea, HIV/AIDS, lymphogranuloma venereum, syphilis or a  
16 disease prescribed by regulations under that Act.

17 **24 Dictionary, new definitions**

18 *insert*

19 *sole operator*, for part 2 (Registration)—see section 4A.

20 *sole operator brothel*, for part 2 (Registration)—see section 4A.

21 *sole operator escort agency*, for part 2 (Registration)—see  
22 section 4A.

23 *the operator*, for part 2 (Registration)—see section 4A.

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1 **25 Sexually Transmitted Diseases Act 1956, section 4,**  
2 **definition of *sexually transmitted disease***

3 *substitute*

4 *sexually transmitted disease* means—

5 (a) chancroid, chlamydial disease, donovanosis, gonorrhoea,  
6 HIV/ AIDS, lymphogranuloma venereum or syphilis; or

7 (b) a disease prescribed under the regulations.

8 **26 Spent Convictions Act 2000, new section 19 (7A)**

9 *insert*

10 (7A) Section 16 does not apply to a notice or police report under the  
11 *Prostitution Act 1992*, part 2 (Registration).

12 **27 Spent Convictions Act 2000, section 19**

13 *renumber subsections when Act next republished under Legislation*  
14 *Act 2001*

1      **Schedule 1      Technical amendments**

2      (see s 3)

3      **[1.1] Section 8 (1), penalty**

4              *insert*

5              Maximum penalty: imprisonment for 6 years.

6      **Explanatory note**

7      This amendment makes it clear that the penalty applies to both subsections (1) and (2), in  
8      line with current drafting practice.

9      **[1.2] Dictionary, definition of *premises used by 1 prostitute***

10             *omit*

11             *by 1 prostitute*

12             *substitute*

13             *by a single prostitute*

14      **Explanatory note**

15      This amendment is consequential on the new definition of *sole operator brothel* for part 2  
16      and the amendment of section 9.

17      **[1.3] Prostitution Act—renumbering**

18             *renumber provisions when Act next republished under Legislation*  
19             *Act 2001*

20      **Explanatory note**

21      Because of the substitution of part 2, the omission of section 19 and the insertion of new  
22      sections 21A and 21B, the provisions of the Act need to be renumbered.



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## Endnotes

### Republications of amended laws

- 1 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

### Penalty units

- 2 The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.