

1997

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

PROSTITUTION (AMENDMENT) BILL 1997

Explanatory Memorandum

Circulated by authority of the Attorney General

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Prostitution (Amendment) Bill 1997
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Outline

The Prostitution Act 1992

The *Prostitution Act 1992* ("the Act") decriminalised prostitution in the ACT. It creates various offences relating to such activities as child prostitution, duress and knowingly transmitting sexually transmitted diseases. It also places obligations on sex workers and brothel and escort agency operators in relation to health matters.

The Act also provides that the Registrar of Brothels and Escort Agencies is obliged to maintain a register of information provided by operators of brothels and escort agencies. The Registrar must be given written notice outlining such things as the name and address of the business, the person in day-to-day control of the business and the owner of the business. This notice is to be accompanied by a determined fee. The Act provides penalties of a \$10,000 fine or 2 years imprisonment for a natural person and a \$50,000 fine for corporations for failing to provide a notice, for giving false or misleading information in a notice and for failing to update changes in details within 7 days.

The Prostitution (Amendment) Bill 1997

The Prostitution (Amendment) Bill 1997 ("the Bill") amends the Act to provide that

- the owner of a brothel or escort agency must give the Registrar written notice of details of the business annually, accompanied by the determined fee,
- the Registrar must notify the operator of a brothel or escort agency 28 days before their renewed details are due, and
- the owner of a brothel or escort agency must notify the Registrar within 7 days of the business ceasing to operate

Financial implications

The imposition of a determined fee at the time of renewing details on the Register will raise revenue for the ACT

DETAILS OF THE BILL

Clauses 1, 2 and 3 - Formal provisions

Clauses 1, 2 and 3 are formal provisions setting out the short title of the proposed Act, the commencement provisions and providing that references to the "principal Act" are references to the *Prostitution Act 1992*

Clause 4 - Functions of Registrar

Clause 4 amends section 6 of the Act. Subclause 4(a) requires the Registrar to include renewed details required by proposed section 7(1B) of the Act on the register. Subclause 4(b) amends section 6 to the effect that the Registrar is not required to keep information about a brothel or escort agency on the register where he or she has been given formal notification under the Act that the business has ceased to operate.

Clause 5 - Notices about Operation

Clause 5 amends section 7 of the Act

Subclause 5(a) inserts new subsection 7(1A) which requires the Registrar to notify the operator of a brothel or escort agency 28 days before their annual renewed details are due, and new subsection 7(1B) which obliges the operator to furnish these details by the due day

Subclause 5(b) amends subsection 7(2) which sets out the information required in a notice to the Registrar to include renewed details under proposed subsection 7(1B)

Subclause 5(c) inserts proposed new subsection 7(2A) which provides that the fee which accompanies notices to the Registrar may differ according to whether it accompanies an initial notice under subsection 7(1) or a renewed details notice under proposed subsection 7(1B). These fees are set by a determination as provided by subsection 7(2)(b).

Subclause 5(d) amends subsection 7(3) which provides that where information provided to the Registrar upon commencement of operating a brothel or escort agency becomes inaccurate, the operator should give written notice of this to the Registrar within 7 days. This subclause applies this subsection to renewed details under proposed subsection 7(1B).

Subclause 5(e) inserts a new provision, proposed subsection 7(3A), which requires the owner of a brothel or escort agency to notify the Registrar within 7 days of the business ceasing to operate.

Subclause 5(f) amends subsection 7(4) which makes it an offence to provide false or misleading information in a notice given to the Registrar on commencing a business to also include notices under proposed subsections 7(1B) (renewed details) and 7(3A) (cessation of business).

Subclauses 5(g) and 5(h) move the penalty at the foot of subsection 7(4) to a new subsection 7(5). The penalties are unchanged and relate to offences under subsections 7(1) (failing to give notice of commencing a business within 7 days), 7(1B) (providing renewed details annually by the due date), 7(3) (giving notice of changes to details within 7 days) and 7(4) (providing false or misleading information). A new subsection 7(6) is also inserted which provides a definition of "defined day" for the purposes of the section. The effect of this new subsection will be to require brothels and escort agencies which have been on the register for more than 12 months to pay a determined fee on provision of further information within 45 days of the commencement of the Bill.

and yearly thereafter Brothels and escort agencies which have been on the register for less than 12 months are required to give renewed details 12 months after the initial notice was given and yearly thereafter