



→ THE  
ENVIRONMENT  
IN WHICH WE  
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### LEGISLATING FOR THE EFFECTIVE CONTROL AND REGULATION OF PROSTITUTION

→ The more effective the legislative scheme for the control and regulation of prostitution is, the greater the chance of success for addressing community sexual health as well as issues relating to employment in the sex industry, the safety of sex workers and the corruption which is inevitably associated with illegal prostitution. The community and parliaments have addressed these issues by the regulation of the sex industry and, although the regulatory frameworks operate in various ways in different places, they present a fairly consistent paradigm.

→ This is a difficult and controversial area of legislative intervention and it is understandable that the legislators in this country have not been of one mind in defining the form that the regulatory regime should take. The Queensland legislation is based on, but is different from, that of Victoria. The West Australian model, which is currently before the parliament of that state, is a hybrid of both. These states seek to regulate and control through a system of licensed brothels. Except in Queensland, the regulatory regime includes outcall agencies. On the other hand, New South Wales uses local authorities to regulate brothels and the Australian Capital Territory has a less rigorous system of registration.

→ Licensees claim that illegal brothels and other like agencies have a grossly unfair commercial advantage over licensed brothels. They claim there is little incentive for participants in the illegal industry to accept the controls inherent in the current licensing system. The annual report of the PLA 2001–02 dealt with this issue in greater detail. The authority maintains the view expressed, in particular in relation to the servicing of out-calls which continues to represent a large part of the industry.

→ The Prostitution Act could better reflect modern business practice with respect to the ownership of a business. There are good policy reasons for requiring transparency in the ownership of licensed brothels and this requirement can still be achieved by

allowing a licensed brothel business to be conducted through the corporate structures available to other lawful businesses. This constraint against corporate structures does not apply in other jurisdictions. In recent months Daily Planet Ltd, owner of the largest commercial brothel business in Victoria, was floated as a public company. Where brothel businesses are unable to use normal commercial structures, there is a risk that the owners of licensed brothel businesses will try to devise alternatives, making administration of the Act unnecessarily difficult and complex for the licensing authority, probity investigators, law enforcement officers and brothel owners.

→ The size and location of licensed brothel premises is properly a subject for regulation and control. However, participants in the legal industry express concerns about the commercial viability of a five-room business and its impact on their financial viability. They argue that licensed brothels must be reasonably attractive commercial enterprises if they are to displace illegal prostitution.

→ In New South Wales, where control is effected through town planning legislation applied by local government, the permissible size of the business varies depending on local circumstances. Development of a 12-room brothel was recently approved at Tweed Heads. Legislation introduced into the West Australian parliament does not fix a room maximum but allows the issue to be determined by local government. The South Australian legislation would have allowed a maximum of eight rooms. The Victorian maximum is six rooms, although older illegal brothels 'deemed' to be legal by the Victorian Act are much larger. For example, The Daily Planet in Melbourne has 18 rooms. The allowable maximum in Queensland is five.

→ Contemporary industrial relations are intended to ensure that those who contribute through work to the success of a business are provided with acceptable working conditions. These issues present particular difficulties with the licensed brothel, given the sensitive and demanding service which the workers deliver to the customers of the business.

→ The Prostitution Act places strict constraints on the number of workers who can be in the brothel at any one time. Experience suggests this is problematic for the objective of providing an acceptable and appropriate workplace. It is argued that the business

needs to roster on to a particular shift a commercially viable number of workers to meet the service requirements of that shift and to allow workers to rest or take time out between clients. On busy shifts, unless the number of rostered workers exceeds the number of rooms, workers will be under pressure from customers, other workers and management to work continuously. If a rostered worker fails to attend for the shift or is unable to complete the shift, other workers will be under pressure to work extended shifts. Restricting the number of workers on the premises presents difficulties with change of shift and effectively prevents workers meeting in the workplace for training, staff meetings and social interaction.

→ There are fundamental elements of legislation which are essential if the framework for the regulation and control of prostitution is to be effective. In recognising the licensed brothel as a legitimate business, the regulatory regime must accommodate the commercial exigencies of the business as well as a contemporary approach to industrial relations.

→ The incidence of street prostitution is a matter of community concern. Street prostitution is very visible and confronting. In commercial areas, street prostitution is seen as a public nuisance and offensive to the amenity of the locality. Sexual health professionals, SQWISI and the authority share the concern that unregulated street prostitution is a fertile ground for the transmission of sexually transmissible infections (STIs). The recent murders of three street sex workers in Brisbane have highlighted the particular hazards to which street prostitutes are exposed.

→ Available evidence shows that many prostitutes who work on the streets are intravenous drug users who need money to satisfy a habit. Others engage in opportunistic sex work to obtain funds to meet some immediate short-term financial crisis. In either case the street worker is driven by compulsion or necessity or both.

→ The report in June 2002 of the Attorney-General's Street Prostitution Advisory Group in Victoria is a comprehensive assessment of the issue which argues for more effective regulation of street prostitution that at the same time addresses the complex social issues inherent in it. Chaired by the Parliamentary Secretary for Justice Richard Wynne MP, the Advisory Group

consisted of representatives of all the major political parties, the City of Port Phillip, police, residents' groups, traders' groups, the sex industry, welfare support agencies and the Department of Justice. A government working group comprising public servants with relevant expertise was also established to resource the Advisory Group with detailed briefings and options. The working group was drawn from the relevant departments, such as Justice, Premier and Cabinet and Human Services and included Victoria Police and the City of Port Phillip.

→ While the work focuses on the St Kilda area, which has become the centre of street prostitution activity in Melbourne, it represents what is replicated in other metropolitan areas including Brisbane.

→ The report provided nine key recommendations including the establishment of tolerance areas, the provision of street worker centres or safe houses for safe service delivery to clients, more effective law enforcement for breaches including the more effective enforcement of nuisance type offences, the availability of diversion options for street workers particularly for those drug addicted, a comprehensive educative and communication strategy and improved amenity and support services. This report provides a holistic solution to what has become a matter of increasing social concern and which cannot and will not be effectively dealt with by law enforcement alone.

→ The Victorian report provides the basis for more effective regulation and control of street prostitution. It offers a meaningful response to the core issues of community sexual health and the safety of sex workers and at the same time minimises the harm to local residents and traders from the confronting behaviour of many of the workers who seek to offer sexual services in public areas and their customers.

→ The PLA has now completed three years of administering the relevant parts of the Prostitution Act. In that time it has become something of a focal point for those involved in the sex industry, legal and illegal. Its views are based on an ever-widening experience and the purpose of this commentary is to inform the parliament, the government and the community of that experience.