

GENERAL OFFENCES RELATING TO PROSTITUTION

The *Prostitution Act 1999* contains some general offences which relate to sex workers (both sole operators and those that work in brothels), their clients and others. The Act may be downloaded from www.legislation.qld.gov.au.

What is prostitution (sex work)?

For the purposes of the Prostitution Act, prostitution has the same meaning as in s. 229E of the Criminal Code. In Queensland, a person engages in prostitution if they engage, or offer to engage, in the provision to another person, under an arrangement of a commercial character, of any of the following:

- sexual intercourse
- oral sex
- masturbation
- any other activity that involves the use of one person by another for his or her sexual satisfaction involving physical contact (except where the activity is authorised under an adult entertainment permit).

Sexual intercourse means the penetration of the vagina, vulva or anus of a person by any part of the body of another person or by another person using an object.

Oral sex means the bringing into contact of any part of the genitalia or anus of a person with any part of the mouth of another person.

Public soliciting

Street sex work is illegal. Section 73(1) of the Act states that a person must not publicly solicit for prostitution. Solicit includes an offer to provide prostitution and acceptance of an offer to provide prostitution. A person publicly solicits for prostitution if the person:

- solicits a person who is in a public place
- solicits a person at a place within the view or hearing of a person who is in a public place

- loiters in or near a public place
- loiters in a place that can be viewed from a public place.

The offence applies equally to persons of any gender, sex workers and their clients, persons acting for sex workers, and persons acting for clients of sex workers.

Section 74 of the Act provides an exception from the commission of an offence if the soliciting happens in a licensed brothel and the soliciting can not be viewed by a person outside the brothel.

Nuisances connected with prostitution

Under s. 76 of the Prostitution Act, a person must not cause unreasonable annoyance or disruption to the privacy of another person in the vicinity of a place that is reasonably suspected of being used for prostitution and that, to a significant extent, is caused by the presence, or suspected presence of prostitution at the place.

Being forced to provide prostitution

A person's agency and bodily integrity is paramount. It is very important that participants in the sex industry are working of their own free will. They must autonomously have decided to sell sex, without the application of any coercion or duress by another person.

Section 77 of the Prostitution Act makes it an offence to make another person provide prostitution. It is illegal to:

- cause or threaten wilful injury to the person or any one else
- cause or threaten wilful damage to property of the person or any one else
- intimidate or harass the person or any one else

- make a false representation or use any false pretence or other fraudulent means.

For example, it would be an offence for one person to force another person to sell sex by:

- physically assaulting, or threatening to physically assault them
- physically assaulting, or threatening to physically assault the person's child
- damaging, or threatening to damage their car or house.

The use of prophylactics

Every member of the community has a responsibility to engage in safer sex practises, including sex workers and their clients. Both parties are at risk of contracting a sexually transmissible infection (STI) and passing it on to other people. The consistent use of prophylactics (a male condom, female condom, or dental dam) will significantly minimise the risk of contracting an STI. It will not always be obvious that a person has an STI because whilst a person may be infected they may not have any symptoms (be asymptomatic). This may be the case with many STIs including chlamydia, gonorrhoea, syphilis, and HIV. Accordingly, it is suggested that sex workers and clients undergo regular sexual health examinations. Sex workers are only eligible to work in licensed brothels if they are subject to three-monthly sexual health examinations.

PLA contact details

Street address:

Level 3, 5 Gardner Close
MILTON QLD 4064

Telephone: 07 3858 9500 ✱ Facsimile: 07 3876 3641

E-mail: pladmin@iprimus.com.au ✱ Website: www.pla.qld.gov.au

Under s. 77A of the Prostitution Act, it is an offence for:

- a sex worker to provide, or offer to provide, sexual intercourse or oral sex without the use of a prophylactic
- a person to ask a sex worker to engage in sexual intercourse or oral sex without the use of a prophylactic, or to accept an offer from a sex worker not to use a prophylactic, or for a person to obtain prostitution involving sexual intercourse or oral sex without the use of a prophylactic
- a person obtaining prostitution involving sexual intercourse or oral sex to interfere with the efficacy (proper working) of a prophylactic, or to use or continue to use a prophylactic that they know, or ought reasonably to know, is damaged
- a licensee or an approved manager of a licensed brothel to discourage the use of prophylactics at the brothel.

Additionally, s. 77A of the Prostitution Act requires a licensee or an approved manager of a licensed brothel to take reasonable steps to ensure that a person does not provide or obtain sexual intercourse or oral sex without the use of a prophylactic, or offer to provide or ask a sex worker to provide sexual intercourse or oral sex without a prophylactic.

Disclaimer: *This is not intended to be a comprehensive account of the Prostitution Act. It should be read in conjunction with relevant provisions. Whilst the PLA has made every effort to ensure the accuracy of this information at the time of printing, it does not warrant its accuracy and accepts no liability for reliance on the information.*