

pla

General Offences Relating to Prostitution

12/07

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The *Prostitution Act 1999* (the Act) contains some general offences which relate to prostitutes (both sole operators and those that work in brothels), their clients and others.

What is Prostitution?

For the purposes of the Act, prostitution has the same meaning as in s. 229E of the Criminal Code. That is, a person engages in prostitution if the person engages, or offers to engage in the following, and the arrangement is of a commercial character:

- sexual intercourse;
- masturbation;
- oral sex; or
- any other activity that involves the use of one person by another for his or her sexual satisfaction involving physical contact.

However, the last element (any other activity) will not constitute prostitution if it is provided under and authorised by an adult entertainment permit.

Public Soliciting for the Purposes of Prostitution

It is illegal for prostitutes to street walk. Section 73(1) of the Act provides 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; or
- loiters in a place that can be viewed from a public place

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

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.



Prostitution Licensing Authority
Queensland Government

Nuisances connected with prostitution

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 work as a prostitute

A person's 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 work as a prostitute, without the application of any coercion or duress by a third party.

To this end, the 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 engage in prostitution:

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

The use of prophylactics

Prostitutes and their clients have an obligation to engage in safe sex practices. Both parties are at increased risk of contracting a sexually transmitted infection and passing it on to other people. The use of prophylactics (a condom or other device that is adequate to prevent the transmission of a sexually transmissible disease) will minimise the potential for the spread of a transmissible illness. In the context of the HIV pandemic, every member of the community has a responsibility to engage in safe sex practices. It is suggested that it is in the best interests of prostitutes and their clients to be subject to regular health checks.

Under the Act:

- it is an offence for a prostitute to provide, or offer to provide, sexual intercourse or oral sex

without the use of a prophylactic;

- it is an offence for a person to ask a prostitute to engage in sexual intercourse or oral sex without the use of a prophylactic, or to accept an offer from a prostitute not to use a prophylactic, or for a person to obtain sexual intercourse or oral sex without the use of a prophylactic;
- it is an offence for 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 must 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 prostitute to provide sexual intercourse or oral sex without a prophylactic; and
- a licensee or an approved manager of a licensed brothel must not discourage the use of prophylactics at the brothel.

Further information

This fact sheet is intended to provide broad and general, rather than detailed and comprehensive advice on the general offences relating to prostitution in the Act. It should be read in conjunction with the relevant provisions of the Act. The Act can be obtained from the website: www.legislation.qld.gov.au

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