

TASMANIA

SEX INDUSTRY REGULATION BILL 2004

CONTENTS

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Application of Act to existing sexual services businesses

**PART 2 - REGISTRATION OF SEXUAL SERVICES
BUSINESSES**

Division 1 - Director to keep register

5. Register
6. Inspection of register
7. Operation of sexual services business
8. Effect of disqualifying offences
9. Commercial operator to be fit and proper person
10. Transfer of registration of sexual services business

***Division 2 - Form of application for registration and
application for transfer***

11. Form of application for registration
12. Form of application for transfer

Division 3 - Other notices

13. Duty to notify charge for disqualifying offence

14. Notice of additional commercial operator
15. Notice of change of information
16. Notice of ceasing to operate

Division 4 - Registration number

17. Issue of registration number
18. Duty to state registration number in advertisements
19. Offence to display false registration number

PART 3 - PLANNING CONTROLS

20. Application of *Land Use Planning and Approvals Act 1993*
21. Restriction on granting permit

PART 4 - OFFENCES

22. Disqualifying offences
23. Inducing provision of sexual services
24. Soliciting and accosting
25. Participation of children
26. Child on premises
27. Commercial operator to be present
28. Commercial operator to adopt and promote safe sex practices
29. Sex workers and clients to adopt safe sex practices
30. List of sex workers
31. Requirement to display Act

PART 5 - REVIEWS

32. Reviews

PART 6 - MISCELLANEOUS

33. Power to arrest without warrant
34. Hindering or obstructing police officers or authorised persons

35. Entry by police
36. Delegation
37. False or misleading information
38. Codes of practice
39. Evidentiary provision as to code of practice
40. Application of section 22 of *Workplace Health and Safety Act 1995*
41. Regulations
42. Administration of Act
43. Consequential Amendments

SCHEDULE 1 - DISQUALIFYING OFFENCES

SCHEDULE 2 - CONSEQUENTIAL AMENDMENTS

SEX INDUSTRY REGULATION BILL 2004

(Brought in by the Minister for Justice and Industrial Relations, the Honourable Judith Louise Jackson)

A BILL FOR

An Act to promote the welfare and occupational health and safety of sex workers, to protect children from exploitation in the sex industry, to safeguard public health and to amend the *Criminal Code Act 1924* and the *Police Offences Act 1935*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Sex Industry Regulation Act 2004*.

Commencement

2. This Act commences on a day to be proclaimed.

Interpretation

3. In this Act, unless the contrary intention appears –

“application for registration” means an application for registration in accordance with section 11;

“application for transfer” means an application for approval of the transfer of a sexual services business in accordance with section 12;

“authorised person” means –

- (a) the Commissioner of Police or his or her delegate authorised in writing; and
- (b) any person or class of persons authorised in writing by the Director;

“child” means a person under the age of 18 years;

“client” means a person who receives any sexual services in the course of a sexual services business;

“commencement day” means the day on which this Act commences;

“commercial operator” means –

- (a) a person, who is not a self-employed sex worker, who operates, owns or is in day-to-day control of a sexual services business; and
- (b) if the operator, owner or person in day-to-day control of the sexual services business is a corporation, a director, within the meaning of the *Corporations Act* of the Commonwealth, of that business;

“controlled substance” means a controlled substance as defined in the *Misuse of Drugs Act 2001*;

“Director” means the Director of Consumer Affairs and Fair Trading;

“disqualifying offence” means –

- (a) an offence against a law specified in Part 1 of Schedule 1; or
- (b) an offence specified in Parts 2, 3 and 4 of that Schedule –

whether or not the offence was committed before or after the commencement day;

“notice of additional commercial operator” means a notice of additional commercial operator in accordance with section 14;

“permit” means a permit as defined in the *Land Use Planning and Approvals Act 1993*;

“prophylactic” means a condom or other device used to prevent the transmission of a sexually transmissible infection;

“public place” means a public place as defined in the *Police Offences Act 1935*;

“register” means the register kept by the Director under section 5;

“regulations” means regulations made and in force under this Act;

“self-employed sex worker” means –

- (a) a sex worker who solely owns and operates a sexual services business; or
- (b) a sex worker who, together with no more than one other sex worker, neither of whom employs or manages the other, owns and operates a sexual services business;

“sex worker” means a person who provides sexual services in the course of a sexual services business;

“sexual intercourse” means sexual intercourse as defined in section 1 of the *Criminal Code*;

“sexually transmissible infection” means a sexually transmissible infection declared to be a notifiable disease by the Director of Public Health under section 40(a) of the *Public Health Act 1997*;

“sexual services” means any one or more of the following:

- (a) an act of sexual intercourse;
- (b) any activity where there is any form of direct physical contact between 2 or more persons for the purpose of the sexual gratification of one or more of those persons including, without limitation, the masturbation of one person by another;

“sexual services business” means a business of providing sexual services for fee or reward.

Application of Act to existing sexual services businesses**4. If –**

- (a) a commercial operator or a self-employed sex worker was carrying on a sexual services business immediately before the commencement day; and
- (b) he or she continues to carry on that business after that day –

section 7 of this Act does not apply to that commercial operator or self-employed sex worker until 3 months after that day.

**PART 2 – REGISTRATION OF SEXUAL SERVICES
BUSINESSES**

Division 1 – Director to keep register

Register

5. (1) The Director is to keep a register of sexual services businesses.

(2) On payment of the relevant prescribed fee, the Director is to enter in the register any information contained in an application for registration, an application for transfer or a notice of additional commercial operator that the Director considers appropriate.

(3) The Director is to enter in the register a registration number issued under Division 4.

(4) The Director is to enter in the register any additional information contained in a notice referred to in Division 3 that the Director considers appropriate.

(5) The Director is not required to include or keep in the register information about a sexual services business that has ceased to operate.

(6) If a commercial operator is convicted of a disqualifying offence, the Director is to record in the register a note that the registration is revoked.

Inspection of register

6. (1) The Director is to make the register available for inspection by any person at the office of the Director during usual business hours.

(2) Subsection (1) does not apply to information contained in the register relating to self-employed sex workers.

(3) Subsection (2) does not prevent inspection by an authorised person of information contained in the register relating to self-employed sex workers.

Operation of sexual services business

7. A person must not carry on a sexual services business unless that business is registered in accordance with this Act.

Penalty: Fine not exceeding 500 penalty units or imprisonment for a term not exceeding 5 years, or both.

Effect of disqualifying offences

8. (1) The Director must not –

- (a) register a sexual services business; or
- (b) approve the transfer of the registration of a sexual services business; or
- (c) approve of an additional commercial operator –

if a person named in the application for registration, the application for transfer or the notice of additional commercial operator of the relevant sexual services business has been convicted of a disqualifying offence.

(2) The Director may refuse to –

- (a) register a sexual services business; or

- (b) approve the transfer of the registration of a sexual services business; or
- (c) approve of an additional commercial operator –

if a person named in the application for registration, the application for transfer or the notice of additional commercial operator has been charged with a disqualifying offence and the charge has not been finally determined.

(3) The Director may suspend the registration of a sexual services business pending the determination of a charge against the commercial operator of that sexual services business or a self-employed sex worker for a disqualifying offence.

(4) If a commercial operator is convicted of a disqualifying offence, he or she ceases, 30 days after the conviction, to be entitled to own, operate or exercise day-to-day control over a sexual services business.

(5) If, within 30 days after conviction, the commercial operator has not, without reasonable excuse, disposed of his interest in the sexual services business, the Director must revoke the registration of the sexual services business.

(6) If the Director revokes the registration of a sexual services business, refuses an application for transfer of a sexual services business or refuses to approve an additional commercial operator, the Director is to give notice in writing of his or her decision to the commercial operator or the applicant for the transfer of the sexual services business.

Commercial operator to be fit and proper person

9. (1) The Director must seek an opinion from the Commissioner of Police as to whether a proposed commercial operator is a fit and proper person for the purposes of this Act.

(2) The Director may refuse to –

- (a) register; or
- (b) approve the transfer of the registration of, a sexual services business; or
- (c) approve of an additional commercial services operator –

if a person named in the application for registration, an application for transfer or notice of additional commercial operator of the relevant sexual services business is not, in the opinion of the Commissioner of Police, a fit and proper person to be a commercial operator.

(3) For the purposes of this section, the Commissioner of Police may take into account any criminal intelligence report or other information about any person applying for registration as a commercial operator relating to alleged criminal activity in the nature of a disqualifying offence, whether in Tasmania or elsewhere, from which it may be reasonably inferred that the person constitutes a risk to the safety or health of sex workers or their clients.

(4) If the Director refuses to register, to approve the transfer of registration or to approve of an additional operator of a sexual services business under subsection (2), the Director is to notify the applicant for the registration, the transfer or the approval of an additional operator, in writing, of his or her decision.

Transfer of registration of sexual services business

10. (1) On application by the commercial operator of a sexual services business, the Director may, subject to sections 8 and 9, approve the transfer of the registration of the sexual services business to another person.

(2) The Director is to give written notice of the approval of the transfer to the applicant and to the transferee.

(3) On receipt of the notice and at least 7 days before the day on which he or she intends to cease operation of the sexual services business, the applicant must provide the Director with written notice of the date on which the transferee intends to commence operation of the sexual services business.

Penalty: Fine not exceeding 50 penalty units.

(4) A commercial operator of a sexual services business must not transfer the business to another person, or allow another person to use the registration number issued to that business, unless an application for transfer of the sexual services business to that person has been approved by the Director.

Penalty: Fine not exceeding 50 penalty units.

Division 2 – Form of application for registration and application for transfer**Form of application for registration**

11. (1) An application for registration for a sexual services business is to be in a form approved by the Director and –

(a) is to be lodged with the Director; and

- (b) is to contain any information that the Director may require relating to the following:
 - (i) the name of the sexual services business;
 - (ii) the name, including any previous name, of each proposed commercial operator or the name, including any previous name, of each self-employed sex worker to be involved in the sexual services business;
 - (iii) the date of birth of each proposed commercial operator or each self-employed sex worker to be involved in the sexual services business;
 - (iv) the address at which the sexual services business will be carried on;
 - (v) the residential address of each proposed commercial operator or each self-employed sex worker to be involved in the sexual services business;
 - (vi) the operation of the sexual services business; and
- (c) is to be accompanied by the prescribed proof of identity of each proposed commercial operator or self-employed sex worker to be involved in the sexual services business; and
- (d) is to be accompanied by the prescribed fee.

(2) An application for registration under subsection (1) is to be accompanied by an authorisation, in a form approved by the Director, from each person named in the application as a proposed commercial operator or a

self-employed sex worker to be involved in the sexual services business, allowing the Director to obtain –

- (a) if there is a criminal record for that person, a copy of that criminal record; and
- (b) an opinion from the Commissioner of Police under section 9 as to whether the proposed commercial operator is a fit and proper person.

Form of application for transfer

12. (1) An application for approval of the transfer of a sexual services business is to be in a form approved by the Director and –

- (a) is to be lodged with the Director; and
- (b) is to contain any information that the Director may require relating to the following:
 - (i) the name of the sexual services business;
 - (ii) the name, including any previous name, of each proposed commercial operator of the sexual services business;
 - (iii) the date of birth of each commercial operator proposed to be involved in the sexual services business;
 - (iv) the address at which the sexual services business will be carried on;
 - (v) the residential address of each commercial operator proposed to be involved in the sexual services business;

- (vi) the operation of the sexual services business; and
- (c) is to be accompanied by the prescribed proof of identity of each proposed commercial operator of the sexual services business; and
- (d) is to be accompanied by the prescribed fee.

(2) An application for approval of a transfer under subsection (1) is to be accompanied by an authorisation, in a form approved by the Director, from each proposed commercial operator of the sexual services business, allowing the Director to obtain –

- (a) if there is a criminal record for that proposed commercial operator, a copy of that criminal record; and
- (b) an opinion from the Commissioner of Police under section 9 as to whether the proposed commercial operator is a fit and proper person.

Division 3 – Other notices

Duty to notify charge for disqualifying offence

13. If a commercial operator is charged with a disqualifying offence, he or she must, within 7 days, give written notice to the Director of the details of the charge.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

Notice of additional commercial operator

14. (1) A person who is not named in an application for registration or an application for transfer and who proposes to be an additional commercial operator of the sexual services business must complete a notice of additional commercial operator.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

(2) A notice of additional commercial operator is to be in a form approved by the Director and –

- (a) is to be lodged with the Director; and
- (b) is to contain a statement that the existing commercial operator or at least one of the existing commercial operators approves of the proposed additional commercial operator; and
- (c) is to contain any information that the Director may require relating to the following:
 - (i) the name of the sexual services business;
 - (ii) the name, including any previous name, of the proposed commercial operator;
 - (iii) the date of birth of the proposed commercial operator;
 - (iv) the address at which the sexual services business is carried on;
 - (v) the residential address of the proposed commercial operator;

- (vi) the operation of the sexual services business; and
- (d) is to be accompanied by the prescribed proof of identity of the proposed commercial operator; and
- (e) is to be accompanied by the prescribed fee.

(3) A notice of additional commercial operator under subsection (1) is to be accompanied by an authorisation, in a form approved by the Director, from the proposed additional commercial operator of the sexual services business, allowing the Director to obtain –

- (a) if there is a criminal record for that proposed additional commercial operator, a copy of that criminal record; and
- (b) an opinion from the Commissioner of Police under section 9 as to whether the proposed additional commercial operator is a fit and proper person.

Notice of change of information

15. (1) In this section,

“registration details” means any information provided to the Director in an application for registration, an application for transfer or a notice of additional commercial operator.

(2) If there is any change in the registration details relating to a commercial operator or a self-employed sex worker, he or she must give written notice of that change to the Director.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

(3) Written notice under subsection (1) is to be given within 7 days after the day on which the information changed.

(4) If there are 2 or more commercial operators or 2 self-employed sex workers involved in the sexual services business, it is sufficient if one of them complies with this section.

Notice of ceasing to operate

16. (1) If a sexual services business ceases to operate, the commercial operator or self-employed sex worker who was involved in the sexual services business immediately before it ceased to operate must give written notice of the cessation to the Director within 30 days.

Penalty: Fine not exceeding 10 penalty units.

(2) If there were 2 or more commercial operators or 2 self-employed sex workers involved in the sexual services business, it is sufficient if one of them complies with this section.

Division 4 - Registration number

Issue of registration number

17. (1) Subject to this Division, on the registration of a sexual services business the Director is to issue a registration number to that sexual services business.

(2) A registration number previously issued under subsection (1) is to remain in force if the Director receives –

- (a) an application for transfer; or
- (b) a notice of additional commercial operator.

Duty to state registration number in advertisements

18. In any advertisement relating to a sexual services business the commercial operator or self-employed sex worker involved in the sexual services business must state the registration number for the sexual services business issued under section 17.

Penalty: Fine not exceeding 20 penalty units.

Offence to display false registration number

19. A commercial operator or a self-employed sex worker must not display in any advertisement relating to, or in connection with, a sexual services business any registration number other than the registration number issued under this Act for that sexual services business.

Penalty: Fine not exceeding 50 penalty units.

PART 3 – PLANNING CONTROLS**Application of *Land Use Planning and Approvals Act 1993***

20. (1) Nothing in this Act exempts a person from any requirement to obtain a permit under the *Land Use Planning and Approvals Act 1993* in respect of the operation of a sexual services business.

(2) Section 20(3) of the *Land Use Planning and Approvals Act 1993* does not apply to a sexual services business carried on before the first application for a permit for that business following the commencement day.

Restriction on granting permit

21. A council must refuse to grant a permit relating to the operation of a proposed sexual services business –

- (a) carried on, or proposed to be carried on, by a commercial operator if that sexual services business is in an area zoned “residential only” under the applicable planning scheme; or
- (b) if that sexual services business is within 200 metres of –
 - (i) a place of worship; or
 - (ii) a hospital; or
 - (iii) a school; or
 - (iv) a child-care service; or
 - (v) any recreational, health care, educational or cultural facility or other

2004

Sex Industry Regulation

No.

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place regularly frequented by children
that is not referred to in
subparagraph (i), (ii), (iii) or (iv).

PART 4 – OFFENCES**Disqualifying offences**

22. (1) A person who has been convicted of a disqualifying offence must not –

- (a) become a commercial operator; or
- (b) continue to be a commercial operator for more than 30 days after the conviction; or
- (c) enter or remain on the premises of a sexual services business otherwise than as a bona fide client.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

(2) Any commercial operator (in this section called “the joint commercial operator”) who is involved in the same sexual services business as a person mentioned in subsection (1) commits an offence if –

- (a) the commercial operator mentioned in subsection (1) becomes, or continues after 30 days from the date of conviction to be, a commercial operator; and
- (b) the joint commercial operator knows or must reasonably know whether a person who becomes or continues to be a commercial operator is a commercial operator mentioned in subsection (1); and
- (c) the joint commercial operator allows the commercial operator mentioned in subsection (1) to be on the premises of a sexual

services business otherwise than as a bona fide client when the joint commercial operator knows or must reasonably know that the other operator has been convicted of a disqualifying offence.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

Inducing provision of sexual services

23. (1) A person must not, for the purpose of inducing any person to provide, or to continue to provide, sexual services in the course of a sexual services business –

- (a) intimidate, assault or threaten to assault any person; or
- (b) supply or offer to supply a prohibited plant, prohibited substance, narcotic substance or restricted substance as defined in the *Poisons Act 1971*, to any person; or
- (c) supply or offer to supply a controlled substance to any person; or
- (d) administer or cause another person to take any drug or other thing with the intent to stupefy or overpower that person; or
- (e) make a false representation or otherwise act fraudulently; or
- (f) threaten to cause a person to be deported; or
- (g) exert any other form of unreasonable or unfair pressure on any person.

Penalty: Fine not exceeding 15 000 penalty units or imprisonment for a period not exceeding 15 years.

(2) A person must not, for the purpose of inducing any person to provide or continue to provide him or her with any fee or reward derived, directly or indirectly, from the provision of sexual services –

- (a) intimidate, assault or threaten to assault any person; or
- (b) supply or offer to supply a prohibited plant, prohibited substance, narcotic substance or restricted substance as defined in the *Poisons Act 1971*, to any person; or
- (c) supply or offer to supply a controlled substance to any person; or
- (d) administer or cause another person to take any drug or other thing with the intent to stupefy or overpower that person; or
- (e) make a false representation or otherwise act fraudulently; or
- (f) threaten to cause a person to be deported; or
- (g) exert any other form of unreasonable or unfair pressure on any person.

Penalty: Fine not exceeding 15 000 penalty units or imprisonment for a term not exceeding 15 years.

Soliciting and accosting

24. (1) A person must not, for the purpose of offering or procuring sexual services, accost any person, or solicit or loiter, in a public place.

Penalty: Fine not exceeding 20 penalty units.

(2) A person must not, for the purpose of offering or procuring sexual services, accost a child.

Penalty: Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 3 years, or both.

Participation of children

25. (1) A person must not cause or permit a child to provide sexual services in a sexual services business.

Penalty: Imprisonment for a term not exceeding 15 years.

(2) A person must not receive a fee or reward that he or she knows, or must reasonably be expected to know, is derived, directly or indirectly, from sexual services provided by a child in the course of a sexual services business.

Penalty: Imprisonment for a term not exceeding 15 years.

Child on premises

26. (1) A commercial operator of a sexual services business must not, without reasonable excuse, permit a child to be on any premises used for the operation of the sexual services business.

Penalty: Fine not exceeding 50 penalty units.

(2) A self-employed sex worker must not, without reasonable excuse, permit a child to be on any premises used by the self-employed sex worker while sexual services are being provided on those premises.

Penalty: Fine not exceeding 20 penalty units.

Commercial operator to be present

27. A commercial operator must be present on the premises of his or her sexual services business at all times when any sexual services are being provided.

Penalty: Fine not exceeding 20 penalty units.

Commercial operator to adopt and promote safe sex practices

28. (1) A commercial operator must take all reasonable steps –

- (a) to ensure that no person provides or receives, in the course of a sexual services business, sexual services that involve sexual intercourse, or any other activity with a similar or greater risk of transmitting a sexually transmissible infection, unless a prophylactic is used; and
- (b) to provide health information, whether oral or written, to sex workers and clients; and
- (c) to minimise the risk of sex workers and clients acquiring or transmitting a sexually transmissible infection; and

- (d) to ensure that a prohibited substance, as defined in the *Poisons Act 1971*, or a controlled substance is not used on the relevant premises; and
- (e) to ensure that no person provides sexual services at the sexual services business whilst affected by a prohibited substance, as defined in the *Poisons Act 1971*, or a controlled substance.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 1 500 penalty units; or
- (b) a natural person, a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 5 years, or both.

(2) Sections 9 and 14B of the *Workplace Health and Safety Act 1995* do not apply to the duties of a commercial operator under this section.

Sex workers and clients to adopt safe sex practices

29. (1) A person must not, in the course of a sexual services business, provide or receive any sexual services that involve sexual intercourse, or any other activity with a similar or greater risk of acquiring or transmitting a sexually transmissible infection, unless a prophylactic is used.

Penalty: Fine not exceeding 500 penalty units.

(2) A person, while providing or receiving, in the course of a sexual services business, sexual services that involve sexual intercourse, or any other activity with a

similar or greater risk of acquiring or transmitting a sexually transmissible infection, must not –

- (a) discourage the use of prophylactics; or
- (b) misuse, damage or interfere with the efficacy of any prophylactic used; or
- (c) continue to use a prophylactic that he or she knows, or could reasonably be expected to know, is damaged.

Penalty: Fine not exceeding 50 penalty units.

(3) A person who provides or receives sexual services in the course of a sexual services business must take all reasonable steps to minimise the risk of acquiring or transmitting a sexually transmissible infection.

Penalty: Fine not exceeding 500 penalty units.

(4) Sections 13, 14B, 16 and 20 of the *Workplace Health and Safety Act 1995* do not apply to any requirement imposed under this section.

List of sex workers

30. (1) A commercial operator is to compile and maintain at all times in accordance with this section a list of all sex workers employed by the commercial operator at the sexual services business.

Penalty: Fine not exceeding 10 penalty units.

(2) A list under subsection (1) is to contain the following details in respect of each sex worker:

- (a) his or her name;
- (b) his or her residential address;

- (c) his or her date of birth.

(3) A list under subsection (1) is confidential and may only be inspected by an authorised person for the purpose of ensuring compliance with this Act or if he or she reasonably believes that an offence under this Act is being, or is likely to be, committed.

Requirement to display Act

31. A commercial operator or a self-employed sex worker must display in a prominent position on the premises on which the sexual services business is carried on –

- (a) a copy of this Act, the regulations and any code of practice approved under section 38;
and
- (b) the registration number issued in respect of that sexual services business under section 17;
and
- (c) any other information that the Director considers necessary.

Penalty: Fine not exceeding 20 penalty units.

PART 5 – REVIEWS**Reviews**

32. (1) A person may apply to the Magistrates Court (Administrative Appeals Division) for a review of –

- (a) a refusal to register or approve the transfer of a sexual services business under this Act; or
- (b) a suspension or revocation of the registration of a sexual services business under section 8(3) or (4); or
- (c) a refusal to approve an additional commercial operator under this Act.

(2) For the purpose of applying for a review, the date when the decision the subject of the application was made is taken to be the day on which a notice is received under section 8(6) or section 9(3).

(3) The following provisions of the *Magistrates Court (Administrative Appeals Division) Act 2001* do not apply to an application to the Magistrates Court (Administrative Appeals Division) for a review of a decision referred to in subsection (1)(b) or (c):

- (a) Division 1 of Part 4;
- (b) section 22.

(4) In determining an application for a review of a decision referred to in subsection (1)(b) or (c), the Magistrates Court (Administrative Appeals Division) –

- (a) in order to prevent the disclosure of any such report or other information, is to receive evidence and hear argument in the absence of

the public, the applicant for the review and the applicant's representative; and

- (b) may hear evidence from the Commissioner of Police (or his or her nominee) in respect of the criminal intelligence report or any other information referred to in section 9(2); and
- (c) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other information referred to in section 9(2).

PART 6 – MISCELLANEOUS**Power to arrest without warrant**

33. (1) A police officer may arrest, without warrant, a person who the police officer reasonably believes is committing, has committed or is likely to commit an offence under section 23, 24, 25 or 26.

(2) If a police officer has reasonable grounds for believing that a person is committing, has committed or is likely to commit an offence under this Act, the police officer may require that person to give his or her name, address and date of birth.

(3) If a police officer has requested under subsection (2) a person to give the person's name, address and date of birth, the police officer may arrest, without warrant, that person if –

- (a) that person refuses to give his or her name, address or date of birth; or
- (b) the police officer reasonably believes that any name, address or date of birth given by that person is false.

(4) The powers conferred under this section are in addition to the powers of a police officer under the common law.

Hindering or obstructing police officers or authorised persons

34. A person must not hinder or obstruct a police officer or authorised person acting in the exercise of powers conferred by this Act.

Penalty: In the case of –

- (a) a first offence – a fine not exceeding 25 penalty units; and
- (b) a second or subsequent offence – a fine not exceeding 50 penalty units.

Entry by police

35. (1) A police officer of the rank of sergeant or above or an authorised person may enter on the premises of a sexual services business in order to ensure compliance with this Act or if he or she believes on reasonable grounds that –

- (a) an offence against section 23, 24, 25 or 26 has been, is being, or is likely to be committed on the premises; and
- (b) it is necessary to enter the premises for the purpose of preventing the commission or repetition of that offence, investigating that offence or apprehending an offender.

(2) A police officer of the rank of sergeant or above or an authorised person may enter on premises in order to ensure compliance with this Act or if he or she believes on reasonable grounds that the premises are being used in the course of an unregistered sexual services business.

(3) A police officer of the rank of sergeant or above or an authorised person may use reasonable force if necessary to enter on premises under subsection (1) or (2) and may be accompanied by another person or persons if necessary for the purposes of the entry.

Delegation

36. The Director, by instrument in writing, may delegate any of his or her functions or powers under this Act, other than this power of delegation, to any other State Service officer or State Service employee.

False or misleading information

37. A person must not, in respect of an application for registration, an application for transfer or any other notice given to the Director under this Act –

- (a) give information that the person knows is false or misleading; or
- (b) omit anything without which the notice or application is, to the person's knowledge, misleading; or
- (c) fail to disclose relevant information of which the person has knowledge.

Penalty: Fine not exceeding 50 penalty units.

Codes of practice

38. (1) For the purpose of providing practical guidance to commercial operators, self-employed sex workers and any other persons on whom a duty is imposed under this Act, the Minister may approve a code of practice.

(2) A code of practice may consist of any code, standard, rule, specification or provision relating to workplace health and safety formulated, prepared or adopted by the Director and may apply, incorporate or refer to any document formulated or published by any body or authority as in force at the time the code of

practice is approved or as amended, formulated or published from time to time.

(3) The Minister may approve any revision of the whole or part of a code of practice or revoke a code of practice.

(4) The Minister must give notice in the *Gazette* and in 3 daily newspapers published and circulating in the State of –

- (a) the approval of a code of practice; or
- (b) the approval of the revision of the whole or part of a code of practice; or
- (c) the revocation of a code of practice.

(5) A notice under subsection (4) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

(6) The Minister must cause to be made available in the Department for inspection by members of the public without charge during normal office hours a copy of –

- (a) each approved code of practice; and
- (b) if an approved code of practice has been revised and the revision has been approved, the approved code of practice as so revised; and
- (c) if an approved code of practice applies, incorporates or refers to any other document, that other document.

(7) An approved code of practice and any approved version of a code of practice have effect on the day on which notice of the approval is published in the *Gazette*.

(8) An approved code of practice ceases to have effect on the day on which notice of the revocation of the code is published in the *Gazette*.

(9) A person is not liable to any civil or criminal proceedings merely because he or she has failed to observe any provision of a code of practice approved under this section.

Evidentiary provision as to code of practice

39. Where in any proceedings under this Act it is alleged that a person contravened with a provision of this Act in respect of which an approved code of practice was in effect at the time of the alleged contravention –

- (a) a document purporting to be a code of practice is admissible in evidence in those proceedings; and
- (b) if the court is satisfied, in respect of any matter that it is necessary for the prosecution to prove in order to establish the alleged contravention, that –
 - (i) any provision of the code of practice is relevant to that matter; and
 - (ii) the person failed at any material time to observe that provision of the code of practice –

the matter is taken as proved unless the court is satisfied that, in respect of that matter, the person complied with the provision of this Act otherwise than by way of observance of the provision of the code of practice.

Application of section 22 of *Workplace Health and Safety Act 1995*

40. Section 22 of the *Workplace Health and Safety Act 1995* does not apply to a sexual services business registered under this Act.

Regulations

41. (1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide for any of the following matters:

- (a) fees to be paid to the Director for the purpose of this Act;
- (b) the issue and preparation by the Director of a code of practice for sexual services businesses;
- (c) inspection of sexual services businesses to ensure compliance with this Act and the code of practice;
- (d) size, form and content of advertisements relating to sexual services businesses.

(3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

(4) The regulations may make provision in respect of a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Tasmania), as in force or existing

at the time when the regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.

Administration of Act

42. Until provision is made in respect of this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice and Industrial Relations; and
- (b) the department responsible to that Minister in respect of the administration of this Act is the Department of Justice and Industrial Relations.

Consequential Amendments

43. The legislation specified in Schedule 2 is amended as specified in that Schedule.

SCHEDULE 1 – DISQUALIFYING OFFENCES

Section 22

**PART 1 – OFFENCES UNDER TASMANIAN AND
COMMONWEALTH LAWS**

1. A provision of Part 8 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*.
2. Divisions 1, 2 and 4 of Part IIIA and section 85ZE of the *Crimes Act 1914* of the Commonwealth.
3. Division 270 of Chapter 8, Division 360 of Chapter 9 and Division 400 of Chapter 10 of the *Criminal Code Act 1995* of the Commonwealth.
4. Sections 9, 10, 11, 24, 25, 26, 48, 56, 81, 84 and 85 of the *Firearms Act 1996*.
5. Section 20 of the *HIV/AIDS Preventive Measures Act 1993*.
6. Section 106I of the *Justices Act 1959*.
7. Sections 20, 21, 26, 27 and 28 of the *Misuse of Drugs Act 2001* and an offence under Part 2 of that Act.
8. Sections 46, 47, 55 and 83B of the *Poisons Act 1971*.
9. Sections 7A, 35(1) and (2) of the *Police Offences Act 1935*.
10. Section 51 of the *Public Health Act 1997*.
11. A law of the Commonwealth, a State or a Territory corresponding to an offence mentioned in Parts 1, 3 and 4.
12. An offence against section 232A, 233(1) or 233A of the *Migration Act 1958* of the Commonwealth.

13. A law of the Commonwealth corresponding to section 299 or 300 of the *Criminal Code* relating to an offence mentioned in item 12.

PART 2 - OFFENCES UNDER FOREIGN LAWS

Kinds of offences

1. (1) An offence that consists of or involves –

- (a) murder; or
- (b) torture, abduction or kidnapping; or
- (c) sexual assault; or
- (d) sexual servitude; or
- (e) child pornography; or
- (f) violence, intimidation or coercion related to prostitution; or
- (g) causing serious physical harm to another person; or
- (h) money laundering; or
- (i) illegal immigration; or
- (j) supplying illegal drugs; or
- (k) drug trafficking; or
- (l) identity fraud.

(2) An offence that consists of, or involves, in respect of an offence mentioned in subclause (1) –

- (a) aiding and abetting the commission of the offence; or
- (b) being an accessory after the fact; or
- (c) attempting, inciting a person or conspiring to commit the offence.

PART 3 - OFFENCES UNDER THIS ACT

Column 1	Column 2	Column 3
Item	Section	Description
1.	section 23	duress used to induce person to provide sexual services
2.	section 24(1)	accost or solicit in a public place
3.	section 24(2)	accost child for the purpose of offering or procuring sexual services
4.	section 25(1)	cause or permit child to provide sexual services
5.	section 25(2)	receive proceeds of child prostitution
6.	section 26	permit child on premises
7.	section 28	commercial operator not adopt and promote safe sex practices

PART 4 - OFFENCES UNDER THE <i>CRIMINAL CODE</i>			
Item number	Part	Chapter	Section
1.	IV	XIV	All
2.	V	XVII	All
3.	V	XVIII	168, 169, 170, 172, 175, 176, 178, 178A, 178B
4.	V	XIX	All
5.	V	XX	All
6.	VI	XXIV, XXV, XXVII	All
7.	VI	XXVI	All
8.	VI	XXXI	267, 268, 269, 269A, 276, 276AA
9.	VI	XXXIIB	All
10.	VIII	XXXV	All, provided they relate to charges listed elsewhere in this Table

SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 43

Criminal Code Act 1924**1. Schedule 1 is amended as follows:**

- (a) by omitting section 128;
- (b) by omitting from section 143(1) “common bawdy-house,”;
- (c) by omitting subsection (2) from section 143.

Police Offences Act 1935**1. Section 8 is amended as follows:**

- (a) by omitting paragraph (c) from subsection (1);
- (b) by omitting paragraphs (b) and (c) from subsection (1A).

2. Section 10(1) is amended by omitting paragraph (b).