Prostitution Regulation Bill

No.

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SCHEDULE 1

PROVISIONS WITH RESPECT TO MEMBERS OF BROTHEL LICENSING BOARD

SCHEDULE 2

PROVISIONS WITH RESPECT TO PRESIDENT OF BROTHEL LICENSING BOARD

By Authority F D Atkinson Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 22 October 1986

(Brought in by Mr Mathews and Mr Fordham)

A BILL

to make provision with respect to prostitution, to establish a licensing system for brothels, to amend the *Crimes Act* 1958, the *Health Act* 1958, the *Maintenance Act* 1965, the *Summary Offences Act* 1966, the *Town and Country Planning Act* 1961, the *Vagrancy Act* 1966 and the *Liquor Control Act* 1968, to abolish the offence at common law of keeping a disorderly house and for other purposes.

Prostitution Regulation Act 1986

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

1. The purpose of this Act is to reform the law relating to prostitution.

Commencement.

2. This Act comes into operation on a day or days to be proclaimed.

Definitions.

3. In this Act—

"Assault" has the same meaning as in section 31 of the *Crimes Act* 1958.

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"Authorised member of the police force" means a member of the police force who is—

(*a*) of or above the rank of sergeant; or

(*b*) authorised in writing by the Chief Commissioner of Police to enforce the provisions of Parts 3 and 4.

"Board" means the Brothel Licensing Board established by section 18 (1).

***"Brothel"** means premises to which people resort for the purpose of prostitution.

"Child" means a person under the age of 18 years.

"Corresponding law" means a law of another State or a Territory of the Commonwealth which the Governor in Council by Order declares to be a law that makes provision substantially similar to the provisions of Part 3.

"Drug of dependence" has the same meaning as in the *Drugs, Poisons and Controlled Substances Act* 1981.

"Fund" means the Brothel Licensing Board Fund.

"Officer", in relation to a corporation, has the same meaning as in the *Companies (Victoria)Code* but does not include an employee of the corporation.

"Owner" means the person for the time being entitled to receive the rent of the land with respect to which the word is used or who would be entitled to receive the rent if the land were let at a rent.

"Payment" includes any form of commercial consideration.

"Prostitution" means the provision by one person to another person (whether or not of a different sex) of sexual services such as—

(*a*) the taking part by those persons in an act of sexual penetration as defined in section 2A of the *Crimes Act* 1958; or

(*b*) the performance by one of those persons of masturbation on the other—

in return for payment or reward.

"Public place" has the same meaning as in the *Summary Offences Act* 1966.

"Publish" means—

(*a*) insert in a newspaper or other publication;

(*b*) disseminate by broadcast, telecast or cinematograph;

(*c*) exhibit by means of posters, film or videotape;

* "Brothel" has a more limited meaning in Parts 3 and 4. See sections 14 and 50.

(*d*) send or deliver to any person by any means whatever;

(*e*) throw or leave upon premises in the occupation of any person;

(*f*) bring to the notice of the public or any member of the public by any other means whatever.

"Sexually transmitted disease" means—

(*a*) a disease or infective condition prescribed under the *Health Act* 1958 as a sexually transmitted disease for the purposes of section 135A of that Act; or

(*b*) the disease known as acquired immune deficiency syndrome in any of its stages.

Objects of Act.

4. The objects of this Act are—

(*a*) to protect young people from sexual exploitation;

(*b*) to protect adult prostitutes from violence and intimidation;

(*c*) to protect the community from nuisance and disturbance caused by prostitution—related activities;

(*d*) to establish adequate controls over the operators and managers of brothels.

PART 2—OFFENCES CONNECTED WITH PROSTITUTION

Street prostitution.

5. (1) A person must not for the purpose of prostitution— No. 7405 s.18.

(*a*) solicit or accost any person in a public place; or

(*b*) loiter in a public place.

Penalty: For a first offence—5 penalty units or imprisonment for one month;
For a second offence—15 penalty units or imprisonment for three months;
For a third or subsequent offence—25 penalty units or imprisonment for six months.

(2) A person must not— No. 7405 s.18A.

(*a*) loiter in or frequent a public place for the purpose of, or with the intention of, inviting or soliciting any person to prostitute himself or herself with the first-mentioned person or any third person; or

(*b*) in a public place invite or solicit any person to prostitute himself or herself with the first-mentioned person or any third person; or

(*c*) loiter in or frequent a public place for the purpose of, or with the intention of, being accosted by or on behalf of a prostitute.

Penalty: For a first offence—5 penalty units or imprisonment for one month;
For a second offence—15 penalty units or imprisonment for three months;
For a third or subsequent offence—25 penalty units or imprisonment for six months.

No. 7405 s.18AA

(3) An act done in a brothel which, but for this sub-section, would constitute an offence against this section does not constitute an offence against this section if the act is not visible to a person in a public place outside the brothel.

No. 7405 s.58.

(4) A member of the police force or other person is not, if acting under written instructions given in relation to a particular case by a member of the police force not below the rank of senior sergeant, to be taken to be an offender or accomplice in the commission of an offence against this section even though that member or other person might, but for this sub-section, have been taken to be such an offender or accomplice.

Offence to cause or induce child to take part in prostitution.

6. (1) A person who causes or induces a child to take part in an act of prostitution, whether as the prostitute or as the client or in any other capacity, or to continue to take part in such acts, is guilty of an indictable offence.

Penalty: Imprisonment for five years.

(2) In proceedings for an offence against this section it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child but it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 or more.

Offence to allow child to take part in prostitution.

7. (1) A person who owns or occupies any premises or who manages or assists in the management of any premises must not allow a child to enter or remain on the premises for the purposes of taking part in an act of prostitution, whether as the prostitute or as the client or in any other capacity.

Penalty: Imprisonment for two years.

(2) In proceedings for an offence against this section it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child but it is a defence to the charge for the

accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 or more.

(3) If it is proved that a child was on premises that are a brothel within the meaning of Part 4, any person who owns or occupies those premises or who manages or assists in the management of those premises is guilty of an offence against this section unless that person satisfies the court on the balance of probabilities that the child was not on the premises for the purposes of taking part in an act of prostitution.

Offence to obtain payment in respect of sexual services provided by a child.

8. (1) A person is guilty of an indictable offence if the person receives a payment (except in the ordinary course of a business unrelated to prostitution) knowing that it or any part of it has been derived, directly or indirectly, from sexual services provided by a child.

Penalty: Imprisonment for five years.

(2) It it is proved to a court that a person is living with a prostitute who is a child, that person is to be taken to be contravening this section, unless the court is satisfied to the contrary.

(3) In proceedings for an offence against this section it is not necessary for the prosecution to prove that the accused knew that the person concerned was a child but it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to have been committed, that the person concerned was aged 18 or more.

(4) A prosecution for an offence against this section must not be commenced without the consent of the Director of Public Prosecutions.

Offence to enter into agreement under which child is to provide sexual services.

9. (1) A person is guilty of an indictable offence if the person enters into or offers to enter into an agreement under which a child is to provide sexual services to that person or to another person in return for payment or in exchange for drugs of dependence.

Penalty: Imprisonment for three years.

(2) In proceedings for an offence against this section it is not necessary for the prosecution to prove that the accused knew that the person who was to provide the sexual services was a child but it is a defence to the charge for the accused to prove that, having taken all reasonable steps to find out the age of the person concerned, the accused believed on reasonable grounds, at the time the offence is alleged to

have been committed, that the person concerned was aged 18 or more and that person was in fact aged 16 or more.

Offence to force person into or to remain in prostitution.

10. A person is guilty of an indictable offence if, with intent to induce another person aged 18 or more to engage or continue to engage in prostitution, the person—

(*a*) assaults or threatens to assault that other person or any other person; or

(*b*) intimidates that other person or any other person; or

(*c*) supplies or promises to supply a drug of dependence to that other person or any other person; or

(*d*) makes a false representation or uses any false pretence or other fraudulent means.

Penalty: Imprisonment for five years.

Offence to force person to provide financial support out of prostitution.

11. A person is guilty of an indictable offence if, with intent to induce another person aged 18 or more to provide or continue to provide him or her with a payment or payments derived, directly or indirectly, from acts of prostitution taken part in by that other person, the person—

(*a*) assaults or threatens to assault that other person or any other person; or

(*b*) intimidates that other person or any other person; or

(*c*) supplies or promises to supply a drug of dependence to that other person or any other person.

Penalty: Imprisonment for five years.

Offence to permit prostitute infected with a disease to work in a brothel, etc.

12. (1) A person who—

(*a*) carries on the business of operating a brothel or any other business that provides prostitution services; or

(*b*) manages a brothel or any other business that provides prostitution services; or

(*c*) is the holder of a current licence to operate a brothel issued under Part 3; or

(*d*) is the holder of a current certificate of approval issued under section 28—

must not knowingly permit a prostitute to work (whether under a contract of service or a contract for services) in the brothel or for the other business during any period in which the prostitute is infected with a sexually transmitted disease.

Penalty: 20 penalty units.

(2) If it is proved to a court that a person referred to in sub-section (1) permitted a prostitute to work as mentioned in that sub-section during a period in which the prostitute was infected with a sexually transmitted disease, that person is to be taken to have known that the prostitute was so infected unless that person proves that at the time the offence is alleged to have been committed that person believed on reasonable grounds—

(*a*) that the prostitute had been undergoing regular medical examinations, on at least a fortnightly basis, for the purpose of determining whether he or she was infected with a sexually transmitted disease; and

(*b*) that the prostitute was not infected with a sexually transmitted disease.

Controls on advertising of prostitution services.

13. (1) A person must not publish or cause to be published an advertisement for prostitution services that—

(*a*) describes the prostitution services offered; or

(*b*) contravenes the regulations.

Penalty: 10 penalty units.

(2) A person must not cause an advertisement for prostitution services to be broadcast or televised.

Penalty: 10 penalty units.

(3) A person must not publish or cause to be published a statement which is intended or likely to induce a person to seek employment—

(*a*) as a prostitute; or

(*b*) in a brothel or any other business that provides prostitution services.

Penalty: 10 penalty units.

(4) The Governor in Council may make regulations for or with respect to—

(*a*) the size, form and content of advertisements for prostitution services or any class of prostitution services;

(*b*) prohibiting the advertising—

(i) in a specified publication or specified class of publication; or

(ii) in a specified manner—

of advertisements for prostitution services or any class of prostitution services;

(*c*) generally prescribing any other matter or thing necessary to be prescribed to give effect to this section.

PART 3—LICENSING SYSTEM FOR BROTHELS

Brothels to which this Part applies.

14. (1) This Part applies to a brothel which three or more prostitutes regularly use for the purpose of prostitution.

(2) Even if less than three prostitutes regularly use a brothel for the purpose of prostitution that brothel is to be taken to be a brothel to which this Part applies if the sum of the number of prostitutes who regularly use that brothel and any associated brothel is three or more.

(3) For the purposes of sub-section (2) a brothel is an associated brothel in relation to another brothel if both brothels are operated by the same person or if one brothel is operated by a person and the other brothel is operated by a person who is—

(*a*) if that person is a corporation, a related corporation within the meaning of the *Companies (Victoria) Code* or a director or secretary, or a spouse or defacto partner of a director or secretary, of that corporation or the related corporation; or

(*b*) a spouse or defacto partner of that person; or

(*c*) a business partner of that person; or

(*d*) a person who has entered into a business arrangement or relationship with that person in respect of the use, occupation, management or otherwise of a brothel.

Brothel operators to be licensed.

15. (1) A person who carries on the business of operating a brothel without being licensed to operate that brothel under this Part is guilty of an offence.

(2) A person found guilty of an offence under sub-section (1) is liable to a penalty of not more than 60 penalty units for a first offence and 90 penalty units for a second or subsequent offence and, if the contravention is of a continuing nature, to a further penalty of not more than 6 penalty units for each day during which the contravention continues after conviction.

Licensee not to operate brothel with unlicensed partner, etc.

16. A licensee must not carry on a business of operating a brothel in partnership with, or otherwise in association or conjunction with, a person who is not also licensed to carry on that business.

Penalty: 60 penalty units.

Personal supervision of brothel.

17. (1) A brothel must at all times when it is open for business be personally supervised by the licensed operator or a manager approved under section 28.

(2) An operator or manager who is not present in the brothel at a particular time cannot be regarded as personally supervising the brothel at that time.

(3) If a brothel which is open for business is not personally supervised as required by this section—

(*a*) the licensed operator of the brothel; and

(*b*) the approved manager (if any) whose duty it was to personally supervise the brothel at the relevant time—

are each guilty of an offence and liable to a penalty of not more than 20 penalty units.

(4) It is a defence to a charge under this section for the accused to prove that at the time the offence is alleged to have been committed—

(*a*) the accused did not know and could not reasonably have known that the brothel was open for business and was not being personally supervised as required by this section; or

(*b*) the accused had reason to believe that the brothel was being personally supervised as required by this section.

Brothel Licensing Board.

18. (1) There is established a Board to be known as the Brothel Licensing Board.

(2) The Board consists of six members appointed by the Governor in Council of whom—

(*a*) one shall be a member of the police force of Victoria nominated by the Chief Commissioner of Police;

(*b*) one shall be a person nominated by the Minister administering the *Local Government Department Act* 1958;

(*c*) one shall be a person nominated by the Minister administering the *Town and Country Planning Act* 1961;

(*d*) one shall be a person nominated by the Attorney-General;

(*e*) one shall be a person nominated by the Minister administering Part II of the *Health Act* 1958;

(*f*) one shall be a person nominated by the Minister administering section 5 of the *Community Welfare Services Act* 1970.

(3) The Governor in Council may appoint one of the members of the Board (other than the member referred to in sub-section (2) (*a*)) to be the President of the Board.

(4) The President shall preside at every meeting of the Board.

(5) Schedule 1 has effect with respect to members of the Board.

(6) Schedule 2 has effect with respect to the President of the Board.

Functions of Board.

19. The Board has the following functions:

(*a*) To determine applications for licences to operate brothels;

(*b*) To determine applications for the renewal of licences to operate brothels;

(*c*) To approve of persons as brothel managers;

(*d*) To keep licences to operate brothels under review and to suspend or cancel them where necessary or desirable;

(*e*) To keep approvals of persons as brothel managers under review and to suspend or cancel them where necessary or desirable;

(*f*) To cause an investigation to be made by the police force of complaints (including complaints from prostitutes) relating to the management of brothels in respect of which licences have been issued;

(*g*) To liaise with the police force so as to assist each of them in the carrying out of their respective functions in relation to prostitution.

Staff of Board.

20. (1) Subject to the *Public Service Act* 1974, there is to be appointed a Registrar of the Board and such other officers and employees as are necessary for the proper functioning of the Board.

(2) The Registrar may by instrument delegate to any person in the public service any function or power of the Registrar under this Part or the regulations other than this power of delegation.

Eligibility for licence.

21. (1) To be eligible to be granted a licence to operate a brothel or to have such a licence renewed a person—

(*a*) must be a natural person aged 21 or more;

(*b*) must not within the preceding 5 years—

(i) have been convicted of an offence under the *Drugs, Poisons and Controlled Substances Act* 1981 or a corresponding law; or

(ii) have been convicted of an indictable offence punishable by imprisonment for 12 months or more or of an offence which, if committed in Victoria, would have been an indictable offence punishable by imprisonment for 12 months or more; or

(iii) have been serving a sentence of imprisonment, whether in Victoria or outside Victoria;

(*c*) must not be an associate of a person who has within the preceding 5 years been convicted of an offence referred to in paragraph (*b*) (i) or (ii);

(*d*) must not be an associate of a corporation an officer of which has within the preceding 5 years been convicted of an offence referred to in paragraph (*b*) (i) or (ii);

(*e*) must not have had a previous licence to operate a brothel cancelled by the Board within the preceding 5 years.

(2) A reference in sub-section (1) to an associate of a person or a corporation is a reference to—

(*a*) a spouse or defacto partner of the person; or

(*b*) a business partner of the person; or

(*c*) a person who has entered into a business arrangement or relationship with the person or corporation in respect of the use, occupation, management or otherwise of a brothel.

(3) A person must not apply for a licence or for the renewal of a licence knowing that he or she is not eligible under this section to be issued with one.

Penalty: 60 penalty units.

Application for licence.

22. (1) An application to the Board for a licence to operate a brothel—

(*a*) must be in writing in the prescribed form;

(*b*) must specify—

(i) the name, address, occupation and date of birth of the applicant;

(ii) the address or addresses of the place or places in the State at which, and the name or names under which, the applicant operates or intends to operate a brothel;

(iii) whether the applicant intends to operate the brothel in partnership with, or otherwise in association or conjunction with, another person;

(iv) such other matters as are prescribed;

(*c*) must be signed by the applicant;

(*d*) must be accompanied by—

(i) the prescribed application fee;

(ii) any permits required under the *Town and Country Planning Act* 1961 to authorise the use of the land for the purposes of the operation of a brothel.

(2) If before an application is determined a change occurs in any of the particulars specified in the application, the applicant must, as soon

as possible after the occurrence of the change, give to the Board written notice of the change signed by the applicant.

(3) If an application is withdrawn before it has been determined, the Board may, in its absolute discretion, refund (wholly or partly) the fee that accompanied the application. 5

(4) A person must not make in, or in relation to, an application any statement that is false or misleading by reason of the inclusion in the statement of false or misleading matter or of the omission from the statement of any material matter.

Penalty: 60 penalty units. 10

(5) It is a defence to a charge under sub-section (4) for the accused to prove that at the time the offence is alleged to have been committed—

(*a*) the accused believed on reasonable grounds that the false matter was true or that the misleading matter was not misleading, as the case requires; or 15

(*b*) in the case of an omission—

(i) the accused believed on reasonable grounds that no matter had been omitted the omission of which would make the statement false or misleading; or

(ii) the accused did not know that the omitted matter was material. 20

Notice of application to be given to police.

23. (1) The Registrar of the Board must give a copy of every application for a licence or for the renewal of a licence to the Chief Commissioner of Police. 25

(2) The Chief Commissioner of Police must cause appropriate enquiries to be made in relation to each application and report the results of those enquiries to the Registrar.

Board must be satisfied as to suitability of applicant.

24. The Board must not grant a licence to a person to operate a brothel or renew such a licence unless the Board is satisfied that the personal character of the proposed licensee is such that he or she is a proper person to carry on the business of operating a brothel. 30

Effect and duration of licence.

25. (1) A licence authorises the licensee during the currency of the licence to carry on the business of operating a brothel at the place endorsed on the licence. 35

(2) A licence—

(*a*) is personal to the licensee;

(*b*) is not transferable to any other person; 40

(*c*) does not vest by operation of law in any other person.

(3) A licence remains in force for 3 years commencing on the date on which it was granted or renewed, unless it is sooner cancelled.

Application for renewal of licence.

5 **26.** (1) The holder of a licence to operate a brothel may apply to the Board for the renewal of that licence.

(2) An application to the Board for the renewal of a licence—

(*a*) must be in writing in the prescribed form;

(*b*) must specify the prescribed matters;

10 (*c*) must be signed by the licensee;

(*d*) must be accompanied by—

(i) the prescribed renewal fee;

(ii) any permits required under the *Town and Country Planning Act* 1961 to authorise the use of the land for

15 the purposes of the operation of a brothel;

(*e*) must be made not earlier than 6 months and not later than 3 months before the expiry of the licence.

(3) If before an application for the renewal of a licence is determined a change occurs in any of the particulars specified in the application,

20 the applicant must, as soon as possible after the occurrence of the change, give to the Board written notice of the change signed by the applicant.

(4) If an application for the renewal of a licence is withdrawn before it has been determined, the Board may, in its absolute discretion,

25 refund (wholly or partly) the fee that accompanied the application.

(5) A person must not make in, or in relation to, an application for the renewal of a licence any statement that is false or misleading by reason of the inclusion in the statement of false or misleading matter or of the omission from the statement of any material matter.

30 Penalty: 60 penalty units.

(6) It is a defence to a charge under sub-section (5) for the accused to prove that at the time the offence is alleged to have been committed—

(*a*) the accused believed on reasonable grounds that the false matter was true or that the misleading matter was not

35 misleading, as the case requires; or

(*b*) in the case of an omission—

(i) the accused believed on reasonable grounds that no matter had been omitted the omission of which would make the statement false or misleading; or

40 (ii) the accused did not know that the omitted matter was material.

Cancellation or suspension of licence.

27. (1) The Board must, on the application of an authorised member of the police force or without any such application, cancel a licence if it is satisfied that since the granting or renewal of the licence—

(*a*) the licensee was convicted of an offence under the *Drugs, Poisons and Controlled Substances Act* 1981 or a corresponding law;

(*b*) the licensee was convicted of an indictable offence punishable by imprisonment for 12 months or more or of an offence which, if committed in Victoria, would have been an indictable offence punishable by imprisonment for 12 months or more;

(*c*) the licensee was convicted of an offence under section 7; or

(*d*) the licensee has served a sentence of imprisonment, whether in Victoria or outside Victoria.

(2) The Board may, on the application of an authorised member of the police force or without any such application, suspend for such time as it thinks fit or cancel a licence if it is satisfied that—

(*a*) any condition of a permit granted under the *Town and Country Planning Act* 1961 authorising the use of the land for the purposes of the operation of a brothel has not been complied with;

(*b*) the licensee was convicted of an offence under section 12 or 17;

(*c*) the licensee was convicted of an offence under the regulations made under section 141A of the *Health Act* 1958;

(*d*) the brothel has been managed in such a way that it is desirable that the licence should be suspended or cancelled;

(*e*) an offence under the *Drugs, Poisons and Controlled Substances Act* 1981 or any indictable offence punishable by imprisonment for 12 months or more has been committed in the brothel.

(3) Nothing in paragraph (*a*) of sub-section (2) affects any action which might be taken under any other Act or law in respect of the matter referred to in that paragraph.

Approval of manager.

28. (1) The licensed operator of a brothel may at any time apply to the Board in writing for the approval of a person as a manager of the brothel.

(2) The Board must not approve of a person as a manager of a brothel unless the Board is satisfied that the person is eligible to apply for and obtain a licence under this Part.

(3) If the Board approves of a person under this section it must cause a certificate of approval to be issued to that person.

(4) A certificate of approval remains in force for 3 years commencing on the date on which it was issued or renewed, unless it is sooner cancelled.

(5) Not earlier than 6 months and not later than 3 months before the expiry of the approval of a person as a manager of a brothel, the licensed operator of the brothel may apply in writing to the Board for the renewal of that approval.

(6) The Registrar of the Board must give a copy of every application under this section to the Chief Commissioner of Police.

(7) The Chief Commissioner of Police must cause appropriate enquiries to be made in relation to each application and report the results of those enquiries to the Registrar.

Cancellation or suspension of approval of manager.

29. (1) The Board must, on the application of an authorised member of the police force or without any such application, cancel the approval of a person as a manager of a brothel if it is satisfied that since the issue of the certificate of approval—

(*a*) the approved person was convicted of an offence under the *Drugs, Poisons and Controlled Substances Act* 1981 or a corresponding law;

(*b*) the approved person was convicted of an indictable offence punishable by imprisonment for 12 months or more or of an offence which, if committed in Victoria, would have been an indictable offence punishable by imprisonment for 12 months or more;

(*c*) the approved person was convicted of an offence under section 7; or

(*d*) the approved person has served a sentence of imprisonment, whether in Victoria or outside Victoria.

(2) The Board may, on the application of an authorised member of the police force or without any such application, suspend for such time as it thinks fit or cancel the approval of a person as a manager of a brothel if it is satisfied that, since the issue of the certificate of approval, the approved person has managed the brothel in such a way that it is desirable that his or her approval should be suspended or cancelled.

Limitation of judicial review.

30. (1) An application may be made to the Administrative Appeals Tribunal established by the *Administrative Appeals Tribunal Act* 1984 for review of a decision of the Board—

(*a*) suspending or cancelling a licence to operate a brothel under section 27 (2); or

(*b*) suspending or cancelling the approval of a person as a manager of a brothel under section 29 (2).

(2) Nothing in section 29 of the *Administrative Appeals Tribunal Act* 1984 requires the disclosure by the Board of any information or matter communicated to it on a confidential basis, whether by any member of the police force or by any other person.

(3) Subject to sub-section (1), a proceeding or purported proceeding or decision or purported decision of the Board is not liable to be challenged, appealed against, reviewed, quashed or called in question in any court on any account.

(4) The Board is not a tribunal within the meaning of the *Administrative Law Act* 1978.

Procedure and powers of Board.

31. (1) In exercising its functions under this Part the Board—

(*a*) must act fairly and according to equity and good conscience without regard to technicalities or legal forms;

(*b*) is not required to conduct itself in a formal manner;

(*c*) is not bound by rules or practice as to evidence but may inform itself in relation to any matter in such manner as it thinks fit;

(*d*) is not required to hear any party to a matter before it;

(*e*) may determine the manner in which any party to a matter before it is to be heard;

(*f*) is not required to inform any party to a matter before it of the case made against that party.

(2) The Board has the powers conferred by sections 14, 15, 16, 20, 20A and 21A of the *Evidence Act* 1958 and by any rules or orders made under section 20 (4) of that Act on a board appointed by the Governor in Council.

(3) Subject to this Act and the regulations, the procedure of the Board is in its discretion.

Determination of questions before Board.

32. A question before the Board shall be decided according to the opinion of a majority of the members constituting the Board.

Proceeding or decision of Board not invalid by reason of vacancy, etc.

33. A proceeding or decision of the Board is not invalid by reason only of a vacancy in the office of a member or a defect or irregularity relating to the appointment of a member or, in the case of a person

appointed to act for a member, on the ground that the occasion for that person so acting had not arisen or had ceased.

Register.

34. (1) The Registrar of the Board must enter in a register full particulars of—

(*a*) the granting of a licence to operate a brothel;

(*b*) the renewal of a licence to operate a brothel;

(*c*) the cancellation or suspension of a licence to operate a brothel;

(*d*) the approval of a person as a manager of a brothel;

(*e*) the renewal of the approval of a person as a manager of a brothel;

(*f*) the cancellation or suspension of the approval of a person as a manager of a brothel.

(2) An authorised member of the police force may without fee, and any other person may on payment of the prescribed fee, at any reasonable time inspect the register and take a copy of any entry in it.

(3) If the Registrar is satisfied that any particular in an entry in the register is incorrect, the Registrar may correct the incorrect particular and, if the Registrar does so, the Registrar must sign the correction and mark it with the date on which it was made.

Production of licences and certificates of approval.

35. (1) The holder of a licence to operate a brothel or of a certificate of approval must on demand produce that licence or certificate to an authorised member of the police force.

(2) A person must not, without reasonable excuse, refuse or fail to produce a licence or certificate when required to do so under sub-section (1).

Penalty: 10 penalty units.

Entry to premises by police.

36. (1) An authorised member of the police force may at any reasonable time enter and inspect a brothel in respect of which a licence issued under this Part is in force.

(2) If an authorised member of the police force demands entry to a brothel under the power conferred by sub-section (1) and entry is refused or is delayed for such time as reasonably to lead to the inference that wilful delay is intended, the authorised member of the police force may break into the brothel.

(3) A person must not prevent or attempt to prevent an authorised member of the police force from entering or inspecting a brothel under

the powers conferred by this section or obstruct an authorised member of the police force in the exercise of those powers.

Penalty: 20 penalty units.

Declaration of proscribed brothel.

37. (1) An authorised member of the police force may apply to a Magistrates' Court for a place to be declared to be a proscribed brothel.

(2) At least 72 hours before the hearing of an application under sub-section (1) notice of it—

(*a*) must be served on the owner or occupier of the place which is the subject of the application; or

(*b*) must be published in a newspaper generally circulating in the locality in which that place is situated.

(3) A Magistrates' Court must not make a declaration under this section unless it is satisfied that sub-section (2) has been complied with.

(4) Sub-section (2) (*a*) is to be taken to be complied with if notice of the application is posted in a prepaid letter addressed to "the owner" or "the occupier" (without name or further description) and bearing such an address or description of the place which is the subject of the application as should ensure the delivery of the letter at that place.

(5) The Magistrates' Court to which an application under sub-section (1) is made may declare a place to be a proscribed brothel if it is satisfied on the balance of probabilities that the place is a brothel to which this Part applies and that the person carrying on the business of operating that brothel does not hold a current licence issued under this Part authorising the carrying on of that business.

(6) A Magistrates' Court may declare a place to be a proscribed brothel either for an unlimited period or for a period specified by it and the declaration remains in force accordingly unless it is sooner rescinded.

(7) On the application of—

(*a*) the owner, the occupier or a mortgagee of a place declared to be a proscribed brothel; or

(*b*) an authorised member of the police force—

a Magistrates' Court may rescind a declaration made under this section and the rescission may be made subject to such terms, conditions, limitations or restrictions (including the giving of security to ensure that the place will not again be used as a brothel unless the person carrying on the business of operating it holds a current licence issued under this Part) as the court thinks fit.

(8) At least 72 hours before the hearing of an application under sub-section (7) (*a*) notice of it must be served on a superintendent or inspector of police stationed within the police district in which the place concerned is situated.

(9) The Clerk of the Magistrates' Court must cause to be published in the *Government Gazette* notice of the making of a declaration or of its rescission, including any terms, conditions, limitations or restrictions subject to which the rescission was made.

5 (10) In any proceedings under this Part the production of a copy of the *Government Gazette* containing a notice under sub-section (9) is evidence and, in the absence of evidence to the contrary, is proof that the declaration or rescission was duly made.

Publication of notice in newspaper, etc.

10 **38.** (1) As soon as possible after the making of a declaration under section 37 with respect to a place, the Chief Commissioner of Police—

(*a*) must cause a notice of the making of the declaration to be published on two days in a newspaper generally circulating in the locality in which that place is situated; and

15 (*b*) must cause a notice of the making of the declaration to be served personally on the owner, the occupier or a mortgagee of that place or if, in the opinion of the Chief Commissioner such personal service cannot be promptly effected, the notice may be served by posting it in a prepaid letter addressed to 20 "the owner" or "the occupier" (without name or further description) and bearing such an address or description of the place as should ensure the delivery of the letter at that place; and

(*c*) must cause a copy of the declaration to be posted up at or 25 near to the entrance to that place so as to be visible and legible to any person entering that place.

(2) In any proceedings under this Part the production of a copy of a newspaper containing a notice published under sub-section (1) (*a*) is evidence and, in the absence of evidence to the contrary, is proof that 30 the notice was duly published in that newspaper on the date appearing on that newspaper.

(3) A person must not cover, remove, deface or destroy a copy of a declaration posted up under sub-section (1) (*c*).

Penalty: 25 penalty units or imprisonment for six months.

35 (4) The fact—

(*a*) that there has been a failure to comply with sub-section (1); or

(*b*) that a declaration posted up under sub-section (1) (*c*) has been covered, removed, defaced or destroyed—

40 cannot be relied on as a defence in any proceedings under this Part.

Offence to be found in, entering or leaving a proscribed brothel.

39. (1) Any person found in or entering or leaving a place declared to be a proscribed brothel under section 37 at any time after section 38 (1) (*a*) has been complied with and while the declaration is in force may be arrested without warrant by any authorised member of the police force and taken before a justice.

(2) A person found in or entering or leaving a place declared to be a proscribed brothel in the circumstances referred to in sub-section (1) is guilty of an offence and liable to a penalty of not more than 25 penalty units.

(3) It is a defence to a charge under sub-section (2) for the accused to prove that he or she was in or entering or leaving the place in ignorance of the making of the declaration or for some lawful purpose.

(4) A person who has previously been convicted of an indictable offence and who is found in or entering or leaving a place declared to be a proscribed brothel in the circumstances referred to in sub-section (1) is guilty of an offence and liable to a penalty of not less than 1 penalty unit nor more than 50 penalty units or to imprisonment for a term of not less than 14 days nor more than 12 months.

(5) An information for an offence under this section must be in the prescribed form.

(6) No business, trade, profession or occupation of any kind may be carried on, exercised or conducted in any place with respect to which a declaration under section 37 is in force.

Penalty on owner or occupier.

40. (1) If—

(*a*) a place is declared to be a proscribed brothel under section 37; and

(*b*) the owner or occupier of the place has been served under section 38 (1) (*b*) with a notice of the making of the declaration; and

(*c*) while the declaration is in force the place is used as a brothel—

the owner or occupier, as the case requires, is guilty of an offence and liable to a penalty of not more than 25 penalty units.

(2) It is a defence to a charge under sub-section (1) for the accused to prove that the accused took all reasonable steps to prevent the place being used as a brothel.

Police power of entry to proscribed brothel.

41. (1) While a declaration made under section 37 is in force with respect to a place, any authorised member of the police force may at any time after section 38 (1) (*a*) has been complied with—

(*a*) enter that place; or

(*b*) pass through or over any other land or building in order to enter that place—

and for that purpose may break open any doors or windows of that place or partitions in that place or do such other acts as may be necessary.

(2) An authorised member of the police force exercising a power under sub-section (1) must, on request, produce—

(*a*) evidence of his or her status as an authorised member of the police force; and

(*b*) a copy of the declaration made under section 37.

Evidentiary provisions.

42. (1) A certificate in the prescribed form purporting to be signed by the Registrar of the Board certifying as to any matter which appears in or can be deduced from the register kept under section 34 is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters contained in it.

(2) A certificate purporting to be signed by the Chief Commissioner of Police certifying that a member of the police force named in it is an authorised member of the police force for the purposes of this Part is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that the person named in it is an authorised member of the police force for the purposes of this Part.

Offences by corporation.

43. If a corporation is guilty of an offence against this Part any officer of the corporation who was in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for that offence.

Secrecy.

44. (1) This section applies to—

(*a*) a member of the Board;

(*b*) a member of the police force;

(*c*) a person appointed under section 20;

(*d*) a person in the public service who is assisting the Board or a person appointed under section 20;

(*e*) any other person whose services are being made use of by the Board.

(2) A person to whom this section applies must not either directly or indirectly, except in legal proceedings or in the performance of a duty under or in connection with this Act, make a record of, or divulge

or communicate to any person, any information concerning any person acquired by that person by reason of that person's office or employment under or for the purposes of this Part.

Penalty: 5 penalty units.

Protection for things done under this Part. 5

45. No action lies against a person to whom section 44 applies on account of any proceedings taken, any publication made or anything done under the authority of this Part or taken, made or done in good faith purportedly under the authority of this Part or on account of any omission made in good faith in the administration of this Part. 10

Brothel Licensing Board Fund.

46. (1) There is to be established in the Public Account as part of the Trust Fund a Trust Account to be called the Brothel Licensing Board Fund.

(2) The following must be paid into the Fund: 15

(*a*) All fees paid under this Act;

(*b*) All penalties paid under this Act;

(*c*) All money appropriated by Parliament for the purposes of this Act;

(*d*) All other money received by the Board. 20

(3) The following must be paid out of the Fund:

(*a*) Any money required or permitted by or under this Act to be paid out of the Fund;

(*b*) The cost of administering this Act.

Accounts and records. 25

47. (1) The Board must ensure that there are kept proper accounts and records of the transactions and affairs of the Board and such other records as sufficiently explain the financial operations and financial position of the Board.

(2) The Board must do all things necessary to do each of the following: 30

(*a*) Ensure that all money payable to the Board is properly collected;

(*b*) Ensure that all money expended by the Board is properly expended and properly authorised; 35

(*c*) Ensure that adequate control is maintained over assets owned by, or in the custody of, the Board;

(*d*) Ensure that all liabilities incurred by the Board are properly authorised;

(*e*) Ensure that efficiency and economy of operations are achieved and waste and extravagance are avoided;

(*f*) Develop and maintain an adequate budgeting and accounting system;

5 (*g*) Develop and maintain an adequate internal control system.

Audit.

48. (1) The accounts and records of the Board must be audited at least once in each year by the Auditor-General.

(2) The Auditor-General has, in respect of that audit, all the powers 10 conferred on the Auditor-General by any law relating to the audit of the public accounts.

(3) Without limiting sub-section (2), the Auditor-General and the officers of the Auditor-General—

(*a*) have right of access at all times to the books of the Board; 15 and

(*b*) may require from an officer or employee of the Board any information, assistance and explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.

20 (4) The Board must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General under this section.

Regulations.

49. The Governor in Council may make regulations for or with 25 respect to—

(*a*) prescribing fees;

(*b*) prescribing the procedure of the Board;

(*c*) prescribing matters to be included in applications made under this Part;

30 (*d*) prescribing forms including the form of information for an offence under section 39;

(*e*) generally prescribing any other matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

35 **PART 4—PLANNING CONTROLS ON BROTHELS**

Definitions.

50. (1) In this Part **"brothel"** does not include a detached dwelling-house (other than a flat or home unit) which one prostitute only uses for the purpose of prostitution and in which that prostitute resides

unless that dwelling-house is associated with another such dwelling-house or other brothel.

(2) For the purposes of the definition of **"brothel"** a dwelling-house is to be taken to be associated with another dwelling-house or other brothel if they are operated by the same person or if one is operated by a person and the other is operated by a person who is— 5

(*a*) if that person is a corporation, a related corporation within the meaning of the *Companies (Victoria) Code* or a director or secretary, or a spouse or defacto partner of a director or secretary, of that corporation or the related corporation; or 10

(*b*) a spouse or defacto partner of that person; or

(*c*) a business partner of that person; or

(*d*) a person who has entered into a business arrangement or relationship with that person in respect of the use, occupation, management or otherwise of a brothel. 15

(3) Words and expressions in this Part have the same meanings as they have in the *Town and Country Planning Act* 1961.

Matters to be considered in determining application for permit for a brothel.

51. In considering an application under the *Town and Country Planning Act* 1961 for a permit for the use of land for the purposes of the operation of a brothel the responsible authority must take account of (amongst other things) the following matters: 20

(*a*) The size of the proposed brothel, the number of persons proposed to be employed in it, its proposed method of operation and hours of operation; 25

(*b*) The proximity of the proposed brothel to—

(i) a building used for residential purposes;

(ii) a church, hospital or other community facility;

(iii) any other brothel; 30

(iv) land being used for any other purpose that involves similar hours of operation and creates similar amounts of noise or traffic (including pedestrian traffic);

(*c*) Any guidelines about the location of brothels issued by the Minister administering that Act. 35

Restriction on the granting of brothel permits.

52. A responsible authority must not grant a permit for the use of land for the purposes of the operation of a brothel under the *Town and Country Planning Act* 1961 if the land is within 100 metres (measured

according to the nearest route ordinarily used in travelling) of a kindergarten or a primary or secondary school.

Offences under *Town and Country Planning Act* 1961 in relation to brothels.

5 **53.** (1) Despite section 49 (1A) of the *Town and Country Planning Act* 1961, if a person is found guilty under section 49 (1) of that Act of an offence in relation to land used for the purpose of the operation of a brothel, that person is liable to a penalty of—

(*a*) not more than 60 penalty units for a first offence; and

10 (*b*) not more than 90 penalty units for a second or subsequent offence—

and, if the contravention or failure constituting the offence is of a continuing nature, to a further penalty of not more than 6 penalty units for each day during which the contravention or failure continues after 15 conviction.

(2) If a person is found guilty of an offence referred to in sub-section (1), the court may declare that the person or an associate of the person is not eligible, during a period of not more than 10 years after the conviction, to hold a permit granted by a responsible authority 20 under the *Town and Country Planning Act* 1961 for the use of land for the purposes of the operation of a brothel.

(3) A reference to sub-section (2) to an associate of a person is a reference to—

(*a*) if the person is a corporation, a related corporation within 25 the meaning of the *Companies (Victoria) Code*; or

(*b*) a spouse or defacto partner of the person; or

(*c*) a business partner of the person; or

(*d*) a person who has entered into a business arrangement or relationship with the person in respect of the use, occupation, 30 management or otherwise of any land.

Power to enter brothels.

54. (1) Despite section 49A (1) of the *Town and Country Planning Act* 1961, an authorised officer of a responsible authority may under that sub-section enter a building or land which the authorised officer 35 believes on reasonable grounds is being used for the purpose of the operation of a brothel without obtaining the consent or giving the notice mentioned in that sub-section.

(2) All members of the police force are required, on the request of an authorised officer of a responsible authority, to assist that officer in 40 the execution of his or her power under section 49A (1) of the *Town and Country Planning Act* 1961 to enter a building or land which the authorised officer believes on reasonable grounds is being used for the purpose of the operation of a brothel.

(3) A person must not—

(*a*) obstruct or hinder; or

(*b*) refuse admission to a building or land to—

a member of the police force assisting an authorised officer of a responsible authority under sub-section (2). 5

Penalty: 5 penalty units.

Declaration of proscribed brothel.

55. (1) An authorised officer of the responsible authority may apply to a Magistrates' Court for a place to be declared to be a proscribed brothel if that officer has reasonable grounds for suspecting that the 10 place is used as a brothel and that there has or have not been issued, or is or are not in force, such permit or permits as are required under the *Town and Country Planning Act* 1961 to authorise the use of the land for the purposes of the operation of a brothel.

(2) At least 72 hours before the hearing of an application under 15 sub-section (1) notice of it—

(*a*) must be served on the owner or occupier of the place which is the subject of the application; or

(*b*) must be published in a newspaper generally circulating in the locality in which that place is situated. 20

(3) A Magistrates' Court must not make a declaration under this section unless it is satisfied that sub-section (2) has been complied with.

(4) Sub-section (2) (*a*) is to be taken to be complied with if notice of the application is posted in a prepaid letter addressed to "the owner" or "the occupier" (without name or further description) and bearing 25 such an address or description of the place which is the subject of the application as should ensure the delivery of the letter at that place.

(5) The Magistrates' Court to which an application under sub-section (1) is made may declare a place to be a proscribed brothel if it is satisfied on the balance of probabilities as to the existence of the 30 circumstances referred to in that sub-section.

(6) A Magistrates' Court may declare a place to be a proscribed brothel either for an unlimited period or for a period specified by it and the declaration remains in force accordingly unless it is sooner rescinded.

(7) On the application of— 35

(*a*) the owner, the occupier or a mortgagee of a place declared to be a proscribed brothel; or

(*b*) an authorised officer of the responsible authority or an authorised member of the police force—

a Magistrates' Court may rescind a declaration made under this section 40 and the rescission may be made subject to such terms, conditions, limitations or restrictions (including the giving of security to ensure

that the place will not again be used as a brothel unless there is or are in force such permit or permits as are required under the *Town and Country Planning Act* 1961) as the court thinks fit.

(8) At least 72 hours before the hearing of an application under sub-section (7) notice of it must be served on the responsible authority and on a superintendent or inspector of police stationed within the police district in which the place concerned is situated.

(9) The Clerk of the Magistrates' Court must cause to be published in the *Government Gazette* notice of the making of a declaration or of its rescission, including any terms, conditions, limitations or restrictions subject to which the rescission was made.

(10) In any proceedings under this Part the production of a copy of the *Government Gazette* containing a notice under sub-section (9) is evidence and, in the absence of evidence to the contrary, is proof that the declaration or rescission was duly made.

Publication of notice in newspaper, etc.

56. (1) As soon as possible after the making of a declaration under section 55 with respect to a place, the responsible authority—

(*a*) must cause a notice of the making of the declaration to be published on two days in a newspaper generally circulating in the locality in which that place is situated; and

(*b*) must cause a notice of the making of the declaration to be served personally on the owner, the occupier or a mortgagee of that place or if, in the opinion of an authorised officer of the responsible authority such personal service cannot be promptly effected, the notice may be served by posting it in a prepaid letter addressed to "the owner" or "the occupier" (without name or further description) and bearing such an address or description of the place as should ensure the delivery of the letter at that place; and

(*c*) must cause a copy of the declaration to be posted up at or near to the entrance to that place so as to be visible and legible to any person entering that place.

(2) In any proceedings under this Part the production of a copy of a newspaper containing a notice published under sub-section (1) (*a*) is evidence and, in the absence of evidence to the contrary, is proof that the notice was duly published in that newspaper on the date appearing on that newspaper.

(3) A person must not cover, remove, deface or destroy a copy of a declaration posted up under sub-section (1) (*c*).

Penalty: 25 penalty units or imprisonment for six months.

(4) The fact—

(*a*) that there has been a failure to comply with sub-section (1); or

(*b*) that a declaration posted up under sub-section (1) (*c*) has been covered, removed, defaced or destroyed—

cannot be relied on as a defence in any proceedings under this Part. 5

Offence to be found in, entering or leaving a proscribed brothel.

57. (1) Any person found in or entering or leaving a place declared to be a proscribed brothel under section 55 at any time after section 56 (1) (*a*) has been complied with and while the declaration is in force may be arrested without warrant by any authorised member of the police 10 force and taken before a justice.

(2) A person found in or entering or leaving a place declared to be a proscribed brothel in the circumstances referred to in sub-section (1) is guilty of an offence and liable to a penalty of not more than 25 penalty units. 15

(3) It is a defence to a charge under sub-section (2) for the accused to prove that he or she was in or entering or leaving the place in ignorance of the making of the declaration or for some lawful purpose.

(4) A person who has previously been convicted of an indictable offence and who is found in or entering or leaving a place declared to 20 be a proscribed brothel in the circumstances referred to in sub-section (1) is guilty of an offence and liable to a penalty of not less than 1 penalty unit nor more than 50 penalty units or to imprisonment for a term of not less than 14 days nor more than 12 months.

(5) An information for an offence under this section must be in the 25 prescribed form.

(6) No business, trade, profession or occupation of any kind may be carried on, exercised or conducted in any place with respect to which a declaration under section 55 is in force.

Penalty on owner or occupier. 30

58. (1) If—

(*a*) a place is declared to be a proscribed brothel under section 55; and

(*b*) the owner or occupier of the place has been served under section 56 (1) (*b*) with a notice of the making of the 35 declaration; and

(*c*) while the declaration is in force the place is used as a brothel—

the owner or occupier, as the case requires, is guilty of an offence and liable to a penalty of not more than 25 penalty units. 40

(2) It is a defence to a charge under sub-section (1) for the accused to prove that the accused took all reasonable steps to prevent the place being used as a brothel.

Police power of entry to proscribed brothel.

5 **59.** (1) While a declaration made under section 55 is in force with respect to a place, any authorised member of the police force may at any time after section 56 (1) (*a*) has been complied with—

(*a*) enter that place; or

(*b*) pass through or over any other land or building in order to
10 enter that place—

and for that purpose may break open any doors or windows of that place or partitions in that place or do such other acts as may be necessary.

(2) An authorised member of the police force exercising a power
15 under sub-section (1) must, on request, produce—

(*a*) evidence of his or her status as an authorised member of the police force; and

(*b*) a copy of the declaration made under section 55.

Certain statements to be admissible as evidence.

20 **60.** A statement made by a person who appears to be—

(*a*) managing; or

(*b*) assisting in the management of; or

(*c*) in control of—

land used for the purpose of the operation of a brothel is admissible as
25 evidence against the lessee or occupier of the land in any proceedings under section 49 of the *Town and Country Planning Act* 1961 or in any proceedings for an injunction in respect of that use.

Regulations.

61. The Governor in Council may make regulations for or with
30 respect to any matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.

Repeal of provisions of *Town and Country Planning Act* 1961 relating to brothels.

62. (1) The *Town and Country Planning Act* 1961 is amended as
35 follows:

No. 6849 Reprinted to N0. 10262. Subsequently amended by No. 67/1986.

(*a*) In section 3 (1) the definition of "brothel" is repealed;

(*b*) Section 27A is repealed;

(*c*) For sub-sections (1A), (1B) and (1C) of section 49 substitute—

"(1A) A person found guilty of an offence under sub-section (1) is liable to a penalty of—

(*a*) not more than 20 penalty units for a first offence; and

(*b*) not more than 30 penalty units for a second or subsequent offence—

and, if the contravention or failure constituting the offence is of a continuing nature, to a further penalty of not more than 2 penalty units for each day during which the contravention or failure continues after conviction.";

(*d*) For section 49A (1) substitute—

"(1) For the purpose of carrying this Act into execution or of enforcing or carrying out any interim development order or planning scheme or any agreement made pursuant to section 52A or of ascertaining whether any provision of this Act or of any interim development order or planning scheme or of any agreement made pursuant to section 52A is being contravened any authorised officer of the responsible authority may, with the consent of the occupier or, in the absence of any such consent, after giving two clear days notice to the occupier (if any) enter upon any building or land at any reasonable time and neither the responsible authority nor its authorised officer shall be liable to any legal proceedings on account of any such entry.";

(*e*) Section 49A (1A) is repealed;

(*f*) In section 49A (2) omit "or a member of the police force";

(*g*) Sections 49C to 49O are repealed;

(*h*) The Fourth Schedule is repealed.

(2) For the avoidance of doubt it is declared that the several sections inserted in the *Town and Country Planning Act* 1961 by section 7 (1) of the *Planning (Brothels) Act* 1984 came into operation as follows:

(*a*) Sections 49D and 49E on 2 July 1984;

(*b*) Sections 49C,49F,49G,49H,49I,49J,49K,49L,49M,49N and 49O on 1 July 1985.

PART 5—AMENDMENTS RELATING TO HEALTH ASPECTS OF PROSTITUTION

Definition of brothel and prostitution.

63. Section 3 of the *Health Act* 1958 is amended as follows:

(*a*) After the definition of "boarding-house" insert—

'**"Brothel"** means land to which people resort for the purpose of prostitution.';

(*b*) After the definition of "proof spirit" insert—

' **"Prostitution"** has the same meaning as in the *Prostitution Regulation Act* 1986.'.

New section 139E inserted in *Health Act* 1958.

5 **64.** After section 139D of the *Health Act* 1958 insert—

Certificate of freedom from infection not to be given to prostitute or used for purpose of prostitution.

"139E. (1) A medical practitioner must not give to a person whom the medical practitioner knows is a prostitute a certificate signifying or 10 implying that the prostitute is not infected with a sexually transmitted disease within the meaning of section 135A (1).

(2) A person must not for the purpose of or in relation to prostitution make use of a certificate given by a medical practitioner which signifies or implies that the person to whom the certificate refers is not infected 15 with a sexually transmitted disease within the meaning of section 135A (1).".

New section 141A inserted in *Health Act* 1958.

65. After section 141 of the *Health Act* 1958 insert—

Regulations as to brothels.

20 "141A. The Governor in Council may make regulations for or with respect to—

(*a*) the cleanliness of brothels;

(*b*) the inspection of brothels;

(*c*) requiring the provision in brothels of information about 25 sexually transmitted diseases within the meaning of the *Prostitution Regulation Act* 1986;

(*d*) requiring registered contraceptives of a specified class or classes to be available in brothels for the use of the clients of prostitutes;

30 (*e*) generally, safeguarding the health of prostitutes working in brothels and of their clients.".

Exhibition, etc. of contraceptives.

66. Section 270L of the *Health Act* 1958 is repealed.

Advertising of contraceptives.

35 **67.** (1) Section 270M of the *Health Act* 1958 is amended as follows:

(*a*) In sub-section (1) omit "and the statement is approved by the Chief General Manager under this section either

generally or for a use authorizing that insertion, exhibition, sending or delivery";

(*b*) Sub-sections (2), (3) and (4) are repealed.

(2) Section 270N of the *Health Act* 1958 is amended as follows:

(*a*) In sub-section (2) for "is not approved under section 270M" substitute "contravenes section 270M";

(*b*) In sub-section (6) (*c*) omit "approved for the purposes of sub-section (2) of section 270L";

(*c*) In sub-section (6) (*d*) (iii) omit "approved for the purposes of sub-section (2) of section 270L".

(3) In section 270O of the *Health Act* 1958 paragraph (*e*) is repealed.

PART 6—REPEAL OF OTHER PROVISIONS RELATING TO PROSTITUTION

Crimes Act 1958.

No. 6231. Reprinted to No. 10094 Subsequently amended by Nos. 10152, 10233, 10244, 10249, 10260, 16/1986 and 37/1986.

68. The *Crimes Act* 1958 is amended as follows:

(*a*) In section 2A (1) the definitions of "brothel" and "prostitute" are repealed;

(*b*) In section 59 (1) paragraphs (*c*) and (*d*) are repealed;

(*c*) Section 59A is repealed;

(*d*) Section 61 is repealed;

(*e*) Section 471 is repealed.

Maintenance Act 1965.

No. 7289. Reprinted to No. 9019. Subsequently amended by Nos. 9554 and 16/1986.

69. In section 27 (2) of the *Maintenance Act* 1965 omit "was a common prostitute or".

Summary Offences Act 1966.

No. 7405. Reprinted to No. 9928. Subsequently amended by Nos, 9945, 10012, 10087, 10094 and 10262.

70. The *Summary Offences Act* 1966 is amended as follows:

(*a*) Sections 18, 18A, 18AA and 18B are repealed;

(*b*) In section 20 (1) omit "prostitutes or".

Vagrancy Act 1966.

No. 7393. Reprinted to No. 10094.

71. The *Vagrancy Act* 1966 is amended as follows:

(*a*) In section 6 (1) (*c*) omit "or known prostitutes";

(*b*) Sections 10, 11, 12 and 12A are repealed.

***Liquor Control Act* 1968.**

72. Section 110 of the *Liquor Control Act* 1968 is amended as follows:

No. 7695. Reprinted to No. 10130. Subsequently amended by Nos. 10176, 10184, 10211, 10262, 16/1986, 49/1986 and 59/1986.

(*a*) In sub-section (1) (*g*) omit "prostitutes or";

5 (*b*) In sub-section (4) omit "prostitute or" (where twice occurring).

Common law offence of keeping a disorderly house.

73. (1) The offence at common law of keeping a disorderly house is abolished except as regards offences alleged to have been committed 10 before the commencement of this sub-section.

(2) Section 13 of the *Planning (Brothels) Act* 1984 is repealed.

PART 7—REMOVAL OF REQUIREMENT FOR CORROBORATION IN PROCURATION CASES

Removal of requirement for corroboration in procuration cases.

15 **74.** Section 59 (2) of the *Crimes Act* 1958 is repealed.

PART 8—INDICTABLE OFFENCES UNDER PART 2 TO BE TRIABLE SUMMARILY

Indictable offences under Part 2 to be triable summarily.

75. In section 69 (1) of the *Magistrates' Courts Act* 1971 after 20 paragraph (*q*) insert—

"(*r*) with an offence against section 6, 8, 9, 10 or 11 of the *Prostitution Regulation Act* 1986—".

PART 9—AMENDMENTS CONSEQUENTIAL ON *PLANNING AND ENVIRONMENT ACT* 1986

25 ***Planning and Environment Act* 1986.**

76. On the commencement of the *Planning and Environment Act* 1986 (other than Part 1 and section 224) this Act is amended as follows:

(*a*) In sections 22 (1) (*d*) (ii), 26 (2) (*d*) (ii), 27 (2) (*a*), 50 (3), 51, 52, 53 (2), 55 (1) and 55 (7) for "*Town and Country Planning* 30 *Act* 1961" substitute "*Planning and Environment Act* 1986";

(*b*) In section 53 (1) for "section 49 (1A) of the *Town and Country Planning Act* 1961, if a person is found guilty under section 49 (1) of" substitute "anything in the *Planning and Environment Act* 1986, if a person is found guilty under";

(*c*) For section 54 substitute—

Power to enter brothels.

"54. Section 150 of the *Planning and Environment Act* 1986 does not apply to an entry of land which an authorised person believes on reasonable grounds is being used for the purpose of the operation of a brothel.";

(*d*) In section 60 for "under section 49 of the *Town and Country Planning Act* 1961" substitute "for an offence against the *Planning and Environment Act* 1986".

SCHEDULE 1

Section 18 (5).

PROVISIONS WITH RESPECT TO MEMBERS OF BROTHEL LICENSING BOARD

1. Each member of the Board—

(*a*) holds office for the period (not exceeding 3 years) specified in the instrument of that member's appointment;

(*b*) is eligible for re-appointment at the end of the term of office;

(*c*) not being the President, is entitled to be paid—

(i) such remuneration as is from time to time fixed by the Governor in Council;

(ii) such travelling and other allowances as are from time to time fixed by the Governor in Council;

(*d*) is not in respect of the office of member subject to the provisions of the *Public Service Act* 1974.

2. The Governor in Council may at any time remove or suspend a member from office.

3. The Governor in Council may, in the instrument of appointment of a member, specify terms and conditions of appointment.

4. A member may resign from office by delivering to the Governor in Council a signed letter of resignation.

(5) A person who has attained the age of 70 years is not capable of being appointed or re-appointed as a member.

(6) If a member—

(*a*) becomes bankrupt;

(*b*) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence;

(*c*) becomes incapable of performing the duties of office;

(*d*) is removed or resigns from office;

(*e*) attains the age of 70 years;

(*f*) dies—

the office of that member becomes vacant.

7. If—

(*a*) by reason of the ending of a member's term of office; or

(*b*) because a member attains the age of 70 years—

the appointment of the member ends at a time when the member is engaged in the determination of a matter by the Board, the period of appointment of that member continues until that matter has been determined by the Board.

8. If a member is ill or absent or is unable or unwilling for any reason to act as a member in respect of any particular matter before the Board, the Governor in Council may, on the nomination of the appropriate person referred to in section 18 (2), appoint an eligible person to act for that member during the illness or absence or in respect of that particular matter, as the case requires.

9. A person appointed to act for a member while so acting—

(*a*) has all the powers and may perform all the duties of the member for whom that person is acting; and

(*b*) is entitled to be paid—

(i) such remuneration as is from time to time fixed by the Governor in Council;

(ii) such travelling and other allowances as are from time to time fixed by the Governor in Council.

10. If a person has been appointed to act for a member and that appointment ends at a time when the acting member is engaged in the determination of a matter by the Board,

SCHEDULE 1—*continued*

the period of appointment of that person continues until that matter has been determined by the Board.

SCHEDULE 2 Section 18 (6).

PROVISIONS WITH RESPECT TO PRESIDENT OF BROTHEL LICENSING BOARD

1. The President—
   (*a*) holds office for the period for which he or she holds office as a member of the Board;
   (*b*) is eligible for re-appointment at the end of the term of office;
   (*c*) is entitled to be paid—
      (i) such remuneration as is from time to time fixed by the Governor in Council;
      (ii) such travelling and other allowances as are from time to time fixed by the Governor in Council;
   (*d*) is not in respect of the office of President subject to the provisions of the *Public Service Act* 1974.

2. The Governor in Council may at any time remove or suspend the President from the office of President.

3. The Governor in Council may, in the instrument of appointment of the President, specify terms and conditions of appointment.

4. The President may resign from the office of President by delivering to the Governor in Council a signed letter of resignation.

5. If the President is ill or absent, the Governor in Council may appoint another member of the panel (other than the member referred to in section 18 (2) (*a*)) to act for the President during the illness or absence.

6. A person appointed to act for the President while so acting—
   (*a*) has all the powers and may perform all the duties of the President; and
   (*b*) is for acting as the President entitled to be paid—
      (i) such remuneration as is from time to time fixed by the Governor in Council;
      (ii) such travelling and other allowances as are from time to time fixed by the Governor in Council.

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