



## HUMAN TRAFFICKING WORKING GROUP

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## BROTHEL LICENSING & MANAGEMENT IN QUEENSLAND

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To legally operate a brothel in Queensland, it is first required to obtain development approval for the premises and, second, to acquire the necessary license for the brothel operation and also a certificate if the management of the brothel is carried out by a second person. The development approval and the licensing application are separate processes carried out by separate agencies at different levels of government. Local authorities decide whether or not to grant development approval while the granting of licenses is performed by the PLA, a State agency. Applicants may, however, request that the issue of a license be postponed until development approval is granted and the premises have been established.

## 1. Development and maintenance requirements

Any person seeking to establish a brothel needs local authority planning approval. The details of development approval for brothels are set out in Part 4, ss 62-64V *Prostitution Licensing Act 1999* (Qld). The exact process and form of development applications can vary between local authorities.

Appeals against decisions on development applications are generally heard and decided by the Planning and Environment Court, established under the *Integrated Planning Act 1997* (Qld). Since 2001,<sup>1</sup> some appeals against decisions relating to applications for a material change of use of premises can be brought to the so-called Independent Assessor, appointed by the Minister under div 4, ss 64B–64J *Prostitution Act 1999* (Qld).<sup>2</sup>

### 1.1 Location

The development restrictions placed on brothels mostly relate to their location. The legislative framework seeks to ensure that brothels are kept away from children, residential areas, and places of worship. Local authorities cannot grant development approval if the chosen location of the brothel is within 200 metres of the closest boundary to any residential building<sup>3</sup> or any land approved for residential development, any place of worship, hospital, school, kindergarten, or ‘any other facility or place regularly frequented by children for recreational or cultural activities’, s 64(1) *Prostitution Act 1999* (Qld).

The development application also needs to comply with the *Integrated Planning Act 1997* which specifies general requirements about town planning and area use.<sup>4</sup> In addition, Schedule 3 of the *Prostitution Regulation 2000* (Qld) sets out a number of requirements relating to vehicular access, parking, access, and the outward appearance of brothels.

The legislation thus acknowledges the commercial nature of brothel operations and the fact that premises may be frequented by significant numbers of visitors, which may result in increased traffic and noise levels in their immediate vicinity. Given the severe restrictions placed on advertising and signage, it is unlikely that the physical presence of a brothel can be seen as offensive to any neighbourhood or that people in that area will become unwitting witnesses of the brothel services.

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<sup>1</sup> *Prostitution Amendment Act 2001* (Qld), No 77 of 2001.

<sup>2</sup> See further Queensland, PLA, *Annual Report 2007-08* (2008) 30.

<sup>3</sup> ‘Residential building’ is defined in s 64(2) *Prostitution Act 1999* (Qld).

<sup>4</sup> Section 63A *Prostitution Act 1999* (Qld).

To respect the interests of local communities, especially smaller towns, local governments of townships with a population of less than 25,000 can opt to prohibit any brothel in their territory. This requires an application by the local government to the Minister of Police to obtain her/his agreement to refuse all brothel applications for that township, s 64(c) *Prostitution Act 1999* (Qld). As of June 30, 2008, there were 204 exempt towns in Queensland.<sup>5</sup>

## 1.2 Size

Development restrictions also apply to the size of brothels. Any premises may have no more than five service rooms (used to provide prostitution), s 64(1)(d) *Prostitution Act 1999* (Qld).

The number of people permitted to be present and work in a brothel is dependent on the size of the premises. A brothel of the maximum size of five service rooms can have up to eight sex workers in the brothel at any one time.<sup>6</sup> The total number of staff must not exceed 13, including manager, receptionist, sex workers, and all other employees.<sup>7</sup> There is no limit placed on the number of clients being present at the brothel.

## 1.3 Advertising prostitution services

The *Prostitution Act 1999* (Qld) places rigid restrictions on the level and type of advertising for brothels and other prostitution services in Queensland, s 93 *Prostitution Act 1999* (Qld). Section 13A *Prostitution Regulation 2000* (Qld) sets out a range of matters that may not be included in prostitution advertisements such as images of sex acts, genitals, minors or animals. It also requires, inter alia, that advertisements display the official brothel name and contact number of the licensed premises.

Until May 29, 2008, the PLA had to consider and approve every prostitution advertisement before publication. Since May 30, 2008, a system of self-assessment is used, which enables prostitution service providers to check proposed advertisements against guidelines issued by the PLA, s 139A *Prostitution Act 1999* (Qld).<sup>8</sup> Some limited types of advertisements continue to require pre-approval by the PLA. These are specified in the guidelines and include, for example, advertisements displaying pictures of bondage equipment.

In addition to requirements relating to the form and contents of prostitution advertising, the legislation prohibits various types of advertising, especially those visible by great

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<sup>5</sup> Queensland, PLA, *Annual Report 2007-08* (Brisbane: PLA, 2008) 30. A complete list of exempt towns is available at [www.pla.qld.gov.au/theLaw/exempt.htm](http://www.pla.qld.gov.au/theLaw/exempt.htm) (viewed 22 Jan 2009).

<sup>6</sup> The number was raised from five to eight sex workers in 2007: *Prostitution Amendment Act 2006* (Qld), No 40 of 2006.

<sup>7</sup> The number was raised from ten to thirteen staff in 2007: *Prostitution Amendment Act 2006* (Qld), No 40 of 2006.

<sup>8</sup> These guidelines substitute the former *Advertising Policy for Licensed Brothels* and the *Advertising Policy of Sole Operators*, including the list of approved words. Extracts and samples of the new, current guidelines are available online at [www.pla.qld.gov.au/advertising/](http://www.pla.qld.gov.au/advertising/) (viewed 22 Jan 2009).

numbers of people. This includes, for example, all forms of radio and television advertising, use of billboards, stickers, signage on buses, taxis, and advertising by sky-writing. Sponsorship of events and sporting competitions is also not permissible.

Criminal offences relating to prostitution advertising are set out in ss 93–95 *Prostitution Act 1999* (Qld).

#### **1.4 Security and safety features**

Section 13 *Prostitution Regulation 2000* (Qld) requires a brothel license holder to equip the premises with a number of safety features and security devices. To protect women from violent acts, unwanted sex, or other forms of immediate threats or coercion, the legislation requires that each room in a licensed brothel is equipped with concealed alarm buttons or equivalent security communication devices. To prevent the spread of diseases and protect the health of sex workers, each room also has to have sufficient lighting for sex workers to see visible signs of sexually transmitted diseases. Moreover, the reception area of each brothel needs to prominently display a sign stating that only safe sexual activities are practised on the premises.

## **2. Brothel owners and managers**

Owners/operators and brothel managers are required to apply to the PLA for relevant licenses or certificates. The operation and management of a brothel without a license/certificate is a criminal offence.<sup>9</sup>

### **2.1 Brothel owners and brothel licenses**

#### *Eligibility*

Applicants for brothel licences need to meet a number of eligibility criteria that seek to ensure that brothels are not associated with organised crime, corporate organisations, the general entertainment and hospitality industry, or with persons who have previously violated licence conditions. Accordingly, corporations, minors, insolvents under administration, persons holding liquor licences, persons with certain prior serious convictions, and persons who had a licence, certificate or other authority to provide or manage prostitution cancelled in the last 3 years, or are subject to an order of the PLA (declaring the person to be ineligible), are unable to apply for brothel licences.<sup>10</sup> Moreover, a person may hold only one brothel licence at any one time,<sup>11</sup> though it is possible for licensees to also operate brothels in other jurisdictions.

#### *Application process*

Applications for brothel licences must be lodged in the approved form,<sup>12</sup> along with an application fee of \$5,500, a licence fee of \$7,165, plus \$2,867 for each room in the

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<sup>9</sup> See separate document “Prostitution Offences (Qld)” at [www.law.uq.edu.au/humantrafficking](http://www.law.uq.edu.au/humantrafficking).

<sup>10</sup> Section 8 *Prostitution Act 1999* (Qld). Also, a licence is automatically cancelled if the licensee is convicted of any of a number of serious offences or if the licensee becomes an insolvent under administration, s 25.

<sup>11</sup> Section 9 *Prostitution Act 1999* (Qld).

<sup>12</sup> Section 10(2)(a) *Prostitution Act 1999* (Qld) s 10(2)(a).

brothel (totalling \$27,000 for a 5-room brothel, the standard size of most Queensland brothels).<sup>13</sup> An applicant must also provide a variety of information to enable proper monitoring of the brothel.<sup>14</sup> The PLA must consider every application submitted by an eligible person, but is not obliged to do so until development approval for the brothel has been granted.<sup>15</sup>

Section 16 *Prostitution Act 1999* (Qld) sets out a number of grounds on which a licence application must be refused. This is the case if the applicant is seen not to be a suitable person to operate a licensed brothel, has an existing interest in a licensed brothel, or holds a liquor licence. A licence must also be refused where its grant would, when combined with other similar premises in the locality, substantially affect the character of the locality, e.g. by turning that area into a 'red light district'. If the PLA refuses a licence, it must reveal the reasons to the applicant, unless there are legitimate grounds for not revealing such information, for example endangering another's life.<sup>16</sup>

In deciding a licence application, the Authority also considers whether the applicant has or will be able to obtain adequate financial resources and business structures to run the brothel, and has arrangements to ensure the safety of sex workers.<sup>17</sup> It is noteworthy that previous work as a sex worker is not a valid basis for disqualifying an applicant.<sup>18</sup>

#### *License*

Where the PLA grants a licence, it may do so with conditions or restrictions.<sup>19</sup> Once granted, the licence authorises the holder to operate a brothel at only one place, for a term of no more than three years, subject to the payment of annual licence fees<sup>20</sup> (presently \$7,165 plus \$2,867 for each room of the brothel, totalling \$20,555 annually for a 5-room brothel).<sup>21</sup>

A licensee may apply for renewal of his or her licence at least three months before the licence ends, in the approved form and accompanied by the renewal fee of currently \$12,665 plus \$2,867 for each room of the brothel. The PLA must make a decision on the application within three months of the application being lodged.<sup>22</sup>

As of June 30, 2008, 220 applications for brothel licenses had been received by the PLA since the introduction of brothel licensing in 1999: 174 applications were approved. No application has ever been refused, but 30 applications have been withdrawn before consideration, and 16 remained under investigation.<sup>23</sup>

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<sup>13</sup> These are the fees currently proscribed by regulation: section 10(2)(b) *Prostitution Act 1999* (Qld); s 14, sch 2 *Prostitution Regulation 2000* (Qld).

<sup>14</sup> Sections 6(1)-(2), 10 (2)(c) *Prostitution Act 1999* (Qld) ss 6(1)-(2), 10(2)(c).

<sup>15</sup> Section 15 *Prostitution Act 1999* (Qld).

<sup>16</sup> Sections 18(6), 138 *Prostitution Act 1999* (Qld).

<sup>17</sup> Section 17(1) *Prostitution Act 1999* (Qld).

<sup>18</sup> Section 17(4) *Prostitution Act 1999* (Qld).

<sup>19</sup> Section 18(1)(a) *Prostitution Act 1999* (Qld) s 18(1)(a).

<sup>20</sup> Section 19 *Prostitution Act 1999* (Qld).

<sup>21</sup> These are the fees currently proscribed by regulation: section 14, sch 2 *Prostitution Regulation 2000* (Qld).

<sup>22</sup> Section 23 *Prostitution Act 1999* (Qld).

<sup>23</sup> Queensland, PLA, *Annual Report 2007-08* (2008) 26. These figures represent the number of individual applications, not the number of brothel sites.

## .2 Management certificates

If any person other than the license holder is to supervise the brothel, he/she must apply to the PLA for a manager's certificate. This process is largely similar to that of applying for a brothel licence, and is set out in ss 34–49 *Prostitution Act 1999* (Qld). In practice, most brothels employ several managers who work in the brothel at different times. Each manager must hold a valid certificate.

The eligibility criteria for a manager's certificate are the same as for brothel licences, ss 34, 8 *Prostitution Act 1999* (Qld). The application process is similar to that for brothel licenses,<sup>24</sup> though significantly less expensive (application fee of \$760, and a certificate fee of \$40).<sup>25</sup> The PLA must consider every application submitted by an eligible person, s 40 *Prostitution Act 1999* (Qld). The grounds for refusal are identical to those that apply to brothel license applications.<sup>26</sup> The PLA may attach conditions or restrictions to a management certificate,<sup>27</sup> and must give reasons if it refuses an application.<sup>28</sup>

Once granted, a manager's certificate authorises the holder to be an approved manager of one or more licensed brothels, for up to three years, subject to the payment of annual certificate and return fees (\$40 and \$560 respectively<sup>29</sup>) as well as several other conditions.<sup>30</sup> The renewal process for certificates is set out in s 49 *Prostitution Act 1999* (Qld). A certificate is automatically cancelled if an approved manager is convicted of any number of serious offences, or if he or she becomes an insolvent under administration.<sup>31</sup>

As of June 30, 2008, 621 applications for manager certificates had been received by the PLA since the introduction of prostitution regulation in 1999: 543 applications were approved. Only one application has ever been refused, 56 applications have been withdrawn before consideration, and 21 remain under investigation.<sup>32</sup>

## 3. Prostitution Licensing Authority

Part 7 *Prostitution Act 1999* (Qld) establishes the PLA as the principal government agency to control prostitution in Queensland and implement the provisions of the Act.<sup>33</sup> The Authority reports to the Minister for Police and Corrective Services. As of June 30, 2008, the agency employed eight full-time staff.<sup>34</sup>

Specifically, the PLA decides on brothel licence and brothel manager applications, collects licensing fees, receives complaints about prostitution, monitors the services offered in licensed premises, conducts inquiries in relation to license holders and, if

<sup>24</sup> Section 35(2) *Prostitution Act 1999* (Qld).

<sup>25</sup> Section 35(2)(b) *Prostitution Act 1999* (Qld); s 14, sch 2 *Prostitution Regulation 2000* (Qld).

<sup>26</sup> Sections 41, 42 *Prostitution Act 1999* (Qld)

<sup>27</sup> Section 43(1)(a) *Prostitution Act 1999* (Qld).

<sup>28</sup> Sections 43(6), 138 *Prostitution Act 1999* (Qld).

<sup>29</sup> Section 14, sch 2 *Prostitution Regulation 2000* (Qld).

<sup>30</sup> Section 44 *Prostitution Act 1999* (Qld).

<sup>31</sup> Section 51 *Prostitution Act 1999* (Qld).

<sup>32</sup> Queensland, PLA, *Annual Report 2007-08* (2008) 26. These figures represent the number of individual applications, not the number of brothel sites.

<sup>33</sup> Section 100 *Prostitution Act 1999* (Qld).

<sup>34</sup> Queensland, PLA, *Annual Report 2007-08* (2008) 40.

necessary, disciplines license holders. Moreover, the PLA liaises with police and other government agencies about possible offences, and advises the Minister about policy issues relating to prostitution in Queensland, s 101 *Prostitution Act 1999* (Qld). Sections 102–108A of the Act outline the details about membership in and operation of the Prostitution Licensing Authority.

## 4. Enforcement and compliance

### 4.1 Compliance

The PLA carries out its monitoring function<sup>35</sup> through audits and inspections of licensed brothels by compliance officers. The officers inspect the premises prior to the opening of new brothels and during the license renewal process (generally after three years). They are also authorised to inspect the premises at other times.<sup>36</sup> In practice, PLA compliance officers undertake a number of audits and inspections of each licensed brothel throughout the year. This includes both announced and unannounced audits and inspections. Where warranted, officers will undertake inspections of brothel premises in response to complaints.

The compliance activities of the PLA focus specifically on four key areas:

1. Harm minimisation and infectious disease control in brothels, including infection control procedures, promoting safe sex practices, sexual health checks for sex workers, monitoring of waste disposal protocols, provision of prophylactics;
2. Development, implementation, and maintenance of brothel operation policies, specifically in relation of business records, employment of staff, workplace health and safety, sexual health, hygiene and sanitation;
3. Safety and security risks in brothels; and
4. Layout, structure, and amenities for brothels.

#### *Disciplinary Action*

The PLA may conduct inquiries to decide whether there are grounds for taking disciplinary action against a licensee<sup>37</sup> on its own initiative, or on the application of the Police Commissioner or an authorised officer of a relevant local government.<sup>38</sup> Grounds for disciplinary action are set out in s 27 *Prostitution Act 1999* (Qld) and include a licensee or an associate being charged with or convicted of an offence, the provision of prostitution in breach of licence conditions, or improper management.

Section 29 of the Act equips the PLA with a variety of forms of disciplinary action including reprimand, adding conditions or restrictions to the licence; or requiring undertakings to perform or not perform particular tasks or to comply with a requirement within or for a specified time. The PLA may also impose fines, suspend a licence for up to one year, cancel the licence, or order the licensee ineligible to hold a licence temporarily or permanently. In exercising these powers, the PLA is subject to various

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<sup>35</sup> Section 101(c) *Prostitution Act 1999* (Qld)

<sup>36</sup> Cf ss 26, 52 *Prostitution Act 1999* (Qld).

<sup>37</sup> Section 26(1) *Prostitution Act 1999* (Qld).

<sup>38</sup> Section 26(2) *Prostitution Act 1999* (Qld).

restrictions, depending on the grounds for taking action. There are also several limitations on the PLA's powers regarding certain licences.<sup>39</sup>

The PLA may also conduct inquiries to decide whether there are grounds for taking disciplinary action against an approved manager<sup>40</sup> on its own initiative or on the application of the Police Commissioner or an authorised officer of a relevant local government.<sup>41</sup> Grounds for disciplinary action are set out in s 53 and include an approved manager being charged with or convicted of an offence,<sup>42</sup> the provision of prostitution in breach of certificate conditions,<sup>43</sup> or improper brothel management.<sup>44</sup> Section 55 *Prostitution Act 1999* (Qld) gives the PLA a variety of forms of disciplinary action similar to those available against brothel licensees in s 29.

## 4.2 Policing and enforcement

To facilitate the policing of licensed brothels and enhance the enforcement of prostitution offences, the *Prostitution Act 1999* (Qld) requires brothel licensees, managers, and sex workers to cooperate with police, produce relevant documents, and assist in compliance and enforcement efforts. Accordingly it is an offence not to:

- assist police, who have lawfully entered a licensed brothel under the Act, provide documents requested by police at a licensed brothel, s 84;
- provide particulars about age that are requested by police at a licensed brothel, s 85;
- provide the name and address of licensees and managers to police, s 86;
- display the licence or a notice stating the licensee's licence number, the address of the brothel and the date on which the licensee's licence expires prominently at the entrance to the brothel, s 87; and
- produce a licence or manager's certificate if requested by police, s 88.

In an attempt to limit the vulnerability of police officers to corruption and collusion between brothel owners and police, only police of the rank of inspector or above may enter, or authorise an entry, to a licensed brothel when it is open for business.<sup>45</sup> Police officers who wish to inspect, copy or take possession of documents or things must seek prior written authorisation from the PLA.<sup>46</sup> Details about any police entry of licensed brothels must be reported to the PLA.<sup>47</sup> During the 2007-08 financial year, police made 31 entries into 15 different brothels.

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<sup>39</sup> Sections 29, 30 *Prostitution Act 1999* (Qld).

<sup>40</sup> Section 52(1) *Prostitution Act 1999* (Qld).

<sup>41</sup> Section 52(2) *Prostitution Act 1999* (Qld).

<sup>42</sup> Section 53(a) *Prostitution Act 1999* (Qld).

<sup>43</sup> Section 53(b) *Prostitution Act 1999* (Qld).

<sup>44</sup> Section 53(c) *Prostitution Act 1999* (Qld).

<sup>45</sup> Section 59 *Prostitution Act 1999* (Qld).

<sup>46</sup> Section 60 *Prostitution Act 1999* (Qld).

<sup>47</sup> Section 61 *Prostitution Act 1999* (Qld).