



New South Wales

Disorderly Houses Amendment Act 1995 No 53

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Disorderly Houses Act 1943 No 6	2
4 Related amendment of other Acts	2

Schedules

1 Amendment of Disorderly Houses Act 1943	3
2 Related amendment of other Acts	8



New South Wales

Disorderly Houses Amendment Act 1995 No 53

Act No 53, 1995

An Act to amend the *Disorderly Houses Act 1943* with respect to prostitution and to amend certain other Acts for related purposes. [Assented to 22 November 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Disorderly Houses Amendment Act 1995*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Disorderly Houses Act 1943 No 6

The *Disorderly Houses Act 1943* is amended as set out in Schedule 1.

4 Related amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Disorderly Houses Act 1943

(Section 3)

[1] Part 1 heading

Insert “**Part 1 Preliminary**” before section 1.

[2] Section 2 Definitions

Insert in alphabetical order:

area, in relation to a local council, means the area of the council within the meaning of the Local Government Act 1993.

brothel means premises habitually used for the purposes of prostitution, or that have been used for that purpose and are likely to be used again for that purpose. Premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.

local council means a council within the meaning of the *Local Government Act 1993*.

[3] Part 2 heading

Insert “**Part 2 Disorderly houses**” before section 3.

[4] Section 3 Disorderly house—declaration by Supreme Court

Omit section 3 (1) (e) and the word “or” where lastly occurring in section 3 (1) (d).

[5] Section 14 Existing declarations and savings

Insert after section 14 (2):

- (3) The Supreme Court is, on application by the owner or occupier of premises, to rescind a declaration under section 3 in respect of the premises (subject to such terms as the Court thinks fit) if:
 - (a) the declaration was made before the commencement of the *Disorderly Houses Amendment Act 1995*, and
 - (b) the Court is satisfied that the declaration could not be made now because of section 16.
- (4) An owner or occupier of premises who makes an application under subsection (3) must give notice in writing to a Superintendent or Inspector of Police of the intention to make the application at least 2 days before the hearing of the application.

[6] Section 15 Rules of the Supreme Court

Omit “Act” where secondly occurring in section 15 (1).
Insert instead “Part”.

[7] Parts 3, 4

Insert after section 15:

Part 3 Brothels

16 Disorderly house declaration not to be made solely on grounds that premises are a brothel

A declaration under section 3 may not be made in respect of premises solely because of either or both of the following:

- (a) the premises are a brothel,

- (b) a person having control of or managing, or taking part or assisting in the control or management of, the premises has been concerned in the control or management of other premises which have been declared to be a disorderly house under this Act solely because those other premises were a brothel.

17 Application to Land and Environment Court for premises not to be used as a brothel

- (1) The Land and Environment Court may, on application by a local council, make an order that an owner or occupier of premises that are a brothel and that are situated within the area of the council is not to use or allow the use of the premises for the purpose of a brothel.
- (2) The local council must not make an application in relation to a brothel unless it is satisfied that it has received sufficient complaints about the brothel to warrant the making of the application.
- (3) The complaints must have been made by:
 - (a) residents of the area in which the brothel is situated who live in the vicinity of the brothel, or
 - (b) residents of the area in which the brothel is situated who use, or whose children use, facilities in the vicinity of the brothel, or
 - (c) occupiers of premises that are situated in the area in which the brothel is situated and in the vicinity of the brothel.
- (4) The application must state the reasons why the local council is of the opinion that the operation of the brothel should cease based on one or more of the considerations referred to in subsection (5) (a), (b), (c), (d), (e) or (f).

- (5) In making an order under this section the Land and Environment Court is to take into consideration only the following:
- (a) whether the brothel is operating near or within view from a church, hospital, school or any place regularly frequented by children for recreational or cultural activities,
 - (b) whether the operation of the brothel causes a disturbance in the neighbourhood when taking into account other brothels operating in the neighbourhood or other land use within the neighbourhood involving similar hours of operation and creating similar amounts of noise and vehicular and pedestrian traffic,
 - (c) whether sufficient off-street parking has been provided if appropriate in the circumstances,
 - (d) whether suitable access has been provided to the brothel,
 - (e) whether the operation of the brothel causes a disturbance in the neighbourhood because of its size and the number of people working in it,
 - (f) whether the operation of the brothel interferes with the amenity of the neighbourhood,
 - (g) any other matter that the Land and Environment Court considers is relevant.
- (6) This section extends to premises within an area that is not a local government area and in that case a reference to a local council is to be read as a reference to the prescribed authority for the area.
- (7) In this section, *church*, *hospital* and *school* have the same meanings as in the *Summary Offences Act 1988*.

18 Rules of the Land and Environment Court

- (1) Rules may be made under the *Land and Environment Court Act 1979* for or with respect to any matters that by or under the provisions of this Part are required or permitted to be prescribed for carrying out or giving effect to those provisions.
- (2) Subsection (1) does not limit the rule-making powers conferred by the *Land and Environment Court Act 1979*.

Part 4 Miscellaneous

19 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

20 Objects of Disorderly Houses Amendment Act 1995

The enactment of the *Disorderly Houses Amendment Act 1995* should not be taken to indicate that Parliament endorses or encourages the practice of prostitution, which often involves the exploitation and sexual abuse of vulnerable women in our society.

Schedule 2 Related amendment of other Acts

(Section 4)

2.1 Crimes Act 1900 No 40

Section 580C

Insert after section 580B:

580C Abolition of common law offences relating to brothels

- (1) The common law offence of keeping a common bawdy house or brothel is abolished.
- (2) A person cannot be convicted after the commencement of this section of an offence referred to in subsection (1) whether committed before or after that commencement.
- (3) A person cannot be convicted after the commencement of this section of the common law offence of keeping a common, ill-governed and disorderly house, whether committed before or after that commencement, solely because:
 - (a) the relevant premises were used for the purposes of prostitution, or
 - (b) the person had control of or managed, or took part or assisted in the control or management of, premises used for the purposes of prostitution.

2.2 Land and Environment Court Act 1979 No 204

Section 20 Class 4—environmental planning protection and development contract civil enforcement

Insert after section 20 (1) (d):

- (da) applications under section 17 of the *Disorderly Houses Act 1943*,

2.3 Summary Offences Act 1988 No 25

[1] Section 15 Living on earnings of prostitution

Insert after section 15 (2):

- (3) A person does not contravene subsection (1) by living wholly or in part on earnings derived from a brothel if the person owns, manages or is employed in the brothel.
- (4) For the purposes of subsection (3), premises may constitute a brothel even though used by only one prostitute for the purposes of prostitution.

[2] Section 15A

Insert after section 15:

15A Causing or inducing prostitution

- (1) A person must not, by coercive conduct or undue influence, cause or induce another person to commit an act of prostitution.

- (2) A person must not, by coercive conduct or undue influence, cause or induce another person to surrender any proceeds of an act of prostitution.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

[3] Section 17 Allowing premises to be used for prostitution

Omit “brothel or” from section 17 (2).

[Minister’s second reading speech made in—
Legislative Assembly on 20 September 1995
Legislative Council on 19 October 1995]