



ANNO TRICESIMO TERTIO
ELIZABETHAE SECUNDAE REGINAE
VICTORIA

Planning (Brothels) Act 1984

No. 10094

An Act to amend the *Town and Country Planning Act 1961*, the *Crimes Act 1958*, the *Vagrancy Act 1966*, and the *Summary Offences Act 1966* with respect to brothels and for other purposes.

[Assented to 22 May 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. This Act may be cited as the *Planning (Brothels) Act 1984*. Short title.
2. The several provisions of this Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*. Commencement.
3. In section 3 (1) of the *Town and Country Planning Act 1961*, after the interpretation for "Board of Works" there shall be inserted the following interpretation: Amendment of No. 6849 s. 3. Interpretation.

' "Brothel" means land to which people of both sexes, or of either sex, resort for the purpose of prostitution. '

"Brothel."
4. After section 27 of the *Town and Country Planning Act 1961* there shall be inserted the following section: Amendment of No. 6849. New s. 27A.

Persons convicted of certain offences not to hold certain permits.

"27A. (1) A responsible authority shall not grant a permit for the use of land for the purposes of the operation of a brothel—

- (a) to a person who within the preceding five years—
 - (i) has been convicted of an offence under the *Drugs, Poisons and Controlled Substances Act 1981*; or
 - (ii) has been convicted of an indictable offence under any other Act punishable by imprisonment for 12 months or more; or
- (b) where the responsible authority knows or ought reasonably to know that the owner or occupier of the land has been convicted of any such offence—to any person.

(2) Where a person who—

- (a) is the holder of a permit granted by a responsible authority for the use of land for the purposes of the operation of a brothel; or
- (b) is or becomes the owner or occupier of land in respect of which such a permit is in force—

is or, within the preceding five years, has been, convicted of an offence under the *Drugs, Poisons and Controlled Substances Act 1981* or of an indictable offence under any other Act punishable by imprisonment for twelve months or more, the permit is, upon the expiration of 35 days after that conviction or the person becoming the owner or occupier, whichever is the later, revoked unless, on or before that expiration, the person has disposed of his interest in the land to a person eligible to be the holder of such a permit and, upon that expiration, is not the owner or occupier of the land."

Amendment of No. 6849 s. 49. Higher penalty for offence involving brothel.

5. In section 49 of the *Town and Country Planning Act 1961*—

- (a) in sub-section (1) all words and expressions commencing with the words "and severally liable" and ending with the words "continues after conviction" shall be repealed; and
- (b) after sub-section (1) there shall be inserted the following sub-sections:

'(1A) A person found guilty of an offence under sub-section (1) shall be liable to the following penalties:

- (a) In any case to which paragraph (b) does not apply—
 - (i) not more than \$2000 for a first offence; or
 - (ii) not more than \$3000 for a second or subsequent offence—

and, where the contravention or failure is of a continuing nature, a further penalty of not more than \$200 for each day during which the contravention or failure continues after conviction; and

(b) Where the offence is constituted by a contravention or failure of the kind referred to in that sub-section occurring in relation to land used for the purpose of the operation of a brothel—

- (i) not more than \$6000 for a first offence; or
- (ii) not more than \$9000 for a second or subsequent offence—

and, where the contravention or failure is of a continuing nature, a further penalty of not more than \$600 for each day during which the contravention or failure continues after conviction.

(1B) Where a person is found guilty of an offence under sub-section (1) constituted by a contravention or failure of the kind referred to in that sub-section occurring in relation to land used for the purpose of the operation of a brothel, the court may declare that the person or an associate of the person is not eligible, during a period of not more than ten years after the conviction, to hold a permit granted by a responsible authority for the use of land for the purposes of the operation of a brothel.

(1C) In sub-section (1B), “associate” in relation to a person has the same meaning as in section 49C (3).

6. In section 49A of the *Town and Country Planning Act 1961*—

- (a) in sub-section (1) for the expression “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)” there shall be substituted the following expression:

“(a) in any case to which paragraph (b) does not apply, 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); or

(b) in the case of a building or land which the authorized officer 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 paragraph (a)—”;

- (b) after sub-section (1) there shall be inserted the following sub-section:

“(1A) For the purpose of ascertaining whether any provisions of this Act or of any interim development order or planning scheme relating to the use of land for the purposes of the operation of a brothel is being contravened, any member of the police force may at any reasonable time enter upon any building or land which the member of the police force believes on reasonable grounds is being used for the purpose of the operation of a brothel and shall not

Amendment of
No. 6849 s. 49A.
Entry by
authorized officer
or police into
brothel.

be liable to any legal proceedings on account of any such entry.”; and

- (c) in sub-section (2), after the words “responsible authority” there shall be inserted the words “or a member of the police force”;
- (d) in sub-section (2) for the expression “\$50” there shall be substituted the expression “\$500”.

Amendment of
No. 6849.
New ss. 49C-49D.

7. (1) Subject to sub-section (2), after section 49B of the *Town and Country Planning Act 1961* there shall be inserted the following sections:

Persons not to
have interest in
more than one
brothel.

‘49C. (1) A person who at any time has an interest in more than one permit granted by a responsible authority for the use of land for the purposes of the operation of a brothel shall be guilty of an offence.

Penalty: 100 penalty units.

(2) For the purposes of sub-section (1), a person has an interest in a permit if the permit was granted to that person or to an associate of that person, whether alone or jointly with another person.

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

- (a) where the person is a corporation, a related corporation within the meaning of the *Companies (Victoria) Code*;
- (b) a spouse;
- (c) a partner of the person; or
- (d) a person who has entered into an arrangement, understanding or undertaking with the person whether formal or informal and whether express or implied in respect of the use, occupation, management or otherwise of any land or premises.

Person under 18
not to enter
brothels.

49D. A person who is—

- (a) the holder of a permit granted by a responsible authority for the use of land for the purposes of the operation of a brothel; or
- (b) the owner or occupier of land in respect of which such a permit is in force—

shall not authorize or permit a person under the age of 18 years to enter or remain in the brothel.

Penalty: 100 penalty units.

Requirements as
to health.

49E. A person who is—

- (a) the holder of a permit granted by a responsible authority for the use of land for the purposes of the operation of a brothel; or

(b) the owner or occupier of land in respect of which such a permit is in force—

shall comply with the prescribed requirements relating to the health of persons employed in or resorting to the brothel.

49F. (1) On the affidavit of an officer of police showing—

Declaration of
proscribed
brothel.

(a) reasonable grounds for suspecting that any house or 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 this Act to authorize the use of the premises as premises to which people of both sexes, or of either sex, resort for the purpose of prostitution; or

(b) that offences have been committed in a house or place in which there is a brothel in respect of which a permit referred to in paragraph (a) as in force, being offences under the *Venereal Diseases Act 1958*, the *Drugs, Poisons and Controlled Substances Act 1981* or indictable offences under any other Act punishable by imprisonment for twelve months or more—

the Supreme Court may declare that house or place to be a proscribed brothel.

(2) A declaration under sub-section (1) is in force until rescinded.

(3) Notice in writing of any application for a declaration under this section shall at least seventy-two hours before the hearing of the application be served upon the owner or occupier of the house or place which is the subject of the application or be advertised in some newspaper generally circulating in the locality wherein the house or place is situated.

(4) Service of a notice under sub-section (3) may be effected by posting a prepaid letter addressed to "the owner" or "the occupier" without name or further description, and bearing such an address or description of the house or place as in the opinion of the court would insure the delivery of such letter at such house or place.

(5) A declaration under sub-section (1) may be rescinded by the Supreme Court subject to such terms, conditions, limitations and restrictions (including the giving of security to insure that the house or place will not again be used as a brothel unless there is or are in force such permits as are referred to in sub-section (1) (a)) as the court thinks fit on application being made to the court—

(a) by the owner, agent, mortgagee or occupier of a house or place the subject of the declaration on proof that the applicant has not at any time used or permitted the house or place to be used as a brothel or that there is or have been in force at the relevant time such permits as are referred to in sub-section (1) (a); or

- (b) by an officer of police on proof that the house or place is not used as a brothel or that there is or have been in force at the relevant time such permits as are referred to in sub-section (1) (a); or
- (c) by any person referred to in paragraph (a) or (b) on proof that offences of the kind referred to in sub-section (1) (b) were not committed—

as the case requires.

(6) Where an application is made under sub-section (5), notice in writing of intention to make the application shall at least seventy-two hours before the hearing of such application be served on a superintendent or inspector of police stationed within the police district in which such house or place is situated.

Notice of
declaration to be
published.

49G. (1) Notice of a declaration and of a rescission of a declaration under section 49F and the terms, conditions, limitations and restrictions of the rescission shall be published in the *Government Gazette*.

(2) In any proceedings under this Act, the production of a copy of the *Government Gazette* containing such notice shall be evidence that the declaration or rescission therein notified was duly made.

Publication of
notice in
newspaper etc.

49H. (1) Upon a declaration being made under section 49F with respect to any house or place, an officer of police—

- (a) shall cause to be published on two days in a newspaper circulating in the neighbourhood of the house or place a notice of the making of the declaration;
- (b) shall cause notice of the making of the declaration to be served on the owner, agent, mortgagee or occupier of the house or place and where, in the opinion of such officer, personal service cannot be promptly effected, the notice may be served—
 - (i) by causing a copy to be affixed at or near to the entrance to the house or place; or
 - (ii) in the case of the owner or occupier, by posting a prepaid letter addressed to “the owner” or “the occupier” without name or further description and bearing such an address or description of the house or place as in the opinion of the court would insure the delivery of such letter at such house or place; and
- (c) shall cause a copy of the declaration to be posted up on such premises so as to be visible and legible to any persons entering the premises.

(2) In any proceedings under this Act the production of a copy of a newspaper containing any such notice shall be evidence that the notice was duly published in that newspaper on the date appearing thereon.

(3) Every person covering, removing, defacing or destroying a copy of a declaration so posted up on any premises shall be liable to a penalty

of not more than 25 penalty units or to imprisonment for a term of not more than six months, but the fact that such copy has been covered, removed, defaced or destroyed or that any of the requirements of this section have not been duly complied with shall afford no answer to any proceedings under this Act.

49I. (1) If after publication, in pursuance of section 49H (1) (a), of notice of the making of a declaration with respect to a house or place and during the time that the declaration is in force any person is found in or on or entering or leaving that house or place, any member of the police force may without warrant arrest such person and take him before a justice.

Person found in, entering or leaving proscribed brothel.

(2) Such person, unless he proves that he was in or on or entering or leaving the house or place in ignorance of the making of such declaration or for some lawful purpose, shall be guilty of an offence and liable to a penalty of not more than 25 penalty units.

(3) The form of information for such offence may be in the form given in the Fourth Schedule or to a like effect.

49J. Every person who has been convicted of an indictable offence and who is at any time found in any house or place during the time that a declaration as aforesaid is in force with respect to that house or place, shall for every such offence be 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 fourteen days nor more than twelve months.

Convicted persons in proscribed brothel.

49K. No business, trade, profession or calling whatsoever whether carried on or exercised pursuant to any licence, registration or authority under any Act of Parliament or otherwise shall be carried on, exercised or conducted by or on behalf of any person in any house or place with respect to which any such declaration is in force.

No business to be carried on in proscribed brothel.

49L. If after service on an owner in pursuance of this Act of notice of the making of a declaration with respect to a house or place that the house or place is a proscribed brothel and during the time that the declaration is in force the house or place is used as a brothel such owner shall, unless he proves that he has taken all reasonable steps to evict the occupier therefrom, be guilty of an offence and liable to a penalty of not more than 25 penalty units.

Penalty on owner.

49M. If after service on an occupier in pursuance of this Act of notice of the making of a declaration with respect to a house or place that the house or place is a proscribed brothel and during the time that such declaration is in force the house or place is used as a brothel such occupier shall, unless he proves that he has taken reasonable steps to prevent such use, be guilty of an offence and liable to a penalty of not more than 25 penalty units.

Penalty on occupier.

49N. While any declaration under this Act is in force with respect to any house or place any member of the police force may at any time do all or any of the under-mentioned things:

Entry by police.

- (a) Enter that house or place;
- (b) Pass through, from, over and along any other land or building for the purpose of entering in pursuance of paragraph (a);
- (c) For any of the purposes aforesaid break open doors, windows and partitions and do such other acts as may be necessary; and
- (d) Arrest and bring before a justice all persons found in or on or entering or leaving that house or place without lawful excuse.

Rules.

490. The power to make Rules conferred by the *Supreme Court Act 1958* on the Supreme Court or the Judges thereof shall include power to make Rules to enforce and carry out the provisions of this Act.

(2) The several sections inserted in the *Town and Country Planning Act 1961* by sub-section (1) shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

Amendment of
No. 6849.
Fourth Schedule.

8. After the Third Schedule to the *Town and Country Planning Act 1961* there shall be inserted the following Schedule:

"FOURTH SCHEDULE

491.

FORM OF INFORMATION

Town and Country Planning Act 1961

That on the _____ day of _____
at _____
A.B. was found in [or on or entering or leaving] a house [or place]
which had been declared by the Supreme Court to be a proscribed
brothel."

Amendment of
No. 7393 s. 10.
Mere conduct of
brothel is not
offence.

9. In section 10 of the *Vagrancy Act 1966*—

- (a) in sub-section (1) for the words "Any person" there shall be substituted the words "Subject to this section any person"; and
- (b) after sub-section (1) there shall be inserted the following sub-section:

"(1A) A person shall not be guilty of an offence against this section by reason only of the person conducting a brothel from which the person receives an income, being a brothel in premises in respect of which there has or have been issued, and is or are in force, under the *Town and Country Planning Act 1961* such permit or permits as are required under that Act to authorize the use of the premises as premises to which people of both sexes, or of either sex, resort for the purpose of prostitution."

10. In section 11 (1) of the *Vagrancy Act 1966* after the words "a brothel" there shall be inserted the expression "(not being premises in respect of which there has or have been issued, and is or are in force, under the *Town and Country Planning Act 1961* such permit or permits as are required under that Act to authorize the use of the premises as premises to which people of both sexes, or of either sex, resort for the purpose of prostitution)".

Amendment of
No. 7393 s. 11.
No offence to
keep brothel.

11. (1) In section 12 (1) of the *Vagrancy Act 1966*—

- (a) in paragraph (a) after the word "premises" (where first occurring) there shall be inserted the expression "(not being a brothel to which sub-section (5) applies)"; and
- (b) in paragraph (b) after the word "premises" (where first occurring) there shall be inserted the expression "(not being a brothel to which sub-section (5) applies)".

Amendment of
No. 7393 s. 12.
No offence to use
premises as
brothel.

(2) After section 12 (4) of the *Vagrancy Act 1966* there shall be inserted the following sub-section:

'(5) In this section "brothel to which sub-section (5) applies" means premises in respect of which there has or have been issued, and is or are in force, under the *Town and Country Planning Act 1961* such permit or permits as are required under that Act to authorize the use of the premises as premises to which people of both sexes, or of either sex, resort for the purpose of prostitution.'

12. After section 18A of the *Summary Offences Act 1966* there shall be inserted the following section:

Amendment of
No. 7405.
New s. 18AA.

'18AA. (1) An act done in a brothel does not constitute an offence against section 18 or 18A unless the act is visible to a person in a public place outside the brothel.

Soliciting &c. in
brothel.

(2) For the purposes of this section "brothel" means premises in respect of which there has or have been issued, and is or are in force, under the *Town and Country Planning Act 1961* such permit or permits as are required under that Act to authorize the use of the premises as premises to which people of both sexes, or of either sex, resort for the purpose of prostitution.'

13. (1) The offence at common law of keeping a disorderly house shall not be constituted by reason only of the fact that a house is kept as a brothel.

Common law
offence of keeping
a disorderly
house.

(2) This section shall not affect any proceedings—

- (a) instituted before the commencement of this section; or
- (b) instituted after the commencement of this section and relating to an offence alleged to have been committed before that commencement.

(3) In this section "brothel" means premises in respect of which there has or have been issued, and is or are in force, under the *Town and Country Planning Act 1961* such permit or permits as are required under that Act to authorize the use of the premises as premises to which people of both sexes, or of either sex, resort for the purpose of prostitution.

Amendment of
No. 6231.
New s. 59A.

14. After section 59 of the *Crimes Act 1958*, there shall be inserted the following section:

Prohibition of
advertisements
for employment
in brothels.

"59A. A person shall not publish or cause to be published any statement which is intended or likely to induce a person to seek employment in a brothel.

Penalty: 10 penalty units."