

Northern Territory Sex Industry Rights and Obligations

The following information is an interpretation of the Northern Territory Prostitution Regulation Act for people involved in the sex industry. It is not to be used as legal advice.

Any questions should be directed to

SWOP on 08 8941 1711 athomas@ntac.org.au or the

Licensing Commission on 08 8999 1319 wendy.butler@nt.gov.au.

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PRIVATE WORKERS

The Prostitution Act applies to private workers even though they are not required to be registered with the police or licensed through the Licensing Commission. Private workers are equally as entitled to a safe working environment as escort workers.

With the legislation everyone is considered an escort business, however you only need to apply for a licence if you want to work with or employ other people.

Private Workers are free to advertise in the paper (see "advertising" section). Private Workers are able to operate as long as they do not arrange or organise the service from the same place as where the service is provided. Private Workers must arrange jobs for themselves and no-one else. Private Workers are not allowed to work with anyone else. This includes other sex workers, a driver or a receptionist.

If you want to operate outside of these restrictions it might be worth considering registering as an escort agency.

If more than one person is working privately from premises (eg apartment, house, guest-house, boarding-house, lodging-house or hostel) and the owner/occupier of the premises is aware of this, then they too are breaking the law.

ESCORT AGENCIES

If someone wants to start an escort agency they must apply through the Licensing Commission for an operator's licence. The Licensing Commission can place conditions or restrictions on the licences. They can suspend or cancel a licence if they decide the conditions are being breached. They can ask the police to investigate complaints made against the agency and the police can enter an escort agency without permission if they think it is necessary. The licences must be renewed every 12 months. One of the conditions of the licence is that the operator may also have to employ a manager. If there is a manager then they too will need to apply to for a separate manager's licence.

Escort Agency Licences

Escort agency operators and managers must both hold licences to conduct their business. This is how the Licensing Commission regulates the industry. By making people apply for a licence they can decide whether the person has the skills and character to run an agency well.

The operator is the person who owns the business. The manager is the person who manages the running of the business. If the operator and the manager are same person they will only need to hold an operator's licence.

To be eligible to get an operator's or manager's licence you must be over 18, be a resident of the Northern Territory, have no convictions of "a disqualifying offence" (mostly violent or drug related crimes), or have a business or domestic partner who has convictions of a disqualifying offence.

The application (or renewal) of the licences must be in writing (the Licensing Commission has forms that the applicant fills out which are actually declarations therefore lying on these forms can result in fines). Applications for renewing a licence must be given to the Commission 2 months before the expiry of the current licence. When the licence application or renewal is approved by the Licensing Commission, they will give a copy of it to the Commissioner of Police.

The Licensing Commission decides whether the person applying for the licence is a *'suitable person to carry on/manage an escort agency business'*. The licences carry conditions and restrictions which can relate to working conditions, health and welfare of sex workers, and the health and welfare of the general community. There are standard conditions used by the Licensing Commission but these can vary between agencies. The licensee can apply to have conditions or restrictions changed or lifted. The licences are valid for 12 months, after this time the person who holds the licence must apply to have it renewed.

If the Licensing Commission refuses to issue a licence you can ask for an explanation and they must give you a written response within 28 days stating their reasons for not giving you the licence (there are some cases when these reasons will not be provided, for example if the information put someone at risk). If you are refused a licence you can appeal to the tribunal at the registrar of a local court. If you are not happy with the decision made by the tribunal then you can appeal to the Supreme Court.

If an operator loses their licence the manager will automatically lose theirs too. If the manager loses their licence the operator may be in breach of their conditions and may lose their licence as well.

Operators

The operator is the owner of the escort agency. An agency can be operated by an individual or a body corporate. When a worker stops working the operator must tell the police within 7 days so they can keep their records up to date.

Managers

The manager is responsible for the day to day running of the agency. Managers can authorise other staff to make the service arrangements eg a receptionist.

Police certificates – for Escorts

The manager must arrange for each staff member to have a certificate to work from the police. The police may not give the certificate if the person has been convicted of any *“violent or drug related crime”*. If the certificate is refused the worker can appeal the process through a tribunal. Some costs may be involved depending on the decision of the tribunal. If you are not happy with the decision made by the tribunal then you can appeal to the Supreme Court.

If a worker commits a *“violent or drug related offence”* before, during or after their application for the police certificate the Police Commissioner will cancel the certificate and tell the operator/manager and the worker. The certificate will then need to be handed back to the Police within 2 weeks.

It is an offence to arrange a service for a worker who does not have a certificate. This is the responsibility of the operator.

Escort Agency Conditions

A SAFE WORKING ENVIRONMENT IS A RIGHT FOR ALL SEX WORKERS

The conditions under which Escort Agencies are licensed are decided by the Licensing Commission and can vary between agencies. The following is a summary of the **standard conditions** for agencies.

Meeting these conditions is necessary for an escort agency to keep their licence. They exist to promote a safe working environment for sex workers, which is a right for all sex workers.

Escort agency operators must give each of their staff a CONTRACT which outlines the terms and conditions of how the agency will arrange services and how the worker will provide the services.

There must be two signed copies of the contract, one for the worker and one for the operator. The Licensing Commission and the Police can access the agency's copy of the contract. The agency has to keep a copy of the document for one year after the worker has stopped working at the agency.

The contract should set out

- how the worker is paid (percentages, payday etc)
- whether the operator is paying PAYE Tax, superannuation or work health insurance
- a list of information services for sex workers
- a statement that the operator, when arranging the services, will tell all the clients that all services incorporate safe sex practices, including using condoms and dental dams
- whether the agency will provide condoms, dams and lube and if so how much they cost
- that the worker has the right to refuse a client
- that the worker must tell the operator if they can't do a shift
- what to do if the worker finds themselves in danger at a job
- if there is any dress requirement
- hours and days that you have to work
- any terms and conditions where the worker is obliged to pay for extras offered by the operator (accommodation, meals etc)
- whether the worker needs to have regular medical check ups
- that the worker must have a police certificate
- if the worker needs to work as a receptionist
- what, if any, transport is provided by the agency.

When an agency becomes licensed or has their licence renewed they have to give the Director of Licensing a copy of the standard form used in the agreement (contract).

The agency has to keep records of when people are employed, what payments are made to them and what taxes they pay. The Licensing Commission, (including inspectors and the director) and the police can ask to see these records at any time.

If the operator or the manager is not at the agency they must be able to be contacted by the employees (workers and receptionists) at all times. If the operator/manager is not available then they must notify the Director of Licensing.

The operator has to provide training in relation to safe sex issues and accurate information on where to go to get help should any of the employees need to. Operators must distribute material to sex workers on safe sex practices if asked to by the Commission.

If the agency knows that a worker has a blood borne virus (HIV, Hep B or Hep C) then they have to tell any clients who are getting service from that worker.

Operators must do whatever they can to ensure that sex workers do their job safely; this means not taking risks with anyone's health. The operator must do whatever they can to ensure that no workers PROVIDE or RECIEVE vaginal or anal services without a condom, or oral service without a dental dam/condom.

SEXUAL HEALTH

Managers, operators and workers cannot promote whether a worker is getting regular health check ups or is free of any STIs as a way of promoting their service.

When the receptionist/manager arranges the service they must tell the client that that all services use safe sex practices – including condoms and dams.

The agency should provide access to condoms, lube and dams. It is then up to the agency to say how much they cost or if they are for free.

The agency can ask the workers to have regular medical check ups and they may ask to see a certificate of attendance from the doctor. There is currently a condition of the licences that the operator (or whoever arranges the service ie the receptionist) must tell the clients if they know a worker has any blood borne virus including HIV, Hepatitis B and Hepatitis C.

ADVERTISING

Agencies cannot advertise for sex workers (staff) within the Northern Territory however, New South Wales and South Australia are less restrictive with advertising for staff in the newspapers.

In any advertisement in the paper the agency name must also be with the advertisement. You cannot advertise on radio or TV.

It is ok for an agency to advertise for reception staff in the newspaper however, you must state that there are no other duties involved.

It is ok to advertise "prostitution services" in the newspaper but there are restrictions on what you can include in the ad. The ad must be in the "Adult Entertainment" section of the classifieds. You can only show a persons head and face in an ad – no other parts of the body. You cannot describe yourself, others or an agency by age, race, colour or ethnic origin. You cannot refer to any physical attributes and if you say massage or masseur you must actually say 'erotic massage' or 'erotic masseur'. The ad in the paper can not be any bigger than 3.5cm by 4.5cm.

It is ok to;

- advertise on T-shirts,

- distribute brochures to Hotels/Motels,

- sponsor sporting or charity events,

- have a website (which you can then advertise but not in the NT News)

- hand out business cards (as long as they don't mention 'prostitution services' or use the opportunity to solicit for work)

DON'TS

Under 18

If someone wants to work who is not 18 or over it is an offence to allow her or him to work. It is also the responsibility of the legal guardian to ensure that this does not happen.

It is illegal to enter into an agreement to arrange services and/or to get money from prostitution services with someone under 18. The prison sentences for each separate offence carries a gaol sentence of 7-14 years.

If you are under 18 it is against the law to provide any prostitution service. It is illegal for you to work as a sex worker. It is also illegal for under 18s to work in the reception of agencies.

Brothels

Brothels are illegal in the Northern Territory. This means that you cannot use the same premises to organise AND provide a sex service. It also prevents people from working together without escort agency licences. When more than one person is working they must be licensed through the Licensing Commission and have current police certificates.

Street Work

Street work and soliciting is illegal. It is an offence to stand in a public place in order to get work (whether it is for money or other payments).

It is also an offence to approach people in public places to invite them to work at an agency.

Being Forced to Work

If you do not want to do sex work or would like to stop doing it, it is your right to say no anytime you want. It is an offence to be forced to do sex work. This includes **any form of intimidation**, and **any** threat to **any** person (eg boyfriends, bosses, suppliers, family). It also includes being manipulated with drugs or in any other way eg if some one is putting the hard word on you to do sex work.

You cannot be bullied into giving the money you have earned to anyone else.

If you are experiencing any bullying or pressure to work contact the SWOP Officer on (08) 8941 1711 or the Police Sex Worker Liaison Officer on (08) 8922 3344.

BUREAUCRACY

Police

Police are able to enter any place if they suspect it may be a brothel. They can enter, at any time, an escort agency. If the agency refuses to let the police in they are allowed to break into the premises.

The police have a liaison person dedicated to the sex industry. This position sits within the Missing Persons Unit. This position processes the paperwork and maintains relevant records including issuing the police certificates to sex workers for the whole of the Northern Territory. The police/sex worker liaison officer is a contact point for workers who may have queries about the law or who have concerns about practices in the sex industry. The Liaison officer will also provide advice and arrange police assistance if workers are the victims of crime.

Contact

Jacqui Meggitt

Telephone 8922 3548

Email jacqueline.meggitt@pfes.nt.gov.au

Licensing Commission

The Northern Territory Licensing Commission was established in 2000 as an independent statutory authority created by the *Northern Territory Licensing Commission Act 2000*. The Licensing Commission administers the Prostitution Regulation Act and Prostitution Regulations. Through the regulations the Commission licences escort agencies and tries to regulate prostitution in the Northern Territory.

The Licensing Commission is a group of 9 people who are appointed by the minister to make decisions on the licensing of escort agencies, racing & betting, gaming, liquor, security firms, kava and tobacco.

Four of the people on the commission are dedicated to escort agencies but if one of them is not available to meet then someone else from the commission can be asked to participate.

The people on the in the Commission who are dedicated to Escort Agencies include;

John Withnail (Legal Member - Chair person)

Dr Jan Savage (member)

Jill Huck (member)

Paul Costigan (part-time member)

The chairman of the Northern Territory Licensing Commission is Peter Allen

Gary Moriarty is the Director of Licensing

For more information go to the Licensing Commission website
www.nt.gov.au/ntt/licensing/

The Minister

The Minister of The Northern Territory Treasury under which Racing, Gaming and Licensing operates is Hon Syd Stirling MLA. His other roles are Treasurer and Minister for Employment, Education and Training.

His contact details are
GPO Box 3146
Darwin NT 0801
Telephone: 08 8901 4052
Facsimile: 08 8901 4060
Email: **minister.stirling@nt.gov.au**

Licensing Inspectors

Licensing Inspectors are employed by Racing, Gaming and Licensing to inspect the escort agency premises. When they visit agencies they are looking to see if the agency is complying with its licence conditions.

They may check if workers certificates are current, what kinds of employment records the agency maintains, if workers have contracts, whether the agency gives out information on safe sex practices and other occupational health and safety details.

PHONE SEX, PEEP SHOWS, SKIMPIES AND STRIPPERS

The definition of prostitution does not include phone sex, skimpies or strippers. Peep shows remain undefined by the regulations.