

FIRST PRINT

DISORDERLY HOUSES (AMENDMENT) BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is:

- (a) to amend the Disorderly Houses Act 1943 to remove the habitual use of premises for prostitution from the grounds for declaring premises to be a disorderly house; and
- (b) to amend the Summary Offences Act 1988:
 - to provide that it is not an offence for a person who owns, manages or is employed in a brothel to live on the earnings of prostitution of another person; and
 - to create an offence of inducing a person, by coercive conduct or undue influence, to commit an act of prostitution or to surrender the proceeds of an act of prostitution; and
- (c) to amend the Crimes Act 1900 to abolish the common law offence of keeping a brothel or bawdy house.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 gives effect to Schedule 1 which contains amendments to the Disorderly Houses Act 1943.

Clause 4 gives effect to Schedule 2 which contains amendments to the Summary Offences Act 1988.

Clause 5 gives effect to Schedule 3 which contains amendments to the Crimes Act 1900.

Disorderly Houses (Amendment) 1991

SCHEDULE 1—AMENDMENT OF DISORDERLY HOUSES ACT 1943

Schedule 1 (1) (a) removes from the list of grounds for declaring premises a disorderly house the ground that the premises are habitually used for the purpose of prostitution.

Schedule 1 (1) (b) prevents premises being declared a disorderly house solely because the premises are habitually used for the purpose of prostitution.

Schedule 1 (2) enables the Supreme Court to receive an application to rescind a declaration of premises as a disorderly house if the premises could not have been declared a disorderly house under the new amendments.

SCHEDULE 2—RELATED AMENDMENT OF SUMMARY OFFENCES ACT 1988

Schedule 2 (1) provides that it is not an offence for a person who owns, manages or is employed in a brothel to live on the earnings of prostitution of another person.

Schedule 2 (2) makes it an offence for a person, by coercive conduct or undue influence, to cause or induce another person to commit an act of prostitution or to surrender the proceeds of an act of prostitution. The maximum penalty is 50 penalty units (currently \$5,000) or imprisonment for 12 months, or both.

Schedule 2 (3) is consequential on the amendment made by Schedule 3.

SCHEDULE 3—RELATED AMENDMENT OF CRIMES ACT 1900

Schedule 3 abolishes the common law offence of keeping a brothel or bawdy house.

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TABLE OF PROVISIONS

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2. Commencement
3. Amendment of Disorderly Houses Act 1943 No. 6
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SCHEDULE 1—AMENDMENT OF DISORDERLY HOUSES ACT 1943

SCHEDULE 2—RELATED AMENDMENT OF SUMMARY OFFENCES ACT
1988

SCHEDULE 3—RELATED AMENDMENT OF CRIMES ACT 1900

DISORDERLY HOUSES (AMENDMENT) BILL 1991

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the Disorderly Houses Act 1943 with respect to premises used for prostitution; and to make related amendments to the Summary Offences Act 1988 and the Crimes Act 1900.

Disorderly Houses (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Disorderly Houses (Amendment) Act 1991.

Commencement

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

Amendment of Disorderly Houses Act 1943 No. 6

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

Related amendment of Summary Offences Act 1988 No. 25

4. The Summary Offences Act 1988 is amended as set out in Schedule 2.

Related amendment of Crimes Act 1900 No. 40

5. The Crimes Act 1900 is amended as set out in Schedule 3.

**SCHEDULE 1—AMENDMENT OF DISORDERLY HOUSES
ACT 1943**

(Sec. 3)

(1) Section 3 (**Disorderly house—declaration by Supreme Court**):

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

(b) After section 3 (2), insert:

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

(a) the premises are used for the purpose of prostitution, or have been used for that purpose and are likely to be used again for that purpose;

Disorderly Houses (Amendment) 1991

SCHEDULE 1—AMENDMENT OF DISORDERLY HOUSES
ACT 1943—*continued*

(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 used for prostitution.

(2) Section 14 (**Existing declarations and savings**):

After section 14 (2), insert:

(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 1991; and
- (b) the Court is satisfied that the declaration could not be made now because of section 3 (3).

(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.

SCHEDULE 2—RELATED AMENDMENT OF SUMMARY
OFFENCES ACT 1988

(Sec. 4)

(1) Section 15 (**Living on earnings of prostitution**):

After section 15 (2), insert:

(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.

Disorderly Houses (Amendment) 1991

SCHEDULE 2—RELATED AMENDMENT OF SUMMARY
OFFENCES ACT 1988—*continued*

(2) Section 15A:

After section 15, insert:

Inducing prostitution

15A. (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**):

From section 17 (2), omit "brothel or".

SCHEDULE 3—RELATED AMENDMENT OF CRIMES
ACT 1900

(Sec. 5)

Section 575A:

After section 575, insert:

Common law offence of keeping brothel or bawdy house abolished

575A. The common law offence of keeping a brothel or bawdy house is abolished.
