

Manukau City Council (Control of Street Prostitution) Bill

Local Bill

Explanatory note

General policy statement

This bill provides for local control over street prostitution in Manukau City.

The purpose of the bill is to prohibit soliciting and associated conduct in public places in Manukau City. The business of prostitution on private premises carried out in accordance with the provisions of the Prostitution Reform Act 2003 will not be affected.

The bill—

- makes it an offence to solicit for prostitution in a public place; and
- applies to both prostitutes and their clients; and
- applies to conduct connected to prostitution; and
- creates new infringement offences; and
- provides the police with powers to require information to be supplied and to arrest offenders.

Part by Part analysis

Individual provisions

Clause 1 sets out the Title of the bill.

Part 1

Preliminary provisions

Part 1 contains the following preliminary provisions:

- the commencement of the bill (*clause 2*);
- the purpose of the bill (*clause 3*);
- application (*clause 4*);
- interpretation (*clause 5*).

Clause 2 provides for the bill to come into force on the day after the date on which it receives the Royal assent.

Clause 3 states that the purpose of the bill is to prohibit soliciting and associated conduct in public places in the District.

Clause 5 contains interpretation provisions. Where appropriate, the definitions are the same as those in the Prostitution Reform Act 2003.

Part 2

Soliciting and related conduct

Clause 6 creates an offence of soliciting or loitering for the purposes of prostitution in a public place. It applies to prostitutes and their clients, and persons acting for prostitutes or for clients of prostitutes, and imposes a fine of \$10,000.

Clause 7 makes it clear that the bill does not apply to persons lawfully operating in a brothel pursuant to the provisions of the Prostitution Reform Act 2003.

Clause 8 provides an exemption from prosecution for a police officer acting in the course of his or her duty.

Clause 9 regulates certain conduct associated with prostitution.

Part 3

Infringement offences

Clause 10 makes provision for the offences created to be dealt with as infringement offences.

Clause 11 provides for infringement notices.

Part 4

Powers of police

Clause 12 gives the police authority to direct a person to provide the name and address of any person where there are reasonable grounds for believing that person is committing or has committed an offence. Failure to provide such information is an offence incurring a fine of \$5,000.

Clause 13 provides the police with powers of arrest of any person in relation to offences under the bill.

George Hawkins

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Manukau City Council (Control of Street Prostitution) Act **2005**.

Part 1 **Preliminary provisions**

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- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

3	Purpose	
	The purpose of this Act is to prohibit soliciting and associated conduct in public places in the District.	
4	Application	
	This Act applies to activities in the District of the Manukau City Council.	5
5	Interpretation	
	In this Act, unless the context otherwise requires,—	
	brothel has the same meaning as in the Prostitution Reform Act 2003	10
	District means the district of the Manukau City Council	
	prostitution has the same meaning as in the Prostitution Reform Act 2003	
	public place has the same meaning as in the Prostitution Reform Act 2003	15
	small owner-operated brothel has the same meaning as in the Prostitution Reform Act 2003	
	solicit means the following:	
	(a) offer to provide, or arrange for the provision of, prostitution:	20
	(b) accept an offer to provide prostitution:	
	(c) offer to purchase prostitution.	

Part 2 Soliciting and related nuisances

6	Soliciting or loitering for purposes of prostitution	25
(1)	Every person commits an offence who—	
	(a) solicits a person—	
	(i) in a public place; or	
	(ii) in a place that can be viewed from a public place;	
	or	30
	(b) loiters for the purposes of prostitution—	
	(i) in a public place; or	
	(ii) in a place that can be viewed from a public place.	
(2)	A person who commits an offence against subsection (1) is liable on summary conviction to a fine of \$10,000.	35

- 7 Exception to soliciting offences—persons in brothels**
A person does not commit an offence against section 6 if—
- (a) the soliciting happens in a brothel that is lawfully operated—
 - (i) by the operator of a business of prostitution who holds a certificate issued under section 35 of the Prostitution Reform Act 2003; or
 - (ii) as a small owner-operated brothel; and
 - (b) the soliciting cannot be viewed by a person outside a brothel.
- 8 Exemption from prosecution—police officers acting under instructions**
Except with the leave of the Attorney-General, no prosecution for an offence against this Act may be commenced against a police officer in respect of any act committed by him or her at a time or during a period when he or she was acting under written instructions given in relation to a particular investigation by a more senior member of the police.
- 9 Other offences connected with prostitution**
- (1) This section applies to conduct in a public place—
 - (a) that happens in the vicinity of a place that is reasonably suspected of being used for soliciting or prostitution; and
 - (b) that, to a significant extent, relates to the presence, or suspected presence, of soliciting or prostitution at the place.
 - (2) Every person commits an offence whose conduct—
 - (a) causes unreasonable annoyance to another person who is present at that place and who views that conduct; or
 - (b) causes unreasonable disruption to the privacy of another person.
 - (3) A person who commits an offence against **subsection (2)** is liable on summary conviction to a fine of \$5,000.

Part 3

Infringement offences

- 10 Infringement offences**
- (1) In this Act, infringement offence means an offence specified in **Schedule 1**. 5
- (2) Where any person is alleged to have committed an infringement offence, that person may either—
- (a) be proceeded against summarily for the offence; or
 - (b) be served with an infringement notice as provided in section 11. 10
- 11 Infringement notices**
- (1) An infringement notice may be served on a person if a police officer—
- (a) observes a person committing an infringement offence; or 15
 - (b) has reasonable cause to believe that an infringement offence is being or has been committed by that person.
- (2) An infringement notice may be served—
- (a) by a police officer (not necessarily the person who issued the notice) personally delivering it (or a copy of it) to the person alleged to have committed the infringement offence; or 20
 - (b) by post addressed to that person's last known place of residence or business.
- (3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person under **subsection (2)(b)** must be treated as having been served on the person when it was posted. 25
- (4) An infringement notice must be in the form prescribed in **Schedule 2**, and must contain the following particulars: 30
- (a) details of the alleged infringement offence sufficient to inform fairly a person of the time, place, and nature of the alleged offence;
 - (b) the amount of the infringement fee specified for that offence in **Schedule 1**: 35
 - (c) the time within which the infringement fee must be paid;
 - (d) the address of the place at which the infringement fee must be paid:

- (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
 - (f) a statement that the person served with the notice has a right to request a hearing:
 - (g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing: 5
 - (h) any other particulars as are prescribed.
- (5) If an infringement notice has been issued under this section—
- (a) proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and 10
 - (b) the provisions of that section apply with all necessary modifications.

Part 4 **Powers of police**

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12 Police may require certain information

- (1) If a police officer believes on reasonable grounds that a person is committing or has committed an offence under this Act, the police officer may direct the person to give— 20
- (a) his or her name and address; and
 - (b) to the extent known to that person, the name and address and whereabouts of any other person connected in any way with the alleged offence.
- (2) Every person commits an offence and is liable on summary conviction to a fine of \$5,000 who intentionally refuses to give information when directed to do so by a police officer under **subsection (1)**, or knowingly misstates information. 25

13 Arrest

Any police officer, and all persons whom he or she calls to his or her assistance, may arrest and take into custody without a warrant, any person whom he or she has good cause to suspect of having committed an offence against any of the provisions of this Act. 30

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Schedule 1
Infringement offences and fees

Section	Brief description of offence	Infringement fee (\$)	
6(1)	Soliciting or loitering for purposes of prostitution	\$500	5
9(2)	Conduct connected with prostitution	\$500	

Schedule 2
Infringement notice

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(Issued under authority of **section 10** of the Manukau City
Council (Control of Street Prostitution) Act 2005)

Infringement notice No: Date of notice: 5

All queries and correspondence regarding this infringement notice
must be directed to (*Insert address*).

This notice is issued to—

Name:

Address: 10

This notice is issued by (*name and number of member of police
issuing the notice*).

DETAILS OF ALLEGED INFRINGEMENT OFFENCE(S)

The member of the police issuing this notice has reasonable cause to
believe that on (*insert day and date*) at (*insert details of place*) you 15
committed the following infringement offence(s):

- * 1. You—
 - (a) solicited a person—
 - (i) in a public place; or
 - (ii) in a place that can be viewed from a public 20
place; or
 - (b) loitered for the purposes of prostitution—
 - (i) in a public place; or
 - (ii) in a place that can be viewed from a public place.

- * 2. Being in the vicinity of a place that a police officer reasonably 25
suspected of being used for soliciting or prostitution, and that
to a significant extent relates to the presence or suspected
presence of soliciting or prostitution, your conduct in a public
place—
 - (a) caused unreasonable annoyance to another person pre- 30
sent at that place and who viewed that conduct; or
 - (b) caused unreasonable disruption to the privacy of
another person.

* The infringement notice may specify 1 or more infringement offences. Delete if inapplicable.

The infringement fee payable in respect of an infringement offence is \$500.

Infringement fees are payable within 28 days after (*earliest date notice delivered personally or posted*). 5

Infringement fees are payable at (*address where fees payable*). This notice, or a copy of it, should be presented or forwarded when making payment. Cheques or money orders should be made out to the New Zealand Police and should be 10
crossed or marked "NOT TRANSFERABLE" or "ACCOUNT PAYEE ONLY". If this notice sets out more than 1 infringement offence, the total amount of the infringement fees payable is \$.....

IMPORTANT: Please read the summary of rights printed on the following pages. 15

SUMMARY OF RIGHTS

1. This notice sets out 1 or more alleged infringement offences. If this notice sets out more than 1 alleged infringement offence, each offence that is identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences, as set out below. 20

Payments 25

2. If you pay the infringement fee within 28 days of the issue of this notice, no further action will be taken. Payment may be made at the places indicated on the front of this notice.

Defences

3. You have a complete defence against proceedings if the infringement fee was paid to the New Zealand Police at any of the places for payment shown on the front page of this notice or within 28 days after you were served with a reminder notice. Note that late payment or payment at any other place will not be a defence. 35

Further action

4. If you wish to—
- (a) raise any matter relating to the alleged offence for consideration by the New Zealand Police; or
 - (b) deny liability for the offence and request a court hearing (refer to paragraphs 5 and 9 below); or 5
 - (c) admit liability for the offence, but wish to have a District Court consider written submissions as to penalty or otherwise (refer to paragraphs 6 and 9 below),
- you should write to the New Zealand Police at the address 10
shown on the front page of this notice. Any such letter should
be personally signed.
5. You have a right to a court hearing. If you deny liability for
the offence and request a hearing, the New Zealand Police 15
will serve you with a notice of hearing setting out the place
and time at which the matter will be heard by the court (unless
the New Zealand Police decide not to start court proceedings).
Note that if the court finds you guilty of the offence, costs will
be imposed in addition to any penalty.
6. If you admit the offence but want the court to consider your 20
submissions as to penalty or otherwise, you should, in your
letter—
- (a) ask for a hearing; and
 - (b) admit the offence; and
 - (c) set out the written submissions you wish to be con- 25
sidered by the court.
- The New Zealand Police will then file your letter with the
court (unless the New Zealand Police decide not to commence
court proceedings). There is no provision for an oral hearing 30
before the court if you follow this course of action.
- Note that costs will be imposed in addition to any penalty.

Non-payment of fee

7. If you do not pay the infringement fee and do not request a
hearing within 28 days after the issue of this notice, you will 35
be served with a reminder notice (unless the New Zealand
Police decide otherwise).

8. If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice, the New Zealand Police may file the reminder notice in the court and you will become liable to pay **costs in addition to the infringement fee**, under section 21(5) of the Summary Proceedings Act 1957. 5

Queries/Correspondence

9. When writing or making payment, please include— 10
- (a) the date of the infringement; and
 - (b) the infringement notice number; and
 - (c) the identifying number of the alleged offence and the course of action you are taking in respect of it; and
 - (d) your address for replies.

Note

Full details of your rights and obligations are in section 21 of the Summary Proceedings Act 1957. 15

All queries and all correspondence regarding this infringement notice must be directed to the New Zealand Police at the address for correspondence shown.

