

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 22 June 1978.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Thomson

MESSAGE PARLOURS

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A BILL INTITULED

An Act to make provision for the supervision and regulation of massage parlours

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

1. Short Title and commencement—(1) This Act may be cited as the Massage Parlours Act (~~1977~~ 1978).

(2) Section 4 of this Act shall come into force on (~~1 July 1978~~) the 1st day of April 1979. 10

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date on which it receives the Governor-General's assent.

2. Interpretation—(1) In this Act, unless the context otherwise requires,— 15

“Certificate of approval” means a certificate issued by the Court under (~~section 16 or section 17~~) section 19 of this Act:

“Court” means a Magistrate's Court:

“Licence” means a licence issued under section 11 of this Act; and “licensee” and “licensee company” have corresponding meanings: 20

“Massage” means the act of rubbing, kneading, or manipulating the human body or any part of it, whether for the purpose of relaxing muscle tension, stimulating circulation, increasing suppleness, or otherwise: 25

“Massage parlour” means any premises on or from which any person, by way of business, performs or offers to perform massage, or arranges or offers to arrange for the performance of massage, on any other person: 30

New

“Masseur or masseuse” means a person employed or engaged by a licensee to perform massage in the course of the licensee's business as the operator of a massage parlour: 35

“Officer”, in relation to a company,—

(a) In any case where the company conducts business only as the operator of a massage parlour or massage parlours, means every director, manager, and secretary of the company, and every other person, however designated, who is responsible for the management of the company: 40

(b) In any case where the company carries on any other business in addition to the business of an operator of massage parlours, means every director, manager, secretary, or other person, however designated, who is responsible for the management of the company's massage parlour business:

"Registrar" includes a Deputy Registrar:

Struck Out

"Responsible employee" means every person employed by a licensee to perform massage.

New

(2) In this Act, but without limiting or affecting the Police Offences Act 1927, the Crimes Act 1961, or any other rule of law relating to prostitution, "act of prostitution" means the offering by a man or a woman of his or her body for purposes amounting to common lewdness for payment.

3. Exemptions—Nothing in this Act applies to—

(a) Any act of massage performed by any person in the course of that person's profession or occupation if he is entitled to practise that profession or occupation by virtue of his registration, or of a licence issued to him, under any other Act:

(b) Any act of massage performed by way of first-aid:

Struck Out

(c) Any act of massage performed at any sporting or athletic venue on any competitor, contestant, or player in relation to the sporting or athletic match, competition, or event:

New

(c) Any act of massage performed by any person employed or engaged for that purpose by any body or athletic, sporting, or cultural club, association, or team on any competitor, contestant, player, or participant in any match, competition, event, or performance:

(ca) Any act of massage performed by any person as a necessary, usual, or reasonable incident of that person's business, engagement, or employment as a beautician:

- (d) Any premises in which any such act of massage is performed.

New

3A. Act does not authorise certain types of massage—Notwithstanding the definition of the term “massage” in section 2 of this Act, nothing in this Act authorises any person to perform massage for the purpose of curing or alleviating any abnormal condition of the body or of alleviating any obstetrical condition or of promoting health and well-being during pregnancy or the puerperium. 5 10

Licences

4. Massage parlour operators to be licensed—(1) No person shall carry on the business of operating a massage parlour unless he is the holder of a licence issued under this Act. 15

(2) No licensee shall carry on the business of operating a massage parlour in any premises that are not endorsed on his licence. 20

(3) Every person who contravenes subsection (1) of this section commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$10,000. 25

(4) Every licensee who contravenes subsection (2) of this section commits an offence against this Act.

5. Eligibility for licence—(1) Subject to the succeeding provisions of this section, every person who— 25

(a) Has attained his majority; or

(b) Is a company—

is eligible to apply for and obtain a licence under this Act.

(2) Notwithstanding anything in subsection (1) of this section, no person shall be eligible to apply for or obtain a licence under this Act if he— 30

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(a) Is a bankrupt and has not obtained his order of discharge, or, if he has obtained his order of discharge, it is suspended for a term not yet expired or is subject to conditions not yet fulfilled; or 35

(b) Has been convicted, at any time within the period of 10 years immediately preceding the date of the application, of an offence against any of sections 146 to 149 of the Crimes Act 1961, or of any offence against section 46 of the Police Offences Act 1927, 40

or of any offence against the Narcotics Act 1965 or the Misuse of Drugs Act 1975; or

- 5 (c) Has previously held a licence that has been cancelled in accordance with this Act at any time within the period of 5 years immediately preceding the date of the application.

(3) No company shall apply for or obtain a licence if any person who will be an officer of the company if the company is granted a licence is disqualified, under any of the foregoing provisions of this section, from applying for or obtaining a licence under this Act in his own right.

10 (4) Every person who applies for or obtains a licence knowing that he is not eligible to do so under the foregoing provisions of this section commits an offence and is liable to 15 a fine not exceeding \$2,000.

6. Application for licence—(1) Every person who desires to obtain a licence shall make application to the Court nearest his proposed principal place of business.

20 (2) Every application shall state the following information:

(a) The full name, residential address, occupation, and date of birth of the applicant:

25 (b) Where the applicant is a company, the address of the registered office of the company and the full name, residential address, occupation, and date of birth of every person who will be an officer of the company if the application is granted, and the nature of any other business carried on or proposed to be carried on by the company:

30 (c) The address of every place of business from which the applicant proposes to carry on business, and, where he proposes to carry on business from more than one place of business, which of those places is to be his principal place of business:

New

35 (ca) His address for the service of documents in respect of the application:

40 (d) The full name, residential address, occupation, and date of birth of every person who will be in effective control of each place of business if the application is granted, and the place of business where it is intended to employ every proposed (*massager*) manager:

Struck Out

(e) The full name, residential address, occupation, and date of birth of every person who will be employed by the applicant as a responsible employee, and the place of business where it is intended to employ every proposed responsible employee. 5

(3) The application shall be accompanied by the prescribed fee.

7. Notice of application to be given to Police—(1) Every applicant for a licence shall serve on the Police a copy of his application, together with a copy of every document filed in support of the application. 10

(2) Within 1 month after the receipt of a copy of an application under subsection (1) of this section, the Police may file in the Court a notice of their desire— 15

(a) To object to the issue of a licence to the applicant, in which case they shall state in the notice the grounds of their objection; or

(b) To be heard in respect of the application, in which case they shall state in the notice the reasons why they desire to be heard. 20

(3) The Police shall cause a copy of any notice filed by them under subsection (2) of this section to be served on the applicant within 7 days after filing it in the Court.

8. Magistrate not to hear or consider an application until satisfied of service—(1) No Magistrate shall hear or consider an application for a licence until he is satisfied that the applicant has served on the Police a copy of every document required to be served under section 7 (1) of this Act. 25

(2) For the purposes of subsection (1) of this section, a certificate under the hand of a member of the Police to the effect that the applicant has complied with the requirement referred to in subsection (1) of this section shall, in the absence of proof to the contrary, and without affecting any other manner in which service of a document may be proved, be sufficient evidence of that compliance. 30 35

9. Hearing of application—(1) An application for a licence, or any evidence in relation to an application, may be heard by the Magistrate, either wholly or partly, in open Court or in Chambers, as he thinks fit. 40

(2) The applicant and the Police (if a notice has been filed in respect of the application under section 7 (2) of this Act) shall be entitled to appear and be heard in respect of the application, whether personally or by counsel.

5 (3) At the hearing of any application under this section, the Court may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal with the matter, whether or not it would be otherwise admissible in a Court of law.

10 **10. Evidence of suitability required**—(1) The Magistrate hearing an application for the issue of a licence to any person other than a company shall not grant the application unless he is satisfied that the personal character of the applicant is such that he is a proper person to carry on the business of
15 operating a massage parlour.

(2) The Magistrate hearing an application for the issue of a licence to a company shall not grant the application unless he is satisfied that—

20 (a) Every person who will be an officer of the company if the application is granted is eligible to apply for and obtain a licence under this Act in his own right; and

(b) Every such person would be a proper person to obtain a licence in his own right.

25 **11. Grant of application and issue of licence**—(1) If, after hearing an application for a licence and considering any objection to the issue of a licence to the applicant, the Magistrate is satisfied that the provisions of this Act in relation to the application have been complied with, and that the appli-
30 cant is a proper person to hold such a licence he shall grant the application, and shall notify the applicant in writing that a licence will be issued to him when the Registrar has given his approval to any place of business under subsection (2) of this section.

35 (2) In any case to which subsection (1) of this section applies, the Registrar, if he is satisfied that the applicant is entitled by virtue of any right, permission, authority, consent, approval, or dispensation enjoyed by or granted to him under the provisions of the Town and Country Planning Act 1953
40 to carry on the business of a massage parlour operator from any place of business situated in the application, shall—

(a) Approve that place of business; and

(b) On the payment to him of the prescribed fee, issue to the applicant a licence in the prescribed form; and

(c) Endorse on the licence the address of the principal place of business and each subsidiary place of business to which the licence relates.

(3) If, in any case to which subsection (1) of this section applies, the Magistrate is not satisfied of the matters referred to in that subsection he shall refuse the application and shall notify the applicant accordingly. 5

12. Effect and duration of licence—(1) A licence shall authorise the licensee during the currency of the licence to carry on the business of operating a massage parlour at or from any place of business that is from time to time endorsed on the licence. 10

(2) A licence shall be personal to the licensee, and shall not be transferable or vest by operation of law in any person other than the licensee. 15

(3) A licence shall, unless it is sooner cancelled, in accordance with the provisions of this Act, continue in force until the expiration of 12 months commencing with the date on which it is issued, and may from time to time be renewed for the next succeeding year. 20

13. Renewal of licence—(1) An application for the renewal of a licence shall be filed in the Court not earlier than 12 weeks and not later than 6 weeks preceding the date of the expiry of the licence.

(2) After filing the application in Court, the applicant shall serve a copy of it on the Police as if the application were an application for the issue of a licence. 25

(3) The application shall not be heard before the expiration of 1 month after the applicant has complied with subsection (2) of this section. 30

(4) The Police may, before 3 weeks preceding the date of the expiry of the licence, file in the Court a notice of their desire to object to the renewal of the licence, or to be heard in respect of the application, in the same manner as if the application were an application for the issue of a licence. 35

(5) The Police shall cause a copy of any notice filed by them under subsection (4) of this section to be served on the applicant within 7 days after filing it in the Court.

(6) In any case where no notice is filed in the Court under subsection (4) of this section, the Registrar, on being satisfied that the applicant has complied with subsection (2) of this section, shall grant the application without further inquiry. 40

(7) Where a notice is filed in the Court within the time allowed the application shall be heard and determined by a Magistrate and sections 9 to 11 of this Act with any necessary modifications, shall apply as if the application were an application for the issue of a licence.

(8) An application for the renewal of a licence, or any objection to the renewal of a licence, may be heard and determined under this section notwithstanding that the application or notice of objection is not filed by the date specified in this section, if the application or notice is filed before the date of the expiry of the licence.

(9) Where an application for the renewal of a licence is granted, the Registrar shall, on payment to him of the prescribed fee, endorse the licence accordingly.

(10) Where an application for the renewal of a licence has been made but not determined before the date on which the licence would otherwise expire, the licence shall, notwithstanding section 12 (3) of this Act, continue in force until the application is determined.

14. Persons not to act as officers of licensee company without Magistrate's consent—(1) No person shall act as an officer of a licensee company for any period in excess of ~~(14)~~ 28 days without the approval of the Court.

(2) An applicant for a licence or a licensee company may at any time apply to the Court for the approval of any person for the purposes of subsection (1) of this section.

(3) The Police may object to or be heard in respect of an application under subsection (2) of this section; and for that purpose the provisions of sections 6 to 8 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that subsection as if it were an application for a licence.

(4) A Magistrate shall not approve of any person for the purposes of subsection (1) of this section unless the Magistrate is satisfied—

(a) That, taking into account the requirements of section 5 (3) of this Act, the company would still be qualified to apply for and obtain a licence; and

(b) That taking into account the requirements of section 10 (2) of this Act the company would still be a proper person to carry on the business of operating a massage parlour.

(5) At the hearing of any application under this section, the Court may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal with the matter, whether or not it would be otherwise admissible in a Court of law. 5

(6) Every person who acts in contravention of subsection (1) of this section commits an offence against this Act.

(7) Every licensee company that employs any person or permits any person to act as an officer of the company in contravention of subsection (1) of this section commits an offence against this Act. 10

15. Temporary licence—(1) Any person who,—

(a) In the case of a protected patient within the meaning of the Mental Health Act 1969, is the manager of his estate; or 15

(b) In the case of a licensee in respect of whom a protection order is in force under the Aged and Infirm Persons Protection Act 1912, is the manager of his estate; or

(c) In the case of a licensee who is deceased, is his personal representative; or 20

(d) In the case of a licensee who has been adjudicated bankrupt, is his assignee in bankruptcy—
may apply to the Court for authority to carry on or appoint some other person to carry on the licensee's business as an operator of a massage parlour for such period not exceeding 3 months as the Magistrate may allow, and the Magistrate may make such order as he **thinks fit**. 25

New

(1A) Notwithstanding anything in paragraph (c) of subsection (1) of this section, where the licensee is deceased and no personal representative has yet been appointed, any other person with leave of the Court may make an application under that subsection in respect of the licensee's business. 30

(2) While any person carries on any business (*pursuant to an order made*) under subsection (1) of this section he shall, for the purposes of this Act, be deemed to be the holder of the licence. 35

(3) The Police may object to or be heard in respect of an application under subsection (1) of this section; and for that purpose the provisions of sections 6 to 8 of this Act, so far as they are applicable and with the necessary modifica- 40

tions, shall apply with respect to an application under that subsection as if it were an application for a licence.

(4) In any case where *(an order has been made under subsection (1) of this section authorising any person)* any person is authorised under subsection (1) of this section to carry on a licensee's business, the Police may at any time apply to the Court for the revocation of the authority on the ground—

- 10 (a) That it is not in the interests of the public for the business to be carried on; or
- (b) That the person carrying on the business has been convicted of an offence against this Act or against any regulations for the time being in force under this Act, or of any offence referred to in section 5 (2) (b) of this Act.

15 (5) A copy of every application made under subsection (4) of this section shall, not later than 10 days before the date fixed for the hearing of the application, be sent to the person to whom the authority was granted, and that person shall be entitled to appear and be heard at the hearing of the applica- tion, whether personally or by counsel.

20 (6) At the hearing of any application under this section, the Court may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal with the matter, whether or not it would be otherwise admissible in a Court of law.

25 (7) On the hearing of an application under subsection (4) of this section, the Magistrate, if the ground of the objection is proved to his satisfaction, may cancel the authority, and thereupon the person who has been carrying on the business shall no longer be deemed to be the holder of a licence in respect of that business.

30 (8) Notwithstanding any of the foregoing provisions of this section, where under subsection (1) of this section a person mentioned in that subsection has applied to the Court for authority to carry on or to appoint some other person to carry on a licensee's business and the application has not been determined, the Registrar may, in writing, authorise the applicant to carry on the licensee's business, either personally or by an agent, for any period not exceeding 1 month, or such longer period not exceeding 3 months as a Magistrate, on application made to him in that behalf, may allow.

(9) Notwithstanding subsection (8) of this section, an authority given under that subsection shall in any event cease to have effect when the application for the Court's authority under subsection (1) of this section is determined.

Conduct of Business by Licensees

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16. Supervision of business—(1) Every place of business shall be under the effective supervision of the licensee or of a manager approved by the Court under this section for that purpose.

(2) A licensee may at any time apply to the Court for the approval of any person for the purposes of subsection (1) of this section. 10

(3) The Police may object to or be heard in respect of an application under subsection (2) of this section; and for that purpose the provisions of sections 6 to 8 of this Act, 15 so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that subsection as if it were an application for a licence.

(4) A Magistrate shall not approve of any person for the purposes of subsection (1) of this section unless the Magistrate is satisfied— 20

(a) That the person is eligible to apply for and obtain a licence in his own right; and

(b) That the person would be a proper person to obtain a licence in his own right. 25

(5) At the hearing of any application under this section, the Court may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal with the matter, whether or not it would be otherwise admissible in a Court of law. 30

(6) Every licensee commits an offence and is liable to a fine not exceeding \$2,000 if he allows any place of business to be without effective supervision in accordance with subsection (1) of this section. 35

Struck Out

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17. Responsible employees—(1) Every person who is employed as a responsible employee by any licensee in the licensee's business as an operator of a massage parlour shall be approved by the Court for the purpose.

Struck Out

(2) A licensee may at any time apply to the Court for the approval of any person for the purposes of subsection (1) of this section.

5 (3) The Police may object to or be heard in respect of an application under subsection (2) of this section; and for that purpose the provisions of sections 6 to 8 of this Act, so far as they are applicable and with the necessary modifications, shall apply with respect to an application under that sub-
10 section as if it were an application for a licence.

(4) A Magistrate shall not approve of any person for the purposes of subsection (1) of this section unless the Magistrate is satisfied—

15 (a) That the person has attained the age of 18 years and is otherwise eligible to apply for and obtain a licence in his own right; and

(b) That the person would be a proper person to obtain a licence in his own right.

20 (5) At the hearing of any application under this section, the Court may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal with the matter, whether or not it would be otherwise admissible in a Court of law.

25 (6) Every licensee commits an offence and is liable to a fine not exceeding \$1,000 if he employs any person in any massage parlour without the approval of the Court.

New

30 **17. Masseurs and masseuses**—(1) No person shall be entitled to be employed or engaged as a masseur or masseuse by a licensee in the course of his business as an operator of a massage parlour if—

(a) That person has not attained the age of 18 years; or

35 (b) That person has been convicted, at any time within the preceding period of 10 years, of an offence against any of sections 146 to 149 of the Crimes Act 1961, or of any offence against section 46 of the Police Offences Act 1927, or of any offence against the Narcotics Act 1965 or the Misuse of Drugs Act 1975; or

40 (c) An order has been made, at any time within the preceding period of 5 years, for the termination of his or her employment or engagement as a masseur or masseuse on either of the grounds set out in section 29A (1) of this Act.

New

(2) Every person who, being a person to whom subsection (1) of this section applies, accepts employment or engagement as a masseur or masseuse by a licensee in the course of his business as the operator of a massage parlour, or who, having become a person to whom that subsection applies, continues in such employment or engagement, commits an offence and is liable to a fine not exceeding \$200. 5

(3) Every licensee who, knowing that any other person is a person to whom subsection (1) of this section applies, employs or engages or continues to employ or engage that person as a masseur or masseuse, commits an offence and is liable to a fine not exceeding \$500. 10

17A. Licensee to maintain list of masseurs and masseuses—

(1) Every licensee shall, in each massage parlour, maintain a list showing the full name, address, and date of birth of every person employed or engaged by him as a masseur or masseuse in that parlour. 15

(2) Any member of the Police may, on demand, inspect and make a copy of any entry on any such list. 20

(3) Every licensee commits an offence and is liable to a fine not exceeding \$200 who—

(a) Fails to maintain a list as required by subsection (1) of this section; or

(b) Makes any false entry on any such list; or 25

(c) Employs or engages as a masseur or masseuse in any massage parlour any person whose name, address, and date of birth are not shown on the list maintained by him in that parlour for the purposes of subsection (1) of this section; or 30

(d) Refuses to allow any member of the Police to inspect or make a copy of any entry on any such list.

18. Temporary managers and responsible employees—

(1) Notwithstanding anything in section 16 or section 17 of this Act, a licensee may in any year, without the approval of the Court, employ any person as a manager (*or responsible employee*) for any period not exceeding 4 weeks, or any periods not exceeding 4 weeks in the aggregate, if that person is approved for the purpose by any commissioned officer of the Police, or any other member of the Police who is authorised for the purpose by the Commissioner of Police. 35 40

(2) Any commissioned officer of Police or other member of the Police specified in subsection (1) of this section may from time to time renew, for a further period not exceeding 4 weeks, any approval given under that subsection.

5 (3) Approval given under this section shall in any event cease to have effect if a certificate of approval is issued to the manager (*or responsible employee*) named.

19. Certificates of approval—(1) Where any Magistrate approves any person as a manager under section 16, (*or as an employee under section 17 of this Act*) he shall cause to be issued to the (*applicant*) manager a certificate of approval.

(2) Every such certificate shall authorise the holder to act as a manager (*or, as the case may require, as an employee*)
 15 in the licensee's business as the operator of a massage parlour for the period of 12 months commencing with the date on which the certificate is granted.

20. Renewal of certificate of approval—(1) Every certificate of approval, unless it has been terminated in accordance with this Act, may from time to time be renewed in accordance with this section.

(2) An application for the renewal of a certificate of approval shall be made in writing, in the prescribed form (if any), to the Court by the licensee by whom the holder of
 25 the certificate of approval is employed.

(3) The application shall be made not earlier than 12 weeks, and not later than 6 weeks, before the date of the expiry of the certificate.

(4) The applicant shall, after filing his application with
 30 the Court, serve a copy of the application on the Police in the same way as if it were an application for a certificate of approval.

(5) The application shall not be heard before the expiry of 1 month after the applicant has complied with subsection
 35 (4) of this section.

(6) The Police may, before 3 weeks preceding the date of the expiry of the certificate, file with the Court and serve on the applicant a notice of (*objection to*) their desire to object to the renewal of the certificate of approval, or to be heard
 40 in respect of the application in the same way as if it were an application for a certificate of approval.

(7) The Police shall also serve a copy of the notice of objection on the holder of the certificate of approval within 7 days after filing it in the Court.

(8) Where no notice of objection to an application for renewal of a certificate of approval is filed with the Court, the Registrar, on being satisfied that the applicant has complied with subsection (4) of this section, shall grant the application without further inquiry. 5

(9) Where a notice of objection to an application for the renewal of a certificate of approval is filed with the Court under this section, it shall be heard and determined by a Magistrate in the same way as if it were an application for the issue of a certificate of approval. The holder of the certificate of approval shall be entitled to appear as a party to the application, and the provisions of section 16 or section 17 of this Act shall apply in respect of the hearing in the same way as if it were an application for a certificate of approval. 10 15

(10) The Court may hear and determine an application for the renewal of a certificate of approval, or any objection to its renewal, notwithstanding that the application or the notice of objection is not filed within the time limit specified in this section, as long as the application or notice, as the case may be, is filed before the date of expiry of the certificate of approval. 20

(11) Where the Court grants an application for the renewal of a certificate of approval, the Registrar shall, on payment of the prescribed fee (if any), endorse the certificate of approval accordingly. 25

(12) Where an application for renewal of a certificate of approval has been made but not determined before the certificate of approval expires, the certificate of approval shall continue in force until the application is determined by the Court. 30

21. Production of licence—(1) Every licensee shall produce his licence on demand to any member of the Police. 35

(2) Where the licensee is a company it shall be sufficient compliance with the requirements of subsection (1) of this section if the licence is kept in the company's registered office and is made available for inspection on demand by any of the persons referred to in that subsection. 40

(3) Every licensee who knowingly contravenes subsection (1) of this section commits an offence against this Act.

22. Production of certificate of approval—(1) Every holder of a certificate of approval shall produce his certificate of approval on demand to any member of the Police.

(2) Every holder of a certificate of approval who knowingly contravenes subsection (1) of this section commits an offence against this Act.

Disciplinary Provisions

23. Complaints against licensee—(1) The Police may at any time file a written complaint with the Court against any licensee.

(2) Any person other than a member of the Police may at any time, with leave of the Court, file a written complaint against any licensee.

(3) The Court shall refuse leave under subsection (2) of this section unless it is satisfied that the complainant has a personal interest in the subject-matter of the complaint, and that the complaint is made in good faith and is not frivolous or vexatious.

(4) No complaint may be made under this section except on one or more of the grounds specified in section 28 of this Act.

(5) The complaint shall specify the grounds on which it is made.

(6) The complainant shall, within 7 days after filing the complaint with the Court, cause a copy of the complaint to be served on the licensee.

24. Court may refer matter to Police—(1) On receipt of a complaint from a person under section 23 (2) of this Act, the Magistrate may send a copy of the complaint to the Police with a request that a report on the complaint be prepared by the Police for the Court.

(2) In any other case where the Magistrate suspects on reasonable grounds that there may be any grounds for complaint against a licensee, he may refer the matter to the Police with a request that the Police investigate it with a view to deciding whether a complaint against the licensee should be filed under section 23 (1) of this Act.

25. Suspension of licensee pending determination of complaint—(1) Where a complaint has been filed under section 23 of this Act and the Magistrate is satisfied that it is necessary or desirable to do so having regard to the interests of

the public, he may, subject to subsection (2) of this section, make an order suspending the licence of the licensee in respect of whom the complaint is made until the complaint is heard and determined by the Magistrate in accordance with this Act.

5

Struck Out

(2) The Magistrate shall not be obliged to give any notice to the licensee that he intends to make an order of suspension under this section.

New

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(2) The Magistrate shall not make an order of suspension under subsection (1) of this section unless he has first sent to the licensee, addressed to him at his principal place of business, at least 3 days' notice in writing of his intention to make such an order and afforded the licensee a reasonable opportunity to appear and be heard, whether personally or by counsel, in opposition to the making of such an order.

15

(3) The Magistrate shall notify the licensee in writing of any order of suspension made by him under this section and of his reasons for making the order. *(and shall, as soon as practicable thereafter, afford the licensee an opportunity to make representations to the Magistrate for the revocation of the order.)*

20

(4) An order of suspension made under this section shall come into force when the licensee is notified of the order in accordance with subsection (3) of this section, and while it continues in force, the licence to which it relates shall cease to have effect, and shall not be renewed, and no new licence shall be granted to the licensee.

25

(5) The Magistrate may at any time, on his own motion or on the application of the licensee, revoke an order of suspension made under this section.

30

26. Hearing of complaint—(1) Where a complaint has been filed with the Court against any licensee under section 23 of this Act, and the Magistrate is satisfied that the requirements of that section have been complied with, the Magistrate shall fix a time and place for the hearing of the complaint.

35

(2) The Magistrate shall give not less than 14 days' notice of the hearing to the licensee and to the complainant.

40

Struck Out

- 5 (a) To the licensee; and
 (b) To the complainant; and
 (c) Where the Magistrate wishes the Police to attend, to the Police.

10 (3) At the hearing, the complainant, the licensee, (and the Police) any other person (if any) whose conduct is or may be called into question in respect of the subject-matter of the complaint, and (where the Police are not the complainant but have submitted a report to the Court in respect of the complaint under section 24 of this Act) the Police shall be entitled to appear and to be heard, and to call evidence, and to cross-examine and re-examine witnesses.

15 (4) Any party at the hearing may conduct his case personally or may be represented by counsel.

(5) The Magistrate may from time to time adjourn the hearing to a future time and place fixed by him.

20 **27. Powers of Court on determining complaint**—(1) If, after hearing a complaint in respect of a licensee in accordance with section 26 of this Act, the Magistrate is satisfied that the grounds of the complaint have been proved, he may do all or any of the following things:

- 25 (a) Subject to section 28 of this Act, make an order cancelling the licence:
 (b) Make an order suspending the licence for such period, not exceeding 3 years, as the Magistrate shall specify in the order:
 (c) Fine the licensee any amount not exceeding \$200:
 30 (d) Where the Magistrate is satisfied in the case of a licensee that is a company that the grounds of the complaint relate to any conduct or omission by a particular officer of the company, make an order directing the licensee to terminate the **(employment) appointment** of that officer within such time as the
 35 Magistrate shall specify in the order.

(2) If, after hearing the complaint, the Magistrate is not satisfied that the grounds of the complaint have been proved, he shall dismiss the complaint.

40 (3) While any order of suspension of a licence made under this section continues in force, the licence shall cease to have effect, and shall not be renewed, and no new licence shall be issued to the licensee.

(4) The Magistrate shall forthwith give notice in writing to the licensee, the Commissioner of Police, and (where the complainant is not a member of the Police) the complainant, of the decision made by him under this section, and of any penalty imposed by him under this section. 5

(5) Where the Magistrate makes an order under paragraph (e) of subsection (1) of this section, he shall also give notice in writing of the order forthwith to the officer to whom it relates.

28. Grounds for cancellation of licence—(1) No licence 10
may be cancelled under this Act except on one or more of the following grounds:

(a) Where any person specified in subsection (2) of this section is convicted of any offence specified in section 5 (2) (b) of this Act: 15

(b) Where any person specified in subsection (2) of this section, having been convicted of an offence against this Act, is within 3 years after the date of the conviction, again convicted of an offence against this Act: 20

(c) Where any person specified in subsection (2) of this section is convicted of any other offence and, by reason of that offence, is not a proper person to hold a licence under this Act:

(d) Where any manager (*or responsible employee*) is convicted of any offence specified in section 5 (2) (b) of this Act, and any person specified in subsection (2) of this section was a party to or connived at or permitted or encouraged the commission of the offence: 25
30

New

(da) Where any masseur or masseuse employed or engaged by the licensee—

(i) Is convicted of any offence involving an act of prostitution; or 35

(ii) Performs an act of prostitution—
and the performance of that act was facilitated by the failure of the licensee to effectively supervise the conduct of his business:

(e) In the case of a licensee that is a company, where the licensee fails to comply with an order made under section 27 (1) (d) of this Act in respect of any officer of the company. 40

(2) The persons referred to in subsection (1) of this section are—

- (a) The licensee; and
- (b) In the case of a licensee that is a company, any officer of the company.

29. Court may cancel certificate of approval—(1) The Police, or any other person with leave of the Court, may at any time apply to the Court for an order cancelling a certificate of approval on any of the following grounds:

- (a) That the manager *(or employee)* has been convicted of any offence specified in section 5 (2) (b) of this Act:

Struck Out

- (b) That the manager or employee has been convicted of any other offence and, by reason of that offence, is not a proper person to hold a certificate:
- (c) That the manager or employee is of such a character that it is in the interests of the public that the certificate of approval be cancelled.

New

- (b) That the manager, having been convicted of an offence against this Act, has been, within 3 years after the date of that conviction, again convicted of an offence against this Act:
- (c) That the manager has been convicted of any other offence and, by reason of that offence, is not a proper person to manage a massage parlour:
- (d) That any masseur or masseuse employed or engaged in the massage parlour—
 - (i) Has been convicted of any offence involving an act of prostitution; or
 - (ii) Has performed an act of prostitution— and the performance of that act was facilitated by the failure of the manager to effectively supervise the conduct of business in the massage parlour.

(2) For the purposes of subsection (1) of this section, the provisions of (sections 21 to 24) subsections (5) and (6) of section 23 and sections 24 to 27 of this Act, so far as they are applicable and with the necessary modifications, shall apply in respect of certificates of approval and to the holders of such certificates in the same manner as they apply to licences and licensees.

*New***29A. Court may order dismissal of masseur or masseuse—**

(1) The Police may at any time apply to the Court for an order that the employment or engagement of any masseur or masseuse by a licensee in the course of his business as an operator of a massage parlour be terminated on either of the following grounds: 5

- (a) That in the course of his or her employment or engagement by the licensee, he or she has performed an act of prostitution: 10
- (b) That he or she has been convicted of any offence (other than an offence specified in section 5 (2) (b) of this Act) and, by reason of that offence, is not a proper person to be employed or engaged as a masseur or masseuse. 15

(2) For the purposes of subsection (1) of this section, the provisions of subsections (5) and (6) of section 23 and sections 24 to 27 of this Act, so far as they are applicable and subject to the necessary modifications, shall apply in respect of complaints under this section in the same manner as they apply to complaints against licensees. 20

Appeal Provisions

30. Appeals to Supreme Court—(1) In every case where a Magistrate refuses under any of sections 11, 13, (16, 17), 14, 15, 16 and 20 of this Act to grant any application, the applicant shall have a right of appeal to the Supreme Court against the decision of the Magistrate. 25

Struck Out

(2) In every case where a Magistrate suspends or cancels a licence under section 27 of this Act, or cancels a certificate of approval under section 28 of this Act, the person whose licence or certificate is suspended or cancelled shall have a right of appeal to the Supreme Court against the decision of the Magistrate. 30

New

- (2) In every case where a Magistrate—
- (a) Suspends or cancels a licence or imposes any fine on a licensee under section 27 of this Act; or 35

New

- (b) Suspends or cancels any certificate of approval or imposes any fine on a manager under section 27 (as applied by section 29 (2)) of this Act; or
- 5 (c) Orders that the employment of any masseur or masseuse be terminated under section 29A of this Act,—

the licensee, manager, or masseur or masseuse to whom the order relates or on whom the fine is imposed shall have a

10 right of appeal to the Supreme Court against the decision of the Magistrate.

(3) In every case where a Magistrate makes an order under section 27 (1) (d) of this Act directing a licensee that is a company to terminate the (*employment*) appointment of any

15 of its officers, the officer to whom the order relates shall have a right of appeal to the Supreme Court against the decision of the Magistrate.

(4) Every appeal under this section shall be heard and determined by the Administrative Division of the Supreme

20 Court.

(5) Every appeal under this section shall be brought within 28 days after the date on which the appellant was notified in writing by the Registrar of the Court of the decision appealed against, or within such further period as the Court may allow.

- 25 (6) On hearing the appeal, the Court may—
- (a) Confirm or reverse the decision appealed against; or
- (b) In the case of an order suspending a licence or certificate of approval, vary the period of the suspension; or

30 (c) Refer the matter back to the Magistrate with directions to him to reconsider the whole or any specified part of the matter.

(7) The decision of the Court on the appeal shall be final.

35 (8) Subject to the other provisions of this section, the procedure in respect of the appeal shall be in accordance with rules of Court.

Duties and Powers of Police

31. Functions of Police—It shall be the function of the Police from time to time—

- 40 (a) To take proceedings in accordance with this Act for the cancellation or suspension of any licence or certificate of approval:

- (b) To do all proper acts to assist the Court in the performance of its functions under this Act:
- (c) To investigate any breaches of this Act.

32. Power of Police to enter on licensed premises—

Struck Out

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(1) Any

member of the Police may at any time—

- (a) Enter on and inspect any premises in respect of which a licence is for the time being in force under this Act:
- (b) For the purposes of enabling the Police to exercise any function conferred on them by section 31 of this Act, or of preventing or detecting the breach of any of the provisions of this Act, enter on and inspect any licensed premises or any part thereof.

10

15

New

(1) Any

member of the Police may at any time enter and inspect any premises in respect of which a licence is for the time being in force under this Act.

20

(2) Every person commits an offence against this Act who, by himself or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit, without any unnecessary delay, any member of the Police who in the execution of his duty demands entry pursuant to this section.

25

New

32A. Warrant to enter licensed premises—Any Magistrate or Justice, or any Registrar (not being a constable), may issue a search warrant, in the form set out in the First Schedule to this Act, if, on an application in writing made on oath, he is satisfied that there is reasonable ground for believing that an offence against this Act, or an act constituting a ground for complaint under this Act, has been or is being committed or performed on the premises specified in the warrant, being premises in respect of which a licence is for the time being in force under this Act; and the provisions of subsections (2) to (8) of section 198 and section 199 of the Summary Proceedings Act 1957, so far as they are applicable and with the necessary modifications, shall apply accordingly.

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33. **Power to enter other premises**—Any Magistrate or Justice, or any Registrar (not being a constable), may issue a search warrant, in the form set out in the Second Schedule to this Act, if, on an application in writing made on oath, he is
5 satisfied that there is reasonable ground for believing that any premises (other than premises in respect of which a licence is in force under this Act) are being used for the purposes of a massage parlour in contravention of section 4 of this Act; and the provisions of subsections (2) to (7) (8)
10 of section 198 and section 199 of the Summary Proceedings Act 1957, so far as they are applicable and subject to any necessary modifications, shall apply accordingly.

34. **Decisions to be notified to Police**—Where any decision is made by any Court under this Act, the Registrar shall give
15 notice of the decision to the Police.

35. **Service of documents**—(1) Where under this Act any notice or other document is to be given to or served on the Police, it shall be given to or served on the senior member, for the time being, of the Police in the district or place of
20 residence of the applicant, or the holder of the licence or certificate of approval, to whom the notice or other document relates.

New

(2) Where under this Act any notice or document is to be
25 given or served on any applicant for the issue or renewal of any licence or certificate of approval, it shall be given to or served on him personally or sent by registered post addressed to him at his address for service.

Miscellaneous Provisions

30 36. **General penalty**—Every person who commits an offence against this Act, or against any regulations made under this Act, for which no penalty is otherwise provided by this Act or by such regulations, shall be liable on summary conviction to a fine not exceeding \$200 and, if the offence is a continuing
35 offence, to a further fine not exceeding \$20 for every day on which the offence has continued.

New

36A. Punishment of offences—Every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction.

37. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 5

- (a) Prescribing forms to be used for the purposes of this Act and the matters to be specified in such forms: 5
- (b) Prescribing fees payable under this Act in respect of applications and the issue and renewal of licences: 10
- (c) Prohibiting licensees from carrying on business otherwise than under their own name without the consent of the Court, and prescribing the terms on which any such consent may be given or refused: 15
- (d) Prohibiting licensees from carrying on business otherwise than at any place of business noted on their licences, and requiring licensees to notify the Court of any proposed place of business: 15
- (e) Prohibiting licensees from entering into partnership with any person other than a licensee, and requiring licensees to notify the Court on entering into any partnership with another licensee: 20
- (f) Providing for the voluntary surrender of licences: 25
- (g) Providing for the issue of duplicate licences in the event of loss of or damage to the original licences: 25
- (h) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Part of this Act, and prescribing the amount of any fine that may be imposed in respect of such offence, being an amount not exceeding \$200 and, where the offence is a continuing one, a further amount not exceeding \$20 for every day during which the offence has continued: 30
- (i) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration. 35

SCHEDULES

New

FIRST SCHEDULE

Section 32A

No. /19....

SEARCH WARRANT

Section 32A, Massage Parlours Act 1978

To every constable:

(Or to [Full name] constable:)

I am satisfied on an application in writing made on oath (or on an application made on oath orally, the grounds for which I have noted in writing) that there is reasonable ground for believing that an offence against the Massage Parlours Act 1978, or an act constituting a ground for complaint under that Act, has been or is being committed or performed on the premises situate at and known as, being premises in respect of which a licence is for the time being in force under the said Act.

This is to authorise you at any time or times within 1 month from the date of this warrant to enter and search the said premises with such assistants as may be necessary, and if necessary to use force for making entry, whether by breaking open doors or otherwise, and also to break open the box (receptacle) (or any box or receptacle therein or thereon) by force if necessary; and also to seize any thing which there is reasonable ground to believe will be evidence as to the commission of the offence.

Dated at this day of 19....

.....
Magistrate

(or Justice of the Peace
or Registrar (not being a constable)).

SECOND SCHEDULESection 33

No...../19.....

SEARCH WARRANT

Section 33, Massage Parlours Act (1977) 1978

To every constable:

(Or To [*Full name*] constable:)

I am satisfied on an application in writing made on oath (*or on an application made on oath orally, the grounds for which I have noted in writing*) that there is reasonable ground for believing that the premises situate at and known as are being used for the purposes of a massage parlour.

This is to authorise you at any time or times within 1 month from the date of this warrant to enter and search the said premises with such assistants as may be necessary, and if necessary to use force for making entry, whether by breaking open doors or otherwise, and also to break open the box (receptacle) (*or any box or receptacle therein or thereon*) by force if necessary; and also to seize any thing which there is reasonable ground to believe will be evidence as to the commission of the offence.

Dated at this day of 19.....

.....
Magistrate

(or Justice of the Peace

or Registrar (not being a constable)).