PART III

COMMERCIAL SEXUAL ACTIVITIES

Commercial sexual exploitation

13. (1) A person who engages in commercial sexual exploitation commits an offence and shall be liable on conviction to pay a fine of one hundred thousand Emalangeni or to a term of imprisonment not exceeding twenty years or both, but where the victim is a child, that person shall, on conviction be liable to a fine not exceeding one hundred and twenty five thousand Emalangeni or a period of imprisonment not exceeding twenty five years or both.

(2) For the purposes of this section a person commits commercial sexual exploitation if, in relation to another person, for financial or other reward, favour or compensation to such person or to any other person, the first mentioned person–

(a) invites, persuades or induces the person to allow another person to commit a sexual act or sexual violation with or on the person;

(b) makes available, offers or engages the person for the purposes of the commission of sexual acts or sexual violations by any person;

(c) facilitates the commission of sexual acts or sexual violations by any person with or on another person;

(d) facilitates, allows or knowingly permits the commission of sexual acts or sexual violations by any person with a child while being a primary care-giver, parent, foster parent, kinship care-giver, temporary safe care-giver, guardian or curators of that child or for any reason has power, possession, custody or control over the child ; or

(e) detains the person, whether under threat, coercion, deception, abuse of power or force for the purposes of the commission of sexual acts or sexual violations with or on the person.

Promoting commercial sexual exploitation

14. A person who−

(a) prints or publishes, in any manner, any information that is intended to promote or facilitate conduct that constitutes is intended or likely

to constitute commercial sexual exploitation as defined in section 13 or as contained in any other law or international convention; or

(b) promotes or encourages the commission of unlawful sexual act or acts which are akin to commercial sexual exploitation or sexual violations between one person and another person or between any number of persons,

commits an offence and shall, on conviction, be liable to pay a fine not exceeding fifty thousand Emalangeni to a term of imprisonment not exceeding ten years or but where the activities relate to a child the sentence of imprisonment shall not exceed twenty years and shall be without an option of a fine.

Procuring prostitution

15. A person who procures another to engage in prostitution commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand Emalangeni or to a term of imprisonment not exceeding ten years or to both but, where the victim is a child the term of imprisonment shall not exceed twenty years without an option to pay a fine.

Benefiting from prostitution

16. (1) A person who receives financial or other reward, favour or compensation from the commission of sexual acts or sexual violations by another person commits an offence and shall, on conviction, be liable to pay a fine not exceeding fifty thousand Emalangeni or to a term of imprisonment not exceeding ten years or to both.

(2) A person may not be charged with an offence under subsection (1) if that person is a child.

Living from the earnings of prostitution

17. (1) A person who lives wholly or in part on rewards, favours or compensation for the commission of sexual acts or sexual violations by another person commits an offence and shall, on conviction, be liable to pay a fine not exceeding thirty thousand Emalangeni or to a term of imprisonment not exceeding six years or both.

(2) A person may not be convicted of an offence under subsection (1) if that person is a child.

Keeping a brothel

18. (1) Subject to subsection (2), any person who keeps or is deemed to keep a brothel commits an offence and shall, on conviction be liable to pay a fine not exceeding fifty thousand Emalangeni or to a term of imprisonment not exceeding ten years or to both.

(2) A person who commits an offence in the circumstances specified in section 19 (a) or (g) is liable on conviction to a sentence at the discretion of the Court taking into account all the circumstances of the offence.

(3) The phrase *"keeps a brothel"* means for the purposes of this Part, owning, controlling or managing a brothel or acting or assisting in the management of a brothel.

Certain persons deemed to keep a brothel

19. The following persons shall, for the purposes of section 18 be deemed to keep a brothel−

(a) any person who resides in a brothel unless that person proves that he was ignorant of the character of the house or place;

(b) any person who manages or assists in the management of any brothel;

(c) any person who knowingly receives the whole or any share of any moneys taken in a brothel;

(d) any person who, being the tenant or occupier of any house or place, knowingly permits such house or place to be used as a brothel;

(e) any person who, being the owner of any house or place, lets the house or place, or allows it to be let, or to continue to be let, with the knowledge that such house or place is to be kept or used or is being kept or used as a brothel;

(f) any person found in a brothel who refuses to disclose the name and identity of the keeper, owner or manager of the brothel; and

(g) any person whose spouse keeps or resides in or manages or assists in the management of a brothel unless such person proves that he was ignorant of the activities of the brothel or that the house or place was a brothel or that he lives apart from the spouse who keeps the brothel

and did not intentionally receive the whole or any share of the moneys taken from the business of the brothel.

Lease agreement relating to brothels void

20. (1) An agreement to let a house or place to be kept or used as a brothel shall be null and void.

(2) An agreement of letting or hiring of any house or place shall, if subsequent to the conclusion of such contract the house or place becomes a brothel, be null and void from the date the house or place becomes a brothel.

(3) Notwithstanding subsection (2), on proof by the owner of his ignorance that the house or place was so kept or used as a brothel, the owner shall be entitled to recover damages and consequential damages.

Summary eviction when a house or place is used as a brothel

21. The owner of a house or place kept or used as a brothel shall be entitled to apply to a Magistrate having jurisdiction in the area in which the house or place is situated for summary eviction of any person who may be keeping or using such house or place as a brothel and the Magistrate may, after hearing evidence from the parties or from one party if the other fails for whatever reason to submit any, order the summary eviction of the offending person.

Proceedings on complaint by householders or police that a house or place is used as a brothel

22. (1) If it appears to any Magistrate on sworn statement laid before him that any house or place is being kept or used as a brothel, the Magistrate may−

(a) issue a warrant for the arrest of the person alleged to be the keeper of such brothel; or

(b) issue a warrant authorising any police officer not below the rank of sergeant−

(i) to enter at any time and within such period as is stated in such warrant, such house or place for the purpose of ascertaining the name and identity of the keeper of such house or place;

(ii) to question any person found in or upon such house or place and to require that such person provide their name and address; and

(iii) to demand, search for, and seize any account book, receipt, paper, document or things likely to afford evidence of the commission by any person of an offence under this Act.

(2) For purposes of subsection (1), sworn statement that any house or place is being kept or used as a brothel may be laid before a Magistrate by–

(a) not less than two householders of good repute whose dwellings are in the

(b) vicinity of the relevant house or place;

(c) any police officer not below the rank of sergeant; or

(d) a social worker or a local authority official.

(3) Any person found in such house or place who, when called upon to do so by the police officer conducting the search, refuses to furnish his or her name and address or furnishes a name or address which is false in any material particular or refuses to disclose the name or identity of the keeper of the house or place or to produce any book, receipt, paper, document or thing which he has in his possession or custody or under his control, commits an offence and shall, on conviction, be liable to pay a fine not exceeding ten thousands Emalangeni to a term of imprisonment not exceeding two years or both.

(4) The issue of a warrant under subsection (1) (b) shall not in any way affect the power of the Magistrate to issue at any time a warrant under subsection (1) (a) or under any other law.