

Procuring Prostitution¹

The prosecution must prove:

1. That the defendant knowingly procured²the complainant;

The prosecution must prove that the defendant knowingly recruited or enticed [the complainant] for the purposes of sexual exploitation.

2. To engage in prostitution.

A person engages in prostitution if the person engages (or offers to engage) in the provision to another person³, under an arrangement of a commercial character, of any of the following activities:

- (a) sexual intercourse;
- (b) masturbation;
- (c) oral sex;
- (d) any activity, other than sexual intercourse, masturbation or oral sex that involves the use of one person by another for his sexual satisfaction, involving physical contact.⁴

¹ The offence is a prescribed offence under s 161Q *Penalties and Sentences Act 1992* so a serious organised crime circumstance of aggravation is applicable.

² There are number of specific offences of procuring in the *Code* containing the same definition.

For example s 217 (Procuring a young person or an intellectually impaired person to engage in carnal knowledge), and s 218 (Procuring sexual acts by coercion). In relation to most of the offences of procuring under Chapter 22 (Offences Against Morality), each section provides a definition of “procure” and it is suggested that in these cases the trial judge direct the jury specifically in terms of this definition.

Similarly the offence of procuring prostitution (Under Chapter 22A) contains the same definition: s 229G. However, in relation to the offence of supplying drugs or instruments to procure abortion (s 226) the word “procures” when it relates to an event rather than a person carries its dictionary meaning: “to effect, cause, bring about”.

³ This section applies equally to males and females: s 229E(3).

⁴ A person does not engage in prostitution if:

- (a) the activity is one mentioned in 1(d) and
- (b) the person is providing adult entertainment under a permit and is an adult and is not a person with an impairment of the mind. See s 1; and
- (c) the activity is authorised under the permit: s229E(4).