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HOUSING, BIG BUILD AND MANUFACTURING COMMITTEE

Members present:

Mr CG Whiting MP—Chair
Mr JJ McDonald MP (videoconference)
Mr DJ Brown MP
Mr MJ Hart MP
Mr RI Katter MP (videoconference)
Mr TJ Smith MP (videoconference)

Staff present:

Ms S Galbraith—Committee Secretary
Dr V Lowik—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE CRIMINAL CODE (DECRIMINALISING SEX WORK) AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Monday, 26 February 2024

Brisbane

MONDAY, 26 FEBRUARY 2024

The committee met at 11.04 am.

CHAIR: Good morning. I declare open this public briefing for the committee's inquiry into the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024. My name is Chris Whiting. I am the member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share. With me here today are: Jim McDonald, member for Lockyer and deputy chair, joining us via videoconference; Don Brown, member for Capalaba; Michael Hart, member for Burleigh; Tom Smith, member for Bundaberg, joining us via videoconference; and Robbie Katter, member for Traeger, joining us via videoconference.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence on oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee.

I remind committee members that departmental officials are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone to please turn their mobile phones off or onto silent mode and computers onto silent mode.

BANDARANAIKE, Ms Sakitha, Acting Assistant Director-General, Strategic Policy and Legislation, Department of Justice and Attorney-General

HOLDEN, Mr Karl, Manager, Policy and Legislation, Local Government Division, Department of Housing, Local Government, Planning and Public Works

McKARZEL, Mr David, Executive Director, Regulatory Policy, Department of Justice and Attorney-General

O'MAY, Mr Justin, Director, Strategic Policy and Legislation, Department of Justice and Attorney-General

SAVAGE, Mr Adam, Acting Principal Legal Officer, Strategic Policy and Legislation, Department of Justice and Attorney-General

WATTS, Mr Jordan, Director, Policy and Legislation, Local Government Division, Department of Housing, Local Government, Planning and Public Works

CHAIR: I now welcome officials from the Department of Justice and Attorney-General, and the Department of Housing, Local Government, Planning and Public Works who have been invited to brief the committee on this bill. I invite you to make an opening statement after which the committee will have some questions for you.

Ms Bandaranaike: Thank you, Chair, for the opportunity to brief the committee today about the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill. My name is Sakitha Bandaranaike. I am Acting Assistant Director-General, Strategic Policy and Legislation in the Department of Justice and Attorney-General. Joining me today from the Department of Justice and Attorney-General are: David McKarzel, Executive Director, Regulatory Policy; Justin O'May, Director,

Strategic Policy and Legislation; and Adam Savage, Acting Principal Legal Officer, Strategic Policy and Legislation. Also joining me today are officers from the Department of Housing, Local Government, Planning and Public Works: Jordan Watts, Director, Policy and Legislation, Local Government Division; and Karl Holden, Manager, Policy and Legislation, Local Government Division.

I note the Department of Justice and Attorney-General has already provided a written briefing to the committee on the amendments contained in the bill. The department will also provide a written response to public submissions received by the committee by 19 March 2024.

The bill implements a number of recommendations made by the Queensland Law Reform Commission's report *A decriminalised sex-work industry for Queensland*. The recommendations cover a range of areas, including: decriminalisation; licensing; health, safety and worker rights; planning and local laws; protection from coercion and the exploitation of children; implementation activities and other matters, including education and training.

The bill proposes a legal framework for a decriminalised sex work industry in Queensland and largely implements the recommendations made by the Queensland Law Reform Commission report by: updating discrimination protections for sex workers in the Anti-Discrimination Act 1991; amending the City of Brisbane Act 2010 and the Local Government Act 2009 to restrict local governments from making laws which prohibit or regulate sex work; inserting new offences into the Criminal Code to protect children from involvement in the provision of commercial sexual services; amending an existing offence in the Criminal Code to guard against coercion and exploitation in relation to providing commercial sexual services; amending the Penalties and Sentences Act 1992 to ensure the serious and organised crime circumstance of aggravation applies to the new offences inserted into the Criminal Code; amending the Work Health and Safety Act 2011 to provide for a legislated review requirement to assess the effectiveness of the new regulatory framework for the sex work industry; repealing sex-work-specific offences in chapter 22A of the Criminal Code; and repealing the Prostitution Act 1999. I will use this opening statement to outline some of the more significant reforms in the bill, noting the department's written briefing contains further information about the bill's other amendments.

Turning now to the amendments to the Anti-Discrimination Act 1991, noting recommendation 12 of the Queensland Law Reform Commission report, the bill amends the Anti-Discrimination Act by omitting the protected attribute of 'lawful sexual activity' and replacing it with 'sex work activity', providing discrimination protection for sex workers. The bill defines 'sex work activity' to mean the provision by an adult person of services for payment or reward that involves a person participating in a sexual activity with another person, or services that involve the use or display of the person's body for the sexual arousal or gratification of another person, and includes being or having been a person who provides those services. Consistent with prior stakeholder feedback, the proposed definition is wider than the definition proposed by the Queensland Law Reform Commission and is not restricted to acts involving physical contact.

Consistent with the principle that sex work should be treated the same as any other business, the bill implements recommendation 13 of the Queensland Law Reform Commission report by repealing section 106C of the Anti-Discrimination Act which allows accommodation providers to discriminate against someone if they reasonably believe the person is using, or intends to use, the accommodation for sex work.

The bill also amends the Criminal Code to give effect to recommendations 1 and 25 to 31 of the Queensland Law Reform Commission report. The bill repeals chapter 22A, 'Prostitution', of the Criminal Code, which contains sex-work-specific criminal offences. The bill creates three new offences which will be inserted into chapter 22, 'Offences against morality', of the Criminal Code, and amends an existing offence in section 218, 'Procuring sexual acts by coercion'. Section 218 is also located in chapter 22 of the Criminal Code.

There are three new offences inserted into chapter 22. New section 217A creates an offence for obtaining commercial sexual services from a person who is not an adult. The maximum penalty is 10 years imprisonment. If the child is under 16 years of age, the maximum penalty increases to 14 years imprisonment, and if the child is under 12 years of age, the maximum penalty is life imprisonment. New section 217B creates an offence for allowing a person who is not an adult to take part in commercial sexual services. The maximum penalty is 14 years imprisonment. New section 217C creates an offence for conduct relating to the provision of commercial sexual services by a person who is not an adult. The maximum penalty is 14 years imprisonment. The bill amends section 218 of the Criminal Code to include coercion in the context of commercial sexual services. The maximum penalty for this offence is 14 years imprisonment.

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The bill inserts a definition of ‘commercial sexual service’ in section 207A of the Criminal Code as ‘a service involving a sexual act, engaged by a person for payment or reward under arrangement of a commercial character’. The existing definition of ‘sexual act’ currently defined in section 218 of the Criminal Code is used to ensure the offence captures both physical and non-physical contact.

The Queensland Law Reform Commission did not make any recommendations about the supply or consumption of alcohol on premises where sex work occurs or the regulation of adult entertainment under the Liquor Act. The Queensland Law Reform Commission noted that these are complex policy issues which require separate consultation and government consideration. Accordingly, the bill amends the Liquor Act only where it is necessary to maintain the status quo on the conduct of adult entertainment on liquor licensed premises and does not make amendments in relation to the supply and consumption of alcohol on premises where sex work occurs.

The Queensland Law Reform Commission also recommended amendments to the City of Brisbane Act 2010 and the Local Government Act 2009 to restrict local governments making laws about sex work, ensuring the aims and benefits of decriminalisation filter down to local government areas throughout Queensland. The bill inserts new sections into the Local Government Act and the City of Brisbane Act to prohibit local governments from making a local law that prohibits or regulates sex work or the conduct of a sex work business.

The bill amends the Penalties and Sentences Act to ensure that the serious and organised crime circumstance of aggravation applies to the proposed new offences in section 217A, 217B and 217C of the Criminal Code. The bill also amends the District Court Act 1967 to enable the District Court to have jurisdiction in relation to the offence contained in the new section 217A, ‘Obtaining commercial sexual services from a person who is not an adult’, as the maximum penalty of life imprisonment applies where the child is under 12 years of age. The District Court of Queensland has jurisdiction with respect to indictable offences where the maximum penalty does not exceed 20 years imprisonment.

The bill also amends the Work Health and Safety Act 2011 to legislate a requirement for a review of the new regulatory framework and the bill also makes transitional amendments in schedule 1.

Finally, consistent with recommendations 2, 3, 4, 5, 6, 11, 22 and 25 of the Queensland Law Reform Commission report, the bill repeals the Prostitution Act 1999 in its entirety. This will have the effect of, amongst other things, removing public solicitation offences, removing the current prostitution licensing provisions and abolishing the Prostitution Licensing Authority, removing sex-work-specific advertising provisions and repealing sex-work-specific health offences.

I thank you for the opportunity to provide information on the bill. We are happy to assist the committee by taking any questions the committee may have.

CHAIR: Within the briefing paper, one of the most important points and the first point at the top is that most sex work occurs outside the legal framework in Queensland, which is licensed brothels or sole operators. Can you expand on that, because that is probably something that not many Queenslanders know about?

Mr Savage: The current framework requires sex work to occur in two circumstances. The first is a licensed brothel and the second is individual sex workers working alone. The premise of the QLRC report effectively was to interrogate that aspect, and the QLRC makes the point that about 10 per cent of sex work currently is undertaken in licensed brothels and at the moment there are 16 or 17 licensed brothels in Queensland. The remainder of sex work—that is, 90 per cent of sex work—occurs either by sole operators working alone or unlawfully.

CHAIR: The Law Reform Commission report points to that 10-90 split.

Mr Savage: That is right.

CHAIR: This is related to that and it is also in the briefing paper. It talks about how the legal framework creates incentives to avoid authorities being involved in what is happening and effectively isolates sex workers and therefore they are increasingly vulnerable. Do you want to talk a bit more about that? Is that reflected once again in the Law Reform Commission report?

Mr Savage: The Law Reform Commission does go into this in some detail. Effectively, the concern, particularly from sex workers as I understand it, is that they have to work in a licensed brothel or work alone. That then may prohibit them from engaging in safety strategies by working together. Then if there is any conduct that is untoward that might occur towards a sex worker, they may be hesitant to report that to police if they are operating outside that lawful framework.

CHAIR: Essentially, they have been working outside the framework because to operate safely they have needed to?

Mr Savage: Yes.

CHAIR: I will ask you to talk a bit more about this—and it may go to local government and planning—about specifically bringing in a clause that restricts local governments from making local laws that prohibit or regulate sex work, so essentially it becomes another form of business that has a potential impact. Is that something local governments do in that they manage the impact of this particular business within an area? Is that the way local governments would approach it?

Mr Watts: In its report, the Queensland Law Reform Commission's recommendation 23 went to the heart of your question, which is really to make it abundantly clear that this issue is to be regulated at the state level. It was to provide that clarity that Queensland's 77 local governments would not have the opportunity to be regulating it via local laws at the local level. The intention from the QLRC and through this bill is for that regulation to occur at the state level. Generally, we are not aware of Queensland's 77 local governments that currently have any local law or any regulation of sex work.

CHAIR: For example, it is a business that has to take place away from sensitive areas that may be impacted, like a school—or it could be a concrete batching plant, to be crude. Is that the way that local governments would approach that, looking at the impact of that particular business?

Mr Watts: I think you are now starting to get into the area of the planning regime and the planning framework. The Attorney-General in the introductory speech she made for this bill spoke about planning regulation changes that were being prepared to give effect to the intent of the QLRC's recommendations and they are to be consulted on. Work on that planning regulation is still occurring. That is being undertaken by another part of my department. We would be happy to take questions about that on notice.

CHAIR: That is fine. I am happy with that. I heard what the minister had to say about that and I have been given some assurances of how that is going to proceed.

Mr McDONALD: Thank you all for being here today. I appreciate the opportunity for a briefing. I am sorry I cannot be there in person. My question is about the existing system of licensed operators. What happens to that system under this new legislation? Do the licences for legal operators remain or will they be gone?

Mr Savage: The bill repeals the Prostitution Act and chapter 22A of the Criminal Code, which is the current framework that administers the prostitution industry in Queensland. The PLA will be abolished. There will be no more licensing system. There will be no requirements for brothels to be licensed, for example, or any replacement of that system. It would be regulated like any other business.

Mr McDONALD: There is no compensation or no process that is happening for those who have invested in their businesses, or is that just bad luck; it has stopped? Will they have to then compete on the open market if others want to start; is that what will happen?

CHAIR: There is a lot of speculation there. We will get an answer on that if we could.

Mr Savage: The QLRC report dealt with this aspect about potential compensation for brothel licensees because of the impact that decriminalisation is likely to have on brothel licensees. Recommendation 34 was that the government consider a compensatory mechanism such as fee relief for brothel licensees and approved managers and interim managers during the transition period. Compensation options included waiving fees that become payable during the transition period or refunding that unused portion of fees. We could refund on a pro rata basis any fees during the transition period and any fees in excess during the transition period. Possible fee waivers or refunds to brothel licensees and approved managers will be further considered by the government between introduction and commencement.

CHAIR: To clarify, that is the fees under the Prostitution Act, which would have been repealed?

Mr Savage: That is right. Brothel licensees pay a fee to be able to—

Mr HART: Is that covered by regulation or does the minister have the power to waive those fees anyway?

Mr Savage: The fees are currently prescribed under a regulation, and the mechanism upon which compensation might be further considered is being considered during this transition period to the commencement.

Mr McDONALD: There is no system in place that is still being considered?

Mr Savage: That is right.

Mr McDONALD: Obviously, even with the change to this, there are those who have established the business, whether it is right or wrong, under that system. I am always concerned when we change the system without any compensation or assistance for them. How far progressed is that and is it likely? Obviously those in the industry would be very interested in that.

Ms Bandaranaike: All we can say at this stage is that it will be further considered by government between introduction and commencement of the new regulatory framework. I am sorry, that is probably all we can say at this stage.

Mr McDONALD: That is fine. I will move on from that. In terms of all of the repeals, it is a big step. Has this model been tested in other jurisdictions? Did you look at other jurisdictions as well as the QLRC report? What were some of the learnings from that? Have you taken on board some concerns to address in this change?

Mr Savage: The QLRC note that they reviewed a number of Australian jurisdictions as well as New Zealand, which has a decriminalised framework. Sex work is decriminalised in New South Wales, Northern Territory and Victoria as well. The report at page 6 explains that each of these jurisdictions takes a slightly different approach and points out that the common aim of decriminalisation is to recognise and regulate sex work as legitimate work rather than as a crime. Those jurisdictions were considered in part of the QLRC's consideration of their decriminalised framework recommendations.

Mr McDONALD: I remember as a younger police officer charging people with different offences, and solicitation in a public place was one. When this bill comes in, will there be any offence for a sex worker to solicit? I know that you have mentioned procuring et cetera, but I think that is more to do with children, isn't it?

Mr O'May: The specific street solicitation offence will be repealed upon the commencement of the legislative framework. The member is correct in characterising those offences, which were read out earlier, as applying more broadly to offences involving children under the deregulated framework.

Mr McDONALD: It is certainly a very large change. Does the statutory review that is going to be included have a time frame on it?

Mr O'May: There is a time frame for commencement. If I could just have a moment, I will find the exact time frame.

Mr Savage: Off the top of my head, the undertaking for the statutory review was at least four years and not more than five years after commencement.

Mr McDONALD: Goodness me, that is a long time.

Mr BROWN: In 2020 there were a number of raids within the Capalaba electorate around illegal prostitution and massage parlours. I want to get a practical understanding of the legislation when it comes to both decriminalising and planning. When this legislation comes into effect, obviously that work in those massage parlours in sets of shops in Capalaba then becomes legal. What planning framework does the council then have to decide where in those retail areas sex work can occur and the difference between that and normal massage parlours, hairdressers or anything next door to them and whether they have the ability to plan that? I have a follow-up question but I will leave it at that. I am just trying to get a practical understanding of what this means and how it works.

Ms Bandaranaike: I think the questions you are raising relate to land use and planning regulations. Unfortunately, there is no-one here at the table who can specifically answer that. I can only restate what Mr Watts said. In her introductory speech the Attorney-General recognised that planning regulation changes will be required to give effect. There are a number of recommendations in the Queensland Law Reform Commission report about integrating decriminalised sex work in Queensland into the planning framework, and the Attorney-General has acknowledged that changes will be consulted on. That sits outside the justice portfolio and outside the expertise, unfortunately, of the members here from Local Government. I can only suggest, unfortunately, that those questions would be best directed to the planning division of the Department of Housing, Local Government, Planning and Public Works. I am happy to take any questions on notice in that regard.

Mr McDONALD: I have some questions on that as well.

CHAIR: We will foreshadow that we will have to get the planning division in from the department to answer questions at a future briefing.

Mr BROWN: Will this legislation give more openness and transparency for businesses that do not properly categorise themselves to say what they are actually doing?

Mr Savage: It is a complex question that goes to some aspects of the planning framework which Sakitha has just touched on. Ultimately, the thrust of the bill is that sex work will be treated like any other business.

Mr BROWN: The policy is to categorise it as what it should be?

Mr Savage: Yes.

Mr HART: I think that is an important question. Will these businesses be able to advertise what it is they are doing?

Ms Bandaranaike: Just to clarify, are you asking what the advertising restrictions are once this new regulatory framework is in place?

Mr HART: If there are two massage parlours beside each other and one says 'I give massages' and the other one says 'I do something else', what is going to happen?

Mr O'May: The current restrictions that exist in the Prostitution Act around sex work advertising are to be removed. What will govern sex work advertising post the commencement of the decriminalised framework is the current system which regulates advertising generally in the community now.

Mr HART: I think we need to talk to the planning people. Assistant Director-General, are you able to tell us whether the intent of the minister's speech was to make sure the planning laws do not interfere with these things happening anywhere, so the local government cannot control this anymore or whether they are going to limit the control the local government has?

Ms Bandaranaike: I am not in a position to tell you. In relation to local government, as I mentioned in my opening statement, the bill inserts two new sections into the Local Government Act and the City of Brisbane Act to prohibit local governments from making local laws that prohibit or regulate sex work or the conduct of sex work business. In terms of the content of any planning regulation, I am not able to comment on that.

Mr HART: If we are going to take the power away from local government in this legislation—

CHAIR: I do not think it is taking power away. They cannot prohibit or regulate now.

Mr HART: It is limiting the power of the local government to do certain things. What are the transitional arrangements until these planning changes come into place?

Mr Watts: Just to reiterate what we were speaking about before, there was a specific recommendation made by the Queensland Law Reform Commission. Recommendation 23 was that local governments' power to make local laws should be restricted so that a local law may not be made which prohibits or regulates sex work. That is because the intent of the bill is to provide for a comprehensive statewide framework to decriminalise sex work. The objective of the proposed amendments to both the City of Brisbane Act and the Local Government Act are just to provide some clarity and make it abundantly clear that the state government's intention is for there to be a statewide approach and for local governments not to have any ability to issue local laws in that area.

Mr HART: Is it in this legislation or is it still to come?

Mr Watts: That is provided for in this legislation. There are inclusions going into both the City of Brisbane Act and the Local Government Act.

Mr HART: Is it a head of power, a regulation?

Mr Watts: Clause 8 of the bill inserts a new section 40A into the City of Brisbane Act, and clause 28 of the bill inserts a new section 37A into the Local Government Act. They both effectively provide a head of power in the act itself just to make it clear that the government's intention is that local laws are not to be made to regulate sex work or sex work businesses.

Mr HART: Sorry, I was a bit confused. It is in the legislation but you do not know anything about it? We need to talk to somebody else.

Mr Watts: It is in the legislation in terms of those impacts on local governments and local government laws. There is a planning regulation to follow which is, as we understand it, still being developed, that will strike at the heart of some of the questions raised by some of the committee members about particular planning.

Mr HART: Do you know when that will be done?

Mr Watts: At this stage none of us here at the table know, but we would be happy to take that on notice.

CHAIR: It is something we can ask.

Mr HART: I read your briefing paper. There are a lot of things in there that do not have an explanation as to what is happening. Is everything that is changing to do with decriminalising sex work, or are there other recommendations that have not been explained in your briefing paper?

CHAIR: Was it deregulation or decriminalisation?

Mr HART: There are a number of things that say, 'We are changing section blah, blah, blah and section blah, blah, blah,' but there is no explanation of what that is. I am not across those sections in the report. Are they all to do with decriminalising—

Mr O'May: Yes.

Mr HART: They are? They are all to do with that? There is nothing else that we need to concentrate on?

Mr O'May: The bill gives effect largely to—

Mr HART: That is fine. I just want to know there is nothing else there. With regard to discrimination against a motel operator, can someone step us through that process of how it will work when a motel operator says, 'I don't want this happening on my premises'? Are they still going to have that power?

Mr O'May: The repeal of that particular provision of the Anti-Discrimination Act goes to a very explicit provision in that legislation which is very much directed at sex workers. With the repeal of that particular section of the act, the motel proprietor does not lose the right or the ability to otherwise control their premises through other means. That may be through having legislation or through other mechanisms. It may be that the hotel proprietor prohibits people from conducting commercial activities out of their rooms, which may apply to a hairdresser et cetera.

Mr HART: With regard to who is classed as an adult with regard to this bill, where is that located? Is that located in another act?

Mr O'May: The Acts Interpretation Act has a definition of adult that is 18 years.

Mr HART: I read something about there being some penalty or something about someone being able to defend themselves—that someone over 12 had shown themselves to be, or pretended to be, an adult and they had not worked out that situation. How does that all work?

Mr O'May: I assume the member is asking questions about the amendments to the Criminal Code?

Mr HART: Yes, I think so. I have just read this. We only just got this in the last 24 hours.

Mr O'May: The amendments to the Criminal Code, as you have heard, create three new offences, one of which is an existing offence in section 218. The way the new offences operate is in relation to a victim who is under the age of 12 years. The knowledge of the child's age in that particular circumstance is irrelevant. An accused person would not be able to rely on, for example, a defence of mistake of fact to say, 'I thought the person was under the age of 12.'

Mr HART: So over 12 you can rely on it as a defence of fact if you thought someone—

Mr O'May: There is a specific defence provided in those new sections which applies where the child is over the age of 12 up until the age of 18. The situation is slightly different for someone under the age of—

Mr HART: I think that needs to be tested pretty heavily.

CHAIR: Or perhaps clarified.

Mr SMITH: Mistake of fact is still in the Criminal Code for any sort of sexual activity that is deemed as rape or sexual assault for those over 12, is it not? It is already in the Criminal Code.

Mr O'May: Section 24 of the Criminal Code applies across the code and in fact across criminal offences in Queensland unless it has been removed from operation in relation to the offence.

Mr SMITH: It is a general legal principle in the Criminal Code?

Mr O'May: Yes.

Mr SMITH: Following on from some of the conversations between the member for Lockyer and the member for Capalaba, effectively this change in the legislation is saying that two adults can consent to exchanging funds for sex and that will not be a criminal act in Queensland?

Mr O'May: Yes.

Mr SMITH: I refer to the member for Capalaba's comments about other shops. If there is a shop owner—person A—and someone comes into the shop—person B—and they decide that they want to consent to an exchanging of funds, they can legally engage in sexual activity regardless of whether the business is a hardware store, barber shop, salon or whatever?

Ms Bandaranaike: I am sorry, can you please repeat the last bit of that?

Mr SMITH: The member for Capalaba was talking about massage parlours. If a person goes into a business—regardless of what that business is—and the business owner and the customer decide that they then want to exchange funds for sex and engage in sex work, even though that business is not advertised as a sex work business that will not be illegal in Queensland?

Mr O'May: The particular act—the exchange of funds between the two people—would not be a criminal offence. I cannot speak to the ramifications of that in relation to planning or matters touching upon that.

Ms Bandaranaike: I guess the whole tenet of the reforms is that, while it is making sex work a legitimate form of work, it still would be regulated like any other business. That will be subject to planning laws, advertising, public health et cetera. I guess that is the basic tenet. There is not going to be no regulation; it will just be regulated like any other business.

Mr SMITH: That is what I am saying. Under the act, it can be a sex work business with two people or fewer in a home. For anything over two sex workers, it becomes subject to public consultation by planning. Just on that question alone, even though there is a business that represents itself as something other, if two people decide that, yes, they would like to exchange funds, all of that activity is not an illegal act under this legislation?

Mr O'May: All I can do is repeat my answer from before. That specific exchange of funds under this legislation would not amount to an offence, but I cannot speak to other ramifications.

Mr SMITH: Are there any federal government concerns? Licensing is going away, so sex work can be engaged in by anyone at any time of their choosing. With regard to things such as income tax, means test assessments and so forth, are there any federal government concerns in relation to the change of legislation in Queensland? How do sex workers currently engage in records of their income and taxation, and how now will that change under this legislation?

Ms Bandaranaike: The short answer is that we cannot answer that, but we could take it on notice if you like.

Mr SMITH: Okay. I think that would be good, thank you.

CHAIR: We will chase that up. That is in terms of pay-as-you-go and intersections with the federal government and businesses.

Mr SMITH: It is just off the back of something such as our voluntary assisted dying legislation. It has not been tested federally in a high court as to whether or not it interferes with the carriage provisions.

This question may be better asked of our later witnesses who are in the industry. With licensed brothels as they are now, brothel owners must have a brothel licence. Do individual sex workers need to get their own licence or requirement to act as sex workers in Queensland? How does the system currently work in terms of licensing? How do those establishments work? Can an owner of the establishment employ people or is it very much private commission work?

CHAIR: It might be a question for some of our other witnesses.

Mr SMITH: Better for industry? Okay.

CHAIR: I do not know if anyone here can illuminate on that.

Mr O'May: No.

Mr SMITH: We write the legislation. We should have some idea.

CHAIR: Let's see how it works on the ground.

Mr HART: Where does the Prostitution Licensing Authority presently sit in terms of its staff numbers and what is happening to them?

Mr Savage: It is an independent statutory office that sits under the DJAG umbrella. At last count there were seven or eight permanent full-time staff. As the Attorney indicated in her explanatory speech to the bill, there would be no public sector job losses and the department would work with those officers.

Mr HART: Do they presently monitor disease protection in the sex industry at all?

Mr Savage: The PLA? I am sorry, I would have to take that on notice.

Mr HART: My question is: who is going to monitor that sort of thing in the future? Are there any protections in place to make sure sex workers do not have any particular disease?

Ms Bandaranaike: I can make a broad comment in terms of public health and health promotion. Obviously that is Queensland Health and it is governed under the Public Health Act. There are also recommendations by the Queensland Law Reform Commission for Workplace Health and Safety Queensland to develop work health and safety guidelines.

Mr HART: This will not be licensed or anything so how does that all work?

CHAIR: You are saying that it becomes a workplace health and safety issue and, like any other business, it has a plan to deal with that?

Ms Bandaranaike: Yes, and subject to the Public Health Act as well.

Mr HART: Can we get some clarification around that from the Department of Health? Do we need to write to them?

CHAIR: We can write to the Department of Health and ask how this intersects with the work they do. As I said, it becomes a workplace health and safety issue. Like any other business, you have to be active in planning and proactive in how you deal with any threats. We will write to them. Deputy Chair, do you have any further questions?

Mr McDONALD: I do have a lot of questions, but I do not think the department will be able to answer them. We will talk to some other witnesses, thank you.

CHAIR: Obviously we have talked about advertising. They have the ability then to advertise, like any other business. Are there any boundaries in advertising legislation about—

Mr HART: Appropriate standards.

CHAIR: What restrictions are there in terms of public standards for advertising that would then impact on these businesses?

Mr Savage: The QLRC report goes into some detail about the justification for repealing current sex work advertising legislation. They make the observation that the Australian Association of National Advertiser Code of Ethics prohibits the harmful use of sex, sexuality or nudity in advertising and requires content of this kind to be appropriate for the relevant audience. There are rules about the use of explicit language or overtly sexual material. Complaints can be made in relation to those advertisements as you would for all other advertisements. Television and radio broadcasters have their own rules, standards and codes of practice they must follow and meet community standards, including advertising content.

CHAIR: Thank you for that. That answered my question. Are there any answers you want to clarify or give some more detail on?

Ms Bandaranaike: I might confirm what questions we have taken on notice.

CHAIR: We will do that. That concludes our briefing today. Thank you to everyone who has participated. Thanks to Hansard and our secretariat. A transcript of these proceedings will be available on the webpage in due course. Responses to questions on notice will be due by 4 March. One of those is: how do federal government concerns, regulations or laws impact on the sector regarding tax et cetera? I think that is the only question on notice. We have also signalled that we will get in the Queensland Law Reform Commission, the planning division of the department and the Department of Health to ask about the impacts of this on their concerns. I declare this public briefing closed.

The committee adjourned at 11.56 am.