

Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024

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Introduction

Meridian and SWOP ACT support Queensland's Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024 (the Bill). The Bill provides a long overdue repeal of Queensland's failed licensing system established by the *Prostitution Act 1999*, which has created a two-tier system where most of Queensland's sex industry is forced to operate outside of the permitted framework, and is thus subject to police scrutiny, entrapment, and criminalisation.

The Bill's repeal of the *Prostitution Act 1999* will also end discriminatory laws relating to mandatory condom use, mandatory sexual health testing, and the criminalisation of sex workers living with sexually transmitted infections (STI) or blood borne viruses (BBV). These laws generate stigma and discrimination towards sex workers by categorising us as 'vectors of disease' requiring exceptional regulation, have no basis in evidence, and prevent our access to safe and clinically-appropriate healthcare.

Finally, the Bill's repeal of the *Prostitution Act 1999* will also end specific laws relating to the advertising of sex work services, allowing sex workers to clearly and accurately describe the services they provide, and allow sex work advertising to be regulated through existing frameworks.

Meridian and SWOP ACT urge that this Bill be enacted and implemented without delay, in order to ensure access to justice, industrial rights, anti-discrimination protections and improved health outcomes for all sex workers in Queensland.

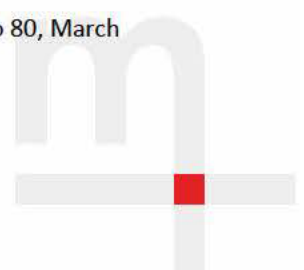
Repeal of Queensland's failed licensing system

Meridian and SWOP ACT support the Bill's repeal of Queensland's failed two-tier licensing system. Across the entire state, there are currently only 17 licensed brothels compliant with this framework, comprising only a small portion of Queensland's sex industry. The rest of the industry (an estimated 80-90%) is subject to police scrutiny and criminal penalties.¹

The Queensland Law Reform Commission recommended that this licensing system be abolished, noting that it creates a 'two-tiered' industry, with criminal penalties forcing non-compliant businesses underground, hindering regulation under established business and workplace health and safety frameworks.²

¹ Elena Jeffreys et al, ['The Case for Decriminalisation: Sex Work and the Law in Queensland'](#) (2019) 1 *Crime and Justice Briefing Paper*, 2.

² Queensland Law Reform Commission, ['A Decriminalised Sex Industry for Queensland'](#) (Report No 80, March 2023) vol 1, 57-8.



Simply put, licensing systems do not work, and ‘most jurisdictions that once had licensing systems have abandoned them.’³ During implementation of the *Sex Work Decriminalisation Act 2022* (Vic), the Victorian Government acknowledged its previous licensing system was ‘outdated and difficult to navigate’, and that the system left most sex workers without ‘access to basic rights and entitlements.’⁴ Research in New South Wales confirmed the failures of the licensing systems in both Queensland and Victoria, noting that licensing ‘should not be regarded as a viable legislative response’, and is ‘a threat to public health’.⁵

It is clear that Queensland’s failed two-tier licensing system must be abolished, and the Bill must repeal the *Prostitution Act 1999*.

Sexual health is a public health matter - universal public health laws must apply to all people in Queensland

Meridian and SWOP ACT support the repeal of extraordinary laws relating to the sexual health of sex workers established by the *Prostitution Act 1999*, including mandatory sexual health testing (ss 89-90, *Prostitution Regulation 2014* s 14), mandatory prophylactic (condom) use (s 77A) and the criminalisation of sex workers living with STI or BBV (s 89-90).

Across all jurisdictions, there is no evidence to show that Australian sex workers have higher rates of STI and BBV than the general population.⁶ Rather than promote better health outcomes, these laws single out sex workers as ‘vectors of disease’ without evidentiary basis, encourage stigma and discrimination and are an unnecessary obstacle to sex worker engagement with sexual health testing and treatment.

Repeal of mandatory testing laws and criminal penalties associated with condom use

Mandatory testing laws are based on stigma and discrimination rather than evidence, and do not improve engagement with testing or impact test results.⁷ Queensland’s mandatory testing framework subjects sex workers working in licensed brothels to the same invasive testing framework and schedule, regardless of whether the testing scope and frequency is clinically appropriate to the individual sex worker considering their demographic, type of sex work, safer sex strategies used and sexual practices in their personal lives.

Research from NSW indicates that sex work decriminalisation is the most enabling environment for both *low* rates of STIs/BBVs and *high* rates of condom use among sex workers.⁸ Sex work decriminalisation has also been shown to improve sex workers’ access

³ Basil Donovan et al, ‘[The Sex Industry in New South Wales: a Report to the NSW Ministry of Health](#)’ (Kirby Institute, University of New South Wales, 2012) 7.

⁴ Victorian Government, ‘[Decriminalising Sex Work in Victoria](#)’ (Web Page, 4 December 2023).

⁵ ‘The Sex Industry in New South Wales’ (n 3) 7.

⁶ Australian Sexual and Reproductive Health Alliance, ‘[sex workers](#)’ *Australian STI Management Guidelines For Use in Primary Care* (December 2021).

⁷ Elena Jeffreys et al, ‘[Mandatory Testing for HIV and Sexually Transmissible Infections among Sex Workers in Australia: A Barrier to HIV and STI Prevention](#)’ (2012) 2(3) *World Journal of AIDS* 203, 204.

⁸ Basil Donovan et al, ‘[Improving the Health of Sex Workers in NSW: Maintaining Success](#)’ (2010) 21(4) *New South Wales Public Health Bulletin* 74, 74-5.



to health promotion education and services, and to improve the ability of peer organisations to provide outreach services to all sectors and workplaces within the industry.⁹

Condom use must be a personal decision for all sexually active adults, is just one method of STI/BBV prevention, and is more effectively promoted through peer-education rather than the threat of criminal sanction.

Repeal criminalisation of sex workers living with STI and BBV

Repeal of the *Prostitution Act 1999* will also end the criminalisation of sex workers living with STI and BBV. Meridian and SWOP ACT support ending criminal penalties for sex workers living with HIV, with sex workers subject to the same public health laws applying to all Queenslanders.

As the sex worker peer organisation in the ACT, we have direct experience of the impacts of HIV criminalisation on the sex worker community. In 2007 commenced proceedings against a sex worker living with HIV, releasing their name, HIV status and personal information to the media, where the case received extensive local, national and international attention. The sex worker was eventually charged and convicted for the (repealed) offence of 'providing commercial sexual services' while 'knowingly infected with a sexually transmitted disease', despite extensive investigations producing no evidence that the sex worker ever provided unsafe services or transmitted the virus to any client.¹⁰

Publicity surrounding the case generated a high level of fear among Canberra sex workers, resulting in a 'dramatic drop' in attendance at our outreach health services in the immediate aftermath of the case, where numbers attending the service per night fell from 40 to three.¹¹

The criminalisation of sex workers living with STI and BBV disincentivises sex workers from engaging with sexual health testing, treatment and preventive healthcare by generating fear of outing, vilification and a risk that sex workers will temporarily or permanently lose employment by being aware of their sexual health status. The Bill must repeal the *Prostitution Act 1999* and recognise that sexual health is a shared responsibility for all sexually active adults in Queensland.

The repeal of these laws was recommended by the Queensland Law Reform Commission review. They state "Public health laws and sexual health policies create a supportive environment to promote the optimal sexual health of sex workers and clients, while providing the necessary safeguards to protect public health. The Public Health Act supports a best-practice framework to manage 'notifiable conditions', including several STIs of particular significance to public health. As discussed in this chapter, work health and safety in the sex-work industry, including safer sex practices, is addressed by general work health

⁹ Christina Harcourt et al, '[The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers](#)' (2010) 34(5) *Australian and New Zealand Journal of Public Health* 482.

¹⁰ Elena Jeffreys et al, '[HIV Criminalisation and Sex Work in Australia](#)' (2010) 18(35) *Reproductive Health Matters* 129, 130.

¹¹ *Ibid.*



and safety laws and will be the subject of specific guidance in the guidelines we recommend be developed for the sex-work industry.”¹²

Fair advertising laws for all businesses

The Bill’s repeal of the *Prostitution Act 1999* (and associated *Prostitution Regulation 2014*) will also end discriminatory rules impacting sex work advertising in Queensland, which specify that sex workers cannot describe the services they offer,¹³ use video footage in advertising,¹⁴ mention or imply the availability of massage services,¹⁵ mention or imply that two or more sex workers may work together,¹⁶ or link to any website that is not also approved advertising (for example social media, blogs, or sites such as OnlyFans).¹⁷ In the last ten years, the vast majority of police entrapment operations related to the ‘investigation’ of sex work offences have been triggered by alleged breaches of these advertising restrictions, with charges for these ‘offences’ increasing 450% during the period 2016-2017.¹⁸

In the interests of fairness, transparency and safety, sex workers in Queensland must be able to clearly and accurately describe the services they offer, including any safer sex strategies they use. Advertising by sex workers and sex work businesses will continue to be subject to the same business/consumer and obscenity laws applicable to all advertising in Australia, and physical signage requirements implemented by local councils will apply to sex work businesses in the same way as other businesses in a particular area.

6 March 2024



Philippa Moss
Chief Executive Officer



¹² Queensland Law Reform Commission, [A Decriminalised Sex Industry for Queensland](#) (Report No 80, March 2023) vol 1, 83-96.

¹³ *Prostitution Act 1999* s 93(1).

¹⁴ *Prostitution Act 1999* s 93(3).

¹⁵ *Prostitution Act 1999* s 95.

¹⁶ *Prostitution Regulation 2014* s 15(2)(d)(iii).

¹⁷ *Prostitution Regulation 2014* s 15(2)(d)(v).

¹⁸ ‘The Case for Decriminalisation: Sex Work and the Law in Queensland’ (n 1) 3.

