

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

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Submitted by: Women's Health and Equality Queensland Ltd
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Committee Secretary

Housing, Big Build and Manufacturing Committee

Parliament House

George Street

Brisbane Qld 4000

RE: *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024.*

Dear Committee Secretary,

Women's Health & Equality Queensland are leaders in women's health, gender equity and the primary prevention of violence in Queensland. We provide counselling, therapeutic groups and health services for women and gender-diverse people with experiences of violence, as well as professional education, community programs and structural reform.

Women's Health & Equality Queensland supports the full decriminalisation of sex work and the proposed *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024* (the Bill) repealing all current legislation specific to sex work and sex workers. The current regulatory model in Queensland has failed sex workers and Queensland. Around 80% of sex workers are female.¹ The current laws severely impede the safety of women and priority communities. The Bill is essential legislative reform for sex worker health, safety and rights, to align Queensland with other jurisdictions.

The following recommendations, in line with [DecrimQLD](#) and [Respect Inc](#), ensure the Bill will achieve its purpose of decriminalising Sex Work and ensure the health, safety and rights of all sex workers.

- Part 1 – It is recommended the Bill commence on the 1 July, 2024. Any further delay leaves sex workers criminalised, with safety strategies criminalised and reduced access to justice.
- Part 2 – We support amendments to the *Anti-Discrimination Act* but recommend the removal of 'adult' from the definition in cl 6.

¹ International Union of Sex Workers. 'Sex Worker Statistics' (Website, 2023) <https://www.iusw.org/sex-worker-statistics/>

- Part 3 & 7 – We support laws to prevent council banning sex work out right from their area. It is recommended that sex workers are able to work together in line with Recommendation 1 of the *Queensland Law Reform Commission* (QLRC) review.²
- Part 4 – We support the repeal of ch 22A *Criminal Code* including the laws that criminalise sex worker safety.
- Part 6 – It is recommended that police are removed from a regulatory role and a review of the *Liquor Act* and *Adult Entertainment Code* is reviewed ensure strippers (sex workers) are included in decriminalisation.
- Part 9 – We support a review of the Act in 4-5 years in consultation with sex worker organisations. However, the review should be undertaken in consultation with Respect Inc. and Scarlet Alliance.
- Part 10 – We support the repeal of the *Prostitution Act* including the licensing system, licensing body, public health laws and advertising guidelines. The *Prostitution Act* criminalised majority of business models and common safety mechanisms, created a licensing authority which cost the Government \$1 Million per year to regulate only 10% of the sex work industry, and applied criminal charges to public health. The successful and recognised public health approach is peer education and PPE can be covered by Workplace Health and Safety Guidelines.
- Part 11 – We support Part 11 of the Bill but recommend social escort be removed from the *Child Employment Act* as it has been from other Acts.

Additionally, we recommend Respect Inc is resourced to undertake an awareness program to address sex work stigma and inform sex workers about decriminalisation in line with the QLRC Recommendation 38.³

Women's Health and Equality Queensland would also like to highlight that the current legislation specific to sex work is incompatible with the *Human Rights Act* further making the proposed the Bill and additional recommendations necessary.

² Queensland Law Reform Commission. 'A decriminalised sex-work industry for Queensland' (R 80) Volume 1 March 2023 p 20 <https://www qlrc.qld.gov.au/publications/reports>

³ Queensland Law Reform Commission. 'A decriminalised sex-work industry for Queensland' (R 80) Volume 1 March 2023 p 177 <https://www qlrc.qld.gov.au/publications/reports>

The current in force legislative and licensing approach in Queensland to sex work industry is not necessary, justifiable, or proportionate. Therefore, it is incompatible with the *Human Rights Act*. It enforces specific laws on sex workers which limits their rights excessively and in fact has a detrimental impact on their health and safety.

Mandatory testing is established as a rights violation by multiple international human rights organisations, such as the United Nations Human Rights Office of the High Commission for Human Rights and UNAIDS. Biomedical advancement and current epidemiology of HIV in Australia and the low risk of transmission from people who are on widely available treatment render such legislation as unjustified, outdated and in breach of the Human Rights Act. Mandating condom use is also an ineffective and unnecessary method of implementing safe sex practices. Research demonstrates that there are high rates of condom use amongst sex workers.⁴ Both mandates are not in line with best practice, are expensive and require substantial resourcing to administer. There are also National Guidelines in place applied to the general public for the *Management of people with HIV whose behaviours may place others at risk (Qld)*. Further rendering sex work specific mandate legislation unnecessary and unjustified. The right to confidential, voluntary, informed, and consensual access to health care must be protected and supported by a framework that decriminalises the industry.

Public solicitation legislation is another example of sex work specific legislation targeting street-based sex workers based on incorrect evidence and an erroneous claim of public protection. Only six offences in the last five years have been recorded by the QPS for public soliciting. This does not represent a large nuisance to the public. In practice, the legislation is used discriminatively against trans and gender-diverse people, people who use drugs, and Aboriginal and Torres Strait Islander women. The powers provided to police under this legislation are vague and used to restrict rights to freedom of movement. It also creates a barrier for street-based sex workers to report and to work in a safe environment. The evidence demonstrates that the offence of public soliciting is unjustifiable, unnecessary, and disproportionate.

Harmful stereotypes and the stigma surrounding sex work which has only been reinforced by criminalisation and licensing has resulted in high rates of discrimination and barriers to reporting. Data collected by Respect Inc shows that 72.5% sex workers have faced discrimination and 91% of

⁴ Respect Inc. 'Info Sheet on 'A Framework for a decriminalised sex work industry in Queensland' Consultation Paper WP 80' <https://respectqld.org.au/wp-content/uploads/Decrim/Info-Kit-QLRC-May22.pdf>

sex workers who had faced discrimination have not reported it.⁵ Whilst decriminalisation is an important first step to shifting these attitudes it is important to also introduce anti-discrimination provisions to ensure that sex workers have an avenue to lodge discrimination complaints.

To conclude, the Bill including the above recommendations should be passed in full in order to ensure compatibility with the *Human Rights Act* and protect the health and safety of sex workers. In developing the new framework, it is essential that current best practice standards and guidelines be implemented and legislation that currently exists for the general public is not unnecessarily duplicated into sex work-specific laws. It is also important to include the complete expungement of sex work offences in future legislation to prevent ongoing impacts on sex workers.

Women's Health and Equality Queensland sees benefit in resourcing relevant organisations that support and are informed by the experiences and the expertise of sex workers, such as Respect Inc and Scarlet Alliance, to support the introduction of a decriminalisation framework and review of the Act in 4 to 5 years in line with the QLRC Recommendation 38.⁶ Resourcing would assist in the communication of the new framework and supports, provide educational and support resources across the three levels of peer education, public education, and sensitivity education, and provide a service to support sex workers.

Kind Regards,

Emma Iwinska

Chief Executive officer

Women's Health and Equality Queensland Ltd.

Women's Health and Equality Queensland acknowledges and pays respects to Queensland's past, present and future Traditional Custodians and Elders, and the continuation of cultural, spiritual, and educational practices of Aboriginal and Torres Strait Islander peoples. WHEQ also acknowledges the important role that Aboriginal and Torres Strait Islander women continue to play in maintaining their community's health and wellbeing.

⁵ Respect Inc. 'Unprotected and under-reported Synopsis 1: Sex workers' experiences of discrimination and discrimination protections in Queensland' (Website, 2022) <https://respectqld.org.au/wp-content/uploads/Synopsis-1-ADA.pdf>

⁶ Queensland Law Reform Commission. 'A decriminalised sex-work industry for Queensland' (R 80) Volume 1 March 2023 p 177 <https://www qlrc.qld.gov.au/publications/reports>