

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

**Submission No:** 109  
**Submitted by:** Scarlet Alliance, Australian Sex Workers Association Incorporated  
**Publication:** Making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**



Phone – 02 9517 2577  
Post – PO Box 854  
Newtown NSW 2042  
Head Office – 203/1 Erskineville Road  
Newtown NSW 2042  
Email – [info@scarletalliance.org.au](mailto:info@scarletalliance.org.au)  
Web – [www.scarletalliance.org.au](http://www.scarletalliance.org.au)  
ABN – 86 612 112 065 | ARBN – 149 618 137

8 March 2024

Committee Secretary  
Housing, Big Build and Manufacturing Committee  
Parliament House  
George Street  
Brisbane QLD 4000

To the Queensland Housing, Big Build and Manufacturing Committee

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

Thank you for the opportunity to make a submission on the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024.

Scarlet Alliance is the Australian Sex Workers Association. Through our objectives, policies and programs, Scarlet Alliance aims to achieve equality, social, legal, political, cultural and economic justice for past and present workers in the sex industry.

Formed in 1989, Scarlet Alliance, Australian Sex Workers Association, is the national peak sex worker organisation. Our membership includes state and territory-based and national sex worker organisations and individual sex workers across unceded Australia. Scarlet Alliance uses a multifaceted approach to strive for equality, justice and the highest level of health for past and present workers in the sex industry. We achieve our goals and objectives by using best practices including peer education, community development, community engagement and advocacy.

Scarlet Alliance is a leader when it comes to advocating for the health, safety and welfare of workers in Australia's sex industry. Through our work and that of our member organisations and projects, we have the highest level of contact with sex workers and access to sex industry workplaces throughout Australia of any agency. Scarlet Alliance represents sex workers on a number of government and non-government committees and advisory mechanisms.

Scarlet Alliance supports the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024 becoming law in Queensland as soon as possible. The Bill represents Queensland being brought into line with other jurisdictions, and is a step forward in implementing workplace health and safety and recognising the human rights of sex workers in Queensland.

We observed the rigorous consideration undertaken by the Queensland Law Reform Commission, the comprehensive stakeholder consultation undertaken by the Queensland Government and the careful drafting behind this Bill. We urge the Committee to continue this work in their consideration of the Bill, and strongly support this legislation to urgently commence to bring Queensland into line with other states and territories.



Mish Pony  
Chief Executive Officer

## Contents

<b>Executive summary</b>	<b>1</b>
<b>Part 1- preliminary</b>	<b>2</b>
<b>Part 2 - amendment of Anti-Discrimination Act 1991</b>	<b>2</b>
<b>Part 3 - amendment of City of Brisbane Act 2010 and Part 7 - amendment of Local Government Act 2009</b>	<b>3</b>
Local government lessons from New South Wales	3
Local government lessons from New Zealand	3
<b>Part 4 - amendment of Criminal Code</b>	<b>4</b>
<b>Part 6 - amendment of Liquor Act 1992</b>	<b>4</b>
<b>Part 9 - amendment of Work Health and Safety Act 2011 and other transitional provisions</b>	<b>5</b>
<b>Part 10 - repeal of Prostitution Act 1999</b>	<b>5</b>
Addressing public health concerns	6
Repeal of mandatory testing	7
Promoting voluntary testing	8
<b>Part 11 - amendments to other legislation</b>	<b>9</b>
Support for implementation	10
<b>Summary of Recommendations</b>	<b>10</b>

## Executive summary

Scarlet Alliance welcomes the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024 (the Bill). It is a culmination of years of work by the Queensland Law Reform Commission, consultation with sex workers and other industry stakeholders, input from government agencies and now oversight by Queensland Parliament. It is a long-overdue alternative to Queensland's failed licensing system, and implements an evidence-based, low-cost and high-compliance model of sex industry regulation that enables better health, safety and access to justice outcomes for all sex workers in Queensland.

Queensland's expensive licensing system did not meet its stated purpose. The Bill provides comprehensive workable regulation and safety to an industry where 90% currently operates outside the licensing framework. Decriminalisation brings Queensland into line with legislative changes already undertaken in New South Wales (1995), New Zealand (2003), the Northern Territory (2020) and Victoria (2022), builds upon the successes in those jurisdictions, and supports relevant government agencies to regulate sex work as work.

**Recommendation 1:** That the committee recommends to parliament the Bill be passed.

Decriminalisation is recommended by international organisations and policy makers including UNAIDS,<sup>1</sup> the World Health Organization (WHO),<sup>2</sup> the United Nations Population Fund (UNFPA), and the United Nations

---

<sup>1</sup> Joint United Nations Programme on HIV/AIDS (UNAIDS), [Guidance Note on HIV and Sex Work](#), UNAIDS/09.09E, JC1696E (March 2009).

<sup>2</sup> World Health Organisation (WHO), [Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations](#) (Consolidated Guidelines Update, 2016).

Development Programme (UNDP),<sup>3</sup> Amnesty International,<sup>4</sup> the International Labour Office (ILO),<sup>5</sup> The Lancet medical journal,<sup>6</sup> the Global Alliance Against Traffic in Women (GAATW),<sup>7</sup> the Global Network of Sex Work Projects (NSWP) and the Asia Pacific Network of Sex Workers (APNSW).<sup>8</sup>

## Part 1- preliminary

Scarlet Alliance recommends that the Bill's commencement date should be **1 July 2024**. It is not tenable to further delay the extension of regulations, workplace health and safety, access to justice and anti-discrimination protections to sex workers in Queensland. Every day the failed licensing system continues, 90% of the industry is criminalised for implementing safety strategies. Perpetrators know they can act with relative impunity. This makes our community a target. Commencement of the Bill is urgently needed.

**Recommendation 2:** that the Bill's commencement date in cl 2 be **1 July 2024**.

## Part 2 - amendment of *Anti-Discrimination Act 1991*

Scarlet Alliance supports the Bill's amendments to the *Anti-Discrimination Act 1991*. These amendments create (cl 4) and define (cl 6) a new protected attribute of 'sex work activity', and repeal the current 'accommodation exception' in s 106C (cl 5).

These amendments are necessary to address the significant and ongoing stigma and discrimination experienced by sex workers in Queensland,<sup>9</sup> especially in relation to housing and short-term accommodation enabled by the current *Anti-Discrimination Act 1991* s 106C and the Supreme Court decision in *Dovedeen Pty Ltd v GK*.<sup>10</sup>

We note that cl 6 proposes that protected attribute of 'sex work activity' only be extended to 'adult' sex workers. It would be incongruous for anti-discrimination protections to be inapplicable for younger people who may be involved in sex work, especially in relation to access to community services.

**Recommendation 3:** that the word 'adult' is removed from cl 6 to ensure that discrimination against a young person who may be involved in sex work is not inadvertently permitted.

<sup>3</sup> UNDP, UNFPA, UNAIDS, [Sex Work and the Law in the Asia Pacific](#) (Report, October 2012).

<sup>4</sup> Amnesty International, [Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers](#) (Policy No 30/4062/2016, 26 May 2016).

<sup>5</sup> International Labour Office (ILO), [Recommendation Concerning HIV and AIDS in the World of Work](#) (Report No 200, June 2010).

<sup>6</sup> The Lancet, [HIV and Sex Workers](#) (Report Series, 23 July 2014).

<sup>7</sup> Global Alliance Against Traffic in Women (GAATW), [Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions](#) (Report, 2018) 40.

<sup>8</sup> World Health Organization, UNFPA, UNAIDS, and NSWP, [Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: recommendations for a public health approach](#) (Guideline, 1 December 2012).

<sup>9</sup> See Respect Inc. and Scarlet Alliance, [Joint Submission to the Queensland Legal Affairs and Safety Committee](#), Inquiry into Serious Vilification and Hate Crimes (25 August 2021); and Respect Inc. and Scarlet Alliance, [Joint Submission to the Queensland Legal Affairs and Safety Committee](#) on the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023 (12 May 2023).

<sup>10</sup> See Eden Gillespie, ["Forced to move home": discrimination of Queensland sex workers needs to end, say advocates'](#) *The Guardian* (online, 20 April 2022); and *Dovedeen Pty Ltd v GK* [2013] QCA 116.

## Part 3 - amendment of *City of Brisbane Act 2010* and Part 7 - amendment of *Local Government Act 2009*

Scarlet Alliance supports both Part 3 and Part 7 (cl 7 and 8 and 27 and 28) of the Bill, which amend the *City of Brisbane Act 2010* and the *Local Government Act 2009*. These meet the Queensland Law Reform Commission (QLRC) principles of ‘fairness,’ including the fair application of planning laws and regulation of public amenity.<sup>11</sup> The requirement that a ‘council must not make a local law that prohibits or regulates sex work or the conduct of a sex work business’ is essential to ensure that standard planning regulations and the benefits of decriminalisation are available to sex workers **everywhere in Queensland** - whether for a busy brothel in Brisbane or an independent phone sex operator in Birdsville.

The QLRC recommended bringing the sex industry into existing planning regulation, disallowing local governments from re-introducing or setting up licensing systems, and making sure sex work is not able to be prohibited by councils.<sup>12</sup> The amendments proposed in Part 3 and 7 support local government application of fair and universal regulations by preventing the adoption of exceptional local planning rules. This approach is in place in Victoria<sup>13</sup> and was in response to New South Wales’ (1995) and New Zealand’s (2003) lack of provision for the role of local government. Lack of clarity on the role of local government in those jurisdictions created expensive and lengthy problems that Victoria and Queensland are lucky to be able to avoid.

### **Local government lessons from New South Wales**

In New South Wales, instead of regulating the sex industry within existing planning tools, local governments created new, ‘tough’ regulations to deliberately prohibit both sex industry businesses and independent sex workers from most areas.<sup>14</sup> Some NSW local governments purport to ban sex work businesses entirely (including home-based businesses), while others enforce higher standards of compliance for sex work than for other businesses and undertakings, making it almost impossible for the sex industry to be compliant and effectively undermining the intent of decriminalisation across the state. Some NSW local governments even resort to employing private investigators to book sessions with sex workers in order to obtain evidence of home-based business<sup>15</sup> leading to sex workers being deceived into providing sexual services.<sup>16</sup>

### **Local government lessons from New Zealand**

In New Zealand, the *Prostitution Reform Act 2003* is similarly ambiguous about the extent to which local governments may restrict location of sex work businesses. As a result, councils took on an unnecessary prohibition role, creating new bylaws severely restricting the locations of individual sex workers and sex work businesses. Most of these bylaws were subsequently struck down after costly and lengthy judicial

---

<sup>11</sup> Queensland Law Reform Commission, [A Decriminalised Sex Industry for Queensland](#) (Report No 80, March 2023) vol 1, 11-12.

<sup>12</sup> Ibid 108-26.

<sup>13</sup> *Sex Work Decriminalisation Act 2022* (Vic) s 3.

<sup>14</sup> Penny Crofts, [‘Not in my neighbourhood: Home businesses \(sexual services\) and council responses’](#) (2003) 9(10) *Local Government Law Journal*, 13.

<sup>15</sup> SWOP NSW, [Obtaining Sex Under a False Pretence for the Purpose of Investigation or Obtaining Information is Rape](#) (Position Paper, 26 February 2019).

<sup>16</sup> Ibid 3-4.

proceedings which determined them to be unreasonable and *ultra vires*.<sup>17</sup> If there had been clarity earlier in New Zealand, these expensive teething problems would have been avoided. Victoria, and now Queensland, will not have to put local governments through this headache.

The Bill relieves local government from prohibition responsibilities by disallowing exceptional rules for sex work businesses. This levels the playing field and ensures that local government applies fair and non-discriminatory regulatory rigour to sex work businesses.

It is appropriate that home-based business regulations are not applied unfairly to home-based sex workers. Scarlet Alliance notes independent sex workers' safety needs preclude DA applications that would create privacy risks or force sex workers to work alone. The QLRC recommended the removal of criminal penalties that require sex workers to work alone.<sup>18</sup> Regulation that emerges from the Bill should not replicate this by requiring sex workers to choose between compliance with local council rules or safety.

**Recommendation 4:** that sex workers may operate as a home-based business without the need for a permit or development application, and not be forced to work alone or make themselves known to local government.

#### **Part 4 - amendment of Criminal Code**

Scarlet Alliance supports the Bill's amendments to the Criminal Code, especially the repeal of ch 22A - Prostitution which forces sex workers to choose between working legally, or working safely, by criminalising sex worker safety strategies, such as working with colleagues or hiring support staff.

We understand the proposed amendment of s 207A (offences against morality - definitions) will include a new definition for 'commercial sexual service' (cl 12) and understand that cl 13 of the Bill creates new offences against morality in s 217A (obtaining sexual services from person not an adult), s 217B (allowing person who is not an adult to take part in commercial sexual services) and s 217C (conduct relating to provision of commercial sexual services by person who is not an adult), and that the s 218 offence of procuring sexual acts by coercion will be amended to include coercion to provide commercial sexual services (cl 14).

It is appropriate these offences are within this section of the Criminal Code and not within a separate chapter.

#### **Part 6 - amendment of *Liquor Act 1992***

Scarlet Alliance supports pt 6, cl 23 of the Bill, which removes the role of the Police Commissioner in creating the Adult Entertainment Code. Scarlet Alliance remains concerned there may be extraneous regulations that retain a police enforcement role within the Adult Entertainment sector. The Bill aims to ensure sex work workplaces will be regulated *as workplaces*; as such police should also not have a regulatory role. There may be subsequent regulation changes that need attention.

<sup>17</sup> See [Willowford Family Trust and Brown v. Christchurch City Council](#) HC Christchurch CIV-2004-409-002299, 29 July 2005; and [JB International Ltd v Auckland City Council](#) [2006] NZRMA 401.

<sup>18</sup> QLRC (n 11) 20.

**Recommendation 5:** that all police roles in relation to enforcement in Adult Entertainment workplaces be removed.

It would have been preferable for Adult Entertainment workplaces to be covered by this Bill. These workplaces were unfortunately not included in the QLRC review, and as such, enforcement roles for police remain. Scarlet Alliance urges the Queensland Government to conduct a focussed review of the Adult Entertainment licensing system, so that proper considerations can be made to ensure those workplaces are not left behind.

**Recommendation 6:** that as a matter of urgency, the Queensland Government conduct a focussed review of the *Liquor Act 1992*, Adult Entertainment Code and other legislation impacting on Adult Entertainment workplaces.

### **Part 9 - amendment of *Work Health and Safety Act 2011* and other transitional provisions**

Scarlet Alliance supports the Bill's amendments to the *Work Health and Safety Act 2011* (cls 32-33) and the transitional provisions relating to the Prostitution Licensing Authority (PLA) (cl 34).

In relation to cl 33, we recommend that the proposed s 275A(2) specifies that the review 'must be carried out by an independent and appropriately qualified entity, *and in consultation with relevant stakeholders including peer-led sex worker organisations.*'

Decriminalisation is a big change for the sex work regulation in Queensland; for a review to be effective it should begin no earlier than four years after commencement.

Scarlet Alliance also supports the transitional provisions relating to the winding up of the PLA, noting that this aligns with the advocacy of sex worker organisations to repeal Queensland's failed 2-tier licensing system, and with the recommendations of the QLRC.<sup>19</sup>

**Recommendation 7:** that cl 33 of the Bill be amended to specify that the review required by the *Work Health and Safety Act 2011* s 275A(2) 'must be carried out by an independent and appropriately qualified entity, *and in consultation with relevant stakeholders including peer-led sex worker organisations*' no earlier than four years after commencement.

### **Part 10 - repeal of *Prostitution Act 1999***

Scarlet Alliance strongly supports cl 35, which repeals the *Prostitution Act 1999* and consequently, Queensland's failed two-tier licensing system. This licensing system, which currently permits only 17 licensed brothels across the entire state, has generated enormous costs.<sup>20</sup> The criminalisation of most forms of sex

---

<sup>19</sup> QLRC (n 11) 57.

<sup>20</sup> Elena Jeffreys et al, '[The Case for Decriminalisation: Sex Work and the Law in Queensland](#)' (2019) 1 *Crime and Justice Briefing Paper*, 2-3.

work outside of this system has also generated significant burden on police and court systems in pursuit of low-level, victimless offences.<sup>21</sup>

The QLRC recommended the removal of any licensing system,<sup>22</sup> noting that:

*The path to legitimacy under decriminalisation is not by licensing. It is by removing criminal laws against sex work, allowing people to operate sex-work businesses transparently and be subject to regulation and scrutiny under the same general laws that apply to other businesses. The risk of creating a two-tiered industry means licensing hinders, rather than supports, this process.*<sup>23</sup>

It is essential that the Bill repeals the *Prostitution Act 1999* and associated failed licensing system in Queensland.

### **Addressing public health concerns**

Sex work criminalisation and licensing systems significantly encumber health promotion initiatives. There is clear evidence that public health objectives are best served by decriminalisation.<sup>24</sup>

Policing practices, fear of prosecution, stigma and forced invisibility act as barriers to safer sex practices, human rights, workplace health and safety and the management of blood borne viruses (BBV) and sexually transmitted infections (STI). Within a decriminalised framework, sex industry businesses have greater capacity to comply with the provision of personal protective equipment and the formalisation of work health and safety policies because the threat of criminal sanctions are removed and appropriate anti-discrimination protections are in place.

In criminalised regimes such as Western Australia, individual sex workers' ability to seek information, support and health care is severely limited by the risk of prosecution.<sup>25</sup> The *National Needs Assessment of Sex Workers who Live with HIV* found that laws criminalising sex workers with HIV mean that workers may be afraid to take sexual health tests.<sup>26</sup> Criminalisation fails to recognise that HIV positive people participating in safe sex and/or effective treatment do not endanger their partners, and that criminalisation is ineffective at reducing HIV transmission.<sup>27</sup> As a result, 'the overall effect of criminalisation is that it has the potential to

---

<sup>21</sup> Ibid 3.

<sup>22</sup> QLRC (n 11) 57.

<sup>23</sup> Ibid 58.

<sup>24</sup> Gillian Abel et al (eds), *Taking the Crime out of Sex Work: New Zealand Sex Workers' Fight for Decriminalisation* (Bristol University Press, 2010);

Australian Government Department of Health and Aged Care, [Eighth National HIV Strategy 2018-2022](#) (November 2018) 22;

Basil Donovan et al, ['Improving the Health of Sex Workers in NSW: Maintaining Success'](#) (2010) 21(4) *New South Wales Public Health Bulletin* 74;

Christine Harcourt et al, ['Sex work and the law'](#) (2005) 2(3) *Sexual health* 121;

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

Lucy Platt et al, ['Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies'](#) (2018) 15(12) *PLoS Medicine* 15.

<sup>25</sup> 'Sex Work and the Law' (n 24) 123.

<sup>26</sup> Kane Matthews and Scarlet Alliance, [The National Needs Assessment of Sex Workers who Live with HIV](#), (Report, 2008); see also

'HIV Criminalisation and Sex Work in Australia' (n 24) 131.

<sup>27</sup> Ibid.

increase STI/HIV transmission rates and is more likely to increase the stigma and discrimination experienced by sex workers.<sup>28</sup>

A longitudinal comparative study of brothels in Perth, Melbourne and Sydney found that, of the three Australian approaches to sex work legislation (criminalisation, licensing and decriminalisation), decriminalisation enabled the best health outcomes.<sup>29</sup> In Sydney, where sex work is decriminalised, the outreach organisation had the 'greatest financial support' and the 'best access to brothels for its outreach workers'.<sup>30</sup> By comparison, Perth, where brothels operate illegally, had the 'lowest health and safety levels'.<sup>31</sup> In Melbourne, although licensing rules required availability of condoms, dental dams and lubricant at the time, these 'positive health and safety outcomes' were found to be 'heavily biased toward the licensed sector'.<sup>32</sup>

Australian research has also concluded that harsh legislation and law enforcement is not justified, but rather acts to 'breed corruption and seriously damage public health,' and that 'most [sex work] prohibitionist regimes only achieve their aim through the suppression of democratic and human rights.'<sup>33</sup> While the rhetorical objective of much anti-sex work law enforcement is often 'to keep prostitution invisible,' in practice these policies disproportionately punish sex workers who are already vulnerable, enforce unnecessary mandatory testing regimes that inadvertently breach sex workers' confidentiality, and negatively impact health promotion initiatives.<sup>34</sup>

### **Repeal of mandatory testing**

The repeal of mandatory testing for sex workers will make Queensland testing regimes compatible with Australia's national HIV testing guidelines<sup>35</sup> and Queensland's own STI Action Plan.<sup>36</sup> Scarlet Alliance supports the repeal of mandatory testing.<sup>37</sup>

Australian research has also confirmed that mandatory testing:

- leads to 'excessive' sexual health clinic attendance,<sup>38</sup>
- is unjustifiable given the low rates of STIs among sex workers,<sup>39</sup> and

---

<sup>28</sup> Ally Daniel, ['The sexual health of sex workers: no bad whores, just bad laws'](#) (2010) 19 *Social Research Briefs* 1.

<sup>29</sup> 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, 485.

<sup>30</sup> Ibid 485.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid 486.

<sup>33</sup> 'Sex Work and the Law' (n 24) 126.

<sup>34</sup> Ibid 122.

<sup>35</sup> Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine (ASHM) ['National HIV Testing Policy'](#) (accessed 5 March 2024).

<sup>36</sup> Queensland Health [Queensland Sexually Transmissible Infections \(STI\) Action Plan 2019-2022](#) (November 2019).

<sup>37</sup> Scarlet Alliance, *Mandatory or Compulsory Testing of Sex Workers for HIV and/or Sexually Transmissible Infections in the Australian context* (Briefing Paper for HASTI Committee of MACASHH, 1 August 2007) 1.

<sup>38</sup> David Wilson et al, ['Sex Workers can be Screened Too Often: A Cost-Effective Analysis in Victoria, Australia'](#), (2010) 86(2) *Sexually Transmitted Infections* 117, 118.

<sup>39</sup> A Samaranayake et al, ['Legislation Requiring Monthly Testing of Sex Workers with Low Rates of Sexually Transmitted Infections Restricts Access to Services for Higher Risk Individuals'](#) (2009) 85(7) *Sexually Transmitted Infection* 540.

- puts avoidable ‘pressure on resources, can lead to poor medical standards; including insensitive or inhumane treatment of sex workers, poor-quality examinations, and breaches of confidentiality.’<sup>40</sup>

The Bill appropriately repeals mandatory testing. In its place, research demonstrates voluntary testing will continue to maintain the current low rates of HIV and STIs among sex workers.

### **Promoting voluntary testing**

Most states and territories do not enforce mandatory testing. Instead, voluntary testing is supported by government funded health promotion activities conducted by local sex worker organisations. These organisations are members of Scarlet Alliance, and are recognised for overseeing and maintaining very low prevalence of HIV among sex workers.<sup>41</sup>

Low HIV prevalence continually demonstrates how voluntary testing among women sex workers in Australia is a success:

- In the year 2010-2011, HIV rates were 0.03%, and 0% in the year 2012-2013,<sup>42</sup>
- For the five year period 2013 to 2017, the rate was less than 0.1% every year,<sup>43</sup> and
- For the decade 2011- 2021, rates were averaged at 0.1% annually.<sup>44</sup>

The Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine attributes the above low rates of HIV to sex workers’ demonstrated engagement with regular testing.<sup>45</sup> This conclusion is reinforced by related findings in national, comparative and localised research:

- Canberra Sexual Health Centre data in 2007 demonstrated ‘extremely low’ rates of STIs amongst sex workers.<sup>46</sup>
- The LASH (Law and Sex worker Health) Report on the Sex Industry in Western Australia in 2005 found illegal brothels in Perth had almost a 100% rate of condom use.<sup>47</sup>
- The LASH (Law and Sex worker Health) Report to the NSW Health Department in 2011 found condom use at work approached 100% in Sydney brothels.<sup>48</sup>
- A 2009 Victorian study found sex workers have lower rates of STIs than the general community.<sup>49</sup>

<sup>40</sup> ‘Sex Work and the Law’ (n 24) 124.

<sup>41</sup> *Eight National HIV/AIDS Strategy: 2018-2022* (n 24) 14.

<sup>42</sup> Kirby Institute, [HIV, Viral Hepatitis And Sexually Transmissible Infections in Australia Annual Surveillance Report 2014](#) (Report, University of New South Wales, 2014) 27, figure 37.

<sup>43</sup> Kirby Institute. [HIV, Viral Hepatitis And Sexually Transmissible Infections In Australia Annual Surveillance Report 2018](#) (Report, University of New South Wales, 2018) 48, figure 1.2.1.

<sup>44</sup> Kirby Institute. [HIV, Viral Hepatitis and Sexually Transmissible Infections in Australia Annual Surveillance Report 2022](#) (Report, University of New South Wales, 2022) 6.

<sup>45</sup> Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine (ASHM) ‘[Key populations in the Australian HIV epidemic](#)’, *Epidemiology and natural history of HIV infection* (Clinical Guidelines, 2019).

<sup>46</sup> Christine J Sturrock et al, ‘[Community-Based Sexual Health Care Works: A Review of the ACT Outreach Program](#)’ (2007) 4(3) *Sexual Health* 201, Table 1 and Table 3.

<sup>47</sup> Basil Donovan et al, ‘[The Sex Industry in Western Australia: a Report to the Western Australian Government](#)’ (Report, National Centre in HIV Epidemiology and Clinical Research, University of New South Wales, 2010) vii.

<sup>48</sup> 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) vi.

<sup>49</sup> ‘Sex workers can be screened too often’ (n 38).

- The Kirby Institute (formerly the National Centre in HIV Epidemiology and Clinical Research) Annual Surveillance Report 2011 found that the national chlamydia rate was lowest among female sex workers than of *any* population group in Australia and testing rates were highest among female sex workers.<sup>50</sup>
- Data from 21 sexual health services across Australia to study rates of chlamydia among new patients seen at sexual health services participating in ACCESS (the Australian Collaboration for Chlamydia Enhanced Sentinel Surveillance) found female sex workers enjoyed far lower rates of chlamydia than other women.<sup>51</sup>
- A 2003 survey of 19,307 Australian adults found only 20% had used a condom during their most recent sexual encounter.<sup>52</sup> In the same year, 92.5% of Asian female sex workers surveyed in Sydney reported consistent condom use with clients for vaginal sex.<sup>53</sup>
- A 2007 survey of Chinese sex workers in Sydney, Adelaide, Melbourne and Canberra found 97% always used condoms at work.<sup>54</sup>

The Queensland Bill takes advantage of the known benefits of voluntary testing policies and is congruent with the approach in other states and territories.

## Part 11 - amendments to other legislation

Scarlet Alliance understands and supports all consequential amendments in pt 11 of the Bill. However, the Bill should not insert the term ‘social escort’ into the *Child Employment Act 2006*. There is wide acceptance that ‘social escort’ is an anachronistic term, undocumented phenomena, and the related Queensland offences were never actually prosecuted. It is appropriate that the Bill removes this term from all legislation.

Scarlet Alliance’s understanding is that there has *never* been a sector of non-sexual, ‘social escorting’ documented in *any* Australian jurisdiction. The Bill’s proposed amendments to the Criminal Code already create new criminal offences in ss 217B and 217C, which will criminalise sex work businesses hiring anyone under the age of 18. To also add ‘social escorting’ into the *Child Employment Act 2006* is unnecessary and incongruous.

**Recommendation 8:** that the Bill does not insert references to the work of ‘social escort’ into the *Child Employment Act 2006* (sch 1), as this is an anachronistic term which does not describe any labour sector in Australia. The employment of people under the age of 18 by sex work businesses is already criminalised by ss 271B and 217C of the Bill.

---

<sup>50</sup> Kirby Institute, *HIV, Viral Hepatitis and Sexually Transmissible Infections in Australia Annual Surveillance Report 2011* (Report, University of New South Wales, 2011) 8.

<sup>51</sup> Source: Australian Collaboration for Chlamydia Enhanced Sentinel Surveillance – Sexual Health Services Network <http://www.access-study.org/>, table results provided to Scarlet Alliance in 2011 by Dr Hammad Ali, Kirby Institute.

<sup>52</sup> Richard de Visser et al, ‘Sex in Australia: safer sex and condom use among a representative sample of adults’ (2003) 27(2) *Australian and New Zealand Journal of Public Health* 223, 227-8.

<sup>53</sup> C Pell et al, ‘Demographic, migration status, and work-related changes in Asian female sex workers surveyed in Sydney, 1993 and 2003’, (2006) 30(2) *Australian and New Zealand Journal of Public Health* 157, Table 1.

<sup>54</sup> Zi Teng and Scarlet Alliance ‘*Chinese Sex Workers in Australia: 2006-2007*’ (Survey Report, 2008).

### **Support for implementation**

The Bill represents an industry-wide culture change for sex work, and a government-wide change of approach to sex work regulation. Sex worker peer organisations in other jurisdictions have played a vital role in providing education and support to sex workers, government agencies and the public during decriminalisation. This work includes the development of stakeholder relationships with regulatory bodies, training of front-line compliance staff, informing sex workers of new rights and responsibilities and directly linking sex workers to newly applicable protections.

**Recommendation 9:** that Respect Inc be resourced to provide culturally-appropriate and translated resources to the sex worker community, education to government bodies who have a new role in sex industry regulation and to build linkages between individual sex workers and government agencies tasked with applying new protections.

### **Summary of Recommendations**

**Recommendation 1:** that the committee recommends to parliament the Bill be passed.

**Recommendation 2:** that the Bill's commencement date in cl 2 be **1 July 2024**.

**Recommendation 3:** that the word 'adult' is removed from cl 6 to ensure that discrimination against a young person who may be involved in sex work is not inadvertently permitted.

**Recommendation 4:** that sex workers may operate as a home-based business without the need for a permit or development application, and not be forced to work alone or make themselves known to local government.

**Recommendation 5:** that all police roles in relation to enforcement in Adult Entertainment workplaces be removed.

**Recommendation 6:** that as a matter of urgency, the Queensland Government conduct a focussed review of the *Liquor Act 1992*, Adult Entertainment Code and other legislation impacting on Adult Entertainment workplaces.

**Recommendation 7:** that cl 33 of the Bill be amended to specify that the review required by the *Work Health and Safety Act 2011* s 275A(2) 'must be carried out by an independent and appropriately qualified entity, and in consultation with relevant stakeholders including peer-led sex worker organisations' no earlier than four years after commencement.

**Recommendation 8:** that the Bill does not insert references to the work of 'social escort' into the *Child Employment Act 2006* (sch 1), as this is an anachronistic term which does not describe any labour sector in Australia. The employment of people under the age of 18 by sex work businesses is already criminalised by ss 271B and 217C of the Bill.

**Recommendation 9:** that Respect Inc be resourced to provide culturally-appropriate and translated resources to the sex worker community, education to government bodies who have a new role in sex industry regulation and to build linkages between individual sex workers and government agencies tasked with applying new protections.