

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

Submission No: 117
Submitted by: Dr Fiona Bucknall
Publication:
Attachments: See attachment
Submitter Comments:

Committee Secretary
Housing, Big Build and Manufacturing Committee
Parliament House
Brisbane Qld 4000

07 March 2024

Dear Ms Galbraith,

Re: Support of the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024

Thank you for the opportunity to write in support of the above Bill, which will significantly reduce the marginalisation and stigma facing sex workers by recognising that sex work is legitimate work and should be regulated like other forms of work. The Bill will also significantly enhance the working lives and safety of sex workers by enabling them to access basic workplace and safety provisions, human and other labour rights, and access to justice. The shift of sex work workplace health and safety from police oversight to Queensland's work health and safety regulator is vital, and no additional sex work-specific criminal offences should be introduced as sex workers are already subject to criminal laws in Queensland, like other people.

I have a PhD that explores the sex industry in Queensland, and my findings mirror those of other researchers in finding that licensing models (that is, those that do not fully decriminalise sex work, which is currently the way the sex industry is regulated in Queensland) breach sex workers' human, industrial and health and safety rights, result in a two-tiered industry that forces workers underground and perpetuates stereotypes that stigmatise, harm and cause discrimination to sex workers.

The advertising laws in Queensland are not only restrictive but have long been used as an excuse by police to harass and criminalise sex workers for other petty, minor, often arbitrary, offences. The criminalisation of sex workers is life-long, resulting in reduced opportunities to leave the sex industry, gain employment elsewhere (should sex workers choose to do so) and prevents them from being able to participate in the community as fully fledged citizens, despite paying taxes like other workers.

Sex workers have suffered under a morals-based, non-evidence-based system of regulation for many years and have been fighting for full decriminalisation since the Fitzgerald Inquiry findings detailed in the accompanying report of that inquiry over 30 years ago. I strongly urge you to conclude this process as quickly as possible and that the legislation commence no later than 1 July 2024 so that the recommendations from over thirty years ago may finally be implemented. The Bill is not contentious and simply reflects the evidence that decriminalisation is best

practice¹ and brings Queensland into line with other Australian jurisdictions, such as New South Wales (1995) the Northern Territory (2019) and Victoria (2022).

The full repeal of Chapter 22A of the Criminal Code 1899 (Qld) is vital: in its current form it criminalises basic safety strategies commonly available to other working people. It is ridiculous that sex workers, working under a regime that is considered 'legal' and under which they are expected to pay taxes, are unable to access basic rights and feel safe at work.

The repeal of the Prostitution Act 1999 is also vital: it has been an abject failure on many fronts, cost tax payers millions of dollars in order to regulate a maximum of 27 brothels (currently 17) and must include the repeal of the licensing system, licensing body and advertising restrictions) (Part 10).

The proposed amendments to enhance the Anti-discrimination Act (QLD) to enable protections for sex workers (especially in the areas of accommodation and the employer/employee relationship) are also critical in order to ensure that sex workers have full access to human rights, labour rights and access to justice. However, I recommend the removal of 'adult' from clause 6, (Part 2). I support the amendment in Schedule 1 changing 'lawful sexual activity' to 'sex work activity'; however, limiting the definition of sex work activity to 'adult' persons removes a pre-existing protection and fails to recognise that the criminal offences associated with involving a minor in sex work (s217 of the Criminal Code) are already sufficient.

I also strongly support:

- Parts 3 & 7 (regarding local councils). It is very important that local councils not impede the roll-out of rights, especially in regards to safety and sex workers' ability to work in small groups and collectives. Local councils must not be able to circumvent the intentions and protections of this reform. The focus of legislation regarding sex work should be on workplace health and safety, and guidelines for all sex work places, including that the provision and use of PPE such as condoms, must be made available.
- amendments to the Liquor Act (Part 6): however, a review of the adult entertainment laws and removal of any regulatory role from the police is needed. The exclusion of adult entertainment from the scope of the Queensland Law Reform Commission review is very disappointing and will lead to inconsistencies that require further review and legislative reform.

¹Abel, G. (2014). Sex workers' utilisation of health services in a decriminalised environment. *N Z Med J*, 127(1390), 30-37. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/24670587>.

Abel, G. (2018a). Commentary: Sex work is here to stay and decriminalisation improves safety and social justice. *Bmj-British Medical Journal*, 361. doi:ARTN k2687.

Harcourt, C., Egger, S., & Donovan, B. (2005). Sex work and the law. *Sex Health*, 2(3), 121-128. doi:10.1071/sh04042

Harcourt, C., O'Connor, J., Egger, S., Fairley, C. K., Wand, H., Chen, M. Y., . . . Donovan, B. (2010). The decriminalization of prostitution is associated with better coverage of health promotion programs for sex workers. *Aust N Z J Public Health*, 34(5), 482-486. doi:10.1111/j.1753-6405.2010.00594.

- a review of the Act in 4-5 years (Part 9) in consultation with sex worker organisations.
- Part 11: but with social escort removed from the Child Employment Act as it has been from other Acts; and that
- Respect Inc be resourced to undertake an awareness program to address sex work stigma and inform sex workers about decriminalisation in line with QLRC Recommendation 38. Peer education is proven best practice when working with sex workers and necessary for sex workers to gain the benefits of decriminalisation.

The expungement of sex work offences is a critical part of ensuring the human rights of sex workers, consistency under the law and demonstrating that sex work is legitimate work. I strongly urge you to make decisions based on the evidence, not on outdated moral positions and stereotypes.

Please make my submission public on the Committee website but withhold my contact details.

Yours sincerely

Dr Fiona Bucknall PhD

