

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

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Global Network of Sex Work Projects

Promoting Health and Human Rights

For the attention of: Committee Secretary – Housing, Big Build and Manufacturing Committee, Queensland Parliament

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

Date: 4th March 2024

NSWP is a global network of sex worker-led organisations, with 349 members in 105 countries, that exists to uphold the voice of sex workers globally and connect regional networks advocating for the rights of sex workers, in all their diversity. It advocates for rights-based health and social services, freedom from abuse and discrimination, and self-determination for sex workers.

NSWP welcomes the opportunity to express its support and provide input to the Housing, Big Build and Manufacturing Committee of the Queensland Parliament as it considers the *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024*.

Recommendations and Comments

NSWP supports the Queensland Parliament's decision to repeal the criminalisation and licensing model in Queensland in favour of the new *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024*. This Bill is an essential legislative reform which will promote sex workers' health, safety, and rights, aligning Queensland with other jurisdictions that have decriminalised sex work. To further improve the design and implementation of the Bill, NSWP would like to offer several recommendations and comments.

Part 1 Preliminary (Page 6)

- NSWP recommends that the commencement date for this legislation begins 1 July 2024. Delaying further would mean that sex workers continue to be criminalised and have reduced access to justice and safety measures. In other jurisdictions, delaying the commencement of new sex work legislation has resulted in increased police surveillance and raids, as well as confusion amongst regulators and within the industry. Therefore, it is important that Queensland implement this new legislation without undue delay, in order to protect the rights of sex workers and ensure a smooth and clear transition.

Part 2 Amendment of the Anti-Discrimination Act 1991 (Page 6)

- NSWP supports the replacement of **cl 4**, replacing attribute 7(l) 'lawful sexual activity' with a new attribute, 'sex work activity.' The previous attribute within the Anti-Discrimination Act 1991 was ineffective in protecting sex workers, as it only covered *being* a sex worker, but not *doing* sex work – thus excluding discrimination associated with sex work activity. The new attribute will protect both the activity of doing sex work, and being a sex worker.
- NSWP supports **cl 6** – Amendment of sch 1 (Dictionary) to add a definition of the new attribute 'sex work activity,' but recommends the removal of 'Adult' from this definition. The inclusion of the word 'Adult' undoes current protections and excludes younger individuals (above the age of consent) who sell sex.
- NSWP supports **cl 5** – Omission of s 106C – repealing the lawful discrimination exemption 106C Accommodation. This will promote sex workers' protection from discrimination in the realm of accommodation, upholding their fundamental right to housing.

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Part 3 Amendment of City of Brisbane Act 2010 and Part 7 Amendment of Local Government Act 2009

- NSWSP supports the insertion of Part 3 and Part 7 in the City of Brisbane and Local Government Acts. This will ensure that councils cannot undermine the implementation of decriminalisation, and has been recommended by the QLRC review. It will also align Queensland with Victoria. At the same time, we also recommend that sex workers working in small groups or collectives be able to do so without requiring council permission or a DA. This would also align with the QLRC review recommendation against requirements that force sex workers to work alone. The experience of NSW has shown that requiring sex workers to apply for permits or a DA has not led to compliance, and contradicts the business model of independent sex workers.

Part 4 Amendment of Criminal Code (Page 8)

- NSWSP supports **15 Omission of ch 22A (Prostitution)**, which repeals the entire of chapter of sex work criminal offences, including those which criminalised sex worker safety strategies.
- NSWSP accepts **12 Amendment of Section 207A** and **13 Insertion of new ss 217 to 217C** (Page 9).
- NSWSP supports **cl 14 Amendment of s 218 (Procuring sexual acts by coercion etc.)**.

Part 6 Amendment of Liquor Act 1992 (Page 17)

- NSWSP supports the removal of the Police Commissioner in the development of the Adult Entertainment Code in **cl 23**, but also recommends removing the police from any regulatory role in reviewing compliance and responding to persons operating outside of the Act.
- NSWSP recommends reviewing the Liquor Act and Adult Entertainment Code to also include strippers in the decriminalisation review. Strippers are also sex workers, but have been excluded from this important legislation, denying them of the benefits of decriminalisation.

Part 9 Amendment of Work health and Safety Act 2011 (Page 23)

- NSWSP supports the insertions in **cl 33** to review the Act, but would like to stress that any review must be undertaken in consultation with the sex worker-led organisations Respect Inc and Scarlet Alliance. Sex workers are experts in their own lives and work and are best placed to review legislation which directly affects them.

Part 10 Repeal of legislation (Page 35)

- NSWSP supports the repeal of the Prostitution Act 1999. This Act fostered a two-tiered licensing system, in which the vast majority of the industry remained criminalised and subject to punitive police enforcement. It also criminalised sex workers working together and applied a punitive approach to condom usage and sexual health testing, undermining sex workers' agency and bodily autonomy. Moreover, the Prostitution Licensing Authority which was created under this Act was neither representative nor effective, and must be abolished.

Other Recommendations

NSWP would also like to raise **QLRC R38**, which states that the Queensland Government should develop and implement public education and awareness programmes to address sex work-related stigma and educate the community about the sex work industry and the aims of decriminalisation. Respect, Inc, as a Queensland-based sex worker-led organisation and active NSWSP member, is ideally placed to undertake such programming, and must be adequately resourced to do so. Sex workers themselves are not only the foremost experts in stigma against their community, but are also intimately familiar with the aims and benefits of decriminalisation, having experienced the harms of criminalisation first-hand.

Lastly, NSWSP urges lawmakers to include provisions for the expungement of existing sex work offences in future legislation. Without expungement of these records, sex workers who have been charged with sex work offences under previous legislation will continue to suffer from ongoing challenges and barriers to their human rights. Such barriers can include reduced access to housing, educational

opportunities, child custody, employment outside of the sex industry, and freedom of movement. Therefore, in order to ensure that all sex workers, past and present, can enjoy the full spectrum of their human rights under decriminalisation, records of past sex work offences must be expunged.

Conclusion

International best practice guidelines, supported by a substantial body of evidence, promote the full decriminalisation of sex work as the best means to reduce violence, improve health outcomes, and uphold the human rights of sex workers. Decriminalisation is the legal framework favoured by the overwhelming majority of sex worker-led organisations worldwide, as well as leading authorities in health and human rights.

[The Joint United Nations Programme on HIV/AIDS \(UNAIDS\)](#), [UNFPA](#), [WHO](#), [UNDP](#), [the World Bank](#), [the International Commission of Jurists](#), [Amnesty International](#), [Médecins Du Monde](#), [Human Rights Watch](#), the [Global Commission on HIV and the Law](#), [Open Society Foundations](#), the [Global Network of People Living with HIV](#), the [Global Action for Gay Men's Health & Rights \(MPact\)](#), the International Women's Health Coalition, the [Association for Women's Rights in Development](#), the [American Jewish World Service](#), the [Global Alliance Against Traffic in Women \(GAATW\)](#), [The Lancet](#), The Global Fund for Women, the Elton John AIDS Foundation, [Frontline AIDS](#), the [International Community of Women Living with HIV](#), [Global Health Justice Partnership of the Yale Law School and Yale School of Public Health](#), [European AIDS Treatment Group](#), [ILGA-Europe](#), the [Platform for International Cooperation on Undocumented Migrants \(PIKUM\)](#), [Freedom Network USA](#), [STOPAIDS](#), [La Strada International](#), [International Planned Parenthood Foundation](#), and [ILGA World](#) all call for the decriminalisation of sex work.

The *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024* represents a major advance in promoting sex workers' rights and aligning Queensland with other jurisdictions which have decriminalised sex work. While decriminalisation alone cannot fully shield sex workers from abuses, and must be accompanied by rights-based programming and anti-discrimination measures, it is a critical step to ensuring that sex workers have equal access to fundamental human rights.

Please do not hesitate to contact us, should you have any questions or require additional information.

Kindest regards,



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