

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

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Submitted by: UQ Union Student Rights Collective and the UQ Union Queer Collect
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Committee Secretary
Housing, Big Build and Manufacturing Committee
Parliament House
George Street
Brisbane QLD 4000

SUBMISSION TO THE CRIMINAL CODE (DECRIMINALISING SEX WORK) AND OTHER LEGISLATION AMENDMENT BILL 2024

Dear Committee Members,

The UQ Union Queer Collective and UQ Union Student Rights Collective welcomes the opportunity to provide this submission in support of the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024. We recognise that the bill proposed is well and truly overdue and that the current legislation around sex workers and their rights continues to discriminate against the sex worker community.

Introduction:

The UQ Union Queer Collective has represented and supported queer students within the university since the 1990s, through providing a safe space on campus, free sexual health products, queer specific bursaries, and a community for queer people to feel safe and connected in. We've supported community queer movements by connecting them to the student body, such as DecrimQLD, Open Doors Youth Service, Trans Affirming Clothing Drive, and Meanjin People's Pride. As a Collective and within the work that we have done towards advocacy and support towards the sex worker community, we recognise the following:

- There is a historical connection between the struggles queer people and sex workers have faced;
- A significant proportion of sex workers are queer people and that the second largest demographic of Australian sex workers are trans women¹
- Sex workers are disproportionately discriminated against and this has been due to archaic legislation throughout Australia, and further to

¹ Trans Women Sex Workers. Retrieved from: <https://respectqld.org.au/information/trans-women-sex-workers/>

this, queer sex workers face further danger within the industry and receive further disproportionate discrimination;

- The decriminalisation of sex work is synonymous with supporting queer people.

The UQ Union Student Rights Collective is a collective committed to the advocacy and activism of UQ students centred around education and welfare issues that are important to university students, this includes addressing matters relating to workers' rights and discrimination that may be experienced. In doing so, we further recognise that there may be students who are currently sex workers and further recognise that sex work is work and support the full decriminalisation of sex work as it is the first step in achieving sex worker rights including human and labour rights.

Support Overview:

Both the UQ Union Queer Collective and the UQ Union Student Rights Collective are in support of the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024 and welcome the inclusion of the following clauses within the bill:

1) Amending the Anti-Discrimination Act 1991

- a. Supporting Clause 4 of the bill to replace attribute 7(I) 'lawful sexual activity' with a new attribute 'sex work activity'
- b. Supporting Clause 5 of the bill to repeal the lawful discrimination exemption s106C Accommodation.
- c. Supporting Clause 6 of the bill to amend Schedule 1 (Dictionary) of the Anti-Discrimination Act 1991 to add a definition of the new attribute of 'sex work activity'

The replacement of the attribute of 'lawful sexual activity' with a new attribute of 'sex work activity' ensures the protection of both the activity of doing sex work and being (or having been) a person who provides sex work services, in doing so, it addresses how the current protected attribute within the Anti-Discrimination Act has limited value and scope as the attribute of 'lawful sexual activity' covered being a sex worker but not doing sex work and allowed the occurrence of discrimination towards a person doing sex work and not being protected.

Further to this, the repeal of the lawful discrimination exemption s106C (Accommodation for use in connection with work as sex worker) within the Anti-Discrimination Act ensures that no sex worker is discriminated against, singled out and refused accommodation when they may need it.

2) Amending the City of Brisbane Act 2010 and Local Government Act 2009

- a. Supporting both Part 3 and Part 7 of the bill to amend these acts to prevent councils banning sex work outright from their area.

By implementing these amendments to these acts, it will make sure that the decriminalisation of sex work is not undermined by councils and prevents them from making any new local laws or rules that would treat sex work different to other types of land use. Further to this, the inclusion of amending these acts was recommended by the Queensland Law Reform Commission and their review towards the decriminalisation of the sex work industry and brings Queensland into line with Victoria and their current legislation (Sex Work Decriminalisation Act 2022) that ensures no local law made shall be inconsistent with or undermine the purposes the Sex Work Decriminalisation Act 2022.

3) Amending the Criminal Code

- a. Supporting Clause 14 and the amendment of s218 (Procuring sexual acts by coercion etc).
- b. Supporting Clause 15 and the repeal of Ch 22A (Prostitution) from the Criminal Code

The repeal of Chapter 22A (Prostitution) from the Criminal Code will repeal the sex work offences in the Criminal Code including the section that have criminalised sex worker safety strategies which can include: letting another sex worker know where you are when you are on a booking, texting another sex worker to let them know you are okay at the end of a booking, driving another sex worker to a booking, and hiring a receptionist to screen their calls. We recognise the importance of safety for sex workers and support this repeal as many sex workers have been charged with criminal offences when approaching sex worker safety strategies and wanting to ensure their own safety and wellbeing.

We also recognise that with the inclusion of Clause 14 – it is amending an existing offence within the Criminal Code and are in support of this amendment as it does not create a new sex work chapter of the criminal code.

4) Amendment of Work Health and Safety Act 2011

- a. Support Clause 33 of the bill in ensuring a review of the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024 every 4-5 years.

We support the reviewing of the legislation, however, recognise the importance that the review should include key stakeholders including consultation with Respect Inc and Scarlet Alliance who represent sex workers and sex worker organisations and their rights.

5) The Repeal of the Prostitution Act 1999

We support the overall repeal of the Prostitution Act 1999 including the repeal of the entire brothel licensing system, the Prostitution Licensing Authority, the advertising guidelines, public health laws, street-based sex

work prohibitions and definitions that prevent sex workers working in pairs/co-ops. We recognise that the current Prostitution Act has created a licensing system that has resulted in a two-tiered industry, that only allows a small percentage of the industry to be able to comply (licensed brothels) and criminalises any other business models. In doing so, the current Act criminalise sex workers from working together and makes police responsible for the non-compliant sector. We acknowledge that when this system is repealed, sex industry businesses will be regulated by existing laws and regulations that apply to all businesses and as highlighted by the Queensland Law Reform Commission in their review of decriminalising the sex-work industry that a repeal is needed to remove barriers to safe work practices, removing disincentives for sex workers to report crimes to police, and to protect the human rights of sex workers and others.

Recommendations Overview:

In recognition of the rights of sex workers and the necessity to address their health, safety and their workers rights, we therefore broadly make the following additional recommendations in consideration to the **Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024:**

1) Set a commencement date of 1 July, 2024 (Preliminary Clause 2 Commencement)

We are recommending that the following Bill if passed in parliament, have a commencement dates of 1 July, 2024. Our reasoning behind this is that a delayed commencement date means that sex worker criminalisation and reduced access to justice for sex workers will continue. We recognise that sex workers are currently left to decide between working legally or safely with the continued criminalisation of sex work as an industry. Furthermore, with the delay of commencement of the act, it continues to risk sex workers of criminal charges if they choose to work safely. We are also concerned the fact that in other jurisdictions there have been an increase in police focus on the sex industry including raids and charges that have occurred ahead of law reform. Finally, we are making this recommendation as the two-stage implementation approach in Victoria created major confusion within the sex work industry and regulators and resulted in extra work in aligning the two as it was a complex task.

2) Remove the term 'adult' from clause 6 (Amendment of Anti-Discrimination Act 1991)

Whilst we are supportive of clause 6 within the Bill, we are recommending the removal of the term 'adult' within the definition of the new attribute of 'sex work activity'. This is to recognise that if a person of 16/17 years old experiences discrimination when doing sex work that they are also considered under the definition and given the protections within the **Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024**. It is also to ensure that the current selective application of the

attribute protects those who are both being a sex worker and doing sex work.

3) Ensure Sex workers are able to work together. (Amendment of City of Brisbane Act 2010 and Amendment of Local Government Act 2009).

We support the amendment of both acts; however, the amendment of these acts must ensure that sex workers should be able to work together. The Queensland Law Reform Commission in their review of the decriminalisation of the sex work industry recommended against requirements that force sex workers to work alone. We believe that sex worker safety in practice means the ability to work together without risking privacy, confidentiality or penalty and recognise that clients of independent sex workers are also seeking privacy. In doing so, the requirement for home businesses to apply for a permit or a development application is contrary to the business model of independent sex workers and we believe that in ensuring that sex workers the ability work together within these acts is important to address.

We also recommend with amending these acts as part of the **Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024** that the issue of entrapment by private investigators through local governments is addressed and is not permitted. In New South Wales, there was a failure to provide direction and education to councils when decriminalisation was implemented and in doing so, each council created its own approach, often attempting to ban sex workers from their areas as well as requiring independent sex workers to apply for development applications which placed their safety and privacy at risk. In doing so, more needs to be done to address the planning approach of the decriminalisation of sex work and ensure that there is no undermining towards its implementation.

4) Remove police from any regulatory role (Amendment of Liquor Act 1992, Page 17, Clause 23).

We acknowledge that clause 23 removes the role of the Police Commissioner in the development of the Adult Entertainment Code and welcome this as part of the bill. However, we believe that the bill does not currently address the intention to remove police as a regulator or co-regulator of sex work as they currently review compliance within the sex work industry. In doing so, we recommend the removal of police from any regulatory role.

5) Review the Liquor Act and Adult Entertainment Code (Amendment of Liquor Act 1992, Page 17, Clause 23)

We support the amendments towards the Liquor Act, however, recognise that strippers (sex workers) have not been included in the decriminalisation review even though there was the intention it would be covered. It is disappointing that this sector has been left out and in doing so this has led to them being left behind, without the benefits of decriminalisation. We therefore recommend that there be a review of the Liquor Act and Adult Entertainment Code.

6) Review of the Act should be undertaken in consultation with Respect Inc and Scarlet Alliance (Amendment of Work Health and Safety Act 2011, Page 23).

As previously mentioned, we believe that the review of this act should be undertaken with the consultation of key stakeholders such as Respect Inc and Scarlet Alliance.

7) Other Amendments and Recommendations

We support Part 11 of the bill, however, the amendment proposed towards the Child Employment Act 2006 and in maintaining a definition of social escort should be repealed, this is because social escort has been repealed from other legislation.

We also recommend that Respect Inc is resourced to undertake an awareness program to address sex work stigma and inform sex workers about decriminalisation in line with recommendation 38 of the Queensland Law Reform Commissions Report on the decriminalisation of sex work.

Conclusion:

We thank the Queensland Parliament for this opportunity to provide feedback on the bill and look forward to seeing this bill progress to Parliament with the aim of addressing the stigma and discrimination that sex workers experience. In our view, the bill addresses many of the issues that need to be addressed to ensure the safety of sex workers and this is necessary reform that needs to happen.

Yours sincerely,

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