

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

Submission No: 141
Submitted by: Queensland Hotels Association
Publication:
Attachments:
Submitter Comments:

8 March 2024

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

Email: HBBMC@parliament.qld.gov.au

Dear Committee Secretary

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

The Queensland Hotels Association ('QHA') is the peak body representing the hotel and tourism accommodation industry in Queensland. Currently comprising over 1200 members, the QHA covers the State from beyond the tip of Cape York, throughout central and regional Queensland, and down the coastal strip to Coolangatta. These businesses are the employers of over 80,000 Queenslanders that serve and entertain locals and tourists alike and are often the centre of their communities.

QHA is pleased to make a submission on the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024 ('Bill').

The QHA is disappointed that we have had no consultation regarding the Bill considering the potential impact this has on over 1200 hotel and accommodation tourism business across the state.

The QHA confines its submission to the aspect of the Bill concerning **repealing section 106C (Accommodation for use in connection with work as sex worker) of the *Anti-Discrimination Act 1991 (Qld)* ('ADA')**.

The QHA does not support repealing section 106C of the ADA.

Section 106C of the ADA currently provides that it is not unlawful for an accommodation provider to discriminate against another person if they reasonably believe that the other person is using, or intends to use, the accommodation in connection with that person's, or another person's, work as a sex worker by refusing to supply accommodation; evicting a person from the accommodation; or treating a person unfavourably in any way in connection with the accommodation.

Background

In 2012, the *Youth Justice (Boot Camp Orders) and Other Legislation Amendment Bill 2012* amended the ADA to give accommodation providers certainty and control in the use that is made of their premises by inserting an exemption in the ADA (s106C) which allows a person to discriminate against another person in relation to accommodation, if the accommodation provider reasonably believes that the other person

is using or intends to use the accommodation in connection with that person's or another person's work as a sex worker.

Accommodation Providers on Liquor Licenced Premises

The QHA highlights an inconsistency between the obligations of licensees under section 152 'Prohibition on other use of premises' of the *Liquor Act 1991* (Qld) ('LA') and the proposed removal of the discrimination provisions in s106C of the ADA in the Bill.

Section 152 of the LA prohibits the use or advertisement of licensed premises for a business other than that authorised by the licence. The operation of a sole operator sex worker, which is essentially the conduct of a business, is contrary to that authorised by a licence under the LA.

Liquor licensees are in a very difficult situation because if s106C of the ADA is repealed, and the licensee refuses to permit a sole operator sex worker to conduct his or her business in licensed premises, then the licensee will have likely breached the ADA on the ground of 'lawful sexual activity'. However, if the licensee allows the sole operator sex worker to conduct his or her business in licensed premises, then the licensee will be in breach of the LA.

It would be very unlikely for the Commissioner for Liquor and Gaming to approve, nor would a licensee seek approval, to permit licensed premises to be used for prostitution. Such an act may also found the basis for a breach by the licensee of the *Criminal Code Act 1899* (Qld) under Part 4 'Acts injurious to the public in general', Chapter 22A 'Prostitution', particularly section 229H 'Knowingly participating in provision of prostitution'. A breach of section 152 of the LA may also result in penalties including suspension or cancellation of licence or another form of disciplinary action.

The QHA submits that it is inappropriate that licensees be subject to legal claims under the ADA because of their legal obligations under the LA, particularly considering these laws derive from the one Queensland Parliament.

Further, the QHA submits that these accommodation tourism businesses need certainty and should be able to retain the right to refuse sex workers operating out of their businesses in line with their service standards, the expectations of guests (including families) and those of the general Queensland community.

The QHA would welcome the opportunity for further consultation and is available to appear at any Committee Public Hearing as appropriate.

Please contact me directly on [REDACTED] or at [REDACTED] should you require any further consultation and information.

Yours sincerely,

[REDACTED]
Bernie Hogan
Chief Executive
Queensland Hotels Association