

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

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Submission on the Criminal Code (Decriminalise Sex Work) and Other Legislation Amendment Bill 2024

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Public Health Association
AUSTRALIA

The **Public Health Association of Australia** (PHAA) is Australia's peak body on public health. We advocate for the health and well-being of all individuals in Australia.

We believe that health is a human right, a vital resource for everyday life, and a key factor in sustainability. The health status of all people is impacted by the social, commercial, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the root causes of poor health and disease. These determinants underpin the strategic direction of PHAA. Our focus is not just on Australian residents and citizens, but extends to our regional neighbours. We see our well-being as connected to the global community, including those people fleeing violence and poverty, and seeking refuge and asylum in Australia.

Our mission is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Our vision is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society, underpinned by a well-functioning ecosystem and a healthy environment.

Traditional custodians - we acknowledge the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

Introduction

PHAA welcomes the opportunity to provide input to this important Bill inquiry. Decriminalising sex work is a critical issue that directly impacts the safety, rights, and well-being of sex workers across the state. Under the existing laws, over 80% of the sex work industry remains criminalised in Queensland, leaving sex workers vulnerable to exploitation, violence, and abuse.⁽¹⁾ Criminalisation not only pushes sex work underground but also impedes efforts to provide adequate healthcare, support, and protection for sex workers.

Moreover, the current regulatory framework, including Chapter 22A of the Criminal Code and the Prostitution Act 1999, further marginalise sex workers by criminalising safety strategies and imposing costly licensing requirements. These punitive measures not only undermine the rights and dignity of sex workers, but also perpetuate harmful stereotypes and discrimination.⁽¹⁾

PHAA recognises the urgent need for comprehensive reform in this area, as Queensland's current laws perpetuate stigma, limit access to justice, and place unnecessary burdens on sex workers.

Our submission outlines our support for the Bill with some proposed amendments, which we highlight to ensure that any policy changes effectively protect the rights and dignity of sex workers while promoting their safety and well-being.

We urge the Committee to recommend the progress of this Bill to decriminalise sex work, with a commencement date as early as possible, including the repeal of discriminatory laws, and measures to address social stigma and discrimination.

We look forward to seeing changes that will improve the rights and safety of sex workers.

Response to the Proposed Bill

1: Include a commencement date of 1st July 2024

We are very concerned that there is no commencement date for the *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024*.⁽²⁾

Delaying the commencement of this Act would continue the criminalisation of sex work as well as limit access to justice for sex workers. Over 80% of the sex work industry is criminalised in Queensland, including sex worker safety strategies (see next point).⁽¹⁾ Delays prevent sex workers from being able to operate both legally and safely, resulting in the majority of crimes against sex workers going unreported and leaving them vulnerable to criminal charges for prioritising their safety.⁽¹⁾ It also prolongs the uncertainty and instability faced by sex workers, impeding their ability to plan for their future and access essential services and support.

Other jurisdictions that have decriminalised sex work, such as Victoria, used a two-stage implementation approach, which created confusion for sex workers, law enforcement agencies and regulatory bodies, leading to an increase in regulatory workload due to the complexity of aligning the two stages.

The Queensland Parliament should adopt a unified legislative reform approach for decriminalizing sex work to ensure the protection and rights of sex workers.⁽³⁾ This approach entails comprehensive and coherent legislation that encompasses all necessary reforms in a single enactment, rather than implementing changes in multiple stages. By streamlining the legislative process, a unified approach can minimise confusion, ensure consistency in regulations, and facilitate smoother implementation. This can also facilitate greater clarity for sex workers to clearly understand their rights and obligations under the law.

PHAA recommends:

That Parliament sets a commencement date for this Act, no later than 1st July 2024.

2: Repeal of Chapter 22A of the Criminal Code

The current Chapter 22A of the Criminal Code in Queensland is a significant concern for the safety and rights of sex workers. In Queensland, 49% of sex workers have been charged or know a co-worker who has been charged for illegal sex work practices,⁽¹⁾ with the most common charges sex workers have been faced with being under Chapter 22A of the Criminal Code. These charges involve sex worker safety strategies such as informing another sex worker of one's location during a booking, driving another sex worker to a booking, informing another sex worker of one's safety, working with another sex worker, hiring a receptionist to screen calls and describing what services are offered and not offered.⁽¹⁾ These safety strategies are crucial for the well-being and protection of sex workers from violence and exploitation, however these acts are considered criminal offences.

The enforcement of these laws perpetuates a culture of fear and secrecy among sex workers, discouraging them from seeking help or reporting crimes, thus further endangering their safety and rights. Due to such legal restrictions, 76.5% of sex workers in Queensland have stated that they would not make a police report under the current laws, after experiencing physical violence, due to the fear that they would be charged for a crime themselves by not working lawfully.⁽¹⁾ Removing these offenses could foster better relations between sex workers and law enforcement, potentially transforming the role of police from prosecutors to protectors of these individuals. Therefore, repealing Chapter 22A is not only a matter of prudent legal reform but is also a critical step towards promoting the safety, dignity, and human rights of sex workers in Queensland.

PHAA recommends:

That the Parliament repeals chapter 22A of the Criminal Code.

3: Repeal of the Prostitution Act 1999

Under the Prostitution Act 1999 only a small percentage of the sex industry are able to comply with sex work regulations, This has created a two-tiered industry, with the Act licensing 17 facilities to legally operate in Queensland, and the majority of other sex work business models (90% of the industry) remaining criminalised.⁽⁴⁾ This licensing system was intended to be cost neutral, however this resulting system has cost the Queensland Government an estimated \$10 million to administer since 1999.⁽⁵⁾

The Act has elements which are clearly counter-productive to worker health. It criminalises sex workers working together, which needlessly reduces safety, and also includes criminal offences related to testing and condom usage. It creates barriers for sex workers in accessing vital healthcare resources, contributing to higher rates of sexually transmitted infections, unwanted pregnancies, and untreated mental health conditions within the community.⁽³⁾

PHAA therefore strongly supports the repeal of the Prostitution Act 1999, as this would promote the autonomy and agency of sex workers, allowing them to work together safely and access healthcare resources without fear of legal repercussions. By repealing this Act, Queensland can move towards a more equitable and inclusive approach to regulating the sex industry. It would also allow businesses in the sex industry to be regulated by existing laws and regulations that apply to all other businesses, rather than being regulated by a separate costly licensing system and licensing authority. This would streamline governance and oversight processes, allow funds to be reallocated elsewhere and ensure that sex workers have equal access to legal protections and support services.

PHAA recommends:

That Parliament repeals the Prostitution Act 1999.

4: Address social stigma of sex work

The current laws of Queensland stigmatise sex work as a crime, under criminal and licensing laws.⁽³⁾ By subjecting it to criminalisation and excessive regulation, these laws reinforce societal perceptions that sex work is inherently immoral or deviant. This pervasive stigma directed at sex workers is primarily fuelled by moral panic rather than factual evidence.⁽³⁾

Stigma is a serious issue, as sex workers continue to face heightened risks of violence and abuse, with their health and safety further compromised by laws against public solicitation. As such, in Queensland, 96% of sex workers reported facing stigma and discrimination related to their work, with 91% stating that they would not report such discrimination due to fears of facing further stigma.⁽⁶⁾ This stigma creates inequality and undermines the work rights of sex workers, impeding their access to equity.⁽³⁾

Discrimination and marginalisation faced by sex workers is a health issue that not only increases their vulnerability to exploitation and violence but also hinder their ability to access healthcare, legal protection, and social services.⁽³⁾ Policy reform is needed now to start the process of eliminating stigma surrounding sex work. Reduced discrimination, bias, and stigma against sex

workers can be achieved by a combination of education targeted to the public and law enforcement, as well as, protection through vilification and anti-discrimination laws.⁽¹⁾

By removing criminalisation, excessive regulation, and discriminatory practices, Parliament can promote the recognition of sex work as legitimate employment and ensure the protection of sex workers' rights. This reform will not only enhance the safety and well-being of sex workers but also facilitate their access to essential healthcare, legal support, and social services, ultimately fostering a more equitable and inclusive society.

PHAA recommends:

Decriminalising sex work and anti-discrimination protection as the first steps towards addressing stigma regarding sex work, but there is also a need for other supportive measures: expunging past convictions, eliminating offenses specific to sex work and acknowledging it as legitimate employment will contribute to reducing stigma and marginalisation, and work towards enhancing access to healthcare, information, peer education, and support.⁽⁶⁾

Conclusion

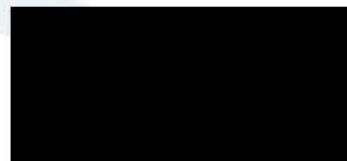
PHAA welcomes that the Government has the goal of repealing criminalisation of sex work, and making such work safer for workers. Our response to the Bill notes however that it falls short of comprehensive reform of the law and, on key points, provides half-hearted amendments where comprehensive repeal of old law provides a much better outcome.

We also urge that the timing of the reform be stated explicitly and come as early as possible, and not generate potential confusion and uncertainty by applying any staging of measures.

PHAA appreciates the opportunity to make this submission. Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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