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10 October 2019

Legal Affairs and Community Safety Committee

**Submission re: Police Powers and Responsibilities and Other Legislation Bill 2019  
Part 7 Amendment of Prostitution Act 1999**

This is a joint submission from Respect Inc and DecrimQLD.

Respect Inc is the state-wide sex worker organisation in Queensland funded by Queensland Health to provide a comprehensive health promotion and peer education program for sex workers. Respect Inc has offices and sex worker drop-in spaces in Cairns, Brisbane, Townsville and the Gold Coast and provides regional outreach in other locations. All Respect Inc staff, elected leaders, members and volunteers are past or present sex workers.

DecrimQLD is a committee of sex workers, who have joined with Respect Inc, to progress the removal of harmful and discriminatory sex work laws and achieve decriminalisation in Queensland.

The Police Powers and Responsibilities and Other Legislation Bill 2019 proposes a relaxation of police powers in relation to regulatory infringements by licensed brothel owners in Queensland within the Prostitution Act 1999. In the words of the Hon. Mark Ryan, these changes will improve the “Operational efficiency of the Queensland Police Service and Prostitution Licensing Authority”.

Respect Inc supports the sentiment of improving the operational efficiency of the Queensland Police Service (QPS) and Prostitution Licensing Authority (PLA) however, the amendments outlined in **Part 7 Amendment of Prostitution Act 1999 will have negative impacts on the health and safety of sex workers and therefore Respect Inc and DecrimQLD can not support the amendments.** Section one of our submission explains that rather than addressing operational efficiency the amendments amount to an unwarranted extension of regulatory reach, extension of police powers, removal of protections against police corruption and will likely result in further waste of police resources. The licensed brothel system is not working, rather than offering solutions this Bill extends the problem to the everywhere sex work takes place in Queensland.

We do not believe this is the intention of the Bill, however that would be the outcome. Such a drastic move requires a more formal inquiry.

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In Section Two of our submission Respect Inc and DecrimQLD propose changes to (1) Advertising and (2) Entrapment laws relevant to sex workers, which would improve the operational efficiency of the Queensland Police Service (QPS) and Prostitution Licensing Authority (PLA).

### Section one - Respect Inc & DecrimQLD do not support Part 7 - Amendment of Prostitution Act 1999.

#### 1. Expansion from licensed brothels to anywhere sex work occurs

The Prostitution Act 1999 outlines powers of entry, seizure etc. to **licensed brothels**. A substantive change proposed in amendment s 61A extends this to a licensed brothel, **or any other premises ‘the authorised officer suspects on reasonable grounds are being used for prostitution’**.

This is in opposition to the first reading speech where Minister Mark Ryan states the Bill will ‘authorise the Prostitution Licensing Authority to enter, search, seize and require the production of documents **at a licensed brothel**’.

The extension of enforcement powers to cover all places where sex work occurs extends the reach of regulation covered by the Prostitution Act beyond licensed brothels. Combined with increased police powers and reductions in protections this amounts to a significant extension of regulation that is better suited to consideration as part of a comprehensive review of sex work legislation. It would be premature to create such a drastic change to the regulatory landscape without the opportunity for due diligence and consideration of the broader risks, costs and perceived benefits. These changes are out of step with the scope of the intention outlined in the first reading speech.

#### 2. Role of the Prostitution Licensing Authority (PLA) clause 53

Sex work takes place in Queensland in many locations that are legal, including the workplaces of individual sex workers, and over which the authority tasked with regulating licensed brothels has no role. No evidence or reasoning has been provided for the expansion of the regulatory role of the PLA into *all sex industry businesses*. This would be a substantial change to the role of the PLA.

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If the intention is for the PLA to extend its regulatory role from licensed brothels *to all other locations where sex work takes place*, it is both out of step with the first reading speech and likely to have significant impacts on sex workers in Queensland. As such, a change of this scale would require further consultation and consideration of unintended consequences.

### 3. Removal of anti-corruption protections

The findings of the Fitzgerald Inquiry (1989), the Crime and Justice Commission (1991) and Premier Peter Beattie's parliamentary speech on the introduction to the Prostitution Act (1999) reflect the need to restrict police powers and access to the sex industry in order to prevent the well documented historic corruption and misuse of police powers.

Rather than providing the PLA with the same powers of entry and seizure as police into licensed brothels, the amendments substantially extend both agencies' powers of search, seizure and filming and further extends this to wherever sex work takes place. Additionally, it introduces new penalties for non compliance that did not previously exist.

The amendments contained in **Division 2 powers of entry** increase police powers of entry, search, seizure, filming and the right to take other people and equipment where sex work takes place, and introduces new penalties. These are all new and are contrary to the aims of the Prostitution Act 1999.

Specifically, we refer to:

- ❖ 61C (2)(a) expands police powers to search any part of the premises
- ❖ 61C (2)(d) allows police to film 'anything' on the premises
- ❖ 61E (3) failing to comply to produce documents (new penalty)
- ❖ 61G obstructing an authorised officer in exercising an enforcement power (new penalty).

The Prostitution Act 1999 allows police to enter a licensed brothel *at any time that it is open*, with the caveat that the visit is recorded on a register that is submitted to the PLA. If these amendments including 61A proceed, police and nominated persons from agencies such as the PLA will be empowered to enter **any premises where sex work takes place** that is 'open for business or otherwise open for entry'. The existing clause makes sure that all police entry to licensed brothels is registered. This is an anti-corruption protection and does

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not extend to individual sex worker's workplaces. The first reading speech by Minister Ryan makes no mention of the roll back of anti-corruption measures. It would be irresponsible of the Queensland Government to remove such protections for individual sex workers, and it also creates opportunities for police corruption, contrary to the findings of the Fitzgerald Inquiry.

#### 4. Arbitrary police and PLA powers

While the Prostitution Act clearly states that powers are for access to licensed brothels only, amendment 61A(1) introduces access on the grounds of 'reasonable suspicion' of any type of sex work. Whenever arbitrary clauses are applied to sex work or the sex industry, vexatious reports are made against women, LGBTIQ people and marginalised communities. The Prostitution Act 1999 was cautious in this area, for good reason. Such a change requires more formal inquiry process to avoid unintended consequences. Without such a process the Bill puts police and marginalised communities in a vulnerable and unprotected position.

#### 5. No protections for sex workers

The amendments fail to provide any protection for sex workers. As an example, the Prostitution Act 1999 limited photography to anything required to be kept under this Act, and taking possession of any item was limited to evidence of the commission of a offence committed under this Act (see 60(1)(a)(b)).

The proposed amendment 61C(2)(d) allows for the inspection, examination, recording, photographing or filming of 'anything' in or on the premises. Presumably, as it is us as sex workers who are at locations where sex work is taking place, this would include photographing and filming us. Privacy for sex workers is paramount. The risks to sex workers of information about our identities becoming known relate directly to our safety. This is only one example of how the amendments have not taken into account any consideration of sex workers' safety, privacy and need for protection against misuse of police powers.

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## Summary of objections:

To summarise, Respect Inc and DecrimQLD do not support the amendments to the Prostitution Act outlined in the **Police Powers and Responsibilities and Other Legislation Bill 2019** as they:

- ❖ extend the regulation of the Prostitution Act 1999 to include *any place where sex work takes place*
- ❖ remove the inherent distinction between powers of access to brothels compared with independent sex worker workplaces
- ❖ provide PLA staff with right of entry, seizure etc. to any premises ‘the authorised officer *suspects on reasonable grounds* are being used for prostitution’
- ❖ provide the PLA with the entry and seizure powers currently held by police
- ❖ extend police powers and remove anti-corruption restrictions
- ❖ fail to consider or protect sex workers’ privacy or safety.

## Section two - Proposals to bring the Police Powers and Responsibilities and Other Legislation Bill 2019 better in line with current Government policy and the first reading speech of the Bill.

In the last two years, a significant amount of evidence has been provided by Respect Inc and DecrimQLD on areas of the Prostitution Act and Police Powers and Responsibilities Act that create significant harms and criminalisation for sex workers. The proposed amendments in the Bill do not represent this significant and on-going input from sex workers. Below we are recommending to the committee areas of reform for consideration that would assist in improving the operational efficiency of the QPS and PLA that are based on evidence from the sex worker community.

### 1. Advertising

Currently, the QPS and PLA are delegated the responsibility for regulation of sex worker advertising. The Prostitution Act 1999 does not allow for sex workers to describe services in advertising. Since the Act came into force, the landscape for sex worker advertising has changed substantially, and the laws are now out of step with general community standards and expectations of where QPS should be investing its time and resources. Similarly, the creation of related ‘Advertising Guidelines’ by the PLA have resulted in an extremely detailed, convoluted, unworkable and overbearing process that is now most obviously unnecessary. As with the other changes proposed in the Police Powers and Responsibilities

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and Other Legislation Bill 2019, changes to these laws would improve the operational efficiency and use of resources of both the QPS and PLA.

It is appropriate that penalties for sex workers be removed in relation to sex worker advertising. Police use advertising as a trigger to lay a range of (petty) charges against sex workers, which when bundled, can result in fines of up to \$6,000. Removal of advertising from the Prostitution Act 1999, is in line with the aim of reducing penalties for *everyday* business practices. Policing of sex worker advertising not only has no discernable 'public good' outcome, it has the effect of fining and stigmatising sex workers working in a legal profession.

The Police Powers and Responsibilities and Other Legislation Bill 2019 aims to reduce the charges faced by brothel owners. Removing **Subdivision 2** of the **Prostitution Act 1999** is in the spirit of the proposed changes and would ensure that independent sex workers (who constitute the vast majority of workers the sex industry in Queensland) equally benefit. Currently the only beneficiaries are brothel owners.

The Police Powers and Responsibilities and Other Legislation Bill 2019:

- ❖ reduces the need for police prosecution of everyday business practices of licensed brothel owners
- ❖ shifts responsibility away from police
- ❖ reduces the range of penalties, and
- ❖ reduces the number of potential indictable offences.

Removing **Subdivision 2** of the Prostitution Act 1999 "Advertising offences about prostitution" would reduce **Sex Worker and Brothel License Owner** penalties regarding advertising generally by:

- ❖ reducing the need for police prosecution of everyday business practices
- ❖ reducing the amount of penalty a sex worker is likely to receive for undertaking everyday business practices such as advertising
- ❖ shifting responsibility away from police, thus freeing up resources.

It should be noted that while the changes suggested by Respect Inc will not result in meaningful changes to the broad sex work landscape in Queensland, they would remove advertising from the responsibility of police. This small step is consistent with the other changes proposed in The Police Powers and Responsibilities and Other Legislation Bill 2019.

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## 2. Entrapment

Current provisions within the Police Powers and Responsibilities Act 2000 (Qld) make it lawful for a police officer to pretend to be a client of a sex worker. Police officers call sex workers to gather information about our services, then arrest sex workers for:

- ❖ doubles bookings
- ❖ referrals to other workers
- ❖ checking in with another sex worker when a booking is finished
- ❖ using a receptionist
- ❖ using a driver that another sex worker also uses.

The aim of these powers is to entrap serious criminals into activities that they are reasonably likely to have committed without the efforts of an extensive police operation. The police are exempt from any of their own criminal actions that are undertaken during the operation. In practice, this means police in Queensland:

- ❖ use the lure of payment to pressure sex workers to agree to perform a doubles booking
- ❖ make a fake booking with a sex worker to monitor how the sex worker travels to the booking, and then arrest their driver if the driver is unlicensed or is also known to drive other sex workers
- ❖ call sex workers on the phone, posing as clients, asking for unprotected sexual services such as any sex without a condom
- ❖ contact sex workers pressuring sex workers to state they have received assistance in developing or placing their advertisement, particularly if English is not their first language
- ❖ call sex workers to find out if the sex worker is using a receptionist to assist in the running of their business
- ❖ call or visit sex workers to ask for services that the sex worker does not offer, and then attempt to convince the sex worker to refer them to another worker that does offer the service
- ❖ call the sex worker, or visit the sex worker at the place of work while posing as a client to then ask if they have a friend or anyone else on the premises who is available for a booking.

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Prosecution of any of the above listed activities is not in the public interest. Further, some of these activities could be classified as forms of sexual abuse, because they involve police talking about detailed sexual acts with sex workers and using emotional and psychological pressure (such as the promise of money) to convince sex workers to agree to such acts.

Additionally, the use of drivers, sharing a location, having a receptionist, and having a co-worker on the premises are all safety strategies that are common in any small business. It does not appear to have been the original intention of the Police Powers and Responsibilities Act 2000 (Qld) to make police responsible for arresting sex workers in everyday situations where safety strategies are being deployed in the course of conducting their work.

As such, in the spirit of improving the efficiency of the QPS, reducing the documented waste of resources and relaxation of certain sections of sex work laws that impact the everyday functions of sex industry businesses, Respect Inc. and DecrimQLD propose that police powers enabling police officers to act unlawfully in relation to sex workers be revoked as part of the Police Powers and Responsibilities and Other Legislation Bill 2019. This also provides improved protections for the police, who are in a precarious position when posing as a client of a sex worker.

Thank you for receiving and considering this submission. We are available and would appreciate the opportunity to expand on these matters or provide further explanation as part of the hearing process.

Yours sincerely,

Janelle Fawkes  
**#DecrimQLD Campaign Leader**  
**Respect Inc**

Kayla Rose  
**Secretary**  
**Respect Inc**

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