

Impact Analysis Statement

Details

Lead department	Department of Justice and Attorney-General
Name of the proposal	The Criminal Code and Other Legislation (Decriminalising Sex Work) Amendment Bill 2023 to implement a decriminalised sex work industry
Submission type (<i>Summary IAS / Consultation IAS / Decision IAS</i>)	Summary Impact Analysis Statement
Title of related legislative or regulatory instrument	The Criminal Code and Other Legislation (Decriminalising Sex Work) Amendment Bill 2023
Date of issue	November 2023

Proposal type	Details
Regulatory proposals where no RIA is required	<p>Decriminalisation of sex work</p> <p><u>Repeal of regulation</u></p> <p><i>Prostitution Act and Prostitution Regulation</i></p> <p>The Bill would repeal entirely the <i>Prostitution Act 1999</i> (Prostitution Act) and <i>Prostitution Regulation 2014</i> (Prostitution Regulation) and the licensing framework within, with no new framework of licensing to be implemented. This is a deregulatory policy approach with limited or no costs or regulatory burden on business, government or the community. A review into a decriminalised sex work industry in Queensland was thoroughly considered by the Queensland Law Reform Commission (QLRC) in its report, <i>A decriminalised sex-work industry for Queensland</i> (QLRC Report).</p> <p>By way of background, the <i>Prostitution Act</i> commenced on 1 July 2000, over a decade after the 1989 Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct report, commonly known as the Fitzgerald Report. The explanatory notes of the Prostitution Bill 1999 emphasise safeguards against corruption and organised crime, promotion of health and safety of sex workers, their clients and of the community as underlying principles to achieve the objective of the legislation.</p> <p>The QLRC Report identified that the current licensed approach creates a two-tiered industry of licensed and unlicensed operators. Ultimately, the QLRC Report noted that sex work licensing does not ensure the health and safety of workers and does not keep criminal elements out of the industry. Rather, the QLRC Report concluded that as most existing licensed sex workers currently operate outside of the existing licensing scheme, the introduction of a wide-spread licensing scheme will undermine</p>



any efforts to afford protection and access to work rights. Further, in the view of the QLRC, serious crime is a matter for the enforcement of criminal laws by law enforcement agencies and not a matter for licensing and is unlikely to be effective against organised criminal groups.

Anti-Discrimination Act

In accordance with the QLRC's recommendation, the Bill would repeal section 106C of the AD Act in relation to accommodation discrimination exemption, as far as they relate to sex workers. The repeal is not anticipated to incur any additional costs or regulatory burden on the community.

It is noted that the Bill would also repeal 'lawful sexual activity' in section 7(l) of the AD Act, and insert 'sex work activity'.

Deregulatory proposals that do not increase costs or regulatory burden on business or the community

The Bill would amend the *City of Brisbane Act 2010* and *Local Government Act 2009* to restrict the ability of the Brisbane City Council and local government to make a local law that prohibits or regulates sex work. Should a local law be made which prohibits or regulates sex work or the conduct of a sex work business, that local law has no effect to the extent that it is contrary to this section.

These amendments are consistent with the decriminalisation of the sex work industry and ensures that the aims and benefits of decriminalisation may be realised across all of Queensland.

Updates

The Bill would amend the *Liquor Act 1992* (Liquor Act) on the basis that it is intended to maintain the status quo for the operation of adult entertainment and the prohibition on sex work (excluding a sole operator) occurring on liquor licensed premises. The Bill would make interim amendments to the *Liquor Act* given that the QLRC Report recommended the repeal of terms and phrases which are also found in the *Liquor Act* and Adult Entertainment Code.

The Bill amends section 103N(4) (Adult entertainment code) of the Liquor Act to omit the reference to the Police Commissioner. The effect is that only the Commissioner for Liquor and Gaming can make the Adult Entertainment Code.

It is noted that the Queensland Government intends to undertake a distinct piece of work, including consultation, to explore the impacts of decriminalisation on the Adult Entertainment industry, and the potential provision of liquor by and in sex work businesses in 2025.

Regulatory proposals relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services

The proposal to repeal sex work specific criminal offences in the Criminal Code, Prostitution Act and Prostitution Regulation, such as sex work specific offences that criminalise sex work other than in licensed brothels or that require sex workers to work on their own, public solicitation, sex work advertising, and certain sex work

specific health behaviours, relates to general criminal laws and is not subject to RIA requirements under the Better Regulation Policy.

The exemption of RIA requirements also extends to the introduction of proposed criminal law to address coercion and the exploitation of children in commercial sexual services, in addition to amendments to the *District Court of Queensland Act 1967* and the *Penalties and Sentences Act 1992*.

Consequential amendments

Consequential amendments to legislation are a regulatory proposal that are minor and machinery in nature not requiring a RIA under the Better Regulation Policy. The QLRC have identified consequential amendments should be made to both primary and secondary legislation.

The Bill would make the following consequential amendments to primary legislation:

- *Child Employment Act 2006* (Qld);
- *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld);
- *Corrective Services Act 2006* (Qld);
- Criminal Code;
- *Criminal Law (Rehabilitation of Offenders) Act 1986* (Qld);
- *Criminal Proceeds Confiscation Act 2002* (Qld);
- *Disability Services Act 2006* (Qld);
- *Integrity Act 2009* (Qld);
- *Introduction Agents Act 2001* (Qld);
- *Judicial Review Act 1991* (Qld);
- *Liquor Act 1992* (Qld);
- *Penalties and Sentences Act 1992* (Qld);
- *Police Powers and Responsibilities Act 2000* (Qld);
- *Public Health Act 2005* (Qld);
- *Public Sector Act 2022* (Qld);
- *Right to Information Act 2009* (Qld);
- *Transport Operations (Passenger Transport) Act 1994* (Qld); and
- *Working with Children (Risk Management and Screening) Act 2000* (Qld).

The Amendment Regulation would make the following consequential amendments to secondary legislation:

- *Criminal Practice Rules 1999* (Qld);
- *Criminal Proceeds Confiscation Regulation 2013* (Qld);
- *Liquor (Approval of Adult Entertainment Code) Regulation 2002* (Qld);
- *Police Powers and Responsibilities Regulation 2012* (Qld)
- *Public Sector Ethics Regulation 2023* (Qld)
- *Queensland Civil and Administrative Tribunal Regulation 2019* (Qld);
- *State Penalties Enforcement Regulation 2014* (Qld)

Transitional provisions

	Transitional provisions to legislation are a regulatory proposal that is minor and machinery in nature not requiring further impact analysis.
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Signed



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Department of Justice and Attorney-General
Date: 18/11/2023



Yvette D'Ath MP
Attorney-General and Minister for Justice
Minister for the Prevention of Domestic
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Leader of the House
Date: 18/11/2023