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Secretary to the Committee
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RE: Statutes Amendment (Repeal of Sex Worker Offences) Bill 2020

Respect Inc. is the state wide sex worker organisation in Queensland. Our organisation provides a comprehensive health promotion and peer education program for sex workers. Respect Inc. has offices and sex worker drop in spaces in Cairns, Townsville, Brisbane and the Gold Coast and provides regional outreach in other locations.

#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.

Thank you for considering our joint submission to this process. Respect Inc. and DecrimQLD support the Bill and recognise that the amendments outlined will be an important first step in achieving full decriminalisation of sex work. As peer led sex worker groups in Queensland we engage with many workers who tour Queensland from South Australia or who live in Queensland and tour to South Australia. We often hear about the barriers that criminalisation creates in South Australia.

The laws in South Australia are outdated and are out of step with public opinion. Removing sex work from the ***Criminal Law Consolidation Act 1935*** and ***Summary Offences Act 1953*** is an important first step to support sex worker rights, health and safety. Respect Inc supports the Statutes Amendment (Repeal of Sex Work Offences) Bill 2020.

We look forward to the opportunity to discuss these matters with you. Representatives from Respect Inc and DecrimQLD are available for any hearings that may arise from this process.

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Background on Queensland laws

Queensland operates under an onerous and limiting brothel licensing framework, which includes many restrictions and heavy criminal penalties for private sex workers. Police have arbitrary power to pose as clients, conduct entrapment, and even send fines via SMS for incorrect wording in advertising. Many sex workers in Queensland experience criminalisation, police entrapment, arrest, charges and fines, resulting in the same negative impacts as sex workers in South Australia experience as a result of the laws. Although there are many differences in the laws of each jurisdiction, the overall impact is the same. Most sex workers and sex industry business models are locked out of the legal sector and face criminalisation, fines, arrest and in some instances deportation. Licensing, by any measure, has failed as an effective, efficient or safe model of regulation.

Background on Decriminalisation

Decriminalisation acknowledges sex work as a lawful occupation and has demonstrated positive workplace health and safety outcomes for sex workers¹. Decriminalisation is supported by high level international organisations including UNAIDS, WHO, Amnesty International, Human Rights Watch and the UNFPA. A fully decriminalised sex industry would significantly improve compliance, be cost effective and provide significant improvements for sex workers.

In Australia, sex work was decriminalised in New South Wales in 1995 and last year in the Northern Territory. The urgent need for decriminalisation in NSW was brought to the attention of parliament as a result of the 1995 NSW Woods Royal Commission into police corruption.² The inquiry emphasised the connection between police regulation of the sex work industry and unsafe working conditions for sex workers due to police corruption, resulting in police profit.³ Since decriminalisation, the NSW sex work model is viewed as best practice to achieve sex workers' rights and justice as well as health promotion and prevention.⁴

¹ Harcourt, C., et al. (2010). The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers. *Australian and New Zealand Journal of Public Health*, 34(5), 482- 486. doi:10.1111/j.1753-6405.2010.00594.x

² NSWP (2014). Decriminalisation of Sex Work in New South Wales. Global Network of Sex Work Projects. <https://www.nswp.org/timeline/event/decriminalisation-sex-work-new-south-wales>

³ Brown, David (1997) Breaking the code of silence, the Wood Royal Commission into New South Wales police: a brief overview. *Alternative Law Journal*, 22(5), pp. 220-224.

⁴ Donovan, B., Harcourt, C., Egger, S., Fairley, C. (2010). Improving the health of sex workers in NSW: maintaining success. *NSW Public Health Bulletin*, Vol. 21(3-4), 74- 77

Background on South Australia laws

Decriminalisation in South Australia must not include registration or licensing of sex workers or sex industry businesses, or exceptional police or regulatory powers. Police should be removed from any role in relation to the sex industry other than the application of other laws that are applied to all industries. The Bill removes police from the industry and instead allows sex workers and sex industry businesses to be subject to the same laws as any other person in South Australia.

The criminal penalties currently in force against sex work in South Australia are intrinsically flawed. The motivation to 'control' sex work does not include any recognition of sex work as work, and makes no attempt to support the legal, human or workplace health and safety rights of sex workers. It is not fit for purpose.

Stigma and discrimination against sex workers means that laws and regulations are not applied fairly. Consideration is needed to address this uneven playing field.

Anti-discrimination protection is ultimately necessary to send a clear message against discrimination and provide an avenue for redress. This is also the case when existing regulatory systems create significant barriers to sex worker or sex industry business compliance because of privacy or other concerns. Specifically, private sex workers should be excluded from the requirement to obtain local council permits. These issues should be included in future discussions after the passage of this Bill.

Current exceptional police powers over sex work in South Australia is unacceptable. Police should be removed from any role in relation to sex work other than the application of other laws that are applied to all industries. Previous parliamentary inquiries and royal commissions into the involvement of police in the regulation of sex work in other jurisdictions have recommended police be removed from this role. Evidence from New Zealand shows that when police are no longer enforcers of sex work specific laws, the culture of policing in regard to sex work is able to evolve and sex workers have reported to be much more likely to report serious crimes against them to police.

A full decriminalisation model will be low cost, maximise compliance, deliver improved workplace health and safety outcomes for sex workers and provide protection against stigma and discrimination. The Statutes Amendment (Repeal of Sex Worker Offences) Bill 2020 is an important step by the South Australian Parliament to address the criminalisation of sex work, remove police as prosecutors, and instate human rights within this jurisdiction.

Addressing the amendments proposed in the Bill

Part 2, 4, Amendment of Section 5, Definition of Common Prostitute (Criminal Law Consolidation Act 1935) (Division 12 65A)

Commercial sexual services-means services provided for payment involving the use or display of the body of the person who provides the services for the sexual gratification of another or others.

The language of this section is problematic and inaccurate. It borders on perverse and is discriminatory. It absolutely should be removed from the law.

Would a baker be described as providing their hands for 'use' to make bread for the hunger 'gratification' of another? Would a taxi drivers' body be described anywhere as being 'used' for transport 'gratification'? Similarly it is inappropriate to refer to the labour of sex work as 'use' of the body for the 'gratification' of others.

Physical labour for financial reward should not be described in South Australian law as 'usage' of a person's body for 'gratification' of others. For sex workers' human, labour and industrial rights to be realised, this definition must be repealed. Removal of this definition will contribute to the humanising of sex workers in South Australia.

Respect Inc and DecrimQLD support the removal of this provision. Definitions of work or employment should not be housed within Criminal Law. The language is outdated and reinforces prejudice and discrimination against sex workers.

Part 2, 5, Amendment of Section 270, Punishment for certain offences

Keeping a common bawdy house or a common or ill-governed house and disorderly house.

Respect Inc and DecrimQLD support the removal of this provision. A workplace or business location should not be defined by law as criminal, or described in ways that incite negativity, prejudice or morality.

It is inappropriate for sex industry workplaces to be criminalised. Criminalisation results in South Australian police being the only regulators and enforcers in that workplace. Corruption, extortion, abuse of power, systemic barriers to justice, distrust of police and thus vulnerability to other crimes are just some of the outcomes of the criminalisation of sex industry workplaces.

The Lancet reported in 2014:

"Abuses occur across all policy regimes, although most profoundly where sex work is criminalised through punitive law. Protection of sex workers is essential to respect, protect, and meet their human rights, and to improve their health and wellbeing."⁵

Currently any location where sex work occurs can fall under this definition and as a result people on that premises can be charged by police with a criminal offence. In other businesses, such as hairdressing or a lawyers office, simply being at work is not subject to criminal penalty. Criminalising a location, and an entire workforce, is not sustainable any longer in South Australia. Repealing these punishments will bring sex workers under all the same legal protections as other people working in South Australia.

Outcomes of the repeal of these punishments will be varied depending on the person. If a victim of crime, a South Australian sex worker would be more able to report it to police and seek justice. When going to work, a South Australian sex worker would no longer have to fear arrest. If experiencing inappropriate working conditions or exploitation, a South Australian sex worker would be able to more freely leave the location without fear of being dobbed into police as retaliation. If trafficking-like work conditions are occurring, repeal of these penalties increases the options for those workers because they would no longer fear arrest for simply having been working on a prohibited premises.

Part 2, 6, Variation of Schedule 11, Abolition of certain offences (Summary Offences Act 1953), and Part 3, 9 & 10, Repeal of Sections 25, 25A, 26, and Part 6

*A person must not engage in procurement of prostitution
Criminalisation for assisting someone to work in prostitution
Penalty for living on the earnings of prostitution
Removal of all laws concerning brothels*

Respect Inc and DecrimQLD support the repeals of these sections and parts.

Sex workers in South Australia work together, support each other, and rely on each other for occupational health and safety. The procurement and assisting penalties are used by police to stack charges against sex workers in South Australia. There are already industrial protections for people in South Australia who experience bad workplace conditions or withholding of payment. If a breach of occupational health and safety, bodily autonomy, or other punishable incidents happen in a sex industry workplace, these can be remedied through the same channels that other people working in South Australia access. There is no need for exceptional laws about procurement or assisting sex workers, and South Australian sex workers would be better off if able to seek workplace justice like anyone else.

⁵ Decker, M., et al. (2014). Human Rights Violations Against Sex Workers. The Lancet. VOL 385, ISS 9963, 186-199.

Sex work businesses, like all other businesses, rely on advertising, location, availability and legal protections to ensure their continued viability. Respect Inc and DecrimQLD support all of the amendments included in Part 3 of the Bill.

Part 3, 7, Amendment of section 4, Delete Definition of Common Prostitute

Respect Inc supports the removal of this provision. Definitions of work or employment should not be housed within Criminal Law. The language is outdated and reinforces prejudice and discrimination against sex workers.

Part 3, 8, Amendment of section 21, The word “prostitute” associated with criminal behaviour to be deleted

Sex work is work and as such a person should have autonomy to choose to work as a sex worker and live off their earnings without the ongoing stigma of ‘prostitution’ being associated with criminal behaviour or ‘bad character’.

The overall criminalisation of sex workers in South Australia means that perpetrators know we are vulnerable to being targetted for extortion and other crimes. It is the laws themselves that create that vulnerability. Perpetrators know sex workers risk arrest if reporting crimes to police.

Sex workers already experience significant barriers to reporting rape and sexual assault. Associating our work with criminal penalties creates additional blocks at the point of reporting to police.