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Prostitution Reform Feedback  
Department of the Attorney General  
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email to: [prostitution\\_reform\\_feedback@justice.wa.gov.au](mailto:prostitution_reform_feedback@justice.wa.gov.au)

Dear Sir/Madam

Please find below the Respect Inc submission to the West Australian Attorney General on the proposed sex industry law reforms as set out in the Prostitution Bill 2011.

We provide an overview of Respect Inc, a general critique of licensing systems as regulatory responses to the sex industry and make comment on issues we feel have most potential danger for sex workers if the proposed legislation is passed.

Yours faithfully

Candi Forrest  
Treasurer  
For the Respect Inc Management Committee and Staff

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## Introduction

We wish to provide some general feedback to the Western Australian Prostitution Bill 2011.

As a community based organization with few resources we have not had much time to commit to this submission and therefore it is not detailed and gives the most basic overview, however we wish to stress in the strongest terms how problematic is the content of this Bill.

This Bill sets out a body of legislation that is shocking in its severity and we have grave fears for the Western Australian sex workers whose health and safety will be put at risk if this Bill is passed .

## About Respect Inc, perspective and motivations

Respect Inc is a peer based sex workers' organisation funded by Queensland Health to provide peer education services to sex workers. Respect Inc has been delivering information, education, advocacy and support services to sex workers from offices in Cairns, Townsville and Brisbane for the past year and a half.

We understand that the sex industry is very diverse and because of this there is much debate and, at time, little consensus, even among sex workers, on how it should be regulated. Nonetheless as an organisation that provides education, support and advocacy to sex workers from every sector of the industry Respect Inc is in a unique position to be able to provide a broadly evidenced perspective. Our members come from every sector of the sex industry and some of us have over 30 years experience in every sector of the sex industry.

The views of Respect Inc are not influenced by commercial competition as is the case for those stakeholders who argue for stronger criminal sanctions. Our argument is not based on financial concerns; nor are we driven by political or religious moral arguments against sex work *per se*. Our focus is solely on sex workers' health, safety and civil rights. We are a part of the wider community and so share an interest in ensuring quality of life and health and safety for local communities.

## ***Respect Inc Vision, Mission Statement and Objectives***

### **Vision**

*A society where all sex worker rights are realised, and all Queensland sex workers are aware of and feel confident to access all of the information and support we want and need to enable us to be empowered and control our own lives, health and occupational circumstances, equal to others in the workforce.*

### **Mission**

*We are Queensland sex workers united to provide a formal medium to communicate sex worker issues and concerns so as to improve the rights of our peers and respond to our workplace health and safety and other needs regardless of gender, age, location, industry sector, cultural background or linguistic abilities.*

### **Objectives:**

1. To provide a range of education, information and resources that will support sex workers and increase their awareness of occupational health, safety, emotional wellbeing, legal and taxation rights and responsibilities, in a non judgmental and non-invasive environment.
2. To provide health promotion programs to sex workers
3. To operate within a context of accountability, equity and transparency.
4. To recognise that by providing education, information and support to sex workers, sex workers will be effectively resourced as safer sex educators to pass on those educational benefits to the larger general population.
5. To operate within an affirmative action approach, that is, with all direct services by peers (sex workers past or present) within all levels of the organisation, including management, staff and volunteers, and to foster a culture of inclusiveness and mutual respect within the diverse community of sex workers.
6. To lobby government to provide sex workers with legal avenues to work within any area of the Queensland sex work trade/industry as they choose (e.g., escort, in-house, agency, private/sole operator, co-operatives and/or street) without fear of arrest or prosecution for criminal offences related to sex work business activities.
7. To provide a legitimate voice for Queensland sex workers advocating for legal and other social policies to support sex workers' human, civil and workplace rights and access to remedies without discrimination, including programs and initiatives that aim to reduce discrimination and stigma against sex workers, past and present.
8. To support and liaise with national, state and regional sex worker rights groups in the development of networks, programs and objectives.
9. To build and foster constructive relationships with all stakeholders for the benefit of sex workers.

### ***Summary of general argument against licensing system***

We maintain that licensing systems such as those implemented in Queensland and Victoria, wherein a new statutory authority is established to administer a regulatory system while offences continue to be enforced by the Police, are not successful.

In Queensland the licensing system as outlined in the Prostitution Act and Criminal Code (Chapter 22a) has not been successful in providing safety for individual sex workers or eliminating 'illegal' prostitution. After 10 years there are still only 25 licensed brothels available as safe legal workplaces for Queensland sex workers and most of the industry operates outside of the regulatory system (Schloenhardt 2009).

It appears that the authors of the Western Australian Prostitution Bill believe that increasing the penalties for offences will prevent this from happening in WA but we do not agree that this will be the outcome. What will happen is that operators will become more cunning, more secretive and

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more ruthless in maintaining their invisibility. Meanwhile, independent private sex workers who will not want to comply with the registration (licensing) requirements that will expose them to community stigma and danger will be penalized for exercising a basic human right to exchange money for services.

There will be an increase in 'illegal' unlicensed sex work and unsafe practices, not the reverse and there is a huge risk of official corruption inherent in a Bill that gives such power to police and such high penalties for non-compliance.

### ***Licensing (registration) of sex workers:***

Years of research and evidence drawn from other states and countries shows that the greatest concern that sex workers have is fear of disclosure. Any attempt to licence sex workers is doomed to fail. They are terrified that clients will discover their identity and that they will become victims of stalking, sexual assault or murder. They also fear that a record of their status will come back to destroy them many years later. There is a valid fear of impact on future employment, concerns for our family or ourselves because of high levels of stigma and discrimination. Non-compliance under the proposed laws would compound the problem, sex workers will end up with criminal convictions which will make them feel even more threatened by exposure.

Many people in occupations where there is a potential for hostile contact with the public are allowed to maintain a boundary between their work life and home life. Police officers and social workers do this. It is considered a basic OH&S right. Why are sex workers in Western Australia not considered worthy of this right?

Respect Inc would like to know what licensing systems are in place for workers in other service industries in Western Australia. Massage therapists, erotic dancers, body piercing, aged carers, housekeepers, etc are not required to be licensed in this way. We would argue that these laws constitute a gross infringement on the civil liberties of the individual who chooses to accept money for sex.

### ***Discriminatory laws***

The Australian citizen or permanent resident requirement is dangerous and discriminatory. Are there any other 'legal' service occupations that eligible visa holders are unable to perform in West Australia? This Bill will prevent migrant sex workers and sex workers on student and other temporary visas (including CALD sex workers) from access to the legal sector. This puts already vulnerable Asian sex workers at a higher risk of exploitation by organizers and sponsors who will go to greater lengths to maintain their anonymity. This will mean that they will be cut off from health and information services. In Queensland Respect Inc is in regular contact with sex workers new to Australia who obtain information about condom use, access to sexual health clinics, support from peers about the laws and STI and HIV prevention. Many of these workers do not understand the laws until they find themselves charged by police and in court.

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Respect Inc is appalled to read that under Section 175 this Bill excludes unlicensed sex workers from Workers Compensation rights. Again, we would like to know if other service occupations are singled out for amendment to the Workers Compensation and Injury Management Act.

### **Two part regulatory system**

Licensing in West Australia will result in two very different tiers to the industry. The smaller sector will be made up of licensed brothels governed by an expensive and time consuming regulatory body. The larger unregulated industry will be made up of sex workers who may work independently or with other sex workers (co-operatively) or with other operators (in escort agencies or small unlicensed brothels). The harsh penalties set out in this Bill will cause this latter group to become more secretive, less able to offer their workers or themselves appropriate OH&S conditions and sex workers will suffer as a result.

### **Sexual Health regulation**

We do not understand why legislators feel that it is necessary to regulate to prevent STI transmission in sex work settings (Bill sections 27-32). The body of epidemiological research clearly shows that sex workers operating since the second half of the 20<sup>th</sup> Century in Australia are not a sexual health risk.

Respect Inc does not support legislation of safer sex techniques as a necessary part of any regulatory system for sex workers. It has been shown by Donovan et al (2008) that mandatory testing is not more conducive to overall levels of sexual health amongst sex workers. As there has been no known reported case of HIV transmission via sex work in Australia, it appears that even though sex workers in states like NSW have no laws governing their sexual health, they do use safer sex techniques and we take our sexual health seriously. Condom use has been a traditional part of sex work culture in Australia since the 1980's. We should be congratulated for this and it should be referred to as an example of our maturity and proactive ability to respond to emerging issues in our community and workplace.

As many of our members worked in sex work during the early days of the AIDS 'epidemic', we know how proactive and reactionary our industry can be. Thus we question why we would need to have more regulation than that which governs other industries such as child care services, aged and disability services, the building industry, catering industry, nursing and medicine etc? These industries have workplace regulations which are overseen by departments such as Industrial Relations, Work Cover, Office of Fair Trading, Queensland Health, AMA etc. At the very least we would argue that the sex industry should be overseen by a more appropriate industry regulator, made up of and consulting with sex workers, and not the police.

### **References**

Donovan, B., Harcourt, C., O'Connor, J., Wand, H., Lu, H. and McNulty, A. 2008 *Sex work in a decriminalised and unlicensed environment: A 15-year study in Sydney*. Powerpoint presentation: Sydney Sexual Health Centre, Sydney Hospital. National Centre in HIV Epidemiology and Clinical Research.

Schloenhardt, A. & Human Trafficking Working Group 2009 Happy birthday brothels: Ten years of prostitution regulation in Queensland. The University of Queensland, TC Beirne School of Law.  
Available at: [www.law.uq.edu.au/humantrafficking](http://www.law.uq.edu.au/humantrafficking)