

Sex Work and the Laws in Queensland: Transitioning to Decrim



Sex work laws are different across each state and territory of Australia. What is legal in one state is not necessarily legal in another.

Changes to sex work laws were passed in Queensland parliament in May and commence on 1 August, 2024.

This information sheet explains the changes based on the information currently available.

Many laws criminalising sex work have been repealed including:

- The Prostitution* Act (Qld) 1999 (licensing)
- The Criminal Code 1899, Chapter 22a (individual sex workers)
- The Police Powers and Responsibilities Act 2000

Other laws were also repealed or amended.

**Our preferred terminology is 'sex work'; the term 'prostitution' is used only where it is directly quoted from legislation or the name of entities.*

Sex work is no longer a crime in Queensland

All types of sex work are no longer criminalised in Queensland.

Decriminalisation changes the regulators of sex work and the role of police

Previous regulators, the *Prostitution Enforcement Taskforce (PETF)* in the Queensland Police Service (QPS) and the *Prostitution Licensing Authority (PLA)* are being abolished. QPS will no longer have a role in the regulation of sex work.

Police entrapment powers (posing as clients) were repealed in September 2023.

This signals a major change to how QPS should relate to sex workers. Sex workers should expect to be treated with respect and to have any reports of crime against us taken seriously.

If you are approached by police about sex work, record their badge number, name, and which station they are from, and contact Respect Inc.

Workplace Health & Safety

After the criminal laws specific to sex work are removed; laws, regulations and rights that apply to other work and industries apply to the sex industry. For example, from commencement, instead of a criminalised approach, sex work will be regulated as work and Workplace Health and Safety laws will apply to every workplace.

Any place where sex workers work is a workplace and every person in a workplace has WHS responsibilities. A Person Conducting a Business or Undertaking (PCBU) could be a business owner or a private sex worker. They have the primary duty under the WHS Act to ensure, as far as reasonably practicable, that workers and other persons are not exposed to health and safety risks arising from the business or undertaking.

WHS is regulated by Workplace Health and Safety Queensland (WHSQ). A guidance has been developed to help people in the sex industry understand our rights and responsibilities. https://www.worksafe.qld.gov.au/_data/assets/pdf_file/0024/131379/sex-work-WHS-guidance.pdf

There are also videos and other resources on the worksafe website.

<https://www.worksafe.qld.gov.au/your-industry/sex-work/resources-for-sex-work-workplaces-and-workers>

Planning

Changes to the Planning Act and Planning Regulations include a twelve month transition period for sex work businesses to comply. More information will be available on planning after 1 August.

Advertising

Advertising is now regulated in the same way as advertising for all other industries.

The rules for advertising are expressed in a number of codes developed by the Australian Association of National Advertisers (AANA). Ad Standards is Australia's advertising regulator.

The AANA Code of Ethics prohibits the harmful use of sex, sexuality or nudity in advertising.

Advertisers must treat sex, sexuality and nudity with sensitivity to the audience that will view or hear the ad and avoid the use of overtly sexual images in public spaces with a broad audience.

Sexually Transmissible Infections (STIs)

There are no longer criminal laws related to use of prophylactics (condoms, dams) or testing frequency. Use of condoms and dams with water based lube, undertaking STI checks on your clients, supported by peer education and regular testing remain the most effective methods of preventing STIs. Contact Respect Inc if you have questions.

There are requirements under WHS laws for businesses to supply PPE (free of charge and in a range of sizes including latex free options) and provide workers with training on use of PPE.

There are also Public Health laws that apply to all people in Queensland. The Public Health Act promotes shared responsibilities for public health. Section 66 states that *at risk individuals should take all reasonable precautions to avoid acquiring or transmitting a notifiable condition.*

Anti-Discrimination

The Anti-Discrimination Act 1991 makes it unlawful to discriminate against a person because of *sex work activity*. Discrimination on the basis of *sex work activity* is treating a person less favourably because they are a current or past sex worker, than someone who is not a sex worker, in similar circumstances.

People who experience discrimination because of association with, or relation to, a person who is doing or has done sex work activity are also protected.

Sex work activity means providing services that involve sexual activity or the use or display of the person's body for the sexual arousal or gratification

of another person for payment or reward.

Whether the person believes they are being discriminatory or that they didn't mean to discriminate is not important.

The laws that previously allowed people to legally discriminate against sex workers have been repealed (Eg. accommodation providers).

More info is available at QHRC
<https://www.qhrc.qld.gov.au/>

Coercion

Section 218 of the Criminal Code makes it illegal to procure sexual acts (not limited to sexual intercourse or acts involving physical contact) by coercion.

Coercion can include: intimidation or threats of any kind; or assaulting a person; or damaging the property of a person; or making false representations, using false pretence or fraudulent means. This can be in Queensland or elsewhere. The offences include procuring the person to provide, or continue to provide, sex work services. There is also an offence when the person administers to a person, or causes a person to take, a drug or other thing with intent to stupefy or overpower the person to enable a sexual act to be engaged in with the person.

Stealth and Non payment

In 2025, changes to consent laws will include sections that are relevant for sex workers.

Circumstances **where there is no consent** will change to add:

- when a sex worker participates in a sexual act because of a false or fraudulent representation that the person will be paid or receive some reward.
- when a person participates in a sexual act on the basis that a condom is used but the other person
 - does not use a condom;
 - tampers with or removes the condom;
 - continues when they know the condom is no longer effective;

whether this happens before or during the sexual act.

Disclaimer:

All material in this information sheet is provided for your information only and may not be construed as legal advice or instruction.

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This information sheet is correct on 1 July 2024.