



Information Pack on proposed Sex Industry Laws for WA

You may have heard about the laws changing for sex workers and the sex industry in WA. Before laws change they are often proposed as a set of draft laws and then the public (including sex workers) have the chance to comment on the proposals.

The proposed laws have now been released. <http://www.parliament.wa.gov.au/> They will impact on every sex worker in WA and every sex industry business. This is your opportunity to inform the changes and to ensure that the WA government understands how the laws will impact on sex workers.

Snapshot on what the proposed laws include –

- removing the sex industry and private workers from residential areas
- a licensing system that requires ALL sex worker and all operators and managers of sex industry businesses to register
- private sex workers will have to get council permission before they are able to get a 'prostitute's licence'
- private sex workers will have to hang their 'prostitute license' with their real name in full view at their workplace
- a register of all sex workers and sex industry business owners and managers will be held by a government department. Police will still have access to the register. The law introduces very heavy penalties and in some cases prison sentences for not complying.

DON'T BELIEVE THE SPIN –

The proposed laws will NOT legalise sex work. It's currently NOT illegal to be a Escort, Private or brothel based sex worker in WA. The proposed laws ADD many new laws, fines and prison sentences.

THIS IS CRIMINALISING SEX WORKERS NOT LEGALISING SEX WORKERS !

During this consultation period, anyone is able to put in writing their concerns with the laws. As sex workers, we are the experts and most able to see where new laws will create problems or just not be practical.

This is an urgent opportunity to identify what you think is wrong with the planned laws BEFORE they become law.

Submissions can be as simple as a letter (an example is included in this pack).

Your comments should make clear which section of the draft you are referring to and whether you are opposed or agree with the changes.

Your comments must be received by government by post or email by

Friday 29th July, 11

This information pack is to assist people to have a say on the proposed laws.

It includes:

1. Information on how to have your say
2. Information on where to send your comment including the postal address or email address
3. An example submission/letter
4. The link to locate the full set of proposed laws
5. Information on what new laws are proposed & information on how the proposals may impact on you and your work.
6. Suggestions you can give to people who support sex workers

Section 1 - How can you have a say:

As a Member of the Community

You can put your opinion in writing without identifying yourself as a sex worker. Many other members of the community will be doing just that. They will not feel the need to identify what they do. Take advantage of being part of the community.

As a Sex Worker

You may want to say you are a sex worker and discuss the way the laws will impact on your work – this will be important for Government to understand the real impact straight from sex workers. However, if you feel you cannot identify yourself consider using your working name or another name and state why you are doing so – ‘for privacy reasons’ or ‘to protect my safety’

As a Manager or Operator

If you are involved in the sex industry you are a stakeholder and have a right to point out how the laws will impact on your work and your business.

As a Scarlet Alliance Member

If you are unable to write on your own behalf, talk to Scarlet Alliance. Scarlet Alliance can collect your comments (without identifying you or where you work) and send these to the Government so that as many sex workers as possible will be able to comment on the legislation.

Section 2 – Where to send your letter/submission:

Send submissions by post or email.

Post:

Prostitution Reform Feedback
Department of the Attorney General
GPO Box F317, PERTH 6841

Email:

prostitution_reform_feedback@justice.wa.gov.au

You must send your letter/submission to (before the 29th July, 2011)

Section 4 – Where to download the full copy of the proposed laws

You can download the Prostitution Bill 2011 from:

[http://www.parliament.wa.gov.au/parliament/bills.nsf/68FA16014F553971482578AF002E6A81/\\$File/GB218-1.pdf](http://www.parliament.wa.gov.au/parliament/bills.nsf/68FA16014F553971482578AF002E6A81/$File/GB218-1.pdf)

or go to <http://www.parliament.wa.gov.au/> click on 'Current Bills' and then 'Prostitution Bill 2011'

Section 5 – Information on what new laws are proposed & information on how the proposals may impact on you and your work.

The following clauses from the Prostitution Bill 2011 have been selected by us and summarised. They do not represent the entire Bill - you can get a copy of the full Bill yourself from the link above. This is also not legal advice.

The proposed laws include –

- All sex workers must have a 'prostitutes licence' (Section 53) must be 18 years of age and be an Australian citizen or a permanent resident (section 53). (Penalty \$6,000) Other conditions are allowed for under the as yet un-written regulations.

Evidence in other states shows sex workers will not license for privacy concerns, real 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 result in a heavy fine but subsequently can result in a 'closure order' on the place sex work is taking place and a criminal penalty for returning to or remaining at a closed place.

This is likely to result in a high level of 'underground' unlicensed sex work, criminalised sex workers are less likely to access services and less likely to advise health care workers of their work.

The Australian citizen or permanent resident requirement dangerously prevents migrant sex workers and sex workers on student and several other temporary visasⁱ (including CALD sex workers) from access to the legal sector. This is likely to result in a distancing from outreach and peer education and particularly important information for sex workers new to Australia (Eg. culture of high levels of condom use, access to testing and treatment, access to peer support on STI and HIV prevention).

Section 5 (Continued) – Information on what new laws are proposed & information on how the proposals may impact on you and your work.

Independent sex workers ('self employed prostitute')

- Must hold a 'prostitute licence' (Section 44 – penalty \$6,000) and must display it so it is visible to a person entering the place (Section 17 (4) – penalty \$2000) and may require finger and palm printing, at the discretion of the government department official.
- The licence constrains the person to be working from one location as named on the application, change of location must be obtained from the government department.
- A private sex worker must get council approval before applying for a 'prostitutes licence' and must provide evidence of council approval in order to apply for a licence.
- Prevents independent sex workers from working in residential areas, within a specified distance from churches, schools etc.
- Licence numbers must be displayed on all advertising. The fine for not doing so is \$50 000 (part 3, section 24, pp.13-14).

The requirement for a independent sex worker, likely to be working alone, to display their licence with legal name in view of clients and others entering the place will increase the current high risk of harassment and exploitation, misuse of a person's information and victimisation. Most sex workers conceal their legal details as a method of self (and family) protection and privacy.

Development applications (or Council approval) usually require other nearby residents and land uses to be notified of intended use of property. This has resulted in significant violence, attempted black-mail and harassment of sex workers. In NSW Council areas where development approval is required for private/independent sex workers there has been no application made and sex workers continue to work discreetly to avoid detection.

Relegating individual sex workers to non-residential areas increases risks of violence. There is no evidence to suggest that individual sex workers impact on the community or neighbours warrants this excessive step.

Criminalisation of unlicensed sex workers

Charge for being unlicensed - \$6000

A place (home or business) can be closed (closure order) if unlicensed sex work is taking place (Section 127)

Entering or remaining in a place under a closure order - \$12,000 or imprisonment for one year

Section 5 (Continued) – Information on what new laws are proposed & information on how the proposals may impact on you and your work.

Establishment of a register of 'licensed prostitutes'

- Includes the establishment of a register holding the names and address (and any extra conditions) of each individual sex worker. The list is accessible by police officers (and other officials) and may be an on-line list.

Privacy concerns and maintaining control over who knows that you are a sex worker remains one of the key concerns for sex workers in Australia and a significant barrier that must be addressed by sex worker services in order to enable engagement and involvement. There are currently high levels of stigma and discrimination against sex workers, which contributes to this concern. Sex workers in Australia have reported: being refused other employment, losing custody of children, experiencing public ridicule, vilification of their children and partners, police surveillance, and physical and verbal harassment from neighbours resulting in the need to re-locate when their sex work experience is found out.

These serious impacts result in sex workers choosing non-compliance over registration.

Street based sex workers

Street-based sex workers (and their clients) are criminalised by the banning of seeking a sex worker or seeking a client within view or hearing of a public place (part 2, all sections 9-10, pp. 6-7).

However, the definition of a 'public place' is very broad and includes a private owned place occupied by someone other than the owner (part 2, section 8(c), p. 6).

Enables police to continue to issue move on notices based on suspicion of street based sex work which prevents a person from returning to a area for 24 hours (section 96.1)

If found back in the area, first offence \$6000 (section 96.2), second offence imprisonment for one year (Section 96.2)

Police of same sex can strip search or instruct another person of same sex to search a person suspected under this section, or organise a cavity search by medical officer - section 100(6).

Police can also apply for a 'restraining order' that prevents the person from entering an area for a period of around 12 months.

Street based sex workers are the most criminalised sex workers within the Western Australian sex industry. Street based sex work should not be illegal.

Criminalises non use of safer sex equipment & criminalises sex workers with an STI

- A person must not take part in an act of prostitution without using a 'sheath' (condoms, dams or other physical barrier) that is suitable for that kind of contact. Contact includes oral. The fine for not doing so is \$10 000 (part 4, section 28(2), p. 16).

- Illegal to work with an STI (or prescribed BBV), first offence \$20,000 second offence 3 years imprisonment (Section 30)

Section 5 (Continued) – Information on what new laws are proposed & information on how the proposals may impact on you and your work.

Sex workers in Western Australia already have high levels of condom use. Legislated mandatory use of condoms and/or dams for oral sex, a practice not applied to the general community, is excessive. Current epidemiology (the measure of rates of HIV and STIs) does not demonstrate a problem to warrant this approach.

Excessive fines for not using protection, for relatively low risk sexual interactions, is out of step with effective public health approaches.

Australia's successful approach, including community led behaviour change, promoted through peer education, has resulted in the uptake of condom use by sex workers, there is no evidence to suggest criminal incentives work.

Sex workers are the safe sex educators of their clients and have successfully managed implementation of safe sex into their work interactions, it is this successful implementation that has prevented transmission, not punitive laws. Furthermore, law, which places police as the 'safe sex police' has greater dangerous potential (misuse of power, corruption) than it has of contributing positively to continued good public health outcomes.

Fines and criminalisation of a sex worker working with an STI is excessive and ignores current evidence that demonstrates the implementation of safe sex practices prevents transmission. Criminal approaches replacing public health approaches ignore the diversity of settings and services within the sex industry and the range of STIs and varied transmission risks, but more importantly set a dangerous precedent to the use of criminal law in place of education and proven public health approaches.

Sex Industry businesses/brothels

- Requires licence of operator and all management staff and refers to a licensing fee – excludes licenses on certain conditions
- Introduces a high level of conditions over operation of business (size and number of employees)
- Limits zoning and does not allow establishment in residential or special use areas and allows for a no licence area order that enables the banning of the sex industry from areas of the Western Australia. And Section 81 prevents against these bans being legally challenged.
- Advertising for any staff (sex workers, managers, receptionists, drivers, cleaners etc) is prohibited and the penalty will be a \$50 000 fine (part 2, section 15, p. 10).
- A change to the Workers Compensation Act seems to exclude unlicensed sex workers
- Makes it illegal for a person to enter or remain at a sex industry business or individual sex workers business that is not licensed - first offence \$6000, second offence imprisonment for one year.
- Licenses each sex worker working at a sex industry business/brothel Section 44 Penalty \$6000
- Requires operators to check sex workers are licensed – which means sex industry business owners will have access to sex workers legal name (not current practice to protect sex workers privacy)

Section 5 (Continued) – Information on what new laws are proposed & information on how the proposals may impact on you and your work.

- Requires operators to 'take all reasonable steps to ensure sex workers do not have an STI'
– note this clause commonly results in a form of mandatory testing as sex industry businesses force the provision of monthly certificates from staff as the only way to prove they have taken steps to ensure sex workers do not have an STI.

Section 6 – Suggestions you can give to people who support sex workers

1. Get a Copy of the Bill

See the injustice for yourself. You can download the Bill from:

[http://www.parliament.wa.gov.au/parliament/bills.nsf/68FA16014F553971482578AF002E6A81/\\$File/GB218-1.pdf](http://www.parliament.wa.gov.au/parliament/bills.nsf/68FA16014F553971482578AF002E6A81/$File/GB218-1.pdf)

2. Write a Submission as Part of the Community Consultation Process

Submissions do not have to be long or time consuming, and are an important way to let the government know you do not support what has been proposed.

Deadline Friday 29th July 2011

Send submissions by post or email.

Post:

Prostitution Reform Feedback
Department of the Attorney General
GPO Box F317, PERTH 6841

Email:

prostitution_reform_feedback@justice.wa.gov.au

3. Write Letters to the Editor

Send to the West Australian or Community Newspapers opposing the proposed legislation. Anyone can do this, and a number of different angles are possible. Contact details for the West are:

Email: letters@wanews.com.au

Post: GPO Box N1027 Perth WA 6843

Fax: (08) 9482 3177

4. Write a letter to your local member or local politician – you can find them on-line

<http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Legislative+Assembly+-+Current+Members>

<http://www.parliament.wa.gov.au/web/newwebparl.nsf/iframewebpages/Legislative+Council+-+Current+Members>

5. Keep Informed

The Scarlet Alliance website will include updated information: <http://www.scarletalliance.org.au>

6. Spread the Word Around –

Post about the problems with the proposed laws on your facebook and twitter and let people know