



**SEX WORKER OUTREACH PROGRAM  
SEX WORKER REFERENCE GROUP**

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**Sex Industry Bill 2019 Economic Policy Scrutiny Committee inquiry**

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**SWOP NT /SWRG NT**

NORTHERN TERRITORY SEX WORKER OUTREACH PROGRAM – SEX WORKER REFERENCE  
GROUP | NORTHERN TERRITORY AIDS AND HEPATITIS COUNCIL (NTAHC)

GPO BOX 2826 DARWIN NT 0801

P: (08) 8944 77 07 M: 0447 022 332



**SEX WORKER OUTREACH PROGRAM  
SEX WORKER REFERENCE GROUP**

11<sup>th</sup> October, 2019

Submitted via email directly to:  
Economic Policy Scrutiny Committee  
Legislative Assembly of the Northern Territory  
[EPSC@nt.gov.au](mailto:EPSC@nt.gov.au)

RE: Northern Territory, Sex Industry Bill 2019

Dear Economic Policy Scrutiny Committee members,

Please accept this submission from the Sex Worker Outreach Program (SWOP NT)<sup>1</sup> and the Sex Worker Reference Group (SWRG)<sup>2</sup> in response to the Northern Territory Governments (NTG) Sex Industry Bill 2019.

Thank you to the Hon Natasha Fyles, Attorney General and the Department of the Attorney-General and Justice Legal & Policy staff and the Northern Government for introducing the Sex Industry Bill 2019 into the Northern Territory Parliament for the first reading;

*The Hon Mr McCarthy, Acting Attorney-General and Justice, said that “efforts should be concentrated on ensuring that workers have access to the same rights other workers have to a safe and healthy work environment. The Sex Industry Bill 2019 does that by repealing the Prostitution Regulation Act 1992 to fully decriminalise the industry, and in its place, provide a regime that protects sex workers rights to control where, when and how they provide their services in a manner that ensures their health and personal safety”<sup>3</sup>*

Sex workers thank the Government and the Economic Scrutiny Committee Members for facilitating a formal platform for all Territorians to voice support and or concerns. Sex workers who have or do work in the NT are the priority stakeholders who are directly affected by the consequences of unsafe laws under the Northern Territory’s Prostitution Regulation Act.

The first reading of the Sex Industry Bill 2019 was overwhelming for sex workers who represented in the Galley;

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<sup>1</sup> Sex Worker Outreach Program, SWOP NT <https://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt>

<sup>2</sup> Sex Worker Reference Group, SWRG <https://www.ntahc.org.au/programs/sex-worker-outreach-progam-swopnt/sex-worker-rights>

<sup>3</sup> Daily Hansard – Wednesday 18 September 2019, SEX INDUSTRY BILL, (Serial 105) Mr McCarthy (Acting Attorney-General and Justice)

*“We were all tearing up at the delivery of the governments statements that included that sex workers police registrations would be expunged and that the full decriminalisation rights and safety was the Government’s intention in presenting the Bill”<sup>4</sup>*

Sex workers look forward to gaining work health and safety and industrial protections with the passing of the Northern Territory Sex Industry Bill 2019 for regulatory reforms.

SWOPNT refers NT sex workers who travel to work in other states and territories to the following sex worker organisations, groups, networks and associations.

SWOP NT and the SWRG endorse the following peer only sex worker organisations submissions that we have been provided in full;

- Scarlet Alliance, Australian Sex Workers Association
- Respect Inc and #Decrim QLD
- Sex Industry Network South Australia (SIN)
- Sex Worker Outreach Project Inc (SWOP NSW)
- Sex Worker Advocacy Education and Rights, Western Australia (SWEAR)
- Vixen Collective in Victoria
- Scarlet Tas in Tasmania
- Sex Worker Outreach Program in the Act (SWOP Act)

SWOP NT refers NT sex workers for peer support. Both networks are partially peer – Magenta, Western Australia and Touching Base who provide for Disability Awareness Training have also submitted.

SWOP NT and the SWRG provide for the committee members reference to our full submission in response to reforming sex industry laws that contributed to inform the drafting of the Sex Industry Bill 2019 and a submission that supports a fully decriminalised and regulated framework<sup>5</sup>

Yours Sincerely NTAHC, SWOP NT and Northern Territory sex workers from the SWRG

**Skye Ozanne**

**Lacey Chalmers**

**Sex Worker Reference Group (SWRG) Representatives**

**Leanne Melling**



**SWOP NT Coordinator**

**Sex Workers Outreach Program**

**Northern Territory AIDS & Hepatitis Council**

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<sup>4</sup> Sex Workers from SWOP NT and the SWRG in attendance at Parliament House,, first reading of the Bill, 18th Sept, 2019

<sup>5</sup> REFORMING REGULATION OF THE SEX INDUSTRY IN THE NORTHERN TERRITORY, SWOP NT Collective submission – release 29th March 2019 <http://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt/parliamentary-submissions>

*SWOP NT is supported tirelessly by sex worker volunteer peer educators*

## **Executive Summary**

SWOP NT and the SWRG are very excited to be able to further contribute to strengthening the Bill to implement the full decriminalisation of sex work, which is the essential mechanism for all sex industry workers to receive industrial rights, health and safety protections. Enabling sex workers to gain working rights without criminalisation, the Bill will directly pass on beneficial public health outcomes.

SWOP NT is a member of the Scarlet Alliance Australian Sex Workers Association; our peer based and led program is located within the Northern Territory AIDS & Hepatitis Council (NTAHC). SWOP NT's health promotion service engages sex workers and other sex work industry stakeholders to gain knowledge about the Northern Territory's legal and sex work laws, and work, health and safety requirements.

SWOP NT's advocacy, health promotion, training/workshops, outreach and broader programming aims to improve sex workers lives by holistically addressing issues including our human rights. SWOP NT advocates to reduce stigma and discrimination against us as workers via advocacy, information resources and education sessions to health and legal sectors to facilitate equitable access to services and to inform policy development for a safer framework with an aim to fully decriminalise sex work.

The Sex Worker Reference Group (SWRG) is comprised of past and current sex workers who work in NT. The SWRG co-represents alongside SWOP NT at roundtable and departmental and political meetings, in the delivery of training to stakeholders and at conferences and forums. The SWRG documents best practice and case studies to support our submissions recommendations and evidence for reforms based on the lived experience of workers

SWOP NT and the SWRG looks forward to the Northern Territory Government being the first government in the world in consultation with sex workers to implement the full decriminalisation of sex work, develop and ratify Work Health and Safety Guidelines for sex work industry workers, and include "sex work" and "sex worker" as attributes for protections under the "modernised" Northern Territory Anti-Discrimination Act

Northern Territory Sex Workers from the SWOP NT and the SWRG supports sex workers' right to health, safety, inclusion and justice and to be free of police entrapment and discriminatory laws and policies. This submission to the Committee supports the Sex Industry Bill 2019, Northern Territory with minor amendments to ensure the full decriminalisation of our work, of us as workers, our workplaces, our clients and third parties who work with us as sex workers.

### *Background Context*

#### *"Full Decriminalisation of sex work in the context of the Northern Territory – How will it work?"*

Decriminalisation is the removal of laws specific to the sex industry, including those in the Prostitution Regulation Act (NT) 1992. By repealing the laws which criminalise aspects of sex work, sex workers are able to access the rights and protections afforded to other employees, contractors and small business owners in the Northern Territory.

Full decriminalisation does not include registration or licensing. Full decriminalisation ensures that sex industry businesses are regulated in the same way as other businesses, subject to existing regulatory mechanisms. The Sex Industry will be subject to a whole of government regulation

including Workplace Health and Safety, council, business, industrial, taxation, migration, planning, health and criminal laws and regulations. Police are not involved as regulators at any level unless there has been a breach of laws, not specific to the sex industry.

Existing laws covering exploitative work practices in any workplace, violence, robbery, fraud, sexual assault, harassment already exist but when criminalisation is lifted, sex workers can access the protections of these laws. Sex workers are more likely to report crime or harassment to police when sex work is fully decriminalised. A decriminalised system amplifies opportunities for outreach, magnifies capacities for peer education, supports sex worker self-determination, maximises compliance, increases transparency and minimises discrimination.

*“All Territorians deserve to be safe at work! – Full decriminalisation of sex work”*

SWOP NT and the SWRG acknowledges that the Northern Territory Government has advanced key steps towards implementing the full Decriminalisation of Sex Work in the Northern Territory.

In March 2019 the Northern Territory Government sought key stakeholder feedback and public review through the *Reforming the Regulation of the Sex Industry in the Northern Territory* Discussion Paper. Sex workers who live in the Northern Territory and who Fly In and Fly Out (FIFO) for work asked our local and interstate referral organisations and the Scarlet Alliance to support our calls for the full decriminalisation of sex work. The SWOP NT and the SWRG submitted to the process.<sup>6</sup>

The Hon Natasha Fyles announced thereafter the government’s intention for reforms that will consider options for a regulated but decriminalised model to ensure worker safety and rights.

The Hon Natasha Fyles said, “All Territorians deserve to be safe at work. Being a sex worker is a recognised profession in the NT, but workers have no protection and minimal rights.”

Hon Natasha Fyles said she had met with sex workers who told her about the dangers presented by the current restrictions on their trade.

Sex Workers recognize that the Attorney General Hon Natasha Fyles has set a positive example of developing a partnership approach to policy development and law reform in the Northern Territory through active consultation and engagement with sex workers, our organisations and associations. Sex workers thank the Minister and the Government for recognising the expertise of the workers who undertake the work.

Northern Territory sex workers affirm that workers knowledge is integral to assist in developing a fully decriminalised and regulated framework for sex work in the Northern Territory that is recommended as best practice for industry workers and their business to obtain safety protections and industrial rights.

The SWOP NT and the SWRG with NT sex workers congratulate the Northern Territory government for supporting a fully decriminalised and regulated model that acknowledges the safety, humanity and sovereignty of sex workers, a model that ensures sex workers have the same access to safety at work as everyone else

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<sup>6</sup>*Reforming Regulation of the Sex Industry in the Northern Territory*, , SWOP NT Collective submission, release 29th March 2019, accessed 3-10-2019 <http://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt/parliamentary-submissions>

*“SWOP NT and the SWRG thank the government for actively working towards implementing a model of decriminalisation in the Northern Territory that will support safer working choices and workplace environments for sex workers who work in the Northern Territory.*

*SWOP NT and the SWRG wish to commend the Government for their continued engagement and consultation with Northern Territory past and current sex workers, our organisations and national association in working with us to “fully decriminalise sex work.*

*Northern Territory sex workers wish to affirm recommendations for the government to continue to action to achieve passing the Sex Industry 2019, that ensures “full decriminalisation of sex work” that supports the “pass of intersectional protections” and for regulations for workers safety and rights.*

*Finally and importantly, our recommendations ensure that that no remnant of harm from the Northern Territory Prostitution Regulation Act remains upon endorsement of the repeal of the Act.”*

## RECOMMENDATIONS

**Recommendation 1:** “Abolish the draconian Northern Territory Prostitution Regulation Act” and all “specialised licencing or certification” to enable workers and businesses to have opportunity to comply with existing NT business regulations;

**Recommendation 2:** “Expunge all Sex Work Industry spent convictions and registration information” held in escort agencies, government departments and with the Northern Territory Commission of Police for escort agency licencing and sex worker registration “Declaration of a Prostitute”;

**Recommendation 3:** “Resource our peer organisations and national Association and NT Worksafe with additional technical support from Unions NT to pursue the development of WH&S guidelines” for sex workers and intersect existing Territory and National regulations for Sex Work Industry business compliance;

**Recommendation 4:** Amend the Northern Territory Anti-Discrimination Act” to ensure “sex workers’ and “sex work’ are ratified as “protected attributes” under the Act, and that the Act include “protections against vilification” to ensure all industry workers are fully protected by Anti-Discrimination laws;

**Recommendation 5:** Amendments to the Sex Industry Bill 2019;

- **Remove:** all nonoperational and draconian advertising restrictions and penalties transferred from the current the Prostitution Regulations Act 1992, as noted in the Bill 15. Non-compliant advertising(1) A person commits an offence if the person places an advertisement for sex work in a newspaper or on television or radio, other than in accordance with the regulations. Maximum penalty: 20 penalty units.
- **Remove:** all requirements for operators and managers engaging more than 2 workers to obtain a suitability certificate from the Bill, suitability certificate means a suitability certificate issued under section 19 Application for suitability certificate , 20 Duration of suitability certificate, 21 Revocation of suitability certificate
- **Insert:** Anti-Discrimination legislation **Amend the Anti-Discrimination Act** , apply protections for sex work and sex worker as attributes and protections against vilification
- **Insert:** Expungement, **Amend the Criminal Records (Spent Convictions) Act 1992** - Expungement of spent convictions under the Prostitution Regulation Act 1992 - , repeal all historical charges and spent convictions specific to the sex industry

**Recommendation 6:** The government regulates sex industry businesses through standard business, planning and industrial codes; to ensure that business who employ managers, sex workers, receptionists, drivers and cleaners be afforded an opportunity to be transparent and in compliance with National Employment Standards and other Industrial protections for Sex Industry workers.

**Recommendation 7:** Define all of the above essential components for the full decriminalisation of sex work, through the passing of the Sex Industry Bill 2019 that will provide a regulatory framework, to implement the Sex Industry Act 2019, in Northern Territory.

## The Assembly should pass the Bill

We support the passing of the Sex Industry Bill 2019 with minor amendments and insertions. Sex workers who work in the Northern Territory as a part of SWOP NT and the SWRG have been advocating for the full decriminalisation of sex work.

The Bill will ensure industrial protections and rights are afforded to us as sex workers as they are to all Territorians as workers. This Bill facilitates clear pathways to report crimes without repercussions of criminalization and importantly aids our ability to report and seek protections against exploitation.

The Bill will ensure we have the tools we need to be informed and able to conduct work freely with Work Health and Safety protections as the Bill enables sex workers and sex services businesses to operate in transparently within existing laws and regulations, including employment, occupational health and safety, workers compensation and rehabilitation, planning, taxation and discrimination.

## The Assembly should amend the Bill

The Bill requires minor amendments, the advertising restrictions have been transported from the unworkable Prostitution Regulations Act 1992. Suitability certificates will not guarantee sex workers and other sex industry workers industrial rights, compliance will. Certification is unnecessary and will again set up another tier of noncompliance. Sex workers need rights not overarching certification.

Any further amendments are not recommended as they will impact on the ability of the Bill to provide its intended benefits and protections. Any divergence from the full decriminalisation of sex work would be detrimental to the intended, well documented and widely supported impacts of decriminalisation.

## The Bill has sufficient regard to the rights and liberties of individuals

We support the government's conclusion that the Bill is compatible with human rights as it does not raise any human rights issues. We believe this Bill with the insertion of SWOPNT and SWRG recommendations, will protect us as past and current sex workers. The Bill will importantly remove the current breaches of our privacy through life long police registration with the Commission of Police. The Bill will offer us ways of working safely without the heaviness of criminalization.

The Bill by ensuring that work health and safety and the removal of laws that have criminalised us for so long will protect our human rights of sex workers and protects us from mistreatment. Full decriminalisation through the Sex Industry 2019 Bill, is the best framework for positive public health outcomes.

Decriminalisation through this Bill enhances our ability to refuse clients and cements strong protections for our boundaries in the provision of our work. As we have provided in our executive summary criminalisation and licensing has been recognised as extremely harmful to us as sex workers with little or no rights.

This Bill will ensure that any sex workers or parlors or escort agencies that have not been able to operate transparently due to criminalization and or unsafe laws will no longer need to be hidden. Every industry must be afforded a platform to operate transparently, to not pass this Bill with amendments will certainly continue to increase our exposure to exploitative workplace conditions. Every industry must ensure transparency, this Bill will enable an Industry that has been shunned and

treated with disdain and punitive laws to with the passing of the Sex Industry Bill, ensure the protection of the rights and liberties of all of the industries workers.

## The Bill has sufficient regard to the institution of Parliament.

The Bill allows for the transparent operation of the sex industry. It aligns sex work with existing regulatory frameworks and laws. The Bill allows parliamentarians to affirm the best regulatory model to govern sex work in the NT that will assure the best outcomes for the whole NT community. The Bill does not endorse sex work, instead it enables parliamentarians to effectively govern the sex industry. Under the current regulation and any other model of regulation other than decriminalisation, the sex industry is driven underground, and operates outside of legal frameworks. Decriminalisation of sex work enables sex work to be regulated under the existing laws and regulations that govern other industries.

## The Sex Industry Bill 2019

*The Bill repeals the draconian laws of the Prostitution Act 1992*, the new laws will allow for sex workers to work together and employ staff, the Bill prohibits exploitation of sex workers and our right to refuse clients. The intent of the Bill is aligned with a model of decriminalisation that will enable the sex industry to operate in accordance with existing laws and regulations, including laws governing employment, occupational health and safety, workers compensation and rehabilitation, planning, taxation and discrimination.

*The government has listened to sex workers in relation to appropriate terminology.* Appropriate terminology facilitates avenues for equal rights and directly contributes to reducing stigma and discrimination against sex workers. SWOP NT and the SWRG have documented how important it is for the government to ensure all Territorians are protected by Anti-Discrimination protections. We have documented case studies in our very comprehensive submission <sup>7</sup> that are linked directly to the Prostitution Regulation Act 1992. The terms 'sex work', 'sex services business' and 'sex worker' is welcomed by sex workers as preferred terms for use. The term sex work, sex work are recommended nationally and internationally <sup>8</sup>

*The Public Health and Environmental Health Act 2011 applies to the provision of sex work* with it to be treated as a declared activity under that Act. The clause removing police from entering premises under the Act and the development of guidelines and standards on health and hygiene for sex services businesses by the Chief Health Officer and the Minister for Health is welcomed. However in line with **SWOP NT and the SWRG Recommendation 3, comprehensive and appropriate development of WH&S guidelines” for sex workers must relate to the work comprehensively.** The intersection of existing Territory and National regulations for Sex Work Industry business compliance must developed in consultation with sex workers from SWOP NT and the SWRG, and with technical support from the Scarlet Alliance, Unions NT and NT Worksafe. *The process of consultation, and*

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<sup>7</sup> Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group (SWRG) Collective Submission in response to the Northern Territory Government Discussion Paper – release September 2017, Modernisation of the Anti-Discrimination Act, accessed 10-10-2019 <http://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt/parliamentary-submissions>

<sup>8</sup> UNAIDS Terminology Guidelines – 2015, accessed 8-10-2019 [https://www.unaids.org/en/resources/documents/2015/2015\\_terminology\\_guidelines](https://www.unaids.org/en/resources/documents/2015/2015_terminology_guidelines)

*WHS resource development and dissemination of the guidelines and related legislation changes must be resourced appropriately.*

In 2004, SWOP NT had previously developed with the Law Society and NT stakeholders in Health and Justice Sectors a *“Legal Resource” to inform sex workers of the current laws and support agencies and Government Departments*. This resource has been distributed across the Territory to sex workers. SWOP NT and the SWRG representatives will bring copies of many resources for sex workers use for information to laws and WHS to the verbal consultations following this submission process.

*Work Health and Safety Laws* under a fully decriminalised framework, all sex industry workers will benefit from the same intersecting workplace health and safety laws as other industries employees, sub-contractors and business owners.

*“A fully decriminalised model of sex work provides a regulatory framework that does not involve licensing or certification of sex workers or sex work industry businesses”.*

*Existing regulatory bodies and laws will ensure the rights of sex workers are protected and provide simple avenues for independent or private and or collectively run sex worker only business and other sex industry workers businesses such as owners/managers of brothels, escort agencies and massage parlours that provide sexual services to comply with:*

- Northern Territory, Department of Trade, Business and Innovation
- Northern Territory, Chamber of Commerce
- Environmental Health
- NT Planning Scheme
- Northern Territory Anti-Discrimination Commission
- Fair Work Australia
- Safe Work Australia - NT Worksafe
  - Work Health and Safety (National Uniform Legislation) Act 2011
  - Work Health and Safety (National Uniform Legislation) Regulations 2011
  - Return to Work Act 1986
  - Return to Work Regulations 1986”

SWOP NT has a long term relationship with NT Worksafe. In 2008 Worksafe Inspectors presented to NT sex workers. Worksafe identified areas within the NT work health and safety legislation and its regulations and gave examples of where sex workers would be able to be protected. Areas discussed included;

- Workers compensation
- Superannuation
- Workplace incidents
- Workplace ergonomics
- Escort (industry) Safety tips, use of alarms, personal safety and security- workers/clients - rights
- Unsafe working practices, incident reporting - Worksafe reporting processes
- Powers of Worksafe to make change within a working environment
- Powers of Worksafe to make recommendations that supports legislative changes for a safer Industry.

Sex workers gained a comprehensive understanding of what Worksafe is able to offer to all workers. Some workers were not previously aware that Worksafe has the ability to offer workers a formal channel to report & record workplace incidences. An accumulation of formally reported incidences/safety constraints enables action to be taken to ensure that the industry is safe.

For sex workers and agencies the importance of having a governing body such as Worksafe to report workplace incidences to, is imperative for Worksafe to be able to support any law reform necessary to achieve best practice work health and safety for the Sex Industry

In 2018 SWOP NT meet with NT Worksafe Director and Inspector to discuss options to produce Work Health and Safety Guidelines with SWOP NT with technical assistance from Scarlet Alliance and Unions NT to allow for NT Worksafe staff to compile a draft booklet similar to the Handbook Guide for the NT Professional Seafood Industry produced by the NT Seafood Council, Safe Business Systems NT and NT WorkSafe<sup>9</sup>

An equivalent handbook guide for sex workers and other sex industry workers requires funding for all parties to collectively draft to fruition as a published resource

#### *The Scarlet Alliance National Training and Assessment Program (SANTAP)<sup>10</sup>*

SWOP NT and the SWRG provide closed sex worker only workshops whereby local sex workers who do not overlap as receptionists, drivers and or managers, share skills and prepare training to build peer support and capacity and safety at work. SWOP NT is able to provide sex workers with pathways to Scarlet Alliance online peer educator training and thereafter registration for accreditation to access to further study to be able to gain a Diploma in Community Development.

The *Diploma of Community Development* recognition program is a partnership with an RTO and uses the nationally recognised Community and Health Industry Training Package (CHC08) to customise the qualification to meet the needs of *sex worker peer educators*. This assessment formally recognises the amazing skills of peer educators with at least 12 months experience. The program is supported by a dedicated group of volunteer peer assessors.

#### *Related to work sexual health and public health outcomes.*

For optimum public health outcomes, the Northern Territory needs to primarily fully decriminalise sex work and resource services for sex workers to achieve best practice work health and safety. It is peer education, delivered by sex worker organisations and technical support from the Scarlet Alliance Australian Sex Workers Association and other members of the Australian Federation of AIDS Organisations (AFAO)<sup>11</sup> that ensures aims and objectives of public health policy are aligned with the needs of Australia's priority populations.

The implementation of Australia's sweep of National HIV and STI strategies that has been developed in consultation with AFAOs' members explicitly documents the decriminalisation of sex work as a key component of the strategies to ensure sex workers are able to access health, justice and clinical care services.

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<sup>9</sup> Handbook Guide for the NT Professional Seafood Industry produced by the NT Seafood Council, Safe Business Systems NT <https://www.ntsc.com.au/documents/item/249>

<sup>10</sup> The Scarlet Alliance National Training and Assessment Program (SANTAP <http://www.scarletalliance.org.au/SANTAP/>

<sup>11</sup> Australian Federation of AIDS Organisations - AFAO members, <https://www.afao.org.au/about-afao/members/> - <https://www.afao.org.au/our-work/policy-and-submissions/>

SWOP NT and the SWRG through the Scarlet Alliance membership of past and current sex workers and sex worker networks, provide a trusted and credible voice to governments and other stakeholders, and deliver direct education, outreach, support and advocacy to sex workers in the Northern Territory.

SWOP NT utilises printed and online resources that sex workers have continued to evaluate and update as a guide for workers safety at work. The “Redbook” is available via SWOP NT outreach, office and online

The resource is multilingual and comprehensively covers information, guidelines pertaining to;<sup>12</sup>

- Prevention, referral and treatment of STIs & BBVs
- Access and equity for clients – disability awareness
- Safer Sex Tools use and care of equipment
- Sex Worker Skill Share, engagement at state, territory and national levels
- Guidelines on clients and boundaries
- Work health and safety, working environments
- Testing guidelines, timeline recommendations and risk assessment
- General Sexual Health, referrals and maintenance of mental physical health
- Resources; STIs, BBVs & the Law, Laws across Australia, intersecting WHS guidelines for NSW
- Sex Work Services, and recommended referrals to health and justice services
- Sex Worker Organisations across Australia and international links
- National publications 27

*SWOP NT requires additional resourcing to widen reach to as many sex workers as possible who work in the Northern Territory.* If resourced adequately SWOP NT will be able to contribute further towards important face to face outreach across the Territory. Currently SWOP NT is confined to Darwin and relies heavily on volunteer staff from the SWRG to assist. Peer only positions specifically for Aboriginal and Torres Strait Islander, migrant and Culturally and Linguistically Diverse (CALD) sex workers is essential for service provision to provide information, advocacy and referrals. SWOP NT has an important role to provide information to sex workers. The passing of the Sex Industry 2019 Bill will require support from sex workers to share information about the new laws and importantly how to access industrial rights.

### **Decriminalisation ratified in Australia's National Strategies**

The barriers to accessing health services, including stigma and discrimination and regulatory and legal issues listed additionally as; criminalisation, licensing, registration and mandatory testing which we have currently in the Northern Territory is recognised in all strategies.

- Some escort agencies mandatorily require BBV and STI clearance medical certificates to work
- All agencies and the Commissioner of Police require sex workers to mandatorily register. Police and agencies must keep a copy of sex workers registration on file not only with the Police Department but also a duplicate file is required to be stored with escort agencies. These barriers are heightened for Migrant and Aboriginal and Torres Strait Islander sex workers, who can also be impacted by racism, incarceration and criminalisation, and a lack of appropriately targeted services.

*Stigma is socially isolating. It reduces the options for sex workers to seek support and is recognised as a critical barrier to accessing health care, human rights, and justice.*

Eliminating the negative impact of stigma and discrimination against sex workers remains an objective of Australia’s national strategies tackling HIV, viral hepatitis, and sexually transmitted

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<sup>12</sup> Scarlet Alliance, Red Book online, version 4 RED BOOK. STI & BBV RESOURCES FOR SEX WORKERS BY SEX WORKERS <https://redbook.scarletalliance.org.au/>

infections. Protecting sex workers from discrimination falls within Australia's international human rights obligations.

SWOP NT and the SWRG argue before applying for any job workers need transparency Advertising must not be penalised. The Prostitution Regulation Act 1992 is to be repealed, the legislation and all its regulations are out dated and unsafe for sex industry workers, continuing with the transfer of the Advertising regulations with penalties is un-workable, this action will result in *Non-compliant advertising*

Advertising must be transparent for clarity and safety, and under Fair Work people need to know what the job is that they are applying for, what the award is or working conditions.

Accessing employment with transparency is every workers right. General information and avenues to inform should not be any different for sex workers, for a brothel or agency managers, for receptionists, drivers, or cleaners who work with sex workers.

Every person seeking to work in the Sex Industry should understand as a basic right what the job as a sex worker entails, what conditions and protections contracts will provide. All workers have a right to check if provisions for superannuation and workers comp are included, advertising is the very first step to ensure the job is suitable to apply for.

Advertising sexual services must also be transparent, clients and workers must be able to provide clear for boundaries in service provision. The current regulations that are proposed to be transferred across are archaic and do not allow for transparency or provide safety.

These regulations are inconsistent with the intentions of the Bill. It retains advertising regulations that exist in the current, problematic Prostitution Act 1992.

Standard advertising restrictions should apply to sex worker's ads instead of these unworkable restrictions. Sex workers often will not want to include a head shot in their advertising and should be able to describe themselves and their services.

Sex services businesses or other independent sex workers cannot advertise for sex workers (staff or coworkers) within the Northern Territory. Given the intention to decriminalise sex work, sex workers should be able to advertise safely and transparently. Sex services businesses should be able to advertise transparently for employees just as other legal businesses.

As defined under the Fairwork Act 2009, transparency in advertising positions for employment as a sex worker, driver, manager, receptionist, and or cleaner must be clear before people apply for the work, to ensure employees are protected from:

- Adverse action
- Coercion
- Undue influence or pressure
- Misrepresentation.

This section is problematic in restricting advertising for work that is no longer illegal. The penalties must be removed. If advertising regulations are not comparable and transparent as other legal industries it will create potential for deception, misinformation and misunderstanding of what the

job entails. All workers should be entitled to clear information on what they are applying for and what the job entails.

The outdated regulations require sex workers to use head shots and limits ability to describe their services. Transparent advertising is critical to workers safety.

*Evidence from QLD on advertising*

*“2016-17 Queensland Police Service stats that show an increase by 450% in advertising charges. Demonstrating it is the leading area of criminalisation of sex workers in Queensland. More importantly is how police use the advertising offences as a way to get much more serious charges against sex workers.*

*Police use evidence of advertising breaches (including describing our services even using the coded language known within the industry or acronyms or one of the not allowed words) in order to get permission to do an undercover sting - making a booking with a sex worker (posing as a client) in order to entrap the person to agree to do an illegal service or when they arrive they confiscate sex workers cash, phones, laptops and on these devices can prove that we are engaging with other sex workers about our safety (like when a client arrives and that we are ok when they leave). When they locate this it ups the charge to the \$5000 knowingly participate in the provision of prostitution plus \$1000 tainted goods.*

*This has happened at the same time as sex workers in Queensland are experiencing increased police targeting for advertising offences.*

*The Prostitution Licensing Authority is responsible for brothel licensing and develop a set of advertising guidelines. Available here:*

*Both police and the PLA have the ability to act against sex workers in Queensland and police entrapment is legal. Police pretend to be clients in order to entrap sex workers.*

*Many sex workers are charged for describing their services in their advertisements, or advertising doubles or massage services”<sup>13</sup>*

SWOP NT and the SWRG do not endorse **suitability certificates**. Sex workers need for owners and managers to provide safe work spaces, conditions, industrial rights for all workers in brothels or parlours and or agencies.

Certification will not provide rights to us as sex workers, again this will be another barrier to “owners and managers compliance”. This industry is similar to hospitality, mangers and receptionists rotate regularly. The certification process will not work.

The following clauses apply to suitability certificates for operators of sex services businesses that engages more than 2 sex workers. Requirements for operators to hold suitability certificates for sex work in practice has not achieved the intended results and have instead resulted in high levels of non-compliance. The requirements for suitability certificates should be removed from the Bill.

The requirements in the Bill should not apply to sex workers who are working together and do not manage or employ each other. It is common practice for sex workers to work together or share a premises, and/or support staff. Requiring these independent sex workers to hold suitability certificates creates a situation similar to the current registration requirements. These clauses must explicitly exclude independent sex workers who are working together without an employment or management relationship to each other.

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<sup>13</sup> Evidence from QLD on advertising, Respect Inc, DecrimQLD, <https://www.respectqld.org.au/flyers-and-photos/FINALV12GUIDELINESABOUTTHEAPPROVEDFORM.pdf>

### *Destruction of certain records created under Prostitution Regulation Act 1992*

This is an important clause that means that once the Sex Industry Act commences, all personal information held in registration records will be destroyed. Currently the Northern Territory is the only jurisdiction in Australia to still have a system of police registration of sex workers. This approach is discriminatory and provides no positive outcomes for sex workers, instead has branded sex workers on what is a lifelong register, with no means of having yourself removed from the register. Destruction of the personal information on the register will be significant for sex workers who continue to be negatively impacted by these records.

*Criminal Records (Spent Convictions) Act 1992* - convictions in relation to sex work taken to be spent on the commencement of legislation.

SWOP NT and the SWRG sex worker representatives wish to provide verified statistical information to the Committee members. The documentation is sensitive, the information provides the number of charges, the areas of the alleged offences, the areas that sex workers have been charged with offences and agency owners and or managers. The offences are historical and are documented throughout the full term to date of the existing Prostitution Regulation Act. There are a spent convictions and charges that require attention to be expunged.

This has been a crucial issue in NSW where this was omitted creating barriers to sex workers employment in other industries, prohibiting travel and preventing sex worker who wish to leave sex work from doing so.

SWOP NT and the SWRG recommend that this could be dealt with similar to the Expungement of Historical Homosexual Offences Records Act 2018<sup>14</sup>

References to offences contained in the Prostitution Regulation Act 1999 following its repeal, and inserts references, where relevant, to offences under the Sex Industry Act 2019 as they relate to those specific Acts and Regulations. This section merely repeals section 15(g) of the Criminal Records (Spent Convictions) Act 1992 which will have no operation when the Prostitution Regulation Act 1992 is repealed.

### *Anti-discrimination protections are essential for sex workers.*

SWOP NT, the SWRG and Scarlet Alliance submitted recommendations to the Modernisation of the NT Anti-Discrimination Act that included advocating for the important inclusion of 'sex work' and 'sex worker' as protected attributes.

An amended Anti-Discrimination Act with the aforementioned attributes will support the implementation of full decriminalisation.

Anti-discrimination protection for sex workers is recommended by various United Nations bodies, including the UN Secretary General, Ban Ki Moon.

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<sup>14</sup> Expungement Historical Homosexual Offences Records Act 2018, <https://legislation.nt.gov.au/en/Bills/Expungement-of-Historical-Homosexual-Offence-Records-Bill-2018?format=assented>

It is in line with the World Association for Sexual Health’s Millennium Declaration of Sexual Rights, Australia’s National STI and HIV Strategies, and the whole-of-government approach to Social Inclusion (2)<sup>15</sup>

United Nations Secretary General Ban Ki-Moon states that;

“In most countries, discrimination remains legal against women, men who have sex with men, sex workers, drug users, and ethnic minorities. This must change.” (5)

Former Australian High Court judge the Hon. Michael Kirby AC CMG states that;

“We will insist on human rights for all, including for sex workers. Nothing else is acceptable as a matter of true public morality.” (6)

UNAIDS and the United Nations Population Fund state that;

“It is essential for governments to create an enabling legal and policy environment which insists upon universal rights for sex workers and ensures our access to justice. (7)

Scarlet Alliance Australian Sex Workers Association<sup>16</sup>

*SWOP NT and the SWRG recommendations within our submission to contribute to modernizing the Northern Territory Anti-Discrimination Act in relation to sex work and workers includes:*

*Recommendation 5: “The Act must list ‘accommodation status’ as a protected attribute. ‘Accommodation status’ must be included with other areas of the definition “Place of home, work, practice, or labour”*

*Recommendation 6: “Sex work” must be listed as a protected attribute under the Act. Sex work must be defined as “sex work is the sale/exchange of consensual adult sexual services”*

*Recommendation 7: “Sex worker” must be listed as an attribute for protection under the Act. Sex worker must be defined as “a person who provided the sale/exchange of consensual adult sexual services”.*

*Recommendation 11: The Act must offer protection for sex workers against vilification and the Act must extend protections to those who currently have or have previously held the protected attribute, associate with another person with the protected attribute, or are incorrectly assumed to process the protected attribute”*

*Recommendation 18: “The Northern Territory Government should open an Inquiry to remove provisions from any legislation which discriminates or may lead to discrimination, against any person as provided in the new NT Anti-Discrimination Act 2018. Consider Developing a Bill of Human Rights to work alongside the new Anti-Discrimination protections”*

*Restricting sex workers to isolated industrial areas is a risk to the safety of sex workers.* Issues have been highlighted by sex workers forced to work in industrial zones where they have no access to

<sup>15</sup> 2 Consolidation - Discussion Paper - 096 - Scarlet Alliance, page 3, <https://www.ag.gov.au/Consultations/Documents/ConsolidationofCommonwealthanti-discriminationlaws/Consolidation%20-%20Discussion%20Paper%20-%20096%20-%20Scarlet%20Alliance%20-%2031%20Jan%202012.PDF> accessed 8-10-2019

<sup>16</sup> Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group (SWRG) Collective Submission in response to the Northern Territory Government Discussion Paper – release September 2017, Modernisation of the Anti-Discrimination Act <http://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt/parliamentary-submissions>

public transport, poor lighting and no amenities. This risk is exacerbated for the large number of sex workers who work at night<sup>17</sup>

Sex workers strategically choose the location of their work based on access to essential services, public facilities including public transport, access to clients, visibility, lighting and safety. Zoning of sex industry premises to isolated, poorly lit, under resourced and unsafe areas undermines sex workers' safety. There is no evidence to support the value of segregating sex industry businesses or sex workers to '18+ precinct areas. The approach is fundamentally in opposition to the principles underpinning decriminalisation of sex work.

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<sup>17</sup> *Interrogating the impacts of sex premises in residential areas.* 4 Hubbard, P., Boydell, S., Crofts, P., Prior, J., & Searle, G. (2013). *Noxious neighbours Environment and Planning A*, 45(1). Pg. 8 5 Ibid. 12  
[https://www.academia.edu/2283358/Noxious\\_neighbours\\_interrogating\\_the\\_impacts\\_of\\_sex\\_premises\\_in\\_residential\\_areas](https://www.academia.edu/2283358/Noxious_neighbours_interrogating_the_impacts_of_sex_premises_in_residential_areas)