
Sex Industry Reform in the Northern Territory

NT Sex Industry Bill 2019: Submission to the Economic Policy Scrutiny Committee.

Introduction

Magenta is Western Australia's sex worker support project, providing health, advocacy and education services to people working in the sex industry. The project's background includes sexual health, human and civil rights, and face to face contact with sex workers. This submission is informed by the lived experience of Magenta's stakeholders who live and work within many iterations of the adult industry, who often travel for work between Western Australia and the Northern Territory, and by the experiences of Magenta's staff.

Magenta promotes full decriminalization of the sex industry and the consequential application of existing civil and industrial laws as the best practice model for health and safety practices within the sex industry. This submission identifies decriminalisation of the sex industry as the only rational policy for regulating the industry, and as a proven and evidence based policy. Decriminalisation of the sex industry is the first and most important step to taking in improving health and safety in the sex industry. Any other effort to reduce harm done to sex workers, remains ineffective in the face of improper sex industry regulation.

The project commends the Northern Territory government on the proposed bill generally, and notes that the recommendations Magenta made during its previous submission to the discussion leading up to the creation of this bill, still stand.

This submission addresses points a, b and c of the inquiry. Magenta supports the passage of this bill, and would like to provide feedback on some of the existing amendments, and on some amendments that should ideally be included to achieve full decriminalisation. This submission uses the Terms of the inquiry, as well as parts and sections taken from the Table of Provisions in the Sex Industry Bill 2019 to guide its comments on different aspects of the bill.

The primary author of this document is Lena Van Hale, Manager of Magenta. If the Committee or any of its representatives wishes to discuss this submission, I can be contacted by email at Lena.VanHale@magenta.org.au, or by phone on 0431 835 756.

Sex Industry Reform in the Northern Territory

Terms of Inquiry:

a) Whether the Assembly should pass the Bill;

Magenta supports the passing of the Sex Industry Bill 2019, in recognition that full decriminalisation of the sex industry is the single most vital step in improving sex workers health and wellbeing. Decriminalisation will enable sex workers in the Northern Territory to access workplace health and safety protections, as well as other critical industrial and civil protections enjoyed by any other worker.

b) Whether the Assembly should amend the Bill;

Part 1. s6

Magenta commends the existing amendments that exempt sex workers and sex industry business from registration under the Public and Environment Health act 2011, and removes powers and functions of police in relation to the decriminalised sex industry. These are necessary amendments to achieve full decriminalisation of the sex industry, and will have consequential benefits to sex workers and broader society.

Part 3. s15

Magenta recommends amending the advertising restrictions laid out in the Sex Industry Bill 2019 that reflect the same restrictions imposed by the existing Prostitution Regulations Act 1992. These have been shown to be unworkable for sex workers, and are in conflict with the intentions of the Sex Industry Bill 2019 by singling out sex workers for specific regulation. All advertising is already subject to restrictions on content, so singling out sex worker advertising for illogical extra restriction is unnecessary. Presently, sex workers and sex industry business cannot advertise transparently for employees, either sex workers themselves or for any related support staffing. Under a decriminalised system this could conflict with existing laws about transparency when advertising for employment.

Part 4.

Magenta also recommends amending the requirements for operators to hold suitability certificates for sex industry businesses that engage with more than 2 sex workers. In practise, these certificates have resulted in high levels of non-compliance, and have been shown to contribute to corruption rather than alleviating it. This risks forcing large sections of the sex industry underground and away from the benefits of decriminalisation. Furthermore, in addition to being a fundamentally flawed legislative response, the requirement to obtain suitability certificates for operators of sex industry businesses that engage more than 2 sex workers is heavy-handed and excessive compared to other jurisdictions that have employed this. New Zealand requires sex industry businesses with more than 4 workers to obtain suitability certificates, and even this has resulted in low level non-compliance. Finally, the requirements to obtain suitability certificates must not restrict sex workers from working

Sex Industry Reform in the Northern Territory

together who are not managing or employing each other; this is a common and reasonable business practise for sex workers who wish to share overheads, and in this way requiring sex worker collectives to hold suitability certificates presents a barrier for independent sex workers simply wishing to work safely.

Part 7. Division 3.

Magenta hopes that the committee will consider amendments at this part, related to the Criminal Records (Spent Convictions) Act 1992, in order to destroy existing criminal records for sex work with the introduction of the Sex Industry Bill 2019. As a human rights precedent; when homosexuality was no longer considered criminal previous convictions for homosexuality were spent. Criminal records for sex work create barriers to sex workers leaving the industry. It is vital that these convictions are spent so that sex workers are able to freely leave the industry and pursue other employment.

c) Whether the Bill has sufficient regard to the rights and liberties of individuals;

We support the conclusion that the Bill is compatible with human rights and does not raise any human rights issues. Magenta commends the proposed enactment of a decriminalised system in the Northern Territory, and the removal of the current violations of sex worker human rights experienced under criminal law. The bill promotes the welfare and occupational health and safety of sex workers, follows international evidence about public health and safety in relation to sex work legislation, and it enhances sex workers ability to refuse clients and to seek other employment if they wish. Consistent with international evidence, the bill rejects the criminalisation of sex workers, it rejects the criminalisation of their clients, as well as rejects licensing models, each of which have been shown to be harmful to sex workers and increasing sex workers vulnerability to adverse health outcomes, and exploitation. Through enacting the full decriminalisation of sex work, the bill ensures the protection of sex workers in the Northern Territory.

d) Whether the Bill has sufficient regard to the institution of Parliament.

The bill allows for the transparent operation of the sex industry by not singling out sex workers for specific regulation. As such, it enacts the best possible regulatory model for parliament to govern the sex industry, enabling levels of compliance with regulation that have never before been possible in the Northern Territory. With the sex industry no longer forced underground, it can now operate with full consideration to the institution of Parliament.

Sex Industry Reform in the Northern Territory

Reliable Research:

- Amnesty International. (2016). Amnesty International policy on State obligations to respect, protect and fulfil the human rights of sex workers. Retrieved from: <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>
- Harcourt, C., O'Connor, J., Egger, S., Fairly, C., Wand, H., Chen, M., Marshall, L., Kaldor, J., Donovan, B. (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. P. 482. Retrieved from: <https://www.ncbi.nlm.nih.gov/pubmed/21040176>.
- Platt L, Grenfell P, Meiksin R, Elmes J, Sherman SG, Sanders T, et al. (2018) Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies. PLoS Med 15(12): e1002680. <https://doi.org/10.1371/journal.pmed.1002680>
- Donovan, B., Harcourt, C., Egger, C., Watchirs Smith, L., Schneider, K., Kaldor, J., Chen, M., Fairley, C., Tabrizi, S. (2012). The Sex Industry in New South Wales: A Report to the NSW Government. Kirby Institute, University of New South Wales, Sydney. Retrieved from: <http://www.kirby.unsw.edu.au/sites/hiv.cms.med.unsw.edu.au/files/hiv/attachment/NSWSexIndustryReportV4.pdf>.
- (2014). HIV and Sex workers Series. The Lancet. Retrieved from: <https://www.thelancet.com/series/HIV-and-sex-workers>
- Sex Services Premises Planning Advisory Panel. (2004). Sex Services Premises Planning Guidelines. NSW Department of Planning. Retrieved from: http://www.scarletalliance.org.au/library/ssppg_04.
- *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Law Reform Act 2003. New Zealand Government. Retrieved from: <http://prostitutescollective.net/wp-content/uploads/2016/10/report-of-the-nz-prostitution-law-committee-2008.pdf>*