



SEX WORKER OUTREACH PROGRAM

SEX WORKER REFERENCE GROUP

## REFORMING REGULATION OF THE SEX INDUSTRY IN THE NORTHERN TERRITORY

Sex Worker Outreach Program (SWOP NT) Sex Worker Reference Group (SWRG)  
Collective Submission in response to the Northern Territory Government  
Discussion Paper – release 29th March 2019

SWOP NT /SWRG NT NORTHERN TERRITORY SEX WORKER OUTREACH PROGRAM – SEX WORKER  
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25 May, 2019

Submitted via email directly to: Primary contact officer: Ms Anna McGill

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Legal Policy, Licencing, Department of the Attorney-General and Justice

Dear Ms McGill

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) Discussion Paper.

Thank you to the Hon Natasha Fyles, Attorney General and the Department of the Attorney-General and Justice Legal, Policy staff for facilitating a formal platform for key stakeholders to be able to contribute to Reforming the Regulation of the Sex Industry in the Northern Territory.

The Northern Territory has an opportunity to reform sex work laws that are desperately required to protect sex work industry workers. The government must abolish the *Northern Territory Prostitution Regulation Act* and its failed approach of registration and licensing models. Sex work industry businesses and individual sex workers are no longer able to comply with police registration or licencing. The aim of legislation must be to provide health, safety and rights to “all” Northern Territory sex workers, that will then provide 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

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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>

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

Sex workers who are engaged in SWOP NT and the SWRG who work and or have worked in the Northern Territory have documented incidences and experiences that are a direct result of the negative impacts of the current licencing model, this submission has been prepared by sex workers from SWOP NT and the SWRG and is authorised to be open as a “public submission”.

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

SWOP NT endorse the following submissions in full;

- Scarlet Alliance, Australian Sex Workers Association
- Respect Inc and #Decrim QLD

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

**Skye Ozanne**

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

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**SWOP NT Coordinator**

**Sex Workers Outreach Program**

**Northern Territory AIDS & Hepatitis Council**

<http://www.ntahc.org.au/programs/sex-worker-outreach-progam-swopnt>

SWOP NT and the SWRG is supported tirelessly by volunteer peer educators and advocates

## Executive Summary

Sex workers as individuals, and via SWOP NT, the SWRG and the Scarlet Alliance Australian Sex Workers Association have advocated for the full decriminalisation of sex work for sex worker health, safety and rights in the Northern Territory since 2002<sup>i</sup>.

The recent public announcement by the Northern Territory Attorney General the Hon Natasha Fyles to reform sex work laws with an intention to decriminalise sex work in the Northern Territory to provide a safe and sustainable framework for sex workers, did not come as a surprise to NT sex workers<sup>3</sup>.

In November 2018, SWOP NT spoke at the Scarlet Alliance, Australian Sex Workers Association and Respect Inc Sex Work Laws and Workplace Health and Safety Symposium, Brisbane Parliament House, which was hosted by Peter Russo, Member for Toohey.

SWOP NT and the SWRG stated that; “Law reform in the Northern Territory has evolved through active consultation and engagement with sex workers. The NT Labor Government has supported sex workers to contribute to the processes of reforms.”

“With support from Labor Women, United Voice, the Australian Services Union (ASU) and delegates, the NT-Labor Conference unanimously passed our motion, prepared with Scarlet Alliance, SWOP NT and the SWRG for: the full decriminalisation of sex work, the development of WHS guidelines, anti-discrimination protections and for the development of an NT, human rights charter.”

SWOP NT’s coordinator said “In many ways it has been a best practice model for sex work law reform based on: active consultation and engagement, sex workers are recognised as the primary stakeholders, have collaborative relationships with other stakeholders, and respectful consultations that include taking on our feedback and hearing our evidence.”

“NT sex workers, with our organisations and groups, and national association, Scarlet Alliance, are recognised as primary stakeholders that have the collective capacity and the evidence to make recommendations and contribute to best practice reforms.”<sup>4</sup>

If the intention of the government was to seek feedback from key stakeholders to endorse full decriminalisation of sex work, then this discussion paper did not meet that brief as unfortunately the paper describes predominately another licensing model not a decriminalised framework.

SWOP NT and the SWRG have addressed the failure of licensing frameworks, we have provided evidence to support the Government to draft a bill for the full decriminalisation of sex work, that additionally will enable the intersection of, industrial rights, expungement laws, and antidiscrimination, and occupational work health and safety protections

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<sup>3</sup> Sex work will be decriminalised in the Northern Territory, Haley Sorenson, Exclusive, NT News, March 29, 2019 <https://www.ntnews.com.au/news/revealed-sex-work-to-be-decriminalised-in-the-northern-territory/news-story/0c12db01309f3abb51ce2f0307bbf80c> accessed 11-5-2019

<sup>4</sup> SWOP NT & SWRG, P. 6/Sex work laws and workplace health and safety symposium report, February, 2019, <https://respectqld.org.au/wp-content/uploads/Decrim/Sex-work-laws-and-workplace-health-and-safety-symposium-Report.pdf> accessed 11-5-2019

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## RECOMMENDATIONS

**Recommendation 1:** “The Northern Territory Government endorse the Actions (1 – 8) as written in “The Statement of the Sex Worker Outreach Program (SWOP NT) and the Sex Worker Reference Group (SWRG)”

*“Action 1: Implement a model of decriminalisation in the Northern Territory to support safer working choices and workplace environments for sex workers who work in the Northern Territory. The Northern Territory Government will continue to consult and work with sex workers, our organisations and national Association to fully decriminalise sex work by:”*

*“Action 2: Abolishing 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,”*

*“Action 3: Expunge Sex Work Industry private registration information held in government departments for specialised licencing and sex workers “Declaration of a Prostitute” information with the NT Commission of Police”*

*“Action 4: 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 to intersect existing Territory and National regulations for Sex Work Industry business compliance*

*Action 6: Amend the Northern Territory Anti-Discrimination Act to ensure “sex workers’ and “sex work’ are ratified as protected attributes under the Act to ensure industry workers are fully protected by anti-discrimination laws; and;*

*Action 7: Define all of the above essential components to intersect within the drafting of the “Full Decriminalisation of Sex Work Bill” 2019, Northern Territory and;*

*Action 8: When all above steps have been implemented; work with relevant stakeholders to draft and ratify a Human Rights Charter/or Bill to provide human rights protections for all workers, inclusive of sex workers”*

**Recommendation 2:** “The Northern Territory Government endorse the insertion of the following *Recommendations: (5, 6, 7, 11, 18)* as submitted by the **Sex Worker Outreach Program (SWOP NT)** and the **Sex Worker Reference Group (SWRG)**, for the Modernisation of the Northern Territory Anti-Discrimination Act,<sup>5</sup>

**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 possess 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”

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<sup>5</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, <https://www.ntahc.org.au/programs/sex-worker-outreach-program-swop-nt/parliamentary-submissions> accessed 16-5-2019

**Recommendation 3:** SWOP NT and the SWRG recommend the Northern Territory government fully decriminalise the sex industry in the Northern Territory

**Recommendation 4:** SWOP NT and the SWRG recommend the Northern Territory government not include licensing, registration or certification of sex workers, sex industry businesses or sex industry business staff.

**Recommendation 5:** SWOP NT and the SWRG recommend independent and private sex workers be allowed to work together.

**Recommendation 6:** SWOP NT and the SWRG recommend independent and private sex workers should be permitted to work with other sex workers, and with auxiliary sub-contractors.

**Recommendation 7:** SWOP NT and the SWRG recommend against a certification or registration system for independent and private sex workers.

**Recommendation 8:** SWOP NT and the SWRG recommend against individual sex worker registration, based on low compliance and human rights concerns.

**Recommendation 9:** SWOP NT and the SWRG recommend against registration/certification of sex workers with either government body or police in the legislative changes resulting from this process. To adopt this approach would be to adopt a model that is outdated and has failed in other jurisdictions.

**Recommendation 10:** SWOP NT and the SWRG recommend a full decriminalisation model which repeals exceptional laws specific to the sex industry allowing existing laws to cover a range of sex industry business models including brothels and massage parlours.

**Recommendation 11:** SWOP NT and the SWRG recommend against the terminology “one-person brothels.” The term “independent sex workers” or “private sex workers” is more appropriate. Independent and private sex workers working in residential areas are not commercial, because the land use of the dwelling has an impact that is residential in nature, not commercial.

**Recommendation 12:** SWOP NT and the SWRG recommend independent and private sex workers to be noted not as commercial, but as home occupations and home-based contracting.

**Recommendation 13:** SWOP NT and the SWRG recommend against limiting sex work activity to an 18+ only precinct.

**Recommendation 14:** SWOP NT and the SWRG recommend against police regulation of condom use.

**Recommendation 15:** SWOP NT and the SWRG recommend against mandated condom use.

**Recommendation 16:** SWOP NT and the SWRG recommend against mandatory testing of sex workers.

**Recommendation 17:** SWOP NT and the SWRG recommend that the NT Government fund the delivery of comprehensive territory-wide peer education and outreach program for sex workers. A well-resourced SWOP NT will provide sex workers broader access to peer support and education and specific resources that are essential to the success of health promotion and public health outcomes.

**Recommendation 18:** SWOP NT and the SWRG recommend brothels and massage parlours be permitted in all Zone C and Mixed-Use areas.

**Recommendation 19:** SWOP NT and the SWRG recommend, initially thorough, and then regular skills building, sensitivity training and education for all public servants and contractors involved in planning approval processes, for them to fully understand their role within the decriminalisation framework.

**Recommendation 20:** SWOP NT and the SWRG recommend, Sex Industry Awareness training and education of staff, experts and elected councillors responsible for the implementation of the NT Planning Scheme.

**Recommendation 21:** SWOP NT and the SWRG recommend against independent sex workers being treated as “One Person Brothels.”

**Recommendation 22:** SWOP NT and the SWRG recommend that street-based sex work be fully decriminalised.

**Recommendation 23:** SWOP NT and the SWRG endorse all recommendations in full of the Scarlet Alliance, Australian Sex Workers Association and of the Respect Inc and #Decrim QLD submissions in full.

### 6.1.1 New South Wales model - Clarification

NSW has **Decriminalised sex work**. It is a **fully regulated model that protects sex workers and the many spaces sex work is provided** across the state.

The model allows for sex industry regulation that operates under existing NSW business planning,<sup>6</sup> work health and safety (WHS) guidelines, industrial laws and environmental and public health laws

The model's delivery **ensures sex workers are represented and engaged as priority stakeholders, technical and policy advisors and in Sex Work Industry Liaison Officer roles** to collaboratively inform and work with government departments, agencies and councils to ensure best practice implemented approaches to workers health and safety and human rights.

**The NSW model does not require special certification, registration or licensing.** The NSW government Select Committee on the Regulation of Brothels, **affirmed in its final decision that licensing of brothels or sex workers should not be introduced in NSW as the action would result in recriminalising sex workers, resulting in lowered health outcomes.** The response states that a licensing model **"would be high cost and risk creating incentives for non-compliance."**<sup>ii</sup>

### 6.1.2 New Zealand model - Clarification

**SWOP NT and the SWRG do not support the New Zealand model of licencing** as all sex workers are not able to benefit nor be protected by the country's laws. With initial intent to fully decriminalise sex work<sup>iii</sup> the benefits of New Zealand; model of decriminalisation has been eroded by amendments that discriminate against some sex workers and validate police as regulators.

**SWOP NT and the SWRG are opposed to the negative outcomes of this model** that criminalises migrant and guest workers, promotes police and immigrations raids and noncompliance with existing business regulations, instead New Zealand has regressed to opting for specialised licencing.

New Zealand is currently reviewing its immigration laws and Section 19 of the Prostitution Reform Act 2003, to amend to allow for sex workers who are guest or migrants with working visas to legally work as sex workers.

*"Section 19 was introduced as an anti-trafficking initiative, and of course all it has done is feed a kind of tier of vulnerabilities," Dame Catherine told RNZ.*

*"Definitely it was well-intentioned, but it has had a predictable effect of creating an underground population of sex workers who would then become vulnerable."<sup>iv</sup>*

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<sup>6</sup> Sex Services Premises Planning Advisory Panel. (2004). Sex Services Premises Planning Guidelines. NSW Department of Planning. [http://www.scarletalliance.org.au/library/ssppg\\_04](http://www.scarletalliance.org.au/library/ssppg_04)

## **SWOP NT and SWRG do not recommend a return to certification or registration of sex workers or the licensing of sex industry business**

The Discussion Paper does not highlight the **significant positive outcomes from the NSW experience** and instead uses the flawed Committee report to suggest NSW itself recommends licensing.

*“The NT Discussion Paper fails to recognise that this recommendation was not supported by the Labor or Independent members of this Committee. The Discussion Paper also fails to recognise that the NSW Government itself did not support the recommendations for licensing or registration. The Government in its **official response rejected the majority of the flawed recommendations** in the Committee report and made clear that the, ‘NSW Government will not be introducing the licensing model described by the final report of the Select Committee because introducing such significant regulatory burdens and police involvement risks creating similar outcomes to recriminalising sex work.’ The Discussion Paper does not highlight the significant positive outcomes from the NSW experience and instead uses the flawed Committee report to suggest NSW itself recommends licensing”<sup>7</sup>*

The Discussion Paper describes New Zealand as a ‘better regulatory model’, SWOP NT and the SWRG disagree, New Zealand Model **“is not”** better.

The elements of the New Zealand model that **were proposed** by some members of the Committee of the NSW Brothels Inquiry **were widely rejected** by other members of the committee, the NSW Government and by sex workers and community and health organisations.

SWOP NT and the SWRG along with Scarlet Alliance supports the full decriminalisation of sex work and it should be noted that **the New Zealand model contains aspects of licensing, registration and criminalisation which we do not support.**

The Discussion Paper describes the criminalisation of all migrant sex workers in New Zealand as ‘anti sex slave provisions. This is a discriminatory policy that prohibits foreign nationals from sex work, is contrary to the **strong evidence base**<sup>8</sup> that demonstrates that trafficking and exploitation is exacerbated, not reduced, by limiting safe, legal pathways for migrant workers.

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<sup>7</sup> Information on proposed changes to NT Sex Industry Laws, Scarlet Alliance and SWOP NT, briefing paper, <http://www.ntahc.org.au/file/830>, accessed 10-5-2019

<sup>8</sup> Migrant sex workers in Australia, Lauren Renshaw, Jules Kim, Janelle Fawkes & Elena Jeffreys, ISSN: 1836-2079, Australian Institute of Criminology partnership Scarlet Alliance, the Australian Sex Workers Association, research/ Published: September 2015, <https://aic.gov.au/publications/rpp/rpp131>

### 6.1.3 Numbers of sex workers - Clarification

SWOP NT and SWRG concur that the research findings of both reviews of models of decriminalisation of sex work in NSW and even with addition of sex work licencing in New Zealand “has not reflected an increase in the size of the sex industry”<sup>9</sup>.

These findings are not a surprise to sex workers who work in the Northern Territory, like other industries the localised economies and the Territory’s geography and population demographics inclusive of fly in fly out workers (FIFO) determines the ability for sex workers/sex work industry business to thrive or decline. **SWOP NT date confirmed that the numbers of workers and business in the Northern Territory typically fluctuates with the economy.**

*‘The Northern Territory (NT) economy is characterised by an abundance of natural resources, a large public sector and a significant defence force presence. The NT has a relatively small open economy, which is heavily influenced by external economic conditions such as exchange rates, commodity prices, interstate and international migration flows, as well as investment in major projects. The distinctive structure of the economy is also influenced by the relatively small population, which is distributed over a large and mostly remote area. Significant distances also separate the NT’s main population centres from each other, and from the rest of Australia’<sup>vi</sup>*

Sex workers across Australia work in decriminalised, fully and partially criminalised and specialised licencing frameworks.

Sex workers will continue to work in the Northern Territory regardless of what regulatory framework is in place. **The number of workers in the NT is not contextually important in relation to a decriminalisation!**

What is important is that **the full decriminalisation of sex work will provide all workers with the “crucial avenue required to seek rights at work**, to facilitate better business compliance, to obtain work health and safety and antidiscrimination protections, and to facilitate better access to services without discrimination or being perceived as a criminal for going to work.

*I have worked in the Northern Territory as a FIFO worker on and off for 4 years. I stay connected to other sex workers via the web and sex worker organisations. I usually access local sex worker orgs, like SWOP NT to pick up my tool box of safer sex supplies and to connect to find out if there are any worker only events, or changes to policing practices and the laws in the NT.*

*I am very careful in my financial planning, as a private worker I have high out-costs for flights, mandatory hotel accommodation, before I can commence work in the NT. Because I have access to other sex workers experiences of the economy in the NT, I can make an assessment of when or if I will travel for work.*

*Although it is true that the NT has more movement of people due to tourism and events during the dry season, I am unable to rely on an assumed clientele. My primary source of credible information of if I will be in loss or profit comes from regular clients pre-booking, and information from other sex workers, as the NT economy has fluctuated significantly over the last 3 years. When I first travelled to the NT to work, I did so without researching from my peers, I changed hotels and lost money **as the first hotel discriminated against my work even though I am required under NT law to out of a hotel, as a private worker**, I had not pre advertised in the local newspapers, I relied only on online advertising to gain work and was not connected to other sex workers or the SWOP project. I returned with very little income. Just like other FIFO workers in other industries I need to access safety and support to work, from my peers. Rebekah*

<sup>9</sup> Rissel, C., Donovan, B., Yeung, A. et al. 2017. “Decriminalization of Sex Work Is Not Associated with More Men Paying for Sex: Results from the Second Australian Study of Health and Relationships”, *Sexuality Research and Social Policy*, 2017 14: 81. <https://doi.org/10.1007/s13178-016-0225-1> <https://link.springer.com/article/10.1007/s13178-016-0225-1>

## 6.1.4 The model for the Northern Territory

Sex workers are the priority stakeholders - SWOP NT and SWRG statement for model reforms;

*“To achieve a successful model of reform to fully decriminalises sex work, that provides a regulatory business framework for sex work industry workers, that opens broader and transparent avenues for workers to choose where how to work and advertise services, to enjoy occupational work health and safety and human rights protections as workers that will provide the best public health outcomes for all Territorians; we recommend that the Northern Territory Government endorse the following “ Actions, (1-8) ”;*

*“Action 1: “Implement a model of decriminalisation in the Northern Territory to support safer working choices and workplace environments for sex workers who work in the Northern Territory. The Northern Territory Government will continue to consult and work with sex workers, our organisations and national Association to fully decriminalise sex work by:”*

*“Action 2: Abolishing 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,”*

*“Action 3: Expunge Sex Work Industry private registration information held in government departments for specialised licencing and sex workers “Declaration of a Prostitute” information with the NT Commission of Police”*

*“Action 4: 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 to intersect existing Territory and National regulations for Sex Work Industry business compliance*

*Action 6: Amend the Northern Territory Anti-Discrimination Act to ensure “sex workers’ and “sex work’ are ratified as protected attributes under the Act to ensure industry workers are fully protected by anti-discrimination laws; and;*

*Action 7: Define all of the above essential components to intersect within the drafting of the “Full Decriminalisation of Sex Work Bill” 2019, Northern Territory and;*

*Action 8: When all above steps have been implemented; work with relevant stakeholders to draft and ratify a Human Rights Charter/or Bill to provide human rights protections for all workers, inclusive of sex workers”*

## 6.1.4a) Decriminalised Model in the Northern Territory

*What would a decriminalised model look like in the NT?*

SWOP NT and the SWRG advocates for a fully decriminalised regulatory framework for Northern Territory sex work industry workers.

A fully decriminalised model in the NT for sex work will achieve the best possible public health outcomes

**A fully decriminalised model of sex work provides a regulatory framework that does not involve licensing 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<sup>vii</sup>
- 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

Sex work industry businesses are typically defined as “**small**” businesses.

*“Small businesses have less than 20 workers and will often be single director companies and family businesses. Leaders of these businesses are likely to be part of the day-to-day work and workplace”<sup>viii</sup>*

A full decriminalisation model in the Northern Territory would deliver a regulatory model that facilitates compliance for the full diversity of the sex industry in the Northern Territory that includes:

- Sex workers in shared and rental and hotel accommodation
- Escort agencies
- Part time sex workers
- Street based sex workers
- Brothels
- Massage parlours
- Cooperatives of sex workers
- Online sex work
- Escorting sex workers that visit clients at their home or in hotels
- FIFO sex workers who work privately and or for operators of brothels, agencies and parlours

## 6.1.4b) Learnings from other jurisdictions – Decriminalisation in NT

*Are there learnings from other jurisdictions that have successfully decriminalised sex work that can be translated to the NT?*

### New South Wales - Aspects of decriminalisation in place - adaptable

Rather than resulting in de-regulation or 'no regulation' **NSW decriminalisation ensures that sex industry businesses are regulated** in the same way as other **small businesses**, subject to existing regulatory mechanisms such as planning and zoning, Work Cover<sup>10</sup> and Fair Work regulations.

In NSW the sex industry is subject to a **whole of government regulation including Workplace Health and Safety, council, business, industrial, taxation, migration, planning, health, 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 decriminalised.

Decriminalisation does not require a licensing component as evidenced by the outcomes in New South Wales.

Non-compliance where it occurs in New South Wales is the outcome of councils which have chosen to block sex industry business applications resulting in a high number of land and environment court cases, many of which found the application by council should have been approved. This has been resolved in NSW with a move to panels who consider several development applications, not only those relating to the sex industry. SWOP NT and the SWRG support NSW move towards panels to consider development applications for a variety of business, this is an important change that will enable further compliance for sex industry businesses.

Decriminalisation has brought improved work safety, high rates of safer sex practice and low rates of sexually transmitted infections with no evidence of organised crime in the New South Wales sex industry.

The NSW sex service premises planning advisory panel highlighted that 'establishing planning controls which are reasonable (rather than unnecessarily restrictive) is likely to result in a high proportion of sex services premises complying with council requirements, with corresponding benefits to council operations, the local community and health service providers.

NSW did not endorse adding licensing of brothels to the decriminalised model, the discussion paper states that the Legislative Assembly of New South Wales Select Committee on the Regulation of Brothels (2015) supported the uptake of a licensing model. However, this is misleading as the Labor and independent members of the parliamentary committee did not support this recommendation.

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<sup>10</sup> Health & Safety Guidelines for Brothels, Work Cover, NSW Health & Safety Guide, 2001  
<https://swop.org.au/images/phocadownload/Resources/Industry-Resources-English/Management-Parlour-Staff-Resources/WorkCover-Guidelines-for-Brothels.pdf> accessed 18-5-2019

Labor MP Jo Haylen, who was one of three committee members who dissented from the licensing scheme recommendation, said she was pleased the Government had seen sense.<sup>11</sup>

*"We had real concerns after listening to all the evidence it was very clear that a licensing regime would have sent elements of the industry underground and that would have undermined the great work that we've had in New South Wales."*

## South Australia – Decriminalisation of Sex Work Bill (full decriminalisation) – adaptable

In June 2019, South Australian parliamentarians will vote on a Bill to fully decriminalise sex work;

***South Australia, Decriminalisation of Sex Work Bill, 2018, Tammy Franks<sup>ix</sup>:***

*In South Australia "the Statutes Amendment (Decriminalisation of Sex Work) Bill provides for the full decriminalisation of sex work, which the Law Society believes is the best model for the protection of workers, most of whom are women in the sex industry." <sup>x, xi</sup>*

### 6.1.4c) The Northern Territory Prostitution Regulation Act, 1992 is a failed model of Licencing

*Does the current regulatory model, providing for the licensing of escort agencies, offer sufficient protection of a sex workers rights, including work health and safety, and more broadly public health?*

**The Northern Territory Prostitution Regulation Act is not amendable and cannot be used to decriminalise sex work. The Act does not protect sex workers rights, the Act is a barrier to sex workers and other industry workers work health and safety.** Licencing is proven to have a negative impact on public health.

*"The definitive word on sex industry licensing comes from The Kirby Institute's 2012 Report to the NSW Ministry of Health, which states that licensing is a 'threat to public health' and should not be regarded as a viable legislative model." <sup>xii</sup>*

**The SWOP NT and SWRG recommends;**

***"Abolishing 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"***

Under a decriminalised framework any business employing sex workers as employees, and or contracting sex workers as sub-contractors from escort agencies, brothels or parlours will be required to meet the terms of existing NT laws and comply with national laws under Fair Work Australia.

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<sup>11</sup> Brothel licensing scheme rejected by NSW Government, councils angered, Updated 11 May 2016, 9:41am <https://www.abc.net.au/news/2016-05-11/brothel-licensing-scheme-rejected-by-nsw-government/7403288> accessed 17-5-2019

Some sex workers in the NT are employed for the provision of the work as sub-contractors. Laws under Fair Work are able to provide **clarity of if a sex worker is an employee or contractor.**

*“When a contractor is hired wholly or principally for labour – in this case, they’re considered employees for superannuation purposes, and the person that hired them is responsible for paying their superannuation<sup>xiii</sup>”*

*I have worked for brothels down south in different ways as an employee who paid tax on my jobs and as a subcontractor where I paid my tax as a private business. In one brothel I worked in, the rooms were amazing, strong supportive beds, with appropriate waste disposal, sanitised spas in rooms, policy and procedures in place, I felt that Brothel was a pleasure to work from. I was paid weekly as I agreed, I filled out a TFN form for employment and paid tax. But it was not till years later I realised that I should have been entitled to more as a worker, I should have benefited from super contributions, and **when I hurt myself slipping over** at work and could not return for over 3 weeks, I should have had my medical bills and physio covered by workers comp, I also was not supplied with a copy of a contract, I just sighted policy and procedures so I thought at the time, that was legit enough. Silver*

*Years ago we had police and the governments licencing staff enter the Agency premises to check that all paperwork was in order and to ensure that our wellbeing was ensured as workers. But checking on paperwork like our police registration did not address any other issues for us as workers. It was always unsettling having authorities pass through, I am not sure if the managers and or the owner was alerted to them entering the space where we chilled out in-between jobs, but we certainly didn't know till they would arrive. I was in shock the first time I experienced their presence and then when I got home I was angry. I mean paperwork, really. We unwilling document all of our private information to work, the police and the agency both have hard copies, and **that was meant to keep us safe. It's an invasive regulation, no other worker or industry would put up with that sort of patronising and discriminating law.** I regret filling out the statement form, I had no idea it was for life and I was not told that the registration was for life. The agency was sold and I heard through other workers that **our paperwork** also was transferred to one of the two owners. **How is that ensuring safety for us as workers!** Ellie Max*

*Police registration, UGHHH, it's **the most unsafe decision for my privacy I have ever made in my life, and people say our works unsafe, I say the system is.** I wish they would just shred the whole system. The stress of registration never leaves me. Like every time I have applied for jobs in other industries, I reflect on **the stigma and discrimination of sex work** and how disclosing any overlapping skills I have from sex work may affect my chances of getting the job, then there is always the paperwork after I am successful there's the police check that I dread! One worker years ago had her registration come up as a flag, and was disclosed to her employer, she just needed a working with children card, I wonder if that will happen to me one day. I still work casually to pay usually the crazy electricity bill. Not surprisingly through years of experience I work by myself and no longer through an agency. Casey*

***I like working with other workers,** I don't like answering calls, and the agency gives me freedom to work without the hassle of organising a driver to take me to out calls. I have info that I need at the agency and on my phone for any STI symptom I need to look up. I grabbed **“the little red book”** off SWOP as well, it's my bible of info that keeps me safe. I have pretty good knowledge of transmission of BBVs and STIs, when to test as I know the risks and **the Agency keeps me safe** as well. I saw SWOP when I first arrived in NT. I told the two workers I had just started work up the road They gave me lots of important info and so did the other workers at the Agency and the manager and owner, I didn't register and I won't, for me working under agencies in the NT or Brothels down south, is how I prefer to work. I would like to see the **“red book” put into some guidelines** for new workers. I would also like to see a system similar to NSW one day in the NT. I don't feel like a criminal there, here I do and I don't think I am but the law says I am. I don't want to leave my work name or the name of the Agency, it's that sensitive, and police could look up my work name online.*

## 6.1.4d) Full decriminalisation of sex work as a model will improve worker safety, rights and public health

Decriminalisation is not licensing or registration. Sex workers want full decriminalisation!

Decriminalisation is best practice for sex workers health, safety and rights

### **Full decriminalisation will deliver a model that:**

- Reduces barriers to NT sex workers accessing health and justice services;
- Reduces fear of repercussions for sex workers/sex work industry business reporting crimes;
- Delivers best practice public health outcomes;
- Enables sex workers to access industrial and labour rights;
- Reduces stigma and discrimination against sex workers;
- Erases all laws pertaining to sex work Industry certification and licensing;
- Remove police as regulators of the sex industry;
- Repeals criminal laws specific to the sex industry;
- Regulates sex industry businesses through standard business, planning and industrial codes;
- Delivers high compliance in comparison to licencing models;
- Will not single out sex workers for specific regulation;
- Provides a low cost, whole-of-government approach to regulation;
- Provides clarity that all sex workers and Sex Work Industry business are legally able to operate;
- Does not increase size of the industry;
- Is recommended by the WHO, UNAIDS, UNFPA, the Lancet, Amnesty International;
- Allows for optimum insertion of Safe Australia and – NT Worksafe protections for workers;

## Full Decriminalisation – The evidence is in<sup>xiv</sup>

*The Lancet series on HIV and sex workers*.<sup>1</sup> has showed that decriminalisation of sex work would have the greatest effect on the course of HIV epidemics across all settings, averting 33–46% of HIV infections in the next decade.<sup>12</sup>

Decriminalisation is in line with Australia’s Eighth National HIV Strategy 2018-2022 and Fourth National Sexually Transmissible Infections Strategy 2018–2022.<sup>13, 14</sup>

There is ample support for the full decriminalisation of sex work and support is continuing to grow for the evidence affirmed best practice model of sex work regulation. Decriminalisation is supported by United Nations, UNAIDS,<sup>15</sup> UNFPA, UNDP, Amnesty International<sup>16</sup>, International Labor Office (ILO), World Health Organisation,<sup>17</sup> Lancet Medical Journal, Global Alliance Against Trafficking in Women<sup>18</sup>, Global Network of Sex Work Projects, Asia Pacific Network of Sex Workers, Scarlet Alliance, Australian Sex Workers Association, AFAO<sup>19</sup> and within Australia’s National BBV and STI Strategies,

Full decriminalisation of the sex work industry is the only legal framework that upholds sex worker human and labour rights that results in the best health outcomes. Decriminalisation has the largest and most credible evidence base of any model of sex industry law reform. It is the only way to address the discrimination that sex workers experience and to provide improved workplace health and safety conditions.

*Full decriminalisation ensures that no worker is left behind and will reduce mistreatment of sex workers and increase sex workers access to justice, human rights, and health care.*

### Decriminalisation is a substantially different approach to Licensing

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<sup>12</sup> [1](http://www.thelancet.com) *The Lancet*. (2015). *HIV and sex workers series* [online]. Available at: [www.thelancet.com](http://www.thelancet.com)

<sup>13</sup> Department of Health. (2018a). *Eighth National HIV Strategy 2018-2022*.

<http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-bbvs-1//File/HIV-Eight-NatStrategy-2018-22.pdf>. accessed 18-5-2019

<sup>14</sup> Department of Health. (2018b). *Fourth National Sexually Transmissible Infections Strategy 2018– 2022*.

<http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-bbvs1//File/STI-Fourth-Nat-Strategy-2018-22.pdf>. accessed 18-5-2019

<sup>15</sup> UNAIDS. (2009). *UNAIDS Guidance Note on HIV and Sex Work*. Joint United Nations Program on HIV/AIDS, Geneva

[http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC230\\_6\\_UNAIDS-guidance-note-HIV-sex-work\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC230_6_UNAIDS-guidance-note-HIV-sex-work_en.pdf). accessed 18-5-2019

<sup>16</sup> 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/>.

<sup>17</sup> The New WHO guidelines , in partnership with UNFPA, UNAIDS, and the Global Network of Sex Work Projects (NSWP), December 2012 [https://www.who.int/hiv/mediacentre/feature\\_story/sti\\_guidelines/en/](https://www.who.int/hiv/mediacentre/feature_story/sti_guidelines/en/)

<sup>18</sup> GAATW-IS Statement on attack on UN research calling for the decriminalisation of sex work, Global Alliance Against Trafficking in Women, October 2013 <https://www.gaatw.org/component/content/article?id=754:gaatw-is-statement-on-attack-on-un-research-calling-for-the-decriminalisation-of-sex-work> accessed 19-5-2019

<sup>19</sup> *Biomedical prevention of HIV and sex workers*, HIV Australia | Vol. 13 No. 2 | July 2015, Cameron Cox, Joel Falcon and Gemma Keegan <https://www.afao.org.au/article/biomedical-prevention-hiv-sex-workers/> accessed 13-5-2019

## Licensing:

### Licensing and registration and how they have failed

The Northern Territory is **the only jurisdiction in Australia to still have a system of police registration of sex workers**. This registration is also tied to escort agency licencing. Under the current Act one party cannot operate without the others compliance with the Act. All sex work industry workers and employers fall under an unworkable certification and licencing model in the Northern Territory.

This approach is **discriminatory, certification and licencing has, and continues to cause harm** to all Northern Territory business who operate in the sex industry and **for sex workers** that have been forced to comply with lifelong police **registration** as a prostitute, the harms **caused by breaches of privacy by, government departments, police and escort agency staff is exacerbated.**

*The level of stigma and discrimination associated with being a registered sex worker is indescribable. The internalised stigma I feel causes me such anxiety, that whenever I need to access a government department or require police assistance I have panic attacks, I imagine one day with human or computer error, my "Statutory Declaration as a prostitute" registration form, will be flagged.*

*I choose who to disclose my prior sex work to, and when. I understand from SWOP NT that the police and departments have tried to keep my very detailed information in a much more secure area than when I first registered in Alice Springs, and that a women's legal centre in Darwin helped to keep our documents confidentially contained to only special police access, but I am still all these years later unsettled. I don't trust the system really, I will sigh relief when this government can force the deletion of my details. I am positive any hard copies that agencies have had over the years has been misplaced. Who polices that? Who follows up what the many agency staff that pass through the business over the years do with old registrations. Is my registration being used for someone else? When all my information is deleted only then can I begin to have confidence in our public services. (previous work name withheld)*

The Kirby Institute's 2012 Report to the NSW Ministry of Health states that **licensing is a 'threat to public health' and should not be regarded as a viable legislative model.**

Queensland and Victoria sex industry laws have a licensing framework with some similarities to the Northern Territory for sex workers and escort agencies.

#### **The Victorian licensing model:**

- Has resulted in extremely high levels of non-compliance. There were 95 licensed brothels and up to 70 unlicensed brothels in 2006.
- In 2015 there were 88 licensed brothels and an unknown number of unlicensed brothels (police estimate that there could be up to 350 businesses operating as unlicensed brothels)
- 50% of Victorian sex workers were still operating illegally in 2012
- Has resulted in police replacing Consumer Affairs as key regulators of the sex industry in Victoria.
- Implemented the Sex Industry Coordination Unit (SICU) that is responsible for addressing the high level of illegal brothels, that has resulted in creating a group of 'clandestine operators', who fall outside work health and safety interventions and miss targeted health programs;

Evidence of the model's failure was documented in the LASH (Law and Sexual Health) report in 2012, that recommends that;

*"The licensing of sex work should not be regarded as a viable legislative response. It states that licensing is a 'threat to public health'"<sup>20</sup>*

"This is because licencing requires private sex workers to register their legal names and address on a permanent register, interfering with privacy, limiting ability to travel, and affecting access to justice in court; Licencing prevents private sex workers seeing clients at their own home/apartment or at a hotel room booked by the sex worker meaning sex workers must visit clients in their homes or a hotel room the client has booked"

### **The Queensland licencing model**

Licencing in Queensland has as resulted in extremely high levels of non-compliance.

Like the Northern Territory, a different and failed licencing system of restrictive zoning for specific business operation has resulted in over 200 brothel development applications being rejected, again business being forced to operate illegally.

This activity has resulted in the Police Prostitution Enforcement Taskforce (PETF) as the regulators of more than 80% of the Queensland sex industry.

SWOP NT through FIFO workers working in the Northern Territory and via our peer to peer referrals to Decrim QLD and Respect Inc are very concerned at how police are over reaching their powers not just with illegal massage parlours or brothels that are unable to comply with the zoning, planning and the costly licence application process, but of major concern is how police are interacting negatively with individual sex workers

Scarlet Alliance has consistently received complaints from sex workers about police treatment in QLD. This state is also considering decriminalisation, as announced by the Queensland Attorney General late 2018.

*"A spokesperson from the Attorney General's office confirmed the possible decriminalisation of sex work was currently under discussion between the Attorney-General and the Police Minister.*

*The Police Minister said that: "The Government has begun a process to refer the question of the decriminalisation of the sex worker industry and the establishment of a new regulatory framework to the Queensland Law Reform Commission"<sup>21</sup>*

Queensland through licencing has a high level of police involvement in regulation of the industry that has maximised corruption risk.

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<sup>20</sup> The Law and Sex worker Health (LASH), Professor Basil Donovan, Professor and Program Head, Kirby Institute <https://kirby.unsw.edu.au/report/nsw-sex-industry-report-2012> accessed 14-5-2019

<sup>21</sup> Queensland Government turns attention to decriminalising sex work, Police Minister Mark Ryan, ABC Capricornia By Inga Stünzner Updated 27 Oct 2018, 2:11pm, <https://www.abc.net.au/news/2018-10-27/sex-worker-laws-in-queensland-under-review/10429522> accessed 19-5-2019

## 6.2 Safety of “Independent” or “private sex workers” Clarification

“Solo Worker” is used in the discussion paper briefing information to imply that the term be used dually in context of a “brothel”.

SWOP NT and SWRG notes that the intention of the definition should have been defined as **“solo worker is one worker”, not a brothel**”. SWOP NT and The SWRG reject the use of the term in the discussion papers context, it is misleading.

A more accurate term is **“Independent” or “private” sex workers**.

Independent or private sex workers have the sole authority over their work. Private workers work collectively and alone.

### 6.2.1 Safety of solo sex workers

Private or Independent sex workers

*6.2.1a) should solo workers be able to work with other solo workers, or employ driver or security personnel?*

*6.2.1b) should solo workers be able to offer and deliver their services from their personal residential address?*

**Private or Independent sex workers** in the Northern Territory under the Act **are mandated to work alone**, out of hotels that are serviced daily or from their client’s accommodation.

Private sex workers in the Northern Territory choose many paths to enable safety at work.

**Technically, private sex workers under the Act are restricted from;**

- Working with other private workers
- Paying a fee to an agent or receptionist to screen clients calls, take bookings, or confirm arrival and departure times
- Paying a fee to a driver to provide secure transport to and from jobs.
- Paying security to be present when performing X rated shows and other services, for group bookings, with more than one client, for example for “bucks parties” that may include additionally “private lap dance sessions’
- Texting other sex workers to assist with monitoring when each other commences and finishes a service.
- Rent private accommodation, share costs, to reduce isolation and to have peer support
- Working collectively with other workers, who are not in a management or employment relationship
- Taking a booking inside the hotel room where the provision of service is to take place.

As all areas above reflect the reality of how some private workers currently operate, **private workers do not even have to be in the same location to be criminalised with working with another sex worker or person under the Act**. It is appalling that just sending a text message as a safety precaution to another person is a criminal offence under the Act

Not all private sex workers want to or will always work with another sex worker in same premises. However, in the instance that a private worker should choose to do so, they should be able to, and **should not be subjected to harassment, entrapment, and criminalisation as a consequence.**

Nor should any sex worker be prevented from applying **work health and safety strategies, that sex workers over time, have culturally developed.**

Not surprisingly some private workers who choose to work full time have over the years **invested in hotel chains and apartments.** For some workers the hotel apartment is also home. The hotels that enable public investment are often, sufficiently staffed, have security cameras to monitor guests and residences within the building. These large businesses that do not discriminate against sex workers are also more likely to be sex worker friendly, staff and management of these hotels are respectful of other private business such as those of accountants, consultants that also operate from apartments that are residences.

Currently a **“private worker”** who works **“independently”** under the Act, who operates under an Australian Business Number (ABN) is not afforded the same rights under the ABN definition of **“Sole Trader”** as other workers in Australia who use an ABN to trade independently or as a subcontractor

*“A sole trader business structure is a person trading as the individual legally responsible for all aspects of the business. This includes any debts and losses, which can't be shared with others. This is the simplest, and relatively inexpensive business structure that you can choose when starting a business in Australia. As a sole trader, you'll generally make all the decisions about starting and running your business, although you can employ people to help you.”<sup>22</sup>*

## Cooperative work

Just like other independent business, private workers may wish to partner with another workers' business to provide services to one or more clients together.

Other jurisdictions allow for sex workers to legally work together in Tasmania, New Zealand and across NSW.

Sex workers who have chosen to work collectively have reported;

**Greater flexibility, improved work health and safety, reduced overheads and a greater sense of security.**

In New Zealand up to four sex workers are able to work together under cooperative business's models.

In jurisdictions such as for example Queensland, the Northern Territory, the Australian Capital Territory, and South Australia where sex workers must work alone or illegally, sex workers have reported frequent police raids, entrapment, harassment and arrest. These private sex workers report being forced to work longer hours in order to cover the costs of operating out of hotels and reduced control over their work and safety strategies.

***SWOP NT and SWRG recommend that private and independent workers be able to work in line with other private business, from home or from other rented accommodation to provide services.***

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<sup>22</sup> Sole trader, definition, Key Aspects of Sole Trader Structure. Last Updated: 14 August 2018  
<https://www.business.gov.au/Planning/Business-structures-and-types/Business-structures/Sole-trader> accessed 18-5-2019

### 6.2.1c) how could this be regulated?

Requiring home based private sex workers to be subject to the same requirements as brothels or to registration conditions not required of any other home occupation is discriminatory and will continue to foster stigma against sex workers.

Enforcing unnecessary and discriminatory regulation will create an inevitable underclass of 'illegal' sex workers who are unable to comply with restrictive and invasive registration systems and who face significant barriers to accessing essential support, services and justice, such as reporting crime to the police.

Research from NSW has demonstrated that there are minimal amenity and safety impacts to the community because of home-based private sex workers.

### 6.2.1d) what other protections and rights should be considered for solo workers?

SWOP NT and the SWRG recommend that private workers be able to work from spaces that other private workers in other industries can access.

*“Independent sex worker business models offer the client privacy, confidentiality and discretion. Sex work businesses from home are predictably low amenity impact, and neighbours are unaware of the activity. This is in part because sex worker clients do not want to draw attention to themselves either.*

*Research in NSW by Eva Cox at the University of Technology Sydney found that neighbours did not know when they had sex workers living near them:*

*“Firstly, in all the blocks in Woollahra and Marrickville, the respondents had quite a limited knowledge of home businesses operating in the area....*

*A consistent – and important factor to note – is that no respondent identified home based sex workers currently living and working in the area, not even in those areas where home-based sex workers was known to operate. The most that can be said is that one respondent in Paddington was able to identify a previous home-based sex worker who had since left the area, and another resident was able to identify a brothel that had closed down.*

*An interesting point arising out of the Marrickville research was that one in five respondents said that they liked the idea of neighbours working from home as it meant they could keep an eye on the street and/or their home.*

*The last thing to note about the awareness of home businesses is the responses to the question on when home-based businesses should need to receive or seek council approval. The majority of respondents did not think that it was always necessary for home businesses to seek council approval, with most respondents suggesting that approval should be required where the home business caused general disturbance, noise or traffic problems.*

*SWOP NT and the SWRG and Respect Inc and DecrimQLD recommend independent sex workers should be permitted to work with other sex workers, and with auxiliary sub-contractors.*

*Independent sex workers should be able to work in the same ways as other home-based or small-businesses in the Northern Territory. As the discussion paper discusses, being forced to work alone makes sex workers vulnerable to theft, violence, and attempted deprivation of liberty. The NT Planning Scheme and the ATO allow for independent sex workers to work with other independent sex workers. Like other small business, employing a driver, receptionist, cleaner, accountant or security personnel is regulated by the ATO.*

*The current system of police registration of sex workers in the Northern Territory has been noted in the discussion paper as a stigmatising barrier to sex workers later in life.*

*Registration is not an effective form of regulation. Sex workers do not register willingly, and many avoid registration. Other jurisdictions in Australia have found that registration for independent sex workers is ineffective. For example, it was tried in the ACT for more than a decade, however the uptake was so low it was a failure and eventually repealed. In Victoria there is a system of registration for independent sex workers, which has not been supported or engaged in by the sex worker community. Replicating these failures must be avoided by the NT Government. Currently Western Australia, South Australia, Tasmania, ACT, Queensland and Northern Territory do not have a registration system for independent sex workers.*

*Independent sex workers use an ABN for small business purposes, regulated by the ATO. An independent sex worker expecting to earn above \$75,000 in a financial year is also required to register for G.S.T with the ATO.<sup>23</sup>*

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<sup>23</sup> Adapted information from Respect Inc and #DecrimQLD, submission, in response to the Discussion Paper Reforming Regulation of the Sex Industry in the Northern Territory.

### 6.3.1 Sex Worker certification/registration with police

*Should workers have to register with Police to engage in sexual services?*

SWOP NT and the SWRG have documented detailed responses as a closed report to support this submission in relation to;

- The **“life-long”** registration of sex workers with the Commissioner of Police, documentation held with senior police within the **Series Crimes Unit**.
- Government Departments and the Police Liaison Officers – **SWOP NT case studies NT sex workers**
- Privacy and confidentiality – **Dissemination of sex workers registration documents**, escort agencies and Government Departments – **SWOP NT case studies NT sex workers**
- **Raids** on premises where sex workers may or may not work- **Impacts** of local police and border force

***The SWOP NT and the SWRG have briefed the Minister, the Hon Natasha Fyles, in face to face meetings over the last two years of the immediate and long-term negative impacts of sex worker registration with police. More information from sex workers is available on request***

*“Here’s my perspective on registration with the police.... When I decided to do some sex work I had no idea that registering with the police would haunt me afterwards. Being pulled over by the police my sex worker status came up as a flag and was mentioned by the officer during a standard traffic stop. How’s that? And what did sex work have to do with driving a car anyway? Also having to register with the police did not provide me with any form of safety as a worker. The agency did not have to look out for me and I still had to know how to protect myself if the worse came to worse and the client turned violent. The whole registration thing really is a big furfy and should be abolished.” Steve*

*Should registration information be destroyed once the sex worker leaves the industry?*

***SWOP NT and the SWRG call on the Northern Territory Government (NTG) to expunge sex work industry private registration information held in government departments for specialised licencing and sex workers “Declaration of a Prostitute” information with the NT Commission of Police.***

*The current requirement for sex workers working for a Northern Territory escort agency to register with police is draconian legislation that is not matched to current approaches protecting workers human and civil rights and must be repealed.*

*For over a century system that require licensing or registration of sex workers have consistently failed – most jurisdictions that once had individual sex worker registration systems have abandoned them. In 2018, the Australian Capital Territory amended its legislation to remove the registration/certification of individual sex workers. Only 14 sex workers had ever registered since the laws were created in 1994 - demonstrating the failure of the registration/certification approach. Police registration of individual sex workers in Western Australia was abandoned in 2000. Whenever this approach has been implemented most sex workers remain unlicensed or unregistered, criminal codes remain in force, leaving police as the regulators of the non-compliant sex workers.*

*We note there are references within the discussion paper to continuing some form of licensing, registration or certification. It should be recognised NSW research on this topic found:*

*“Licensing systems are all expensive and difficult to administer, and they always generate an unlicensed underclass. That underclass is wary of and avoids surveillance systems and public health services: the current systems in Queensland and Victoria confirm this fact. Thus, licensing is a threat to public health.”*

*Royal Commissions into Police Corruption (Wood and Fitzgerald) have found police involvement in the regulation of the sex industry is linked to police corruption. Police corruption was one of the main reasons for the decriminalisation of the sex industry in New South Wales.*

*The current Northern Territory registration/certification system is extreme in that it requires excessive levels of information about the individual sex worker. It is a system for the surveillance of sex workers by police, over and above what is acceptable for other members of the communities and workers within other industries raising both privacy and human rights concerns. There is no value to the individual sex worker from a registration or certification process in fact it has been damaging for some sex workers. There are examples of this record being subpoenaed by courts or in family law disputes and generally used as evidence resulting in stigma or discrimination against the individual who worked as a sex worker.*

*To ensure current and previous sex workers in the Northern Territory are protected from future and further stigma and discrimination a process to delete all previous records of individual sex worker registration/certification will need to be developed, and implemented, as part of changes to the Northern Territory laws.*

*SWOP NT and the SWRG along with Respect Inc and #DecrimQLD recommend against the government including registration/certification of sex workers with either government body or police in the legislative changes resulting from this process. To adopt this approach would be to adopt a model that is outdated and has failed in other jurisdictions.<sup>24</sup>*

## 6.4.1 Illegal Brothels

*Should brothels be decriminalised in the Northern Territory?*

*What model of regulation would be most appropriate for the Northern Territory?*

*Should brothels operate like any other business under existing laws?*

Illegal brothels in the Northern Territory are operating as small business that comply with Australian Taxation Office, but are currently unable to achieve legal status are brothels are criminalised under the Act

The full decriminalisation of sex work is the only workable solution to ensuring that Sex Work Industry business inclusive of brothels, massage parlours, and escort agencies so they are able to take advantage of the rights and responsibilities that accompany fair regulation.

It is the Northern Territory laws themselves that have created illegal brothels. Brothels will exist in a range of forms, regardless of the legislation.

Decriminalisation includes all these premises into existing regulation, thus reducing barriers and resulting in high compliance.

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<sup>24</sup> Adapted information from Respect Inc and #DecrimQLD, submission, in response to the Discussion Paper Reforming Regulation of the Sex Industry in the Northern Territory

## 6.4.4 Brothels decriminalised in the Northern Territory

SWOP NT and the SWRG call on the government to for the full decriminalisation of the sex industry in the Northern Territory. This would result in brothels, massage parlours providing sexual services and escort agencies that are currently unable to register, to be able trade as business transparently.

Any model of regulation that does not seek to include within the compliant sector the full range of sex industry business models will result in a two-tiered system creating a criminalised sector.

SWOP NT call on the government to regulate not licence Brothel, parlour and escort agency small businesses

- Decriminalisation will allow for clarity for the clientele of services as the business will be able to advertise
- Sex workers who work for Escort Agencies, Brothels and Massage parlours offering sexual services will not have to try and state service boundaries under clandestine methods, services will be clear, and boundaries will be clearer for clients of conditions of service provision
- Escort agencies will not be required to register sex workers nor require specialised licencing and will be able to advertise services Brothels will be able to transparently provide full service on premises, specialised BDSM areas and escort services, relaxation and erotic massage to clients.
- Massage parlours will be able to transparently provide erotic massage relaxation, and extra for sexual services.

## 6.4.4 18+precinct

*Should consideration be given to 18+ only 'precincts'?*

SWOP NT and the SWRG recommend against limiting sex work activity to an 18+ only precinct.

It is a safety risk to sex workers to limit sex work activity to certain precincts or areas. For sex workers who work at night, this risk is greater.

In other states and territories there have been trials of limiting sex work into industrial zones. In the ACT this has not worked for independent sex workers, who prefer to work from residential areas.

*I have worked in Canberra in the early 90's at brothels in both Fyshwick and in Mitchell. Although I like working at the time in those business and the conditions were pretty good (apart from the 50/50 cut out of every job I provided to the business). I did not like being out in the boondocks of industrial areas. Both areas at the time had very little infrastructure and no other business apart from petrol stations were open at night. The areas were poorly lit with no public transport options. Catching a cab meant that I did not get to decide if I disclosed what my work was, I was automatically outed. Also there were at times tours for tourists to come and view the areas to check out the "Red light area" that's not what sex workers want. The population is relatively small in the NT. I often travel around the NT for work. I certainly don't want to be confined to out of town spaces outside of Darwin, Alice Springs or Katherine to work. I think where the parlours and brothels are operating now is fine. They are in the towards the centre of towns and that's safer for me. (work name withheld)*

Sex workers in the Northern Territory will choose the location of their work activity based on privacy, confidentiality, safety and ease of access for clients. Clients when seeing an independent sex worker are expecting low-key settings that are not recognisable from street-level as sex work locations. Privacy is an essential part of what independent sex workers are offering to clients. As such, clients will continue to seek private, low-key, residential settings regardless of the kinds of limitations new regulations put into force.

The policing of a segregated workforce is unworkable. It is against the spirit of the discussion paper to have a regulatory system that allows sex work only a specified zone or area. The approach would mean that a vast majority sex worker would be working outside a regulatory framework.

There is no evidence to support the segregation of sex work activity to '18+ precinct areas. To create such barriers is in opposition to the decriminalisation of sex work, which seeks to permit all sex workers the rights and responsibilities of regulation.

## 7.1 Full decriminalisation of Sex Work Bill

*What would a new Act look like?*

SWOP NT and the SWRG do **not recommend amending the current Act** or drafting a new Act.

SWOP NT recommends the NTG follow South Australia in drafting “**A Bill**” that allows for the intersection of;

- The repeal of; *Northern Territory Prostitution Regulation Act, 1992*
- The expungement of; “Statutes of Declaration of Prostitute” sex worker files- Commission of Police
- The expungement of spent convictions in relation to *The Act*
- Existing Northern Territory Regulatory bodies and laws
- Work Health and Safety Protections - Safe Work-Australia - NT Worksafe Regulations
- Anti-Discrimination Protections – “sex work” and “sex worker” inserted as main attributes
- 

All of the above are essential components of any full **Decriminalisation of Sex Work Bill**.

### 7.1.3 Related to 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>25</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>25</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>26</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<sup>27</sup>

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

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

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<sup>26</sup> Scarlet Alliance, Red Book online, version 4 **RED BOOK. STI & BBV RESOURCES FOR SEX WORKERS BY SEX WORKERS**

<https://redbook.scarletalliance.org.au/> accessed 12-5-2019

<sup>27</sup>Scarlet Alliance, Evidence based publications 12-5-2019 <http://www.scarletalliance.org.au/pub/acesed> accessed 12-5-2019

## Barriers for sex workers accessing health services BBV/STI/Strategies - 2018-22

- Stigma and discrimination
- Criminalisation
- Licensing
- Registration
- Mandatory testing
- Racism
- Incarceration
- Lack of appropriately targeted services

### 7.1.8 Zoning

*Are there locations where brothels should not be permitted to be established?*

#### Zones, 18+ precincts or relegated to isolated industrial areas

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 public transport, poor lighting and no amenities. This risk is exacerbated for the large number of sex workers who work at night<sup>28</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>28</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)

## 7.1.8 Other proposals for improvement of sex workers safety and wellbeing

Are there any other proposals the Government should consider to improve the safety and wellbeing of workers?

A decriminalised system amplifies opportunities for outreach, magnifies capacities for peer education, supports sex worker self-determination, maximises compliance, increases transparency and minimises discrimination. Licensing or registration creates significant negative impacts on sex workers.

### **SWOP NT and SWRG**

**Recommendation 2: "Action 4:** 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 to intersect existing Territory and National regulations for Sex Work Industry business compliance'

## 7.1.8 Anti-discrimination protection for sex workers

### **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. 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>29</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>30</sup>

SWOP NT and the SWRG submitted case studies of NT sex workers, which are inclusive of discriminatory provisions in current legislation

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<sup>29</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 27-5-2019

<sup>30</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

**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”

#### **Future Legislative Reforms**

**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”

## 7.1.8 Work Health and Safety Laws

Should workers in the sex industry be bound by different workplace health and safety laws to other employees and self-employed persons?

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 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<sup>xv</sup>
- 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<sup>31</sup>

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<sup>31</sup> 6.1.4a) Decriminalised Model in the Northern Territory, SWOP NT and SWRG, this submission to Reform the Laws for sex workers in the Northern Territory

SWOP NT has a long term relationship with NT Worksafe.

In 2008 Worksafe Inspectors identified areas within the NT work health and safety legislation and its regulations that sex workers would be able to be covered under within. 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 safe 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>32</sup>

An equitable 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)

SWOP NT and the SWRG provide closed sex worker only workshops whereby local sex workers 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<sup>33</sup>

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.

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<sup>32</sup> Handbook Guide for the NT Professional Seafood Industry produced by the NT Seafood Council, Safe Business Systems NT and NT WorkSafe. [http://www.ntsc.com.au/wp-content/uploads/WHS\\_Handbook\\_Final\\_Web.pdf](http://www.ntsc.com.au/wp-content/uploads/WHS_Handbook_Final_Web.pdf)

<sup>33</sup> The Scarlet Alliance National Training and Assessment Program (SANTAP) <http://www.scarletalliance.org.au/SANTAP/> accessed 18-5-2019

## (8.2.1) Street based sex work

SWOP NT and the SWRG state that no sex worker will be left behind or sacrificed in pursuing law reform in the NT.

The full decriminalisation of sex work for all workers is achievable and is inclusive of street-based sex workers. Street based sex workers are not 'protected' by continuing prohibition or control

Prohibition or laws seeking to 'control' street-based sex workers are ineffective and create increased risks and barriers for sex workers. Sex workers' safety is placed at risk as they must prioritise evasion of authorities over safety strategies. These approaches limit the ability for sex workers to safely screen clients and negotiate their services. Criminalisation and police enforcement disrupts peer networks and displaces sex workers from usual places of work, making it difficult for outreach services to find people and hindering sex workers ability to organise. It creates significant barriers for street-based sex workers to report crime to the police in fear that reporting will result in charges being laid against them.

*"The decriminalised NSW sex industry model is often cited as an example of best practise, evidence-based regulation by sex workers and our allies in undertaking law reform, human rights and HIV prevention advocacy campaigns. However, under the NSW model, street based sex work is still partially criminalised, with street based sex workers restricted from working within view of residential dwellings, and/ or a church, school, hospital and other public amenities."*<sup>34</sup>

*"Safe Houses: Safe houses have existed in one form or another historically in Kings Cross and enable street-based sex workers access to a safe and clean working space where they can take their client. The room with shower facilities and safe sex equipment is often paid for by the half hour or hour at a nominal fee. This option has now been adopted by one council in NSW allowed the legal development of two safe houses"*<sup>35</sup>

*"In 2003, New Zealand decriminalised sex work through the enactment of the Prostitution Reform Act. Many opponents to this legislation predicted that there would be increasing numbers of people entering sex work, especially in the street-based sector. The debates within the New Zealand media following the legislation were predominantly moralistic and there were calls for the recriminalisation of the street-based sector. This study estimated the number of sex workers post-decriminalisation in five locations in New Zealand: the three main cities in which sex work takes place as well as two smaller cities. These estimations were compared to existing estimations prior to and at the time of decriminalisation. The research suggests that the Prostitution Reform Act has had little impact on the number of people working in the sex industry."*<sup>36</sup>

***The SWOP NT and the SWRG have briefed the Minister, the Hon Natasha Fyles, in face to face meetings over the last two years of impacts on street based sex workers under criminalisation. More information from sex workers is available on request***

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<sup>34</sup>Decriminalisation of Sex Work in New South Wales, The Global Network of Sex Work Projects (NSWP), 2014 <https://www.nswp.org/timeline/event/decriminalisation-sex-work-new-south-wales> accessed 15-5-2019

<sup>35</sup>Street Based Sex Workers, statement of work, Scarlet Alliance <http://www.scarletalliance.org.au/issues/sbsw/>

<sup>36</sup> *The Impact of Decriminalisation on the Number of Sex Workers in New Zealand, Cited, Volume 38, Issue 3 July 2009, pp. 515-531, Cambridge University Press, Zealand, GILLIAN M. ABEL (a1), LISA J. FITZGERALD (a2) and CHERYL BRUNTON. Published online: 01 July 2009 (a3) <https://doi.org/10.1017/S0047279409003080> accessed 20-5-2019*

## (8.2.1) Registration/licensing does not allow monitoring of the number of brothels

Registration and licensing have never succeeded and do not provide an accurate picture of the sex industry. The majority of sex work businesses are unable to comply with the onerous requirements of licensing and are forced to operate outside of the legal framework. 50%-80% of the sex industry cannot operate/work legally in Victoria and Queensland respectively within the licensing framework. In ACT where sex workers were required to register from 1994 until the laws were repealed in August 2018, only 14 sex workers had ever registered demonstrating the failure of registration. In the Northern Territory where escort agencies require a form of licensing there are no escort agencies currently registered! In Queensland where a licensing framework has been in place for nineteen years there are only 20 licensed brothels within the entire state.

## (8.2.1b) Criminalisation and violence against sex workers

Ending violence against sex workers is ending social stigma discrimination and criminalisation

*“We stand united with sex workers across the globe to advocate for a world that does not involve violence against us purely because we are sex workers. Violence is verbal, it is physical, it is hidden and it is written in laws that criminalise us. We pledged to work towards respect and reform that will eradicate hate crimes against us”.<sup>37</sup>*

- Hate crimes are committed against sex workers in the Northern Territory
- Social stigma and discrimination contribute to the violence.
- Violence is perpetuated by stigma and discrimination because of the criminalisation of sex work and the policing and harassment of sex workers.
- Criminalisation and police regulation create barriers to sex workers seeking to access support or justice when violence is experienced and sends a message to perpetrators that sex workers can be targeted with impunity and without consequence.
- These impacts of stigma and discrimination and violence are disproportionately felt by sex workers who are transwomen, Aboriginal and or Torres Strait Islander sex workers and other sex workers of colour, street-based sex workers, workers who use alcohol and or other drugs, and migrant sex workers.

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<sup>37</sup> SWOP NT - SWRG Media Release. D17

PRESS RELEASE: 17 Dec 17 from SWOP/NT and SWRG, International Day to End Violence Against Sex Workers  
<https://www.ntahc.org.au/news/swop-nt-swrg-media-release-d17> accessed 18-5-2019

## The stigma of sex work comes with a high cost

### Systemic stigma;

- Inhibited access to basic needs, goods and services, housing and accommodation, employment opportunities and justice

### Legally complicit;

- Criminal and licensing laws create opportunities for violence where sex workers have to choose between safety and legality
- Reducing stigma requires not only legal and policy change, but cultural change
- Perpetrators of sexual violence against sex workers know that stigma, discrimination and criminality minimise reporting
- Knowledge of someone's past or current sex work can be used against them by abusive partners, as blackmail or suggesting they are unfit parents in custody cases

### We all together in the Northern Territory must support;

- The full Decriminalise sex work
- Anti-discrimination and work health safety protections
- Additional funding for peer driven or rights-based sex worker services

### Emotional costs of stigma

- External and internalised stigma impacts the mental health and emotional resilience of past and current sex workers ability to engage in advocacy.
- It is not uncommon for sex workers past and current to only disclose to each other

*“The sheer weight of stigma is an intergenerational burden passed on and held by sex workers. The greatest travesty is that stigma directs sex workers’ energies to the reactive work of responding to sensationalist headlines or political expediency and diverts it from peer education, community building and world-making – the very generative work that allows us to survive and thrive.”<sup>38</sup>*

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<sup>38</sup> The stigma of sex work comes with a high cost, August 10, 2017 5:41am AEST • Updated August 10, 2017 10:06am AEST <https://theconversation.com/the-stigma-of-sex-work-comes-with-a-high-cost-79657> accessed 18-5-2019

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- <sup>i</sup> Sex Work Laws Changing in Northern Territory, SWOP NT & Scarlet Alliance, ABC Darwin, Stateline, broadcast, 4<sup>th</sup> December, 2004 [http://www.scarletalliance.org.au/media/News\\_Item.2004-12-31.3712](http://www.scarletalliance.org.au/media/News_Item.2004-12-31.3712) accessed 18-5-2019
- <sup>ii</sup> WORLD RENOWNED, BEST PRACTICE MODEL OF SEX WORK DECRIMINALISATION TO REMAIN IN NSW 10 May 2016, [http://www.scarletalliance.org.au/media/News\\_Item.2016-05-10.1825](http://www.scarletalliance.org.au/media/News_Item.2016-05-10.1825) accessed, 12-5-2019
- <sup>iii</sup> Prostitution Law Reform New Zealand, published 10 Jul 2012, accessed 15-5-2019 <https://www.parliament.nz/resource/enNZ/00PLSocRP12051/254f439c98b85ca80feb5531896952ba9dd264e>
- <sup>iv</sup> Prostitutes Collective wants migrant sex work legalised, 2 Sept, 2018 <https://www.newshub.co.nz/home/new-zealand/2018/09/prostitutes-collective-wants-migrant-sex-work-legalised.html>, accessed 11-5-2019
- <sup>v</sup> New Zealand Government, (2008), op. cit., 13. And NSW, Donovan, B., et al., (2010), op. cit., vi. [www.afao.org.au/article/sex-work-legislation-stands-way-australias-commitments-decriminalisation-sex-workers-health-safety-rights/#n10](http://www.afao.org.au/article/sex-work-legislation-stands-way-australias-commitments-decriminalisation-sex-workers-health-safety-rights/#n10) accessed 15-5-2019
- <sup>vi</sup> Department of Treasury & Finance, Northern Territory economy <https://nteconomy.nt.gov.au/> accessed 15-5-2019
- <sup>vii</sup> Department of the Attorney-General and Justice, <https://legislation.nt.gov.au/Legislation/RETURN-TO-WORK-ACT-1986>
- <sup>viii</sup> Small Business definition Safe Work Australia, <https://www.safeworkaustralia.gov.au/small-business#small-business-a-definition>
- <sup>ix</sup> Statutes Amendment, Decriminalisation of Sex Work Bill, 2018, Introduced by Hon Tammy Franks MLC [https://www.legislation.sa.gov.au/LZ/B/CURRENT/STATUTES%20AMENDMENT%20\(DECRIMINALISATION%20OF%20SEX%20WORK\)%20BILL%202018\\_%20HON%20TAMMY%20FRANKS%20MLC.aspx](https://www.legislation.sa.gov.au/LZ/B/CURRENT/STATUTES%20AMENDMENT%20(DECRIMINALISATION%20OF%20SEX%20WORK)%20BILL%202018_%20HON%20TAMMY%20FRANKS%20MLC.aspx) accessed 12-5-2019
- <sup>x</sup> Time to Decriminalise Sex Work, Law Society South Australia, Media release, 9<sup>th</sup> May, 2018 [https://www.lawsocietysa.asn.au/LSSA/Media/Time\\_to\\_decriminalise\\_sex\\_work.aspx](https://www.lawsocietysa.asn.au/LSSA/Media/Time_to_decriminalise_sex_work.aspx) accessed 12-5-2019
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