

Justice (Decriminalising Sex Work) and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 136

Made under the

Criminal Proceeds Confiscation Act 2002

Planning Act 2016

Police Powers and Responsibilities Act 2000

Public Sector Act 2022

Public Sector Ethics Act 1994

Queensland Civil and Administrative Tribunal Act 2009

State Penalties Enforcement Act 1999

General Outline

Short Title

Justice (Decriminalising Sex Work) and Other Legislation Amendment Regulation 2024

Authorising law

Section 267 of the *Criminal Proceeds Confiscation Act 2002*

Sections 43 and 284 of the *Planning Act 2016*

Section 809 of the *Police Powers and Responsibilities Act 2000*

Section 287 of the *Public Sector Act 2022*

Section 25 of the *Public Sector Ethics Act 1994*

Section 224 of the *Queensland Civil and Administrative Tribunal Act 2009*

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024* (the Act) received assent on 9 May 2024.

The objective of the Act is to establish a legal framework that will enact a safe, decriminalised sex work industry in Queensland, while improving the health, safety, rights and legal protections for sex workers. The Act establishes a decriminalised framework for the sex work industry based on the recommendations of the Queensland Law Reform Commission (QLRC) report: *A decriminalised sex-work industry for Queensland* (the QLRC Report).

Amongst other things, the Act repeals the entirety of the *Prostitution Act 1999* (Prostitution Act) and Chapter 22A (Prostitution) of the Criminal Code.

Consequential Amendments

As a consequence of the repeal of the Prostitution Act and the provisions of the Act, the Prostitution Licensing Authority will be abolished upon commencement of the Act. Several consequential amendments are required to support commencement of the Act. References to Chapter 22A Criminal Code offences, the Prostitution Act and terms defined under that Act, including the Prostitution Licensing Authority, must therefore be omitted from the:

- *Criminal Proceeds Confiscation Regulation 2023*
- *Planning Regulation 2017* (Planning Regulation)
- *Police Powers and Responsibilities Regulation 2012*
- *Public Sector Ethics Regulation 2023*
- *Public Sector Regulation 2023*
- *Queensland Civil and Administrative Tribunal Regulation 2019*
- *State Penalties Enforcement Regulation 2014*

Planning Regulation amendments

The objective of the Planning Regulation amendments is to support the commencement of the Act and provide that sex work businesses are treated the same as any other business in the planning framework.

Achievement of policy objectives

Consequential amendments

The Justice (Decriminalising Sex Work) and Other Legislation Amendment Regulation 2024 (Amendment Regulation) makes consequential amendments to the *Criminal Proceeds Confiscation Regulation 2023*, Planning Regulation, *Police Powers and Responsibilities Regulation 2012*, *Public Sector Ethics Regulation 2023*, *Public Sector Regulation 2023*, *Queensland Civil and Administrative Tribunal Regulation 2019*, and *State Penalties Enforcement Regulation 2014* to remove references to the Prostitution Act, Prostitution Licensing Authority, and repealed offences under the Criminal Code and Prostitution Act.

Planning Regulation amendments

The Amendment Regulation amends the Planning Regulation to ensure the Queensland planning framework gives effect to the intent of the Act and achieves the policy objectives through the following amendments to:

- remove provisions for the purpose of brothels assessed against Schedule 3 of the *Prostitution Regulation 2014* in section 17, Part 3;
- insert new section 17A to limit all home-based businesses category of assessment to code assessment with assessment benchmarks to regulate the number of workers and visitors at a time;
- remove the definition of brothel as a land use term from Schedule 3;
- remove prohibitions and assessment provisions of a brothel in Schedule 10;
- amend the land use definitions of home-based business and shop in Schedule 3 to include a sex work business as an example of these uses;

- include a new administrative definition in Schedule 4 for 'sex work business' to clarify the land use definitions of home-based business and shop include sex work business;
- include new provisions in Schedule 6 to ensure a material change of use for a home-based business cannot be made assessable development where it meets certain requirements in relation to the number of workers and visitors.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of each authorising law.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation will ensure the effective operation of the Act through consequential amendments. There are no costs associated with the consequential amendments.

Any costs arising from implementation of Planning Regulation amendments, although expected to be minimal, will be met from existing resources.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

Targeted consultation has been undertaken on an overview of the Amendment Regulation.

A Summary Impact Analysis Statement (IAS) has been completed identifying that the majority of the amendments in the Amendment Regulation that remove references to legislation and offences repealed by the Act are consequential amendments that are minor and machinery in nature and do not require regulatory impact analysis. The impacts associated with the proposed amendments to the Planning Regulation (which are not considered to be significant) have been subject to regulatory impact analysis with results reported in the Summary IAS, consistent with the requirements of the Better Regulation Policy.