

This fact sheet explains what is legal and illegal in Queensland, answers frequently asked questions, and provides useful contact details.

There are 3 key pieces of legislation that regulate sex work and they are:

1. The **Prostitution\* Act (Qld) 1999** (legislates licensed brothels)
2. The **Criminal Code 1899, Chapter 22a** (deals with 'organised' prostitution)
3. The **Police Powers and Responsibilities Act 2000** (with the Criminal Code this legislates street based sex work)

\*Our preferred terminology is 'sex work'; the term 'prostitution' is used only where it is directly quoted from legislation

## How is 'prostitution' defined in the law?

Under the Criminal Code, s.229E the meaning of prostitution is:

“ A person engages in prostitution if the person engages, or offers to engage, in the provision to another person, under an arrangement of a commercial character, of any of the following activities—

- (a) sexual intercourse;
- (b) masturbation;
- (c) oral sex;
- (d) any activity, other than sexual intercourse, masturbation or oral sex, that involves the use of 1 person by another for his or her sexual satisfaction involving physical contact.”

So, to be 'prostitution' it must have all three of the following:

- Commercial character (exchange of money or something else of value)
- Sexual satisfaction
- Physical contact

**Sexual intercourse** is defined as including “either or both of the following activities:

- the penetration, to any extent, of the vagina, vulva or anus of a person by any part of the body of another person
- the penetration, to any extent, of the vagina, vulva or anus of a person, carried out by another person using an object.”

## What is legal in Queensland?

Each Australian state has its own prostitution laws. What is legal in one state is not necessarily legal in another. It is important to know what is legal and what is not so you can make informed choices about how and where to work if you don't want to take the risk of being arrested. Most of the laws in Queensland governing sex work come under the *Prostitution Act 1999* and the *Criminal Code 1899 (Chapter 22a)*.

## There are two forms of legal sex work in Queensland:

### • Private work (sole traders)

This is where a single sex worker works alone, whether it is from their home, unit, motel or hotel. Private sex workers are lawfully allowed to provide incalls and outcalls to clients provided they are working by themselves. You may not work as an escort doing outcalls for an escort agency regardless of where the agency is located (e.g. you may not work for an interstate escort agency and provide escorts in Queensland).

The only other persons who can participate in the business are persons hired to conduct the services of a bodyguard and/or driver. This can be the same person but they must be licensed under the *Security Providers Act 1993* to be both a bodyguard and driver. The bodyguard must have a Bodyguard Licence and the driver must have a Crowd Controller's Licence.

Sole traders are not allowed to have any other support staff such as receptionists or cleaners but it is legal to have someone to be a 'message taker'. That is someone who keeps track of where you are going and how long you will be but only as much as is necessary to keep you safe. The 'message taker' cannot be a sex worker themselves or take messages for more than one sex worker at a time. The 'message taker' cannot be on premises while you are working.

- **Sex work conducted in a licensed brothel**

To work in a licensed brothel, a sex worker needs to have a current sexual health certificate issued by a health professional. Copies of these certificates are required by licensees and must remain current for the time you are working at the licensed brothel. They need to be renewed every 3 months.

(See also Respect Inc Factsheet: Sexual Health and the Law)

#### **Laws on use of prophylactics (condoms, dams):**

In December 2003, an amendment to the *Prostitution Act 1999* was passed that requires all sex workers and clients to use prophylactics during sex and oral (giving and receiving). This means using condoms for penetrative sex, using condoms for giving head and using dams while receiving oral sex (anal and vaginal). Any penetration could be included (e.g. use gloves/finger cots for penetration by fingers or hands and condoms on dildos, vibrators and strap-ons).

In 2006 this law was changed so that it became illegal to 'offer' or 'ask for' sexual services without a prophylactics. Police will pose as clients to entrap sex workers into agreeing ('offering') to provide services without condoms or dams so be careful in your negotiations with new clients around safer sex practices.

#### **Laws on advertising sexual services:**

All advertising of sexual services must comply with the *Prostitution Act 1999*. This includes publishing information about your services in Queensland or elsewhere by way of television,

newspaper, radio or another form of communication.

The Prostitution Licensing Authority (PLA) has developed advertising policies for brothels and sole operators.

These policies state, among other things, that:

- you can describe yourself, including your ethnicity
- you can NOT describe the service/s you offer
- you can place a photo in your advertisement but you are limited to a head and shoulder shot
- advertising for staff is illegal.

If you are in any doubt about whether an advertisement complies with the law, contact the PLA (who may require you to submit a proposed advertisement for consideration) for advice before publishing the advertisement.

#### **What is illegal in Queensland?:**

- **Unlicensed brothels or parlours**

A list of licensed brothels is available at [www.pla.qld.gov.au](http://www.pla.qld.gov.au). If you are unsure about whether the brothel is licensed, ask to see their brothel licence issued by the PLA (or contact the PLA).

- **Two or more sex workers sharing a premises**

Even if you are not answering each other's phones or sharing clients, the fact that you are both on or share the premises makes it an illegal premise. By law, a premise includes a building or structure of any type (full use, part use or use of a group of buildings), the land or water on which the building/s or structure/s are located, and any vehicle, caravan, vessel or aircraft.

- **Soliciting in public**

Soliciting (approaching clients or loitering to attract clients) in any public places such as cafes, casinos, streets, truck stops, clubs, hotels and nightclubs is illegal under the *Prostitution Act 1999* and the *Police Powers and Responsibilities Act 2000*.

- **Escort agencies**

The only way you can work providing outcalls is as a private operator. Under the *Prostitution Act 1999*, escort agencies are illegal.

#### Massage parlours

In Queensland, it is illegal to advertise or describe yourself as providing massage if you provide any sexual service (eg. including hand relief).

- **Doubles**

Organising another sex worker to participate in a double act with you is illegal.

- **Not using prophylactics**

It is illegal in Queensland to provide any sexual service to a client without using the appropriate prophylactic.

- **Procuring prostitution**

By law, to procure prostitution means to “knowingly entice or recruit for the purposes of sexual exploitation”. It is illegal to entice a person to engage in sex work either in Queensland or elsewhere. If the person is not an adult or is an intellectually impaired person, the offender can face a maximum penalty of 14 years in jail.

- **Knowingly participating in the provision of prostitution by another person**

If you do this, directly or indirectly, you are committing a crime. This includes:

- through a company, or other entity, or through another individual
- providing financial or other resources to enable the establishment of premises from which sex work is or will be carried out
- franchising a network of sex workers as if they were operating independently
- receiving financial or other benefit from another person engaging in sex work in return for referring clients
- drivers, operators and hirers of vehicles who knowingly provide transport for sex workers or clients (a person can only drive a sex worker to a booking if they have a Crowd Controller’s Licence and only drives for one sex worker at a time)

- receiving, directing or redirecting telephone calls or other forms of messages, taking bookings or receiving money, knowing the action is in connection with sex work by another person (a message taker can only take a message to ensure the safety of the sex worker, and must not be a sex worker themselves, and can only do so for one sex worker at a time).

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**Disclaimer:**

All material in this fact sheet is provided for your information only and may not be construed as legal, medical or health advice or instruction.

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