

c2024-189A
GRNS--The Greens

LEGISLATIVE COUNCIL

Equality Legislation Amendment (LGBTIOA+) Bill 2024

Second print

Proposed amendments

No. 1 **Amendment of Anti-Discrimination Act 1977**

Page 2. Insert after line 7—

**Schedule 1AA Amendment of Anti-Discrimination Act 1977
No 48**

Part 4H

Insert before Part 5—

Part 4H Discrimination on ground of sex work

Division 1 General

50AA Definitions

In this part—

public act includes—

- (a) any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, telecasting, screening and playing of tapes or other recorded material, and
- (b) any other conduct observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, and
- (c) the distribution or dissemination of any matter to the public with knowledge the matter promotes or expresses hatred towards, serious contempt for, or severe ridicule of—
 - (i) a person on the ground the person is, or has been, a sex worker, or
 - (ii) a group of persons on the ground the members of the group are, or have been, sex workers.

sex worker means a person who provides sexual services on a commercial basis.

50AB What constitutes discrimination on ground of sex work

- (1) A person (*the perpetrator*) discriminates against another person (*the aggrieved person*) on the ground of the person is, or has been, a sex worker if the perpetrator—
 - (a) on the ground of the aggrieved person is, or has been, a sex worker or a relative or associate of the aggrieved person is, or has been, a sex worker, treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person who the perpetrator did not think is, or had been, a sex worker or who does not have a relative or associate who the perpetrator did not think is, or had been, a sex worker, or
 - (b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons who are, or have not been, a sex worker, or who do not have a relative or associate who is, or has been, a sex worker, comply or are able to comply, being a requirement which is not reasonable having regard to the circumstances and with which the aggrieved person does not or is not able to comply.
- (2) For subsection (1)(a), something is done on the ground a person is, or has been, a sex worker if it is done on any of the following grounds—
 - (a) the person is, or has been, a sex worker,
 - (b) a characteristic that appertains generally to sex workers,
 - (c) a characteristic that is generally imputed to sex workers.

Division 2 Discrimination in work

50AC Discrimination against applicants and employees

- (1) It is unlawful for an employer to discriminate against a person on the ground the person is, or has been, a sex worker—
 - (a) in the arrangements the employer makes for the purpose of determining who should be offered employment, or
 - (b) in determining who should be offered employment, or
 - (c) in the terms on which employment is offered.
- (2) It is unlawful for an employer to discriminate against an employee on the ground the person is, or has been, a sex worker—
 - (a) in the terms or conditions of employment that are afforded to the employee, or
 - (b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment, or
 - (c) by dismissing the employee or subjecting the employee to any other detriment.
- (3) Subsections (1) and (2) do not apply to employment—

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- (a) for the purposes of a private household, or
 - (b) if the number of persons employed by the employer, disregarding any persons employed within the employer's private household, does not exceed 5.
- (4) For subsection (3)(b), a corporation (*first corporation*) is regarded as the employer of the employees of another corporation which, in relation to the first corporation, is a related body corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

50AD Discrimination against commission agents

- (1) It is unlawful for a principal to discriminate against a person on the ground the person is, or has been, a sex worker—
- (a) in the arrangements the principal makes for the purpose of determining who should be engaged as a commission agent, or
 - (b) in determining who should be engaged as a commission agent, or
 - (c) in the terms on which the principal engages the person as a commission agent.
- (2) It is unlawful for a principal to discriminate against a commission agent on the ground the person is, or has been, a sex worker—
- (a) in the terms or conditions that are afforded to the commission agent, or
 - (b) by denying the commission agent access, or limiting the commission agent's access, to opportunities for promotion, transfer or training, or to any other benefits associated with the position as a commission agent, or
 - (c) by terminating the commission agent's engagement or subjecting the commission agent to any other detriment.

50AE Discrimination against contract workers

It is unlawful for a principal to discriminate against a contract worker on the ground the person is, or has been, a sex worker—

- (a) in the terms on which the contract worker is allowed to work, or
- (b) by not allowing the contract worker to work or continue to work, or
- (c) by denying the contract worker access, or limiting the contract worker's access, to any benefit associated with the work performed by the contract worker, or
- (d) by subjecting the contract worker to any other detriment.

50AF Partnerships

- (1) It is unlawful for a firm consisting of 6 or more partners, or for any one or more of 6 or more persons proposing to form themselves into a partnership, to discriminate against a person on the ground the person is, or has been, a sex worker—
- (a) in the arrangements made for the purpose of determining who should be offered a position as partner in the firm, or
 - (b) in determining who should be offered a position as partner in the firm,

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- or
- (c) in the terms on which the person is offered a position as partner in the firm.
- (2) It is unlawful for a firm consisting of 6 or more partners to discriminate against a partner on the ground the person is, or has been, a sex worker—
- (a) by denying the partner access, or limiting the partner's access, to any benefit arising from membership of the firm, or
 - (b) by expelling the partner from the firm, or
 - (c) by subjecting the partner to any other detriment.

50AG Discrimination by local government councillors

It is unlawful for any member or members of a council of a local government area when acting, whether alone or together, in the course of the member's or members' official functions to discriminate against another member of the council on the ground the person is, or has been, a sex worker.

50AH Industrial organisations

- (1) It is unlawful for an industrial organisation to discriminate on the ground the person is, or has been, a sex worker against a person who is not a member of the industrial organisation—
- (a) by refusing or failing to accept the person's application for membership, or
 - (b) in the terms on which it is prepared to admit the person to membership.
- (2) It is unlawful for an industrial organisation to discriminate against a member of the organisation on the ground the person is, or has been, a sex worker—
- (a) by denying the member access, or limiting the member's access, to any benefit provided by the organisation, or
 - (b) by depriving the member of membership or varying the terms of the membership, or
 - (c) by subjecting the member to any other detriment.

50AI Qualifying bodies

It is unlawful for an authority or a body which is empowered to confer, renew or extend an authorisation or a qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation to discriminate against a person on the ground the person is, or has been, a sex worker—

- (a) by refusing or failing to confer, renew or extend the authorisation or qualification, or
- (b) in the terms on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification, or
- (c) by withdrawing the authorisation or qualification or varying the terms or conditions on which it is held.

50AJ Employment agencies

It is unlawful for an employment agency to discriminate against a person on the ground the person is, or has been, a sex worker—

- (a) by refusing to provide the person with any of its services, or
- (b) in the terms on which it offers to provide the person with any of its services, or
- (c) in the way in which it provides the person with any of its services.

Division 3 Discrimination in other areas

50AK Education

(1) It is unlawful for an educational authority to discriminate against a person on the ground the person is, or has been, a sex worker—

- (a) by refusing or failing to accept the person's application for admission as a student, or
- (b) in the terms on which it is prepared to admit the person as a student.

(2) It is unlawful for an educational authority to discriminate against a student on the ground the person is, or has been, a sex worker—

- (a) by denying the student access, or limiting the student's access, to any benefit provided by the educational authority, or
- (b) by expelling the student or subjecting the student to any other detriment.

50AL Provision of goods and services

It is unlawful for a person who provides, whether or not for payment, goods or services to discriminate against another person on the ground the person is, or has been, a sex worker—

- (a) by refusing to provide the person with the goods or services, or
- (b) in the terms on which the other person is provided with the goods or services.

50AM Accommodation

(1) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground the person is, or has been, a sex worker—

- (a) by refusing the person's application for accommodation, or
- (b) in the terms on which the person offers the other person accommodation, or
- (c) by deferring the person's application for accommodation or giving the person a lower order of precedence in any list of applicants for that accommodation.

(2) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground the person is, or has been, a sex worker—

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- (a) by denying the person access, or limiting the person's access, to a benefit associated with accommodation occupied by the person, or
 - (b) by evicting the person or subjecting the person to any other detriment.
- (3) Nothing in this section applies to or in respect of the provision of accommodation in premises if—
- (a) the person who provides or proposes to provide the accommodation or a near relative of that person resides, and intends to continue to reside, in the premises, and
 - (b) the accommodation provided in the premises is for no more than 6 persons.

50AN Registered clubs

- (1) It is unlawful for a registered club to discriminate on the ground the person is, or has been, a sex worker against a person who is not a member of the registered club—
- (a) by refusing or failing to accept the person's application for membership of the club, or
 - (b) in the terms on which it is prepared to admit the person to membership of the club.
- (2) It is unlawful for a registered club to discriminate on the ground the person is, or has been, a sex worker against a member of the registered club—
- (a) by denying the member access, or limiting the member's access, to any benefit provided by the club, or
 - (b) by depriving the member of membership or varying the terms of the member's membership, or
 - (c) by subjecting the member to any other detriment.

Division 4 Vilification on the ground of sex work

50AO Sex work vilification unlawful

- (1) It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of—
- (a) a person on the ground the person is, or has been, a sex worker, or
 - (b) a group of persons on the ground the members of the group are, or have been, sex workers.
- (2) Nothing in this section renders unlawful—
- (a) a fair report of a public act referred to in subsection (1), or
 - (b) a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege, whether under the *Defamation Act 2005* or otherwise, in proceedings for defamation, or
 - (c) a public act, done reasonably and in good faith, for academic, artistic, scientific, research or religious discussion or instruction purposes or for other purposes in the public interest, including discussion or debate about and expositions of any act or matter.

No. 2 **Amendment of Crimes Act 1900**

Page 13, Schedule 2. Insert after line 9—

Schedule 2A Amendment of Crimes Act 1900 No 40

[1] **Part 3A, Div 8, heading**

Omit “or intersex or HIV/AIDS status”.

Insert instead “, intersex status, HIV/AIDS or sex work”.

[2] **Section 93Z, heading**

Omit “or intersex or HIV/AIDS status”.

Insert instead “, intersex status, HIV/AIDS or sex work”.

[3] **Section 93Z(1)(f) and (g)**

Omit section 93Z(1)(f). Insert instead—

(f) that the other person, or one or more members of the other group, live with HIV or AIDS,

(g) that the other person, or one or more members of the group, are or have been sex workers.

[4] **Section 93Z(2)**

Omit “subsection (1) (a)–(f)”. Insert instead “subsection (1)(a)–(g)”.

No. 3 **Amendment of Crimes (Domestic and Personal Violence) Act 2007**

Page 14, Schedule 3. Insert after line 25—

(d2) the defendant has engaged in conduct amounting to harassment in relation to the protected person being a person who engages, or has engaged, in sex work, or

No. 4 **Amendment of Crimes (Domestic and Personal Violence) Act 2007**

Page 14, Schedule 3, line 31. Omit “HIV/AIDS.”. Insert instead—

HIV/AIDS,

(e) harassment relating to the protected person being a person who engages, or has engaged, in sex work.

No. 5 **Amendment of Summary Offences Act 1988**

Page 18, Schedule 7, lines 3 and 4. Omit all words on the lines. Insert instead—

Part 3 Prostitution

Omit the part.