

Paying for Sexual services

- A person who pays, gives, offers or promises to pay or give a person money or any other form of remuneration or consideration for the purpose of engaging in sexual activity with a prostitute shall be guilty of an offence and fined €500 for first offence and €1000 for second offence.

Working Outdoors

- Sex workers are no longer subjected to the offence of solicitation in a public place under the Criminal Law (Sexual Offences) Act 1993
- Sex workers are no longer subjected to offence of loitering for the purposes of prostitution in public place under the Criminal Law (Sexual Offences) Act 1993
- Sex workers are **newly subjected to offence under Public Order Act 1994** if they are, 'acting in a manner which consists of loitering in a public place for the purpose of offering his or her services as a prostitute' and desist or fail to leave the area immediately when directed by a Garda. For this offence they can be fined and/or imprisoned for six months.
- Clients found soliciting in a public place or loitering in a public place for the purpose of soliciting remain guilty of an offence under the Criminal Law (Sexual Offences) Act 1993

Working Indoors

- Sex workers remain criminalised if found sharing the same house or apartment with another sex worker as they are considered to be keeping a brothel under the Criminal Law (Sexual Offences) Act 1993. In addition the penalties have been doubled to €5,000 and/or 12 months in prison.

The full draft of the Bill can be found here:

<https://www.oireachtas.ie/documents/bills28/bills/2015/7915/b79b15s.pdf>

Part 4 pp. 18 – 19 covers sale of sexual services

SWAI Comments and Recommendations

- SWAI acknowledge the positive step taken by the Government to remove sex workers from being criminalised under solicitation and loitering for purposes of prostitution in the Criminal Law (Sexual Offences) Act 1993. However, **we remain extremely concerned that sex workers working outdoors will be effectively criminalised under the inclusion of loitering for the purposes of selling sexual services in the Public Order Act 1994.** The penalty for desisting and not leaving an area immediately after directed by Gardai under the Public Order Act carries a penalty of a fine and/or six months in prison on the first offence. This is compared to the original solicitation offence in the Criminal Law (Sexual Offences) Act 1993 which carried a fine on first offence and a prison term only at third offence. We believe this section, S. 25 should be removed.
- We continue to express concerns that the criminalisation of the purchase of sexual services will greatly impact the safety and well being of sex workers. Criminalisation puts sex workers at risk of isolation and further danger as the power to set terms and conditions lies with person facing risk of arrest, the client. We believe it a responsibility of the Government to ensure regular and robust monitoring and evaluation of the legislation by including a review of all sections relating to prostitution in the Bill.
- We think it unacceptable that under S. 24 (b) people who are found guilty of paying for sexual services are subjected to a fine yet if the sex worker who provides the service is found guilty of working indoors with another person or for returning to a public place after being directed to leave by Gardai they can face fines and/ or a prison sentence. Section 11 of the 1993 Act must be amended to ensure no sex worker working for themselves in an apartment or house with another sex worker will be criminalised.

Proposed Amendments:

1. We propose an Amendment of Section 11 of the Criminal Law (Sexual Offences Act) of 1993 to protect indoor workers.

22. Section 11 of the Act of 1993 is amended by---

(a) The insertion of "(1)" before "A person who--", and

(b) The insertion of the following paragraph after subsection (ii):

"(2) No person shall be prosecuted for an offence under this section where

(a) the brothel is used by that person to provide his or her own sexual services, and

(b) Section 10(1) does not apply to that person."

2. We propose an Amendment to include a review of legislation related to prostitution and trafficking for sexual exploitation.

Section 24 of the 2015 Bill is amended by ---

The insertion of "(3) The Minister shall collect data to review the operation of this offence and report to the Assembly after this offence has been in effect for two years. In particular the report shall set out—(a) information on the nature and extent of prostitution connected to human trafficking including numbers of arrests and convictions during the period covered by the report in connection with an offence under this section or section 2, 4 or 5 of the Criminal Law (Human Trafficking) Act 2008;(b) the extent to which, in the opinion of the Minister, this Section has operated to reduce human trafficking; and(c) the impact of this Section on the safety and well-being of prostitutes" after 7A. (2)

Evidence

Amnesty International (2015) '32nd International Council Meeting Circular No. 18 2015 ICM circular: Draft policy on Sex Work'. http://tasmaniantimes.com/images/uploads/Circular_18_Draft_Policy_on_Sex_Work_final.pdf

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<http://www.sexworkersallianceireland.org/documents/AIsubmissions20Bill2015.pdf>

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<http://gup.ub.gu.se/records/fulltext/140671.pdf>

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Levy and Jakobsson (2014) 'Sweden's abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden's sex workers' in Criminology and Criminal Justice.

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Shannon, Kate (2014) Global epidemiology of HIV among female sex workers: influence of structural determinants, in the Lancet.

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