



Department of Justice and Community Safety

Regulation

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Ms Jane Green
Spokesperson
Vixen Collective

Email vixencollectivemelbourne@gmail.com

Dear Ms Green

***Sex Work Act 1994* amendments in Consumer Legislation Amendment Bill 2019**

Thank you for your email of 5 November 2019 to the Hon Marlene Kairouz MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, regarding amendments to the *Sex Work Act 1994* (the Act) in the Consumer Legislation Amendment Bill 2019 (the Bill) currently before Parliament. The Minister has noted your email and asked me to reply on her behalf.

I acknowledge that your organisation does not support the existence of the register created under section 24 of the Act (the exempts register). I note your organisation's position that while it exists, it is important that the data held on the exempts register be kept secure and exempt from freedom of information requests from members of the public.

To improve security of the exempts register, the amendment to the Act in the Bill provides that information on the exempts register is exempt from applications under the *Freedom of Information Act 1982*. Individuals who wish to verify their own data on the exempts register can do so by contacting the Business Licensing Authority (BLA).

In response to your inquiry, the amendments to section 87 of the Act in clause 101 of the Bill are not intended as an extension of police powers; rather, they are consequential amendments to the changes aimed at increasing security of the exempts register.

As currently drafted, section 87(2) of the Act imposes a general secrecy obligation on specified parties (police, public servants and members of the Sex Work Ministerial Advisory Committee) to not record or divulge any information about a person acquired when exercising powers or performing functions under or in connection with the Act, except in accordance with those powers or functions. This secrecy obligation is broadly drafted and does not specifically reference information from the exempts register.

The Bill amends section 87(2) to specifically include information from the exempts register under the secrecy obligation, as information that must not be recorded or divulged by specified parties outside of their powers or functions under or in connection with the Act.

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New subsection (2A) provides that a police officer does not breach the secrecy obligation if recording or divulging information from the exempts register when performing duties under or in connection with any Act. New subsection (2A) does not protect police officers from breaching the secrecy obligation if they are acting outside of their legal duties.

These amendments will have the effect of clarifying that:

- information from the exempts register is information that must not be recorded or divulged by specified persons, except in accordance with the powers and functions under or in connection with the Act
- police officers may only record or divulge information from the exempts register if the recording or divulging is carried out in the performance of their legal duties, and
- information from the exempts register is not accessible through freedom of information applications.

Thank you and I trust that this information is of assistance.

Yours sincerely



Bree Oliver

Acting Director, Regulation Policy