

FACT SHEET

Sex Work Decriminalisation Act 2022

For Sex Workers



The Sex Work Decriminalisation Act 2022 comes into effect in two stages:

- Stage 1 - the 10th of May 2022
- Stage 2 - the 1st of December 2023

Background information: Sex Work Decriminalisation Act 2022

After years of advocacy and organising by sex workers, Vixen and Scarlet Alliance welcomed the passing of the Sex Work Decriminalisation Act 2022 on the 22nd of February 2022. The new laws are intended to recognise that *sex work is work* and *our bodies are our business*, and will aim to treat the sex industry like any other industry in Victoria using standard business laws, not licensing and criminalisation. We have a right to feel safe at work, and the legislative recognition of sex work as work is the first step in achieving workplace health, safety and rights.

Victoria is now the third jurisdiction in Australia, following New South Wales and the Northern Territory, to repeal licensing and criminalising laws surrounding sex work, and to introduce a decriminalisation model.

However, these reforms will not achieve full decriminalisation. In particular, the Act includes unjust and discriminatory laws that retain criminalisation of street-based sex work in certain places and at certain times. Sex workers in Victoria have made it clear that no sex worker should be left behind, and Vixen and Scarlet Alliance will continue to fight for full decriminalisation for all sex workers.

What is changing and when?

The Sex Work Decriminalisation Act 2022 is a historic change for the sex industry in Victoria. It will mean different things for different sex workers. The legislation will be rolled out in two stages: the first stage of reforms come into effect from the 10th of May 2022, and the last stage of reforms come into effect by the 1st of December 2023, when we will finally see the repeal of the Sex Work Act 1994.

Stage 1 changes for sex workers - from 10th of May 2022

- It will no longer be an offence for sex workers to work with a sexually transmitted infection (STI) or blood borne virus (BBV). Sex workers living and working with HIV will no longer be criminalised.
- Sex workers will not have to provide sexual health certificates and undergo mandated STI testing. We will finally be able to manage our own sexual health and safety.
- It will no longer be an offence to not use condoms at work. We will be able to make choices about the services we offer based on personal risk assessment.
- Independent and private workers will no longer need a Sex Work Act (SWA) number to work and the register will no longer be in operation.
- There will be changes to advertising: allowing sex workers to describe our services and advertise using nude images.
- A protected attribute of 'profession, trade or occupation' will be included in the Equal Opportunity Act (EOA) 2010. This means that people or organisations can't legally discriminate against people based on their work, including sex work.
- The repeal of Section 62 of the EOA means that accommodation providers, including hotels and motels, cannot discriminate against sex workers by asking us to leave or calling the police if lawful sex work is occurring.

Stage 2 changes for sex workers-from 1st December 2023.

- The licensing system will be completely phased out with the repeal of the Sex Work Act 1994.
- Changes to planning controls - laws around working from home and changes regarding the BLA - will come into operation that will treat our work like any other business.
- There will be an establishment of appropriate liquor controls for the sex work businesses.
- Sex industry specific controls for brothel, escort and independent/private work in the Public Health and Wellbeing Act 2008 will be removed.

What do I need to know after May 10th 2022?

After May 10th, the Sex Work Decriminalisation Act 2022 will bring into effect several

key changes for sex workers. This will mean some sex workers will have more control over how we work, advertise our services, and how we take care of our own sexual health. But until the 1st of December 2023 (Stage 2) it will still not be legal to work independently/privately from home (incalls/hosting), or to work with more than one other sex worker. Brothels are required to be licensed until Stage 2, so sex workers in unlicensed venues might still be at risk of policing. After December 2023, street based sex work will still be criminalised in certain places at certain times. We will continue to fight for reform in this space.

- Advertising (changes in stage 1)
- Sexual health (changes in stage 1 and 2)
- Street-based sex work (slight changes, not decriminalised)
- Anti-discrimination protections (changes in stage 1)
- Working from home/Incall (changes after stage 2)
- Unlicensed brothel and massage parlour work (changes after stage 2)

Advertising

The first stage brings into effect the removal of laws in the Sex Work Act that covers advertising. This means that sex workers will no longer need to register for an SWA and will not need to include the SWA in advertisements. Sex workers will also be able to describe services in advertisements: what we do and don't offer, and describe services relating to massage. We will also be able to outline any safer sex practices we employ at work and include nude photos in our advertising.

Sexual Health

Sexual health testing and sex work certificates

After the 10th of May 2022, sex workers will no longer be required to undergo sexual health testing every 3 months, and we will not be legally required to provide sexual health certificates to workplaces. We will be given the power to determine, with the advice of healthcare professionals, how often we get tested and how we manage our own sexual health. Please refer to [this fact sheet](#) to read more about sex workers and sexual

health testing or take a look at the Scarlet Alliance [Red Book](#) for more information.

Condom use and safer sex practices

The new laws mean that after the 10th of May 2022 it won't be an offence under the *Sex Work Act 1994* for sex workers to not use condoms at work. It will still be an offence under the *Public Health and Wellbeing Act* until December 2023 for business owners (including independent/private workers) to discourage condom use, fail to provide condoms, or fail to take reasonable steps to ensure condom use between workers and clients.

Even after the second stage of reforms, business owners and workers will still have obligations under occupational health and safety law to create a safe workplace and minimise risks. However, sex workers have always been experts in our own sexual health and leaders in safer sex practices. We have a deep understanding of safer sex practices and we are well versed in navigating and managing our own sexual health.

We have always been shown to have high rates of testing outside of government mandates, and low rates of sexually transmitted infections and blood borne viruses. Please refer to [this fact sheet](#) to read more about sex workers, condom use and safer sex practices or take a look at the Scarlet Alliance [Red Book](#) for more information.

STI and BBVs

From the 10th of May 2022 it will no longer be an offence for sex workers with a sexually transmitted infection (STI) or blood borne virus (BBV), such as HIV, to work while they have an infection or virus. Treatment and management plans for sexually transmissible infections should be determined by sex workers and our doctors. We are well equipped to manage our sexual health and practice harm reduction for ourselves and our clients. Please refer to [this fact sheet](#) to read more about sex workers and STI's and BBVs or take a look at the Scarlet Alliance [Red Book](#) for more information.

Street based sex work

Street based sex work is not being fully decriminalised. The Sex Work Decriminalisation

Act 2022 means it's no longer an offence to solicit or loiter with the intent to solicit in most public places in Victoria, but from 10 May 2022, offences in the Summary Offences Act 1966 will mean that you still can't legally work at or near places of worship, schools, children's services and education and care services at specified times or at any time on certain days of the year ("prescribed days"). Refer to this [fact sheet](#) for more information on street based sex work.

- It is illegal to work at or near places of worship between 6am and 7pm and at any time on prescribed days.
- It is illegal to work at or near schools between 6am and 7pm every day
- It is illegal to work at or near children's services between 6am and 7pm every day
- It is illegal to work at or near education and care services between 6am and 7pm every day

[Prescribed days](#)

A prescribed day, for example Christmas Day, will only apply to places of worship that celebrate that holiday.

Penalties for working near a restricted place

If you are issued with an on-the-spot fine, it will usually consist of 2 penalty units, which is \$363.48. If you are charged, the penalty will depend on whether you have previously committed the same offence. It is unclear what determines a fine versus being charged.

- For a first offence, it is a fine of 10 penalty units, which is \$1,817.40, or imprisonment for 1 month.
- For a second offence, it is a fine of 30 penalty units, \$5,452.20, or imprisonment for 3 months.
- For any subsequent offences, it is a fine of 60 penalty units, \$10,904.40, or imprisonment for 6 months.

Anti-discrimination protections

From May 10 2022 a new protected attribute of 'profession, trade or occupation' has

been introduced to the Equal Opportunity Act 2010. This means that people or organisations can't legally discriminate against people based on their work, including sex work.

Also from May 10, accommodation providers, including hotels and motels, cannot discriminate against sex workers by asking us to leave or calling the police if lawful sex work is occurring.

Please note that until December 2023 working from home alone or with other workers will still be criminalised.

Independent/Private work

Unfortunately sex workers will not be able to legally work from home until after the 1st of December 2023. Incalls from home will only be legally allowed after the 1st of December 2023, after the Sex Work Act 1994 is repealed in full. To work from home until this time, [zoning and planning permit requirements still apply](#). Very few sex workers have been able to access or complete this process successfully.

From May 10 until December 1 2023, independent/private workers:

- Legally must work alone or only with one other sex worker
- Can't legally be associated with any other sex work business
- Can't legally have clients directed to you by a third party
- Can't legally direct clients on to another sex work business

Annual statements

If you are registered, and your annual statement was due before 10 May 2022, you must still submit your annual statement as directed by the Business Licensing Authority. If your annual statement is due on or after 10th May 2022, you do not have to submit your annual statement.

Working with multiple other sex workers

Working with more than one other sex worker is still criminalised by the Sex Work Act 1994 until it is repealed in full on the 1st of December 2023. Until this time, the current licensing laws are still in place. This means that from the 10th of May 2022, to be considered an ‘exempt’ sex worker you can still legally only work with one other sex worker.

If you work with more than one other sex worker, legally you must still apply for a sex work service provider licence from the Business Licensing Authority. Working with multiple other workers without a licence can incur significant penalties until the Sex Work Act 1994 is repealed in December 2023.

Unlicensed brothel and massage parlour work

Owner/operators will still be required to be licensed by the Business Licensing Authority under the Sex Work Act 1994 until the Sex Work Act 1994 is repealed in December 2023. Operating a sex work business without a licence means that penalties can be incurred, and that workplaces may be monitored for compliance by Consumer Affairs Victoria or the police. This means that sex workers in unlicensed venues might still be at risk of policing.

Only after December 1st 2023, with the repeal of the Sex Work Act 1994, will the licensing system cease to exist. Please contact Vixen if you have any questions or come into contact with police, we are here to support you.

Vixen can provide information, support, and referrals for free and confidential legal advice.

Rights and responsibilities after May 10 2022

Sexual health for sex workers

Sex workers will no longer be required to undergo mandatory sexual health testing or provide sexual health certificates. Working with a sexually transmitted infection (STI)

and blood borne virus (BBV) will no longer be criminalised. Sexual health testing options and frequency will be determined by sex workers with our health care providers based on our individual needs. Under the Public Health and Wellbeing Act 2008 (until December 2023) private/independent sex workers will still need to take reasonable steps to maintain the use of safer sex tools at work where appropriate. Until December 2023 private/independent sex workers are still classified as “exempt small owner-operators” under the *Sex Work Act 1994* and defined as a brothel or escort agency. Please refer to [this fact sheet](#) to read more about sexual health rights and responsibility.

Sexual health for owner/operators

Under the Public Health and Wellbeing Act 2008 (until December 2023) owners and operators will still need to provide condoms and lubricant, take reasonable steps to ensure condoms are being used when appropriate and not discourage or prevent sex workers from using condoms -including charging for or limiting the amount of condoms supplied. These provisions apply to all business owners, including under the current framework, independent or private sex workers. Please refer to [this fact sheet](#) to read more about sexual health rights and responsibility.

Sex work rights, discrimination, and the Equal Opportunity Act 2010

The new protected attribute of ‘profession, trade or occupation’ in the Equal Opportunity Act 2010 will mean that we can start to set a precedent around sex worker rights. However as this is a new law we will need to work together to utilise the Act in cases when people or organisations discriminate against sex workers. Please get in touch if you need any support regarding sex worker discrimination and we can support you and assist you in accessing appropriate services.

After May 10 2022 it will still be a crime under the Sex Work Act 1994 for people to engage in offensive behaviour towards sex workers in a public place, for example on the street. After this, sex workers will still have access to non sex work specific laws that apply to everyone. For example the Summary Offences Act 1966 and the Crimes Act 1958 contain offences relating to assault.

Resources:

[Vixen contact](#)

[Vixen services](#)

[Scarlet Alliance: Red book STI & BBV resources for sex workers by sex workers](#)

[Consumer Affairs Victoria: Sex work decriminalisation resources](#)

[Department of Health: Key issues - stage one health reforms](#)

[Victorian Equal Opportunity & Human Rights Commission: Profession, trade or occupation](#)