

FACT SHEET

# *Sex Work Decriminalisation Act 2022*

*For Owner/Operators*



## 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, regulating sex work through standard business laws instead of discriminatory licensing and criminalisation. Sex workers 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.

## What is changing and when?

The Sex Work Decriminalisation Act 2022 is a historic change for the sex industry in Victoria. The Act will be rolled out in two stages: the first stage of reforms come into operation from the 10th of May 2022, and the last reforms come into action by the 1st of December 2023, with the repeal of the Sex Work Act 1994.

### *Stage 1 changes - 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. Sex workers will be recognised as the experts on their own sexual health and safety.
- It will no longer be an offence under the Sex Work Act 1994 for sex workers and their clients not to use condoms at work.

### *Stage 2 changes - from 1st December 2023.*

- There will be an establishment of appropriate liquor controls for the sex work

businesses. Sex industry specific provisions in the *Public Health and Wellbeing Act 2008* will be repealed. The *Sex Work Act 1994* will be repealed in full.

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

After May 10th, the Sex Work Decriminalisation Act 2022 will bring into effect several key changes. This will mean sex workers will have more control over how they work, advertise their services, and how they take care of their own sexual health. This also means changes for owners/operators.

#### **Business Licencing**

If you own or operate a brothel or massage parlour in Victoria, after May 10 you will still be required to be licensed by the Business Licensing Authority under the Sex Work Act 1994. Only after the Sex Work Act 1994 is repealed in December 2023 will licensing cease to exist. Operating a sex work business without a licence can incur significant penalties, including imprisonment for up to 5 years, a fine of up to 1,200 [penalty units](#) or both.

#### *Payment of fees*

You must continue to pay applicable fees until the Sex Work Act 1994 is repealed in December 2023. From 1 July 2022, some fees will be reduced to zero. These fees include:

- licence and annual licence fees
- extension of time and further extension of time fees
- late payment fees
- late lodgement fees
- acting manager application fees.

Some fees will be reduced by half on 1 July 2022, with a further reduction to a quarter of their current level from 1 July 2023. These fees include:

- licence application fees
- licence amendment fees
- manager approval application fees.

The relevant fee reduction will be automatically applied if the fee becomes due after 10 May 2022. If you have already paid a licence fee or annual licence fee that applies to a period after 1 July 2022, you may be eligible for a pro rata refund.

### *Business inspections*

Consumer Affairs Victoria inspectors, police officers, and other authorised persons continue to have the power to enter and inspect your business as per the Sex Work Act 1994.

### *Brothel planning controls*

You are still required to have a valid planning permit, in accordance with the current planning requirements, to operate a brothel or any other on-premises (in-call) sex work business. The current planning scheme controls will continue until the Sex Work Act 1994 is repealed in December 2023.

### *Brothel manager approvals*

Brothel managers must have a valid approval from the Business Licensing Authority. This requirement will be repealed in Stage 2 of the reforms, which will commence in December 2023. Until then, brothel managers must keep their approval up to date.

## **Advertising**

Sex work industry advertising controls under the Sex Work Act 1994 and regulations have been repealed. This means that sex work advertising platforms will no longer need to require Victorian sex workers to include a Sex Work Act (SWA) in their ads.

Sex work businesses (including independent sex workers) are now able to:

Describe services offered or not offered in advertisements

- Use terms associated with massage in advertisements if that is a relevant description of services provided

- Include references to safer sex practices in advertisements
- Include photographs or other pictorial representations, including of nudity, in advertisements.

Businesses must still comply with the requirements of the advertising platform, as well as general rules that apply to all forms of advertising (such as under the Australian Consumer Law).

#### *Advertising job vacancies*

Sex work businesses are no longer prohibited from advertising job vacancies. This includes jobs involving sexual services. However, it continues to be a crime to deceptively recruit a person into sex work under the Crimes Act 1958. This means being clear that a job involves sex work.

### **Sexual Health**

#### *Sexual health testing and sex work certificates*

Clause 10 of the Sex Work Decriminalisation Act 2022 repeals section 20A of the Sex Work Act 1994. This means that from the 10th of May 2022 (stage 1), mandatory testing is no longer a legal requirement for sex workers, and sex workers will no longer have to undergo mandatory sexual health testing or provide sexual health certificates every 3 months. The new laws recognise the ability of sex workers to manage their own sexual health rather than mandating it by law or putting it in the hands of owner/operators.

Sex workers have always been safer sex experts and stay on top of routine testing and treatment not because of legal requirements but because their bodies are their business. Sex workers are already experts on their own sexual health. Research has shown that mandatory testing does not work, it is costly, and it reinforces the idea that sex workers are vectors of disease. Sex workers already have a high level of knowledge and implementation of safer sex practices, resulting in consistently equal or lower rates of STIs and BBVs than the general public.

#### *Condom use and safer sex practices*

Previously it was an offence for sex workers to engage in sex work without using condoms or other protective barriers. As of May 10th 2022 (stage 1) it will no longer be a criminal offence under the Sex Work Act 1994. This means that sex workers will be able to independently manage their own sexual health and safer sex practices. It will continue to be a requirement to provide a workplace that is safe and minimises risk under occupational health and safety law. Consistent condom use is a key strategy that sex workers use to prevent STIs and BBVs.

Up until the 1st of December 2023 (stage 2) the Public Health and Wellbeing Act 2008 will still be in effect. This means that while it will not be a criminal offence for an individual worker or client not to use a condom, it will still be a **legal requirement** for owner/operators to provide condoms and take reasonable steps to ensure sex workers and clients use protective barriers. While public health provision for escort agencies and brothels in the Public Health and Wellbeing Act 2008 are in effect (up until the 1st of December 2023), it is still allowed for an authorised officer to enter a premises that they believe is a brothel or escort agency for the purposes of monitoring compliance with, or investigating a contravention of the Act.

From the 1st of December 2023 (stage 2) the Public Health and Wellbeing Act 2008 will be repealed.. After this date, owner/operators will still be expected to provide personal protective equipment such as condoms and take reasonable steps to ensure their use in line with occupational health and safety obligations.

### *STI and BBVs*

Clause 9 of the Sex Work Decriminalisation Act 2022 repeals sections 19 and 20 of the Sex Work Act 1994. From the 10th of May (stage 1) it will no longer be an offence for a sex worker to work with a sexually transmissible infection or blood borne virus. This means that sex workers living and working with HIV are no longer criminalised, and it is not illegal for a worker to work with an STI or BBV. They are not required to disclose this information to you. Please refer to [this](#) fact sheet to read more about STIs and BBVs and your responsibilities.

### ***Anti-discrimination protections***

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.

### Rights and responsibilities after May 10 2022

#### *Sexual health-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. We encourage owner/operators to share appropriate resources with sex workers such as the [Red Book](#), to ensure that the work environment is safe and that sex workers are supported to manage their own sexual health with up to date information. The Red book provides information on [testing, sexually transmissible infections and blood borne viruses](#) and [safer sex tools](#).

#### 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](#)