



Decriminalisation FAQs

What is the Sex Work Decriminalisation Act 2022?

After decades of advocacy by sex workers and allies, Victoria is moving towards a decriminalised model for sex work after the Victorian Parliament passed the Sex Work Decriminalisation Bill 2021 on the 22nd of February 2022. This is the first step towards full decriminalisation of sex work in Victoria. This Bill has become the Sex Work Decriminalisation Act 2022 (the Act) which aims to recognise sex work as real work, and regulate sex work in the same way as other industries. We currently have a broad outline of how decriminalisation will be rolled out in Victoria, however some of the details of implementation are currently being confirmed so we do not currently have a complete picture of what decriminalisation will look like. Below you'll find our current best answers to some common questions. We will continue to keep the community updated as we get more information from government bodies.

Isn't sex work already decriminalised?

No. The difference between decriminalising and legalising or licensing can be a bit confusing (like the current laws!). Victoria has had a licensing system which makes some ways of working legal and others not, creating a 'two-tiered' industry where some workers are forced to work outside regulations and are more greatly stigmatised. For example street-based sex work has been criminalised completely and sex workers who want to work privately have to register with the government and follow complex rules to avoid working outside of the law, these regulations create barriers to justice, access to services and increase stigma.

Is street-based sex work still illegal?

Unfortunately, the bill has not achieved full decriminalisation as it will still be illegal to conduct street-based work in certain places and times. Any criminal charges that target sex workers create barriers to justice, compromise worker safety and access to services and falls short of the steps needed to destigmatise all forms of sex work. Between 6am and 7pm, and at all times on prescribed days, street-based sex workers will not be able to work near places of worship and schools. Due to this restriction, RhED and many other sex worker organisations believe full decriminalisation has not been achieved. We will continue to advocate for full decriminalisation so that all sex workers are afforded the same rights.

When will the changes come into effect?

Stage one of the Acts reforms will come into effect no later than **10 May 2022**. Stage one changes include:

- Sex workers will no longer be required by legislation to attend STI screening every 3 months and provide certificates to their workplace.
- Private/independent sex workers will no longer have to register with the Business Licencing Authority and obtain an SWA number.
- Services can be described in advertisements.
- Full body images can be posted in advertisements, however sex workers might be subject to other legal controls (such as advertising codes and laws).
- Sex work advertisements can be broadcast or televised (at the discretion of relevant broadcasting company and federal codes and laws).
- Vacant sex work positions can be advertised.
- Street-based sex work will be legal subject to restrictions on where it takes place.

Stage two of the reforms will come into effect no later than **December 2023**. These changes include:

- *Sex Work Act (1994)* will be completely repealed.
- Changes to planning permit requirements to sex work businesses
- Private sex workers will be able to work from home and provide incalls subject to mainstream planning requirements for home-based businesses.
- Repeal of specific brothel and escort agency provisions in the *Public Health and Wellbeing Act 2008*.

Can I work from my home?

The changes in the second stage of reform will be in effect no later than December 2023. Working from your own home will no longer be captured by the definition of a 'brothel'. This will legally allow sex workers to see clients from their own home given they meet planning requirements for other home-based businesses, such as floor area and number of workers. If you meet these requirements, typically a permit will not be required. You will also need to ensure that you comply with any conditions of your lease, if you have one.

For sex workers working from home with three or more additional workers, you will need to apply for a permit from your council. Permit information will be held by the local council and will be available on council websites for anyone to search. The listing will NOT disclose what kind of business you are running from home.

Am I allowed to work from an apartment or hotel that I have rented?

Yes. After the second stage of reforms, it will no longer be illegal to host clients at a rental apartment or hotel. While it may be legal, it is important to be aware that the discrimination sex workers have historically faced at some hotels might still be there. RhED will be available to help with support and advocacy for anyone who experiences discrimination. The Act also includes an amendment of the Equal Opportunity Act 2010 to repeal an exception permitting accommodation to be refused to persons engaging in commercial sexual services. Sex work will also be added as a protected attribute to safeguard current and former sex workers against unlawful discrimination.

Can I work from a rented apartment with other sex workers?

Yes, from December 2023, however if you are working with three or more other workers you will require a council permit as mentioned above, and will need to ensure you are complying with any conditions on your lease.

Can I detail my services in my advertising now?

Yes, this comes under the first stage of reforms. Previously Victorian sex workers were not allowed to include specific details of the services they provided. Anyone who has worked privately will know this was incredibly frustrating and meant many back and forth texts with potential clients. Sex workers will be able to describe services in detail from the outset which allows for clear boundaries, less haggling, and less admin work!

Do I still need an SWA to work privately?

No. The SWA licensing system that required all private workers to register their real name and address, will be discontinued. With the first stage of reforms, private sex workers will still need to meet the requirements to be an exempt small owner operator (and not a brothel) between the first stage of reforms and the second. The historic register is also being destroyed which means all past records of sex workers who had SWA numbers will disappear!

Why is mandatory testing being dropped?

The current system of three-monthly mandatory testing did not work and was an unnecessarily controlling measure over sex workers' health. Research shows that mandatory testing does not improve rates of STI transmission. Australian sex workers have excellent rates of condom use and sexual health knowledge and practices. Australian sex workers have the lowest rates of STIs in the world and will continue to take care of their own health without having to be forced to do so by law. To support the health and wellbeing of sex workers, there will be peer-led education and support programs as well as improved access to health care and sexual health testing that is free from stigma and discrimination.

Won't STI rates increase if we don't have to get tested every 3 months?

Prior to mandatory testing being adopted in Victoria, sex workers successfully took responsibility for their health, and there is no reason to think that workers won't continue to do so once testing is no longer mandated. NSW decriminalised sex work in 1995, and sex workers have been found to have an STI prevalence rate that is at least as low as the general population. Sex workers are still welcomed and encouraged to have sexual health check-ups as often as they would like, be it 3 months or at another frequency. Sex workers know how to look after themselves better than anyone else and are safer sex professionals. Removal of mandatory testing will put sex workers' health in their own hands - like other sexually active adults, and is a move towards dismantling the stigma that sex workers are vectors of disease. Once the Sex Work Act (1994) is repealed, the sex industry will be assisted by new public health and infection control guidance, which focuses on health promotion and harm reduction.

What do the licencing changes mean for brothels?

Licenses will no longer be required to run a brothel. It is too early to tell yet, but we expect this might mean more brothels popping up closer to residential areas which will increase visibility and make work options more diverse. Having more options around where to work will mean a broader choice of workplaces that align with your values and operate in a way that works for you. Brothels will continue to be regulated by agencies such as WorkSafe in line with other industries to ensure a safe working environment for all. Council approval will still be required so there may still be barriers to opening a sex work business and potentially businesses operating outside of regulations.

Will alcohol be sold in brothels?

The passing of the Act means that brothel owners will be able to apply to serve alcohol on premises. This does not necessarily mean all brothels will serve alcohol, just those that decide it is something they would like to offer at their business. Brothels will have to apply for liquor licences as any other business serving alcohol would have to.

Isn't this dangerous?

As you probably know, many clients attend brothels at varying levels of intoxication already. Under liquor licencing laws, it is illegal to serve someone more alcohol if they are already visibly intoxicated. Brothels will be required to operate under these laws if they are serving alcohol.

I have more questions! Can I have a chat about them?

Of course! Get in touch with our support and advocacy team at RhED at;
sexworker@sexworker.org.au

or

1800 458 752