

## The Decriminalisation of Sex Work in Victoria

### Background

Sex work was legalised in Victoria in 1994 with the Prostitution Control Act 1994, later amended and renamed the Sex Work Act 1994. It required brothels to be licensed through Consumer Affairs Victoria, but sole operators were exempt. Street sex work was illegal. What were seen as the onerous conditions of the licence was one reason for the proliferation of illegal brothels in Victoria, estimated at about 400 compared to about 90 legal ones. In 2018, the Victorian Labor Party promised a review into sex work with a view to decriminalising it. The review was initially to be carried out by the Victorian Law Reform Commission, but in late 2019, it was announced that Ms Fiona Patten MLC would conduct the review. This was despite her long and deep connection to the sex industry particularly as an advocate for sex industry businesses – brothels, strip clubs and pornographers. Ms Patten's review was never made public, nor were the full details of the recommendations on which the legislation is based.

### Sex Work Decriminalisation Bill 2021

The bill was introduced into the Lower House on 12 Oct 2021 and was passed on 28 Oct 2021 with minimum debate. Only two speeches were made. It was debated at length in the Upper House on 10 Feb 2022 and was passed with one minor amendment. On 22 Feb 2022, it returned to the Lower House and was passed. It became law when it received Royal assent on 1 Mar 2022.

The stated purpose of the Act is to reduce discrimination against and harm to sex workers and to place sex work on an equal footing with all other forms of work. The Act will be reviewed and this must commence at least 3 years after the commencement day and no later than 5 years after the commencement day. The legislation is to be implemented in two stages.

### Stage 1 (Nov/Dec 2021 and by 1 Mar 2022 at the latest)

This stage involves repealing or amending certain parts of the Sex Work Act and amending other legislation.

What has changed	What are our concerns
<b>Changes to the Sex Work Act</b>	
Section 12 is repealed. This relates to all street sex work offences.	Street work is no longer illegal. Street sex work offences are now dealt with in the Summary Offences Act 1996, and only cover prohibitions around locations -schools etc.
Section 17 relating to advertising is drastically changed. Prohibitions on describing services offered, using radio or television for advertising or using advertisements designed to recruit into the industry are all removed. The only requirement is that "A person must not publish or cause to be published an advertisement for sex work services that contravenes the regulations "	Advertisements will now be able to use more sexually explicit images. The unregulated advertising will serve to induce vulnerable women into the industry.

Sections 18 requiring the practice of safe sex with a condom is repealed.	It will be left entirely up to the women to enforce any condom use by clients. This will be very difficult as they are in a more vulnerable position especially in non-brothel situations eg street work.
Sections 19 and 20 are repealed. These sections deal with working while infected with an STD.	It is claimed that there are lower rates of STD among workers in the industry but this is a disputed statistic. Workers will no longer be able to refuse a client with an STD.
<b>Amendments to other Acts</b>	
Summary Offence Act 1996 A new section will be inserted into this Act to cover street sex work. It will prohibit soliciting or loitering for sex between the hours of 6am and 7pm in certain locations – schools, education and care services and child services premises as well as places of worship.	This ignores the fact that schools often have children on campus after 7pm – eg for concerts, parent teacher interviews etc. Also, many religious centres operate outside these hours.
Equal Opportunity Act 2010 “Profession, trade or occupation;” will be included as a protected attribute. Section 62 is repealed. “A person may refuse to provide accommodation to another person if the other person intends to use the accommodation for, or in connection with, a lawful sexual activity on a commercial basis.”	
Local Government Act 2020: A note is added that references the following section from the Act “A local law made under the Local Government Act 2020 must not be inconsistent with the purposes of this Act or undermine the purposes of this Act to decriminalise sex work and provide for the reduction of discrimination against, and harm to, sex workers. “	This could make it very difficult for local councils to deny planning applications for brothels

**Stage 2 (2 years after the commencement date or no later than 1 Dec 2023)**

This stage involves repealing the Sex Work Act and amending other legislation.

<b>What has changed</b>	<b>What are our concerns</b>
<b>Repeal of the Sex Work Act</b> The entire Sex Work Act 1994 is repealed and some of its provisions are included in other legislation.	There will no longer be any registration of sex industry businesses so it will be difficult to track growth and changes in the industry. There will be no restrictions on the size of brothels, opening the door to ‘mega brothels’ as seen in Germany.

<b>Amendments to other Acts</b>	
Crimes Act 1958: Matters relating to child sex offences that were previously in the SWA are moved to the Crimes Act	
Summary Offence Act 1966: The term 'sex work' is replaced by 'commercial sexual services'. There is a new section permitting a child over 18 months being in a place of sex work if it is a private home. Advertising restrictions are watered down	The possible exposure of young children to the clients of sex workers in a private home is very concerning and could lead to a situation where the child is at risk of sexual abuse.
Business Licensing Authority Act 1998: Contains matters relating to the Sex Work Regulation Fund	
Liquor Control Reform Act 1998: The definition of 'sexually explicit entertainment' is changed to remove the prohibition on sexual services.	This change will allow brothels to apply for a liquor licence in the same way that strip clubs can. This will mean that not only can men arrive intoxicated at a brothel, but will be able to purchase and consume alcohol while they are there. Alcohol is one of the main drivers of violence against women and this will exacerbate this.
Public Health and Wellbeing Act 2008: The entire section relating to health measures in brothels is repealed. This relates to condom use, medical examinations, clean linen and towels etc	There will be no regulation of health measures in brothels or other sex work premises.
The following Acts have been amended to incorporate matters relating to children that were in the SWA: Sentencing Act 1991 Serious Offenders Act 2018 Sex Offenders Registration Act 2004 Victoria Police Act 2013 Worker Screening Act 2020	
The following Acts have had minor amendments, mostly relating to definitions or the removal of any references to sex work etc: Australian Consumer Law and Fair Trading Act 2012 Confiscation Act 1997 Criminal Organisations Control Act 2012 Criminal Procedure Act 2009 Fortifications Act 2013 Rooming House Operators Act 2016	