

# Changes to laws

A number of important changes to the Prostitution Control Act 1994 (the 'Act') were passed by Parliament in February 2010.

Details of the amendments can be found in the Consumer Affairs Legislation Amendment Act 2010 which can be accessed at <http://www.legislation.vic.gov.au/> (search under Victorian Statute Book).

## **Summary of the changes that came into effect on 1 November 2010**

"Sex work" replaces "prostitution" in the Act.

The Prostitution Control Act 1994 has been re-named the Sex Work Act 1994. Similarly, references to the words 'prostitute' and 'prostitution' have been replaced by the words 'sex worker' and 'sex work', throughout the Act.

Licensees who were formerly called 'prostitution service providers' are now called 'sex work service providers'.

This will not affect licences/certificates that were issued to licensees or approved managers before 1 November 2010. These certificates will continue to be legally valid.

This will not affect conditions on licensees or approved managers that were imposed before 1 November 2010. These conditions on licence and approved manager certificates will continue to be legally valid.

## **"Sex work" replaces "prostitution" in the Regulations**

The titles and relevant provisions in the Prostitution Control (Fees) Regulations 2004 and the Prostitution Control Regulations 2006 have been amended to mirror the changes to the terminology in the Act.

## **Advertising**

Transitional arrangements have been made to allow sex work service providers and small owner operators (exempts) registered under s.24 of the Act to continue to use the prefix 'PCA' in advertisements until 31 October 2011. After 31 October 2011, only 'SWA' can be used in advertisements.

## **Planning permits**

Applicants for a sex work service provider licence will be able to apply for a planning permit simultaneously. Previously, only a licensee could apply for a planning permit for the operation of a brothel.

## **Clarification of duties and obligations of businesses run by more than one licensee**

When a brothel business is run by more than one licensee, the nomination of one licensee as being in effective control does not otherwise affect the duties and obligations of the other licensee(s).

## **New owner of brothel premises may be required to consent to probity checking**

Where ownership of a brothel premises changes, the new owner may be required to consent to probity checking by the Business Licensing Authority.

## **Accounts and other documents available for inspection**

Licensees must keep all documents relating to the business within the last seven years in a form which can be immediately and easily inspected by an inspector.

Licensees who have surrendered their licence or have had their licence cancelled within the last 3 years must keep all documents relating to the business within the last 7 years in a form which can be immediately and easily inspected by an inspector.

Licensees who have had their licence suspended must keep all documents relating to the business within the last 7 years in a form which can be immediately and easily inspected by an inspector.

An infringement notice may be issued for failure to comply with this requirement.

## **Summary of the changes that came into effect on 1 December 2010**

Sexual slavery signage

Licensees must display at the brothel premises prescribed signage relating to sexual slavery.

These have been distributed by Consumer Affairs Victoria.

## **Summary of changes expected later in 2011**

New requirements for small owner operators

Small owner operators (i.e. 'exempt' workers or 'private workers') will be required to submit an annual statement to the Business Licensing Authority (BLA).

BLA IT systems are currently being upgraded to accommodate the new requirements.

## **Identification requirements for licensees and approved managers**

Licensees and approved brothel managers will be required to carry photo identification while at the brothel premises and show their identification card to an authorised member of Victoria Police or an inspector appointed under the Fair Trading Act 1999. An infringement notice may be issued for failure to comply with this requirement.

Appropriate processes for gathering the required information from licensees and approved managers to generate the identification card are being developed.

Identification cards need to be returned if a licence or certificate of approval is cancelled. An infringement notice may be issued for failure to comply with this requirement.

## **New arrangements for testing for sexually transmissible infections**

The Minister for Health by Order published in the Government Gazette will now determine the required frequency of swab testing for sexually transmissible infections.

The new time periods for swab testing will be communicated in due course.

## **Inclusion of licensee in effective control on public register**

The public register will include the name of the licensee in effective control of a brothel business.

## **Permission to continue operating a sex work service providing business**

Approved brothel managers who become insolvent will be able to apply to the BLA for permission to continue to work as approved managers.

Executors, trustees, and guardians will be able to apply to the BLA for permission to operate a licensee's business for a period longer than 30 days in the event of death, insolvency, disability or incapacity of the original licensee. Executors, trustees, and guardians are allowed to operate the business for up to 30 days without having to apply for permission, but if they want to operate the business for longer than 30 days they must apply for permission within the initial 30 day period.

The Business Licensing Authority may give its permission if it is satisfied that it is not contrary to the public interest to do so. Decisions of the Business Licensing Authority under these new permission schemes are subject to review by the Victorian Civil and Administrative Tribunal.

For further information you can contact:

RhED on 1800 458 752, email [sexworker@sexworker.org.au](mailto:sexworker@sexworker.org.au) or visit [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) (search under Victorian Statute Book)

