

Authorised Version
Sex Work Regulations 2016
S.R. No. 47/2016

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
Part 1—Preliminary	1
1 Objective	1
2 Authorising provisions	2
3 Commencement	2
4 Revocation	2
5 Definitions	2
Part 2—Health and safety requirements	3
6 Sexually transmissible infection	3
7 Safety requirements	3
8 Additional safety requirements—brothels	5
9 Additional safety requirements—escort agencies	7
10 Safety matters relevant to suitability of applicants	9
Part 3—Advertising controls	10
11 Advertising controls	10
Part 4—Small owner operators	13
12 Small owner-operated sex work service providers	13
Part 5—Sexual slavery signage	14
13 Signage relating to sexual slavery	14
14 Prescribed location for display of prescribed signage	14
Part 6—Other matters	15
15 Certificate of Registrar	15
16 Infringement offences and infringement penalties	15
Schedule 1—Sex Work Act 1994	16
Schedule 2—Certificate of Registrar	17
Schedule 3—Infringement offences and infringement penalties	18
<hr/> <hr/>	
Endnotes	20

Authorised Version

STATUTORY RULES 2016

S.R. No. 47/2016

Sex Work Act 1994

Sex Work Regulations 2016

The Governor in Council makes the following Regulations:

Dated: 24 May 2016

Responsible Minister:

JANE GARRETT

Minister for Consumer Affairs, Gaming
and Liquor Regulation

ANDREW ROBINSON
Clerk of the Executive Council

Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe for the purposes of the **Sex Work Act 1994**—

- (a) a list of sexually transmissible infections;
and
- (b) requirements for the safety of persons working in a sex work business; and
- (c) safety matters relevant to the suitability of licence applicants; and
- (d) controls on advertising by sex work service providers; and
- (e) particulars to be given to the Authority by small owner-operated businesses; and

- (f) the form and location of signage regarding sexual slavery; and
- (g) the form of Registrar's certificates; and
- (h) additional infringement offences and the infringement penalties for those offences.

2 Authorising provisions

These Regulations are made under sections 18, 60A(2), 68 and 90 of the **Sex Work Act 1994**.

3 Commencement

These Regulations come into operation on 1 June 2016.

4 Revocation

The following Regulations are **revoked**—

- (a) the Sex Work Regulations 2006¹;
- (b) the Prostitution Control (Fees) and Prostitution Control Amendment Regulations 2010²;
- (c) the Prostitution Control Amendment Regulations 2010³;
- (d) the Sex Work Amendment (Infringements) Regulations 2012⁴;
- (e) the Sex Work Amendment Regulations 2013⁵.

5 Definitions

In these Regulations—

business name has the same meaning as in section 3 of the Business Names Registration Act 2011 of the Commonwealth;

the Act means the **Sex Work Act 1994**.

Part 2—Health and safety requirements

6 Sexually transmissible infection

For the purposes of the definition of *sexually transmissible infection* in section 3 of the Act, the following diseases or conditions are prescribed—

- (a) chlamydia;
- (b) chancroid;
- (c) donovanosis;
- (d) genital and anal herpes (when lesions are visible);
- (e) genital and anal warts (when lesions are visible);
- (f) gonorrhoea;
- (g) infectious syphilis;
- (h) HIV.

7 Safety requirements

- (1) If a sex worker decides not to provide, or to stop providing, sexual services because the sex worker believes a situation is potentially violent or unsafe, the sex work service provider must not—
 - (a) dispute the sex worker's decision; or
 - (b) initiate or allow punitive action against the sex worker; or
 - (c) permit another person to do anything referred to in paragraph (a) or (b).

Penalty: 40 penalty units.

- (2) If a sex worker decides not to provide, or to stop providing, sexual services because the sex worker believes a situation is potentially violent or unsafe, the approved manager must not—

- (a) dispute the sex worker's decision; or
- (b) initiate or allow punitive action against the sex worker; or
- (c) permit another person to do anything referred to in paragraph (a) or (b).

Penalty: 40 penalty units.

- (3) A sex work service provider must ensure that persons acting as receptionists or telephone receptionists for the sex work service provider's business do not—

- (a) misrepresent the qualities of any sex worker; or
- (b) negotiate on behalf of a sex worker the sexual services to be provided by the sex worker.

Penalty: 40 penalty units.

- (4) The approved manager must ensure that persons acting as receptionists or telephone receptionists for the sex work service provider's business do not—

- (a) misrepresent the qualities of any sex worker; or
- (b) negotiate on behalf of a sex worker the sexual services to be provided by the sex worker.

Penalty: 40 penalty units.

Note

The requirements of regulation 7 do not affect any duty of an employer or employee under the **Occupational Health and Safety Act 2004** or any provision under Division 10 of Part 8 of the **Public Health and Wellbeing Act 2008**.

8 Additional safety requirements—brothels

- (1) If a business is or includes a brothel, the sex work service provider must ensure that all rooms used for sex work have a concealed alarm button, or equivalent communication device, that is in working order and can be easily accessed by the sex worker throughout the delivery of sexual services.

Penalty: 40 penalty units.

- (2) If a business is or includes a brothel, the approved manager must ensure that all rooms used for sex work have a concealed alarm button, or equivalent communication device, that is in working order and can be easily accessed by the sex worker throughout the delivery of sexual services.

Penalty: 40 penalty units.

- (3) If a business is or includes a brothel, the sex work service provider must ensure that all rooms used for sex work have sufficient lighting to enable sex workers to check for readily evident signs of sexually transmissible infection.

Penalty: 40 penalty units.

- (4) If a business is or includes a brothel, the approved manager must ensure that all rooms used for sex work have sufficient lighting to enable sex workers to check for readily evident signs of sexually transmissible infection.

Penalty: 40 penalty units.

- (5) If a business is or includes a brothel, the sex work service provider must ensure that a safer-sex sign containing an illustration that depicts the whole or a portion of an adult male wearing a condom is prominently displayed in the reception area of the business and in every room used for sex work.

Penalty: 40 penalty units.

- (6) If a business is or includes a brothel, the approved manager must ensure that a safer-sex sign containing an illustration that depicts the whole or a portion of an adult male wearing a condom is prominently displayed in the reception area of the business and in every room used for sex work.

Penalty: 40 penalty units.

- (7) The sex work service provider of a brothel must ensure that a sex worker is not required to clean or disinfect any bath or shower at the premises unless—

(a) those facilities have been used by a person to whom sexual services have just been provided by that sex worker; and

(b) adequate protective clothing is provided.

Penalty: 20 penalty units.

- (8) The approved manager of a brothel must ensure that a sex worker is not required to clean or disinfect any bath or shower at the premises unless—

(a) those facilities have been used by a person to whom sexual services have just been provided by that sex worker; and

(b) adequate protective clothing is provided.

Penalty: 20 penalty units.

- (9) The sex work service provider of a brothel must ensure that no person working on the premises as a sex worker is required to clean any bath, shower, toilet or spa at the premises except as required under subregulations (7) and (8), unless—

- (a) the sex worker is employed or contracted as a cleaner; and
- (b) adequate protective clothing is provided.

Penalty: 20 penalty units.

- (10) The approved manager of a brothel must ensure that no person working on the premises as a sex worker is required to clean any bath, shower, toilet or spa at the premises except as required under subregulations (7) and (8), unless—

- (a) the sex worker is employed or contracted as a cleaner; and
- (b) adequate protective clothing is provided.

Penalty: 20 penalty units.

Note

The requirements of regulation 8 do not affect any duty of an employer or employee under the **Occupational Health and Safety Act 2004** or any provision under Division 10 of Part 8 of the **Public Health and Wellbeing Act 2008**.

9 Additional safety requirements—escort agencies

- (1) If a business is or includes an escort agency, to ensure the safety of sex workers delivering sexual services away from the business premises, the sex work service provider must—
- (a) ensure regular contact with the sex worker is maintained by requiring the sex worker to confirm the sex worker's arrival at each new premises and the completion of each visit; and
 - (b) ensure each sex worker has or is provided with a mobile telephone or an alternative communication device to enable contact with the sex work service provider or the approved manager; and

- (c) if the sex worker advises that the sex worker believes that a situation is potentially violent or unsafe, provide assistance to the sex worker as soon as possible; and
- (d) provide the sex worker with a free supply of condoms and water-based lubricant.

Penalty: 40 penalty units.

- (2) If a business is or includes an escort agency, to ensure the safety of sex workers delivering sexual services away from the business premises, the approved manager must—
 - (a) ensure regular contact with the sex worker is maintained by requiring the sex worker to confirm the sex worker's arrival at each new premises and the completion of each visit; and
 - (b) ensure each sex worker has or is provided with a mobile telephone or an alternative communication device to enable contact with the sex work service provider or the approved manager; and
 - (c) if the sex worker advises that the sex worker believes that a situation is potentially violent or unsafe, provide assistance to the sex worker as soon as possible; and
 - (d) provide the sex worker with a free supply of condoms and water-based lubricant.

Penalty: 40 penalty units.

- (3) Subregulations (1)(a), (b) and (d) and (2)(a), (b) and (d) do not apply to a sex work service provider, or an approved manager of a sex work service provider, who—

- (a) satisfies the Director that alternative arrangements in the sex work service provider's business provide greater safety; and
- (b) ensures that these alternative arrangements are followed at all times in the sex worker service provider's business.

Note

The requirements of regulation 9 do not affect any duty of an employer under the **Occupational Health and Safety Act 2004** or any provision under Division 10 of Part 8 of the **Public Health and Wellbeing Act 2008**.

10 Safety matters relevant to suitability of applicants

For the purposes of section 38(1)(d) of the Act, it is a requirement that the applicant ensures—

- (a) that all sex workers, receptionists and managers are aware of the requirements of regulations 7, 8 and 9; and
- (b) that regulations 7, 8 and 9 can and will be complied with at all times.

Part 3—Advertising controls

11 Advertising controls

- (1) Every advertisement for a business carried on by a sex work service provider must contain the letters "SWA" followed by—
 - (a) in the case of a sex work service provider who is a small owner operator exempted by section 23 of the Act from the requirement to hold a licence, the exemption number allocated to that sex work service provider by the Authority; or
 - (b) in the case of a sex work service provider who is a holder of a licence granted by the Authority under Part 3 of the Act, the licence number allocated to that sex work service provider by the Authority.
- (2) The letters referred to in subregulation (1) and either the exemption number referred to in paragraph (a) or the licence number referred to in paragraph (b) must be clearly legible in a point type no smaller than the smallest point type appearing in the advertisement, or 7 point type, whichever is the larger.
- (3) An advertisement for a business carried on by a sex work service provider must not contain a licence number or exemption number which is false, or which the provider is no longer entitled to use.
- (4) An advertisement for a business carried on by a sex work service provider must not—
 - (a) subject to subregulation (5), contain a photographic or other pictorial representation of a person unless it is restricted to the head and shoulders; or

- (b) be published through radio, television, film or video recording; or
 - (c) contain a photographic or other pictorial representation of a particular person unless that person has given written consent for that advertisement and a copy of the signed consent has been given to that person; or
 - (d) refer to the health of, or any diagnostic procedures or medical testing undertaken by, the person offering sexual services.
- (5) An advertisement for a business carried on by a sex work service provider that is published on the Internet may contain a photographic or other pictorial representation of a person which is not restricted to the head and shoulders, provided that the advertisement does not contain a photographic or other pictorial representation of—
- (a) the bare sexual organs, buttocks or anus of a person, or frontal nudity of the genital region; or
 - (b) bare breasts; or
 - (c) a sexual act or simulated sexual act; or
 - (d) a person under the age of 18 years.
- (6) An advertisement for a business carried on by a sex work service provider may—
- (a) contain references to the sexual orientation, race, colour or ethnic origin of the person offering sexual services; and
 - (b) state that safer sexual practices are engaged in and that condoms are always used.

- (7) A person must not arrange for any photograph, pictorial representation, text or other material to appear in conjunction with an advertisement for a business carried on by a sex work service provider unless that material is itself an advertisement for such a business.
- (8) An advertisement for a business carried on by a sex work service provider must not exceed a size of 18 centimetres by 13 centimetres unless—
 - (a) it appears in outdoor advertising; or
 - (b) it appears in an electronic communication; or
 - (c) it appears on the Internet.
- (9) If 2 or more advertisements for a sex work service provider are published in the same publication, apart from an advertisement referred to in subregulation (8)(a), (b) or (c), they must not form part of a unified whole which exceeds a size of 18 centimetres by 13 centimetres.

Part 4—Small owner operators

12 Small owner-operated sex work service providers

- (1) For the purposes of section 24(1) of the Act, the following particulars are prescribed—
 - (a) for each person working as a sex work service provider in the business—
 - (i) all names by which the person has been and is known; and
 - (ii) the person's date of birth; and
 - (iii) the person's residential address;
 - (b) all business names under which the sex work business will be carried on;
 - (c) the business address and all telephone numbers, and any electronic addresses used in carrying on the sex work business;
 - (d) if available, an ABN.
- (2) For the purposes of section 24(1) of the Act, if a business is or includes a brothel, the following particulars are also prescribed—
 - (a) the name and address of the owner of the premises at which the business is conducted;
 - (b) if the premises are leased, the landlord's approval and a copy of the lease;
 - (c) a copy of the planning permit granted by the responsible authority in respect of the business.

Part 5—Sexual slavery signage

13 Signage relating to sexual slavery

- (1) For the purposes of section 60A(1) of the Act, the prescribed signage is the sign set out in Schedule 1 with black print on a white background in point type no smaller than 12 point type.
- (2) The prescribed signage must include any non-English translations of the sign set out in Schedule 1—
 - (a) approved by the Director; and
 - (b) in a form approved by the Director, with black print on a white background in point type no smaller than 12 point type.

14 Prescribed location for display of prescribed signage

For the purposes of section 60A(2)(b) of the Act, the prescribed locations where the prescribed signage must be displayed are—

- (a) a conspicuous location in the reception area of the premises of the sex work service providing business from which the signage is visible to, and able to be read by, any person in the reception area; and
- (b) a conspicuous location in every room used for sex work in those premises from which the signage is visible to, and able to be read by, any person in the room.

Part 6—Other matters

15 Certificate of Registrar

For the purposes of section 89(2) of the Act, the certificate must be in the form of Schedule 2.

16 Infringement offences and infringement penalties

For the purposes of section 89A(1) of the Act—

- (a) an offence specified in column 2 of Schedule 3 is a prescribed offence in respect of which an infringement notice may be issued; and
- (b) the prescribed infringement penalty for each infringement offence is the penalty specified in column 3 of the corresponding entry of Schedule 3.

Schedule 1—Sex Work Act 1994

Regulation 13

ARE YOU AFRAID TO SAY NO TO SEX WORK?

YOU MAY BE A VICTIM OF SEXUAL SLAVERY IF

- you were lied to or tricked into sex work
- you don't get paid for doing sex work
- someone else controls your money or passport
- you owe money to someone who forces you to do sex work

The police can PROTECT and HELP you.

Call the Australian Federal Police on 131 237
or Victoria Police on 000
or email **human-trafficking-group@afp.gov.au**

If you think you or someone else is a victim call Crime Stoppers Victoria on
1800 333 000. You don't have to say your name.

Schedule 2—Certificate of Registrar

Regulation 15

Sex Work Act 1994

CERTIFICATE OF REGISTRAR

With respect to the register referred to in *section 24/section 55(1) of the **Sex Work Act 1994**, I certify that—

Dated:

Signed:

Registrar

Business Licensing Authority

*Delete if inapplicable

Schedule 3—Infringement offences and infringement penalties

Regulation 16

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Infringement offence</i>	<i>Column 3</i> <i>Infringement penalty</i>
1	An offence against section 17(1)(a) of the Act	4 penalty units
2	An offence against section 17(1)(b) of the Act	4 penalty units
3	An offence against section 17(2) of the Act	4 penalty units
4	An offence against section 17(3)(a) of the Act	4 penalty units
5	An offence against section 17(3)(b) of the Act	4 penalty units
6	An offence against section 17(4)(a) of the Act	4 penalty units
7	An offence against section 17(4)(b) of the Act	4 penalty units
8	An offence against section 21(1)(a) of the Act	5 penalty units
9	An offence against section 21(1)(b) of the Act	5 penalty units
10	An offence against section 52(4) of the Act	6 penalty units
11	An offence against section 60A(1) of the Act	1 penalty unit
12	An offence against regulation 8(1) of these Regulations	4 penalty units
13	An offence against regulation 8(2) of these Regulations	4 penalty units
14	An offence against regulation 8(3) of these Regulations	4 penalty units

Sex Work Regulations 2016
S.R. No. 47/2016

Schedule 3—Infringement offences and infringement penalties

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Infringement offence</i>	<i>Column 3</i> <i>Infringement penalty</i>
15	An offence against regulation 8(4) of these Regulations	4 penalty units
16	An offence against regulation 8(5) of these Regulations	4 penalty units
17	An offence against regulation 8(6) of these Regulations	4 penalty units



Endnotes

¹ Reg. 4(a): S.R. No. 64/2006. Reprint No. 1 as at 1 December 2010.
Reprinted to S.R. No. 106/2010. Subsequently amended by
S.R. Nos 41/2012 and 2/2013.

² Reg. 4(b): S.R. No. 97/2010.

³ Reg. 4(c): S.R. No. 106/2010.

⁴ Reg. 4(d): S.R. No. 41/2012.

⁵ Reg. 4(e): S.R. No. 2/2013.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2015 is \$151.67.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.