

Proposed changes to the Sex Work (Fees) Regulations 2014

Implementing the decriminalisation of sex work in Victoria

Sex work is being decriminalised in Victoria to ensure that every worker in the industry has the same rights and access to the entitlements and protections under law, as they would in any other job.

On Thursday 10 February 2022, the Sex Work Decriminalisation Bill 2021 (the Bill) was passed by the Legislative Council of the Victorian Parliament. The Bill will now be returned to the Legislative Assembly, which passed the Bill a first time on 28 October 2021, for a final vote and if passed will become law.

The main objective of the Bill is to decriminalise consensual sex work between adults, abolish the sex work licensing system, and instead regulate sex work businesses through mainstream regulators, such as WorkSafe, the Department of Health, and local governments. In doing so, the Bill will repeal the *Sex Work Act 1994* and make a range of consequential amendments and transitional arrangements.

Pending passage of the Bill, decriminalisation will occur in two stages. Stage One of the Bill's reforms will commence on 10 May 2022 and the Stage Two will commence on 1 December 2023.

For more detail about the status of the Bill, the sex work reforms and what will happen at each stage, please visit our website: [Decriminalising sex work in Victoria](#).

Recognising the disruption these reforms will present for the sex work industry in Victoria, government has committed to provide fee relief to licensed sex work service providers in the period leading up to the commencement of Stage Two of the reforms in December 2023. Stage Two includes repeal of the *Sex Work Act 1994*.

The [Sex Work \(Fees\) Regulations 2014](#) (the Fees Regulations) are being amended to implement the Bill (once passed) and give effect to the intended fee relief. This document sets out the proposed amendments to the Regulations.

Topics covered in the Fees Regulations and this paper are:

- Fees payable under the *Sex Work Act 1994*
- Eligibility for refunds, and method of calculating refunds, for fees paid under the *Sex Work Act 1994*.

Most fees will be waived or reduced from 1 July 2022

The majority of fees will be waived from 1 July 2022

In recognition of the impending repeal of the licensing system in December 2023, it is proposed that most fees for existing licence holders be waived.

Fees that will be waived if they become due on or after 1 July 2022 include:

- **Licence fees** (regulation 7), which are payable for the first year of the licence being granted.
- **Annual licence fees** (regulation 9), which are payable for every year after the first, to keep the licence active.
- **Extension of time fees** (regulation 10(1)), which are to request an extension of time to pay the licence fee or lodge the annual statement.
- **Further extension of time fees** (regulation 10(2)), which are to request a further extension of time to pay the licence fee or lodge the annual statement.
- **Late payment fees** (regulation 10(3)), which are incurred if the required annual fee is late.
- **Late lodgement fees** (regulation 10(4)), which are incurred if the required annual statement is late.
- **Acting manager application fees** (regulation 12), which seek approval for a manager to continue working if they become insolvent.

Some fees will have a staggered reduction over 2022 and 2023

Some fees will be retained to cover costs associated with processing new applications or amending the register of licensed sex work service providers; however, it is proposed that these fees be reduced over the transition period.

The following fees will reduce to **50% of their current level on 1 July 2022, and to 25% of their current level on 1 July 2023:**

- **Licence application fees** (regulation 6), which are to apply for a sex work service provider licence.
- **Licence amendment fees** (regulation 8), which are payable if a licensee wishes to amend their licence. For example, to update your contact details.
- **Manager approval application fees** (regulation 11), which are to apply for approval as a brothel manager, including renewals.

Fees to inspect the licence and approvals register will be retained

The **fee for a member of the public to inspect and have a copy of an entry in the register** of sex work service provider licences and approved managers (regulation 13) is 2.66 fee units (currently \$40). This fee covers costs of administering this service and will be retained in full.

Refund eligibility will be limited, and use the same calculation method

Some licensees may be eligible for a refund if they have overpaid their licence fee

A **refund of fees** (Regulation 13A), in whole or in part, may currently be provided if there are exceptional circumstances in relation to the licensee or approved manager and a refund is appropriate because of the exceptional circumstances. This was designed to enable refunds in relation to circumstances caused by the COVID-19 pandemic.

The Fees Regulations will provide that the Registrar may refund any part of a licence fee or annual licence fee as a result of the change in those fee amounts on 1 July 2022.

The calculation of these refunds will use the same calculation at Regulation 13B, that is:

$$R = A/365 \times B$$

In this formula—

R is the amount of refund; and

A is the amount paid for the licence fee under section 33(2)(d)(ia) of the Act or the annual licence fee under section 46A(1) of the Act; and

B is the number of days after [1 July 2022].


For example, if a licence fee has been paid for the period from 1 March 2022 to 28 February 2023, that licensee may be eligible for a refund for the period from 1 July 2022 until 28 February 2023.

Any other fees, including manager application or renewal fees, will not be refunded

No other fees will be eligible for a refund if they were incurred before 1 July 2022, apart from licence or annual licence fees. This is because these other fees are one-off fees.

Failure to comply with conditions may still result in cancellation of a licence or manager approval during the transition period

Penalties for non-compliance with the conditions of the *Sex Work Act 1994* will still apply until that Act is repealed in December 2023. For example, if a licensee does not comply with the requirement to lodge



an annual statement, or the subsequent notices issued by the Business Licensing Authority, the licence may be automatically cancelled under section 46C of the *Sex Work Act 1994*.

Licensees and approved managers should continue to follow directions and notices provided by the Business Licensing Authority during the transition period.