

LEGISLATION AFFECTING THE SEX INDUSTRY

Why read this information? So you can work within the confines of the law and be informed of how the various legislations impact on sex work.

DEFINITIONS.

Prostitution or sex work is defined as any sexual service in exchange for payment of any kind.

LAWS IMPACTING ON SEX WORK.

The current legislation relating to sex work in WA is the Prostitution Act 2000, the Health Act 1911, the Criminal Code 1892 and the Police Act. The Prostitution Act 2000 has provided the police with certain powers they previously did not have.

SEX WORK – GENERAL

In WA being a sex worker is legal, however some activities associated with sex work are illegal. These activities include:

- To promote any kind of employment (advertising for staff) that will induce a person to seek employment associated with the prostitution industry (Section 9 Prostitution Act).
- Keeping premises for the purposes of prostitution (Criminal Code, 209, and similar in Section 76F and Section 76G(1)(a) Police Act – live off earnings of prostitution)
- To engage in an act of prostitution (as a worker or as a client) without using a prophylactic (condom or dam). This can incur a \$5,000 fine. (Section 8 Prostitution Act).
- To seek someone to be a client for a prostitute (Section 6(3) Prostitution Act)
- To induce another person to act as a prostitute (Section 7 Prostitution Act & Section 191 Criminal Act).
- To induce a person under 18 years of age to act as a prostitute (Sections 16, 17 18 Prostitution Act)

- To engage in an act of prostitution where the client is under 18 years of age (Section 19 Prostitution Act)
- To seek someone to be a client for a prostitute (Section 6(3) Prostitution Act)
- To knowingly infect another person with a Sexually Transmissible Infection (STI) (Section 310 Health Act)

STREETWORK

As well as those mentioned previously, the following section impacts directly on street-based work and makes it illegal to:

- Engage in an act of prostitution in a public place, within hearing or in view of the public, as either a worker or as a client (Section 6(1) Prostitution Act).

Police have the powers to:

- Issue a 'move on' notice to anyone they believe intends to or is committing an offence in or in view of a public place (Section 24 Prostitution Act).
- Search and detain anyone (without a warrant) they think may be committing an offence or carrying anything that could be used as evidence if charged with an offence. (Section 25(1)(a)(b) Prostitution Act).
- Seize anything (without a warrant) they think will provide evidence of an offence. (Section 25(4) Prostitution Act).
- Enter at any time (without a warrant) any place or business where it is suspected that sex work is being carried out, and to inspect any records or articles kept there. (Section 26(1) Prostitution Act)
- Work undercover for the purpose of detecting the act of an offence (Section 35 Prostitution Act).
- Do anything (while undercover) specified in the authority given to them for this work by the Police Commissioner. The Police Officer cannot be charged and his/her evidence can

be used against the person in legal proceedings. (Section 36(4) and (5) Prostitution Act).

- Issue restraining orders against a person who could be required to move on (Section 37) (These are usually issued when the person has received several move-on notices).

PRIVATE WORKERS.

- There is nothing in the Prostitution Act specifically relating to private workers.
- We are given to understand that as long as private workers operate independently (no one else on the premises) and discreetly from their own premises and there are no children or drugs on the premises, *generally speaking* they will not be subject to police investigation, (however technically speaking the Police still do have the power to instigate investigations).
- You have to be over 18 years of age.
- All clients are to be over 18 years of age.
- Remember it is illegal to work without using prophylactics (Condoms, dams etc).

BROTHELS AND MASSAGE PARLOURS.

- Although the Containment Policy has been replaced by the new legislation, we have been given to understand by the police that brothels and massage parlours will continue to operate as they have done in the past, provided they do not breach particular laws.

Should the police suspect any of the following is happening in any parlours:

- juveniles working
- illegal immigrants working
- drugs being used on the premises
- alcohol being served without a license
- they have increased powers to act on their suspicions.

If the police receive legitimate complaints about a particular agency from the public, from surrounding businesses or other concerned parties they will also use their increased powers to act. Under these circumstances, the legislation allows police to enter a premise, seize documents, search and detain anyone suspected of an offence. They do not need a warrant to do this.

RECEPTIONISTS.

Under the Criminal Act section 213, any person who is seen to act as the manager or has the care of a place for the purposes of prostitution can be found guilty of a misdemeanour.

DRIVERS.

Under the Prostitution Act Section 25(3) the police have the power, without a warrant to stop, detain and search a vehicle they suspect on reasonable grounds, of committing an offence or carrying evidence regarding an offence.

Although legally there may be potential for charges to be laid against Receptionists and Drivers, it very rarely occurs.

Sex Worker Liaison Officer (SWLO)

*An important step forward in the
safety of sex workers.*

The WA Police Department have appointed a female Detective as the SWLO to be the point of contact for any sex workers who have been victims of serious assaults and sexual assaults. It is hoped the SWLO will make reporting assaults to Police less intimidating and traumatic, and because of this dangerous mugs who threaten your safety have a better chance of being caught and prosecuted.

Contact Magenta or SWOPWA for more details

Magenta and SWOPWA

Phone:9328 1387

Fax:9227 9606

Email:sexworker@fpwa-health.org.au
www.fpwa-health.org.au/magenta.htm

Postal address:
PO Box 8054
Perth Business Centre
WA 6849

Developed by Magenta © Family Planning
Association of WA (Inc). Sept 2004



Legislation affecting the Sex Industry

The Containment Policy is no longer in operation, this means that sex workers do not need to register with the police. If you know you have previously registered with Vice, contact Magenta for information about what has happened with this information.