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SEX WORK LAWS: SOUTH AUSTRALIA

Sex work laws are different in each state and territory of Australia.

This guide is an introduction to sex work laws in South Australia.

For more information, contact SIN: 08 8351 7626, info@sin.org.au



South Australia Sex Work Laws

In SA, sex work is mostly **criminalised**.

- Exchanging sexual services for money, rewards or favours is allowed, but **almost everything else related to sex work is illegal**
- This includes working from home, working in a brothel, street-based work, and escort services (outcalls)
- Police can enter a sex work premises at any time without a warrant.

These are the strictest anti-sex work laws in Australia. This defies evidence-based research, and fails to acknowledge the health, safety, and human rights risks posed by criminalisation.

Private work (incalls)	Criminalised.
Private work (outcalls)	Criminalised.
Establishment work (brothels etc.)	Criminalised.
Street-based sex work	Criminalised.

Private sex work - incall and outcall

Incalls

Private sex workers (also known as independent sex workers) who work from a specific place may be charged with 'brothel' offences, **even if that place is their own home or privately rented premises** (see offences for sex work establishments above). In recent years, [police have conducted raids on individual private sex workers](#) in their own homes.

Outcalls

Police currently treat outcalls as illegal. When you provide services at a client's home, hotel or motel, police consider that space to be a 'brothel.' For the latest information about enforcement practices, contact [SIN](#).

Police tactics

Police use the same entrapment tactics against private workers as they do against sex work establishments (see above). **What this means for you:** Even if you work alone from home, you can be charged with brothel offences and police can enter your home if they suspect you're doing sex work.



Brothels, escort agencies, and erotic massage premises

Brothels are **illegal** (criminalised) in SA. A 'brothel' means any place used for sex work. It can be:

- Your home (whether you rent or own it)
- A hotel or motel room
- A larger business with multiple workers
- A massage parlour
- A client's home or hotel, if a worker provides outcall services there.

Police powers to enter sex work businesses

SA Police (SAPOL) can 'at any time enter and search premises...[they suspect] on reasonable grounds to be a brothel.' (Summary Offences Act 1953).

The meaning of 'reasonable grounds' is broad and difficult to interpret. SAPOL officers have:

- entered premises based upon complaints from the public (often through Crimestoppers)
- photographed and taken video of clients and sex workers entering and exiting premises
- interrogated clients off-site
- used other criminal offences (e.g. drug use or possession of stolen property) as 'reasonable grounds' to enter and search sex work establishments.

Enforcement of sex work laws varies greatly. While authorities may sometimes tolerate the existence of brothels, workers in these businesses are always under threat of enforcement. While there isn't recent data available, police used this power over 100 times per year from 2016-2019.

SAPOL commonly 'entrap' sex workers as a way of policing sex work. In this tactic:

- a SAPOL officer will pretend to be a client and make a fake appointment with a sex worker.
- When the officer arrives at the premises, they will attempt to engage the sex worker in an incriminating discussion about sexual services and will often attempt to pay the sex worker.
- They will then contact other SAPOL officers waiting outside to enter the premises, and detain and question the sex worker(s) on premises.

Both SIN and independent legal experts believe these tactics may be illegal under SA undercover policing laws, but it still happens. Entrapment has been used against all types of sex workers - in brothels, massage parlours, private work, and escort services.

Erotic massage

Erotic massage parlours are considered to be brothels, and are **illegal**. (Begley v Police [1996] SASC 4995). Over the years, erotic massage workers and business operators have regularly been targeted by police and charged with sex work offences.

Escort agencies

Escort agencies are considered to be brothels, and are **illegal**. (Samuels v Bosch (1972) 127 CLR 517). In practice, **police currently treat all escort services (outcalls) as illegal**. This is because when you provide services at a client's home, hotel or motel, police consider that location to become a 'brothel.'



Street-based and outdoor work

Street-based sex work is **illegal** in SA.

Safer sex

As sex work in South Australia operates under a heavily criminalised framework, there are no specific legal rights or responsibilities for sex workers relating to safer sex practices.

While we have no information of recent enforcement tactics, SAPOL have historically used condoms as 'evidence' to detain, question and charge sex workers. This is highly unethical, and forces workers to choose between safety or criminalisation. If you are questioned by SAPOL about condoms or other safer sex PPE, contact SIN for advice and support.

Penalties relating to sex work

Offence	Information	Maximum Penalty
<u>Receiving</u> money paid in a brothel relating to prostitution.	What does this mean? Getting paid in a place where sexual services take place. Who can be charged? Sex workers AND reception/management staff. Is this enforced? Yes, commonly enforced.	\$2,500 fine or 6 months imprisonment.
<u>Keeping or managing</u> a brothel, or assisting to keep or manage a brothel.	What does this mean? Acting as if you control or manage a place where sexual services take place. Who can be charged? Anyone who appears to be in charge, including managers and receptionists. Is this enforced? Yes, commonly enforced.	
<u>Procurement</u> for prostitution.	What does this mean? Advertising job vacancies for sex workers, hiring a sex worker or persuading someone to become a sex worker. Who can be charged? Clients, business owners, managers. Is this enforced? Yes.	
<u>Renting or permitting</u> premises to be used as a brothel.	What does this mean? Renting a property to someone knowing they will use it for sex work, or allowing a tenant to use premises for sex work. Who can be charged? Landlords/building owners. Is this enforced? Not in recent years, but the law still exists.	



<u>'Keeping a common</u> bawdy house or a common ill-governed and disorderly house'.	What does this mean? This is a historic offence that would likely apply to brothels or independent/private sex workers reported by neighbours for 'suspicious activity' Is this enforced? Not in recent years, but the law still exists.	2 years imprisonment.
<u>'Accost' or 'solicit'</u> a person for the purpose of prostitution in a public place -or- <u>'Accost' or 'solicit'</u> a person for the purpose of prostitution 'within the view or hearing of any person in a public place'.	What does this mean? Approaching a potential client in public, or approaching a client if you can be seen or heard by another person. Is this enforced? Yes.	\$750 fine
<u>'Loiter'</u> in a public place for the purpose of prostitution.	What does this mean? hanging out, wandering around or waiting to meet potential clients in a public place. Is this enforced? Yes.	
<u>Living</u> 'wholly or in part on the earnings of prostitution of another person'	What does this mean? If a person: • lives with a sex worker • is 'habitually in the company' of a sex worker (e.g. partners or adult children) - and that person has no visible source of income, that person is deemed to be committing an offence unless they can prove otherwise. Is this enforced? Not in recent years, but the law still exists.	\$2,500 fine or 6 months imprisonment
<u>Being the occupier</u> of a premises 'frequented by prostitutes'	What does this mean? This is a historic offence that criminalises people managing premises (e.g. hostels, boarding houses or bars) who allow sex work to occur on the premises. Is this enforced? Not in recent years, but the law still exists.	\$750 fine
<u>Being found in a place</u> 'frequented by prostitutes' without reasonable excuse	What does this mean? This offence criminalises clients and non-sex worker staff in brothels (e.g. receptionists, cleaners, etc). Is this enforced? Not in recent years, but the law still exists.	

