



The new Prostitute Protection Act (Das neue Prostituiertenschutzgesetz)

The following text modules can be used to create your own materials. Regional specifics and regulations should be added in the appropriate places. The texts are published in several languages at www.bmfsfj.de/prostituiertenschutzgesetz, where they can be downloaded.

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The current legal situation of prostitutes in Germany (Die aktuelle rechtliche Situation von Prostituierten in Deutschland)

You can exercise your rights only if you know them. On 1 July 2017, Germany introduced new rules for prostitutes and prostitution establishments. The aim of the new regulations is to provide people who work as prostitutes with information about their rights and obligations, and to encourage them to exercise their rights and seek help if they need it.

The most important regulations for prostitutes are outlined below.

Voluntary prostitution is generally allowed in Germany. Prostitution describes the provision of sexual services, i.e. sexual acts performed for money when at least one other person is present. Prostitution is also called “sex work”. The minimum legal age for prostitution is 18. Underage persons are prohibited from working as prostitutes. Furthermore, pimping and exploitation, forced prostitution, human trafficking, and the sexual abuse of minors are also prohibited in Germany. Violators can be prosecuted.

The Prostitution Act (Prostitutionsgesetz) and the new Prostitute Protection Act (Prostituiertenschutzgesetz) apply throughout Germany to all prostitutes, their clients, and the operators of prostitution establishments. For more details about the two acts, visit <http://www.bmfsfj/prostschg.de>.

Which other laws and regulations prostitutes should know about and observe depends, among other things, on whether they are self-employed or employed, and in which federal state or which municipality they work. A federal ordinance (Landesverordnung) or a so-called restricted area ordinance (Sperrbezirksverordnung) may prohibit prostitution in a municipality or in a particular area. In some federal states, prostitution is prohibited in general in smaller towns. Before registering or when they want to work in another municipality for the first time, prostitutes should inquire with the local authorities about regional regulations.

The Prostitution Act (Das Prostitutionsgesetz)

The Prostitution Act has existed since 2002. It has significantly improved the legal situation of prostitutes. It gives prostitutes the right to demand that clients pay the agreed fee, and they have the right to go to court if necessary. Clients can no longer refuse to pay the money, for example, because they allegedly were unsatisfied.



Furthermore, employment contracts and other contracts between prostitutes and operators of a brothel, an escort agency, etc. can now be legally entered into. The contracts are valid only if they comply with legal regulations and do not infringe the rights of prostitutes.

Limited power to give instructions (Eingeschränktes Weisungsrecht)

Operators of a prostitution business may stipulate in an employment contract when and where the prostitutes work. They may, for example, set rules for the use of the rooms. They may not, however, tell prostitutes who to provide sexual services to and how to perform them. This is referred to as “limited power to give instructions”.

Prostitutes also have the right to refuse to provide a sexual service or stop providing such a service, even if it had been agreed beforehand. The client cannot demand that the service be provided, but does not have to pay for it if it was not provided.

The Prostitute Protection Act (Das Prostituiertenschutzgesetz)

The Prostitute Protection Act has been in force since 1 July 2017.

Obligation to register (Anmeldepflicht)

Since 1 July 2017, it has been mandatory for prostitutes to personally register their work. Anyone just starting out may only start work once they have registered. Anyone who worked as a prostitute in Germany before 1 July 2017 must register no later than 31 December 2017. This obligation to register applies to all persons providing sexual services.

When they register, prostitutes are provided with information about their rights and obligations as well as on health and social advisory services and on how to access help in an emergency.

The informational and advisory interview during registration has a similar function. The interview will take place in a confidential setting. The interview will be held in a language that the person being advised understands. The public authority may appoint an interpreter for this purpose. Other persons may be present only if the registration authority and the person being advised agree.

The public authority in the place you wish to work most of the time is responsible for registration. To find out which public authority is responsible,



please get in touch with the citizens' centre (Bürgerbüro), the health office (Gesundheitsamt), or consult the website of the relevant city or administrative district. If you wish to work as a prostitute in several cities or federal states, then this must be declared when you register. The places will be entered into the registration certificate. Any new locations added later will also have to be entered into the certificate. If, however, you do work in a different location on a particular occasion without having planned to do so, then it is not necessary to add this to the certificate afterwards.

When they register, prostitutes are provided with information about their rights and obligations, advisory services, and how to access help in an emergency.

Registration certificate (Anmeldebescheinigung)

When you register, you will receive a certificate. Prostitutes must have this certificate on them when they work in order, for example, to be able to show it to a brothel operator, the owner of an escort agency, or during an official inspection. The registration certificate is valid throughout Germany. Federal states may, however, issue their own additional rules about where the registration certificate is valid.

The registration certificate is valid for two years for persons over 21, and just one year for persons under 21. In addition to the registration certificate issued in your real name, the public authority can issue you with what is called an "alias certificate" (Alias-Bescheinigung) on request. Instead of your real name, the alias certificate will be issued in a name of your choosing, i.e. an alias (e.g. work name, pseudonym). It also does not have your address on it. Such an alias certificate allows you to prove that you are registered without anyone, such as the operator, knowing your real name or where you live.

The registration authority may not issue a registration certificate if the prostitute

- is younger than 18;
- is younger than 21 and other people have caused them to take up prostitution or continue with prostitution;
- is coerced into taking up or continuing prostitution;
- is pregnant and will give birth within the next six weeks.

Health advice (Gesundheitliche Beratung)

Before you can register, you have to attend a health consultation. The consultation is usually carried out by the health office (Gesundheitsamt), but



other authorities may be responsible in some federal states. You can find this out at the local health office (Gesundheitsamt).

The health advice mainly concerns such topics as protection against diseases, pregnancy, and contraception as well as the risks of alcohol and drug abuse. Please note: This consultation is confidential, and no information will be passed on. This means you can talk about other things too, for example if you feel you are stuck and need help and advice. If the prostitute does not speak German, or only a little, another person can be present during the consultation to interpret – provided the authority and the person seeking advice agree. The consultation will remain confidential even then.

After the health advice consultation, you will receive a certificate issued in your first and last name. You need this certificate to register. The health consultation must be attended every twelve months. Prostitutes who are younger than 21 have to attend every six months.

You must carry the health advice certificate with you when you work. Anyone who would prefer that this certificate were not issued in their real name can get an additional certificate that has an alias on it. The alias on the health advice certificate must be the same as the one on the registration certificate.

Condom requirement (Kondompflicht)

A condom must be used during all sex acts – oral, anal, and vaginal. Prostitutes have the right to refuse sex acts without a condom. Prostitution establishments must put up a notice referring to the obligation to use a condom. Clients who do not use a condom may be fined. Operators and prostitutes may not promote unprotected sex.

Prostitution business permit (Erlaubnis für Prostitutionsgewerbe)

If you want to operate a prostitution business, you will need an official permit. Prostitution businesses include brothels and similar establishments (e.g. sauna or nudism clubs, brothel flats or “model flats”), prostitution vehicles (e.g. “Love-Mobiles”), prostitution events (e.g. commercial sex parties), and prostitution agencies (e.g. escort agencies).

When prostitutes share a flat with one or more co-workers (regularly or only occasionally), then this is generally considered a prostitution business. In that case, a permit has to be obtained and one person has to perform the duties of a business operator.

Before issuing the permit, the authority will assess whether the person is sufficiently reliable to run a prostitution business. These businesses must



comply with the legal regulations. For example, there must be adequate sanitation facilities for prostitutes and clients. The rooms in which the sexual services are provided must have a way to make emergency calls, and the working rooms must not also serve as bedrooms or living rooms. The authority may waive some requirements for prostitution businesses in flats.

If there are indications that people are being exploited, a permit may not be issued or an existing permit may be withdrawn. A business concept must be submitted for a permit to be issued. Prostitutes have the right to view this concept. This allows them to find out whether the business has been approved and whether the legal requirements are met.

Furthermore, the business operators must ensure the health and safety of prostitutes, clients, and other people in the business. Prostitutes have a right for their working rooms to be equipped with condoms, lubricants, etc.

The operators must ensure that only prostitutes with a valid registration certificate work in the business. They also have to give prostitutes the opportunity to use advising services – also during working hours. Prostitutes have the right to insist that their employment contracts and other contracts are set down in writing. The same applies to proof of payment, such as for rent. Business operators may not charge prostitutes excessive rent (extortionate rent) or any other unreasonably high prices.

Instruction prohibition (Weisungsverbot)

The law protects prostitutes and their right to sexual self-determination through the so-called instruction prohibition (Weisungsverbot). According to this law, operators may not stipulate how prostitutes perform sexual services and to what extent. This is exclusively a matter between the prostitutes and their clients. It follows that prices are also agreed between prostitutes and their clients. The personal rights of prostitutes may not be restricted. For example, they may not be forced to work naked, and their ID documents may not be taken away from them.



Social coverage for self-employed and employed prostitutes (Die soziale Absicherung von selbstständigen und angestellten Prostituierten)

Prostitutes can be self-employed or work as employees for an employer. An employer may be the owner of a prostitution business (e.g. club, brothel, agency). Most prostitutes are self-employed.

If prostitutes are employees, they have the same rights and obligations as other employees. Furthermore, the general provisions of labour law and employment protection (e.g. continued payment of wages in case of illness, maternity leave, regulation of working hours and holidays, notice periods, etc.) apply and must be adhered to by employers.

They are covered by social insurance, which means they are registered for social insurance and pay into health, unemployment, pension, nursing care, and accident insurance. Employers must register their employees with the statutory social insurance, and they are also responsible for ensuring that the employer and employee contributions to the social insurance are paid. The amount depends on the amount of income and is paid jointly by employer and employee.

If you are self-employed, you can become a voluntary member of some branches of social insurance.

If you have any questions about mandatory social insurance, please visit the website of Deutsche Rentenversicherung at www.deutsche-rentenversicherung.de for information, or call them on **0800 1000 4800**. Special rules apply for part-time employees ("geringfügig Beschäftigte", e.g. so-called mini jobs/450-euro jobs).

The Federal Ministry of Labour and Social Affairs also provides information about social insurance with its citizens' hotline ("Bürgertelefon", Monday to Thursday from 8 a.m. to 8 p.m.). The topics and dial extensions can be found at www.bmas.de/DE/Service/Buergertelefon/buergertelefon.html. The glossary of the Federal Ministry of Labour also provides an informative overview: http://www.bmas.de/DE/Service/Glossar/Functions/glossar.html?cms_lv2=75906



Health insurance (Krankenversicherung)

Every person can find themselves in a situation in which they need urgent medical assistance. This is why it is important to have health insurance – even if you are living and working in Germany only temporarily.

In Germany, health insurance is compulsory. This means: Every person residing in Germany must have either statutory or private health insurance.

A leaflet issued by the umbrella organisations of the statutory and the private health insurance companies provides specific information about health insurance for prostitutes in Germany. This information is available in several languages. The leaflet is available at <https://www.bmfsfj.de/blob/117622/7007e01053f240b8f54dc1d200af6416/m erkblatt-krankenversicherung-en-data.pdf>

More information is also available from your local health insurance branch.

Nursing care insurance (Pflegeversicherung)

Nursing care insurance helps people in need of care. It is a compulsory insurance in Germany. Everyone insured under the statutory health insurance automatically also has nursing care insurance. If you have private health insurance, you have to take out private nursing care insurance.

The nursing care insurance also helps relatives who provide nursing care. For information, visit www.wege-zur-pflege.de.

The Federal Ministry of Health provides information about nursing care insurance at <http://www.bundesgesundheitsministerium.de/themen/pflege/online-ratgeber-pflege.html>.

Unemployment insurance (Arbeitslosenversicherung)

Unemployment insurance ensures that you do not suddenly find yourself without money when you become unemployed. In Germany, unemployment insurance is compulsory for all employees and trainees who are more than marginally employed.

More information is available from the local job centre and the Federal Employment Agency at www.arbeitsagentur.de. Many advice centres are also familiar with these matters and can help with applications and other questions.



The unemployment insurance contributions pay for the unemployment benefit and employment services (Arbeitsförderung). The amount of unemployment money received depends on your previous gross salary. How long the unemployment benefit is paid out depends on how long you had been employed with compulsory insurance and how old you are.

Furthermore, if you become unemployed you have the right to assistance in looking for a new job. The Federal Labour Office (Bundesarbeitsagentur) and the local employment agencies find jobs for people and provide various types of support, such as vocational training. They do not, however, help with finding prostitution work or similar jobs in the erotic services industry. Nobody can be expected to work as a prostitute if they do not want to, and nobody can suffer disadvantages because they do not accept such a job offer.

Detailed information: <http://www.arbeitsagentur.de/arbeitslos-arbeit-finden/anspruch-hoehe-dauer-arbeitslosengeld>

Basic support for job seekers (Grundsicherung für Arbeitssuchende)

If you are looking for work but are not entitled to unemployment benefits and have no means of making a living without help, or if you do not earn enough to live on for yourself and your family despite having a job, you are entitled, under certain circumstances, to basic support for job seekers (also called "Hartz IV"). The local job centre is responsible for this.

This basic support includes means of subsistence (unemployment benefit II, social benefit) as well as advice, job placement services, and assistance with measures for integration into the labour market. This may include child care so that you can go to work or attend a training course, or psycho-social counselling with the aim of enabling you to take on a job later.

Basic support and help with finding a job is also available to you if you used to be self-employed.

For example, if you no longer want to work as a prostitute, then under certain circumstances you can get help through the job centre. This applies to means of subsistence for yourself and your children as well as to various kinds of assistance that help make you "fit for the labour market". You do not need to provide a reason why you no longer want to work in the prostitution industry.

Special rules apply to migrants. Access to the basic support benefits depends, among other things, on the type of residence permit you have and on how long you had been working in Germany or cared for yourself independently.



Detailed information:

<https://www3.arbeitsagentur.de/web/content/DE/BuergerinnenUndBuerger/Arbeitslosigkeit/Arbeitslosengeld/Detail/index.htm?dfContentId=L6019022DSTBAI485758>

Many advice centres for prostitutes are also familiar with these matters and can help with applications and other questions.

Pension insurance (Rentenversicherung)

The statutory pension insurance pays pensions to insured persons, and it is the main type of old-age support in Germany. It also helps with reintegration into working life. It provides financial support before retirement age: if for reasons of ill health you are not fully able to work, if a spouse dies, or if a young person loses their parents. The insurance also covers spa treatments and vocational rehabilitation measures. The insurance covers the employer contribution to health insurance and nursing care insurance of pensioners. Almost all employees are obligated to pay contributions. Employees and employers each cover half the contribution.

For more information visit www.deutsche-rentenversicherung.de. Or call the service hotline on **0800 1000 4800**.

Accident insurance (Unfallversicherung)

All employees are compulsorily insured against accidents. It covers the consequences of commuting and work accidents as well as occupational illnesses. It helps you regain your health after an accident through medical treatment and rehabilitation. When an insurance claim is made, it provides monetary payments such as injury benefits, pension, and payments to cover the costs of retraining. The accident insurance contributions are fully covered by the employer.

Prostitutes who have an accident at work, for example, will get support from the statutory accident insurance if they are an employee of a prostitution business or an escort service. Sometimes, the question of whether a prostitute is employed or self-employed is settled retrospectively: For example, if a prostitute only appears to be self-employed, but actually works like an employee, the employer should have registered them with the accident insurance. Despite not being registered, prostitutes can nonetheless insist that the accident insurance be paid out.



Tax obligations of prostitutes (Die Steuerpflichten von Prostituierten)

Prostitutes must pay taxes – regardless of whether they are self-employed or employed.

Income from sexual services is subject to income tax (in the case of the self-employed) or wage tax (in the case of an employee). There are several other types of tax that are relevant to prostitutes. The self-employed also pay business tax, for example.

Whether you are self-employed or employed depends on your specific work situation. The description in the contract alone is not enough for a classification. For example, employees have to have fixed working hours and receive a fixed basic income, even when they do not have clients. The self-employed bear their own business risk, they have their own place of business, and they are responsible for how they work and their working hours.

More information is available from the tax authority in the relevant federal state or local tax office. The advice centres for prostitutes can also provide assistance.

Tax obligations of employees (Steuerpflicht für Angestellte)

Wage tax as income tax (Lohnsteuer als Einkommensteuer)

If you are employed, such as in a brothel or a bar, you are an employee from a tax point of view. Before an employee starts their job, the employer must register them with the tax authorities. The employer keeps the wage tax and pays it to the tax office. At the end of the calendar year and when the employment relationship terminates, the employee receives a wage tax certificate (Lohnsteuerbescheinigung).

Professional costs (Werbungskosten)

As with all employees, expenses related to the job (e.g. the drive to work and the costs of examinations at the health office) are tax-deductible as professional costs.



Tax obligations of the self-employed (Steuerpflicht für Selbstständige)

Income tax (Einkommenssteuer)

If you work as a self-employed prostitute, you have to pay tax on your income; this is called income from a commercial operation (Einkünfte aus Gewerbebetrieb). The rules here are the same as for any other commercial business. This means: You have to register when you set up a business and submit an annual income tax return. The amount of tax you pay depends on your earnings, which is why you have to keep track of all earnings and expenses.

If your income is low, a tax-free allowance applies and no income tax has to be paid. The tax-free amount in 2017 is approx. 8,800 euros.

In some federal states, a simplified tax collection process applies to prostitutes (e.g. the so-called Düsseldorf procedure (Düsseldorfer Verfahren)).

Value added tax (Umsatzsteuer)

Self-employed prostitutes may have to pay value added tax. Value added tax (currently 19 percent) is not charged, however, if the income in the preceding year was less than 17,500 euros and is likely not to exceed 50,000 euros in the current year.

Business tax (Gewerbesteuer)

Business tax is collected by the municipalities from companies based in the region. Prostitutes who run their own business have to pay business tax on their earnings. The amount of business tax varies from municipality to municipality; it generally has to be paid from a certain income upwards (more than approximately 24,500 euros a year).

Entertainment tax (Vergnügungssteuer)

In some cities and municipalities there is an entertainment tax for prostitution. Self-employed prostitutes can also be affected by this. The amount of the tax depends on, for example, "event days" or "event area".

Advance tax/tax return (Steuervorauszahlung/Steuererklärung)

The tax office works out the advance income tax and business tax on the basis of expected or previous earnings. This has to be paid every three months. Value added tax may also have to be paid in advance. At the end of the year, an income tax return and a business tax return and, if necessary, a value added



tax return must be submitted. The tax office bases its tax assessment on these tax returns. If no tax return is submitted, the tax office estimates earnings and turnover.



Advice services and drop-in centres (Beratungsangebote und Anlaufstellen)

Some German cities have special advice centres for prostitutes. There you can discuss matters of health and preventive healthcare, legal issues, social security, and financial problems. You receive help when you are in a crisis or have been the victim of violence. You can also get help there if you want to get out of prostitution. The advice service is often offered in several languages; it is free, confidential, and usually anonymous on request. The staffs are well-trained and have respect for the people who come to see them. The authorities responsible for registration and health advice can provide information about advice centres and information services in the region.

For an overview of drop-in centres affiliated with the Alliance of the Counselling Centres for Sex Workers (bufas e. V.), click here:

<http://www.bufas.net/mitglieder>

<http://www.prostituiertenschutzgesetz.info/beratungsstellen>

There are also advice centres especially for male prostitutes, which are listed here: www.aksdwordpress.com.wordpress.com.

There are also advice centres specialising in providing protection and advice to people affected by human trafficking, exploitation, or forced prostitution. For more information and a list of such advice centres, click here:

www.kok-gegen-menschenhandel.de/hilfsangebote/

You can also get help via the support hotline “Violence against Women (Gewalt gegen Frauen)”. By calling **0800 116 016** you can get free and anonymous advice in 17 languages wherever you are in Germany.

The “Pregnant Women in Distress (Schwangere in Not)” support hotline provides help and advice for pregnant women in an emergency – it is also staffed around the clock and available in 17 languages. It can be reached on **0800 40 40 020**.

Lola (www.lola-nrw.de) is an app and a website for prostitutes working in North Rhine-Westphalia. It provides information on important topics, including information about advice centres for prostitutes in NRW and a navigation system to important addresses.

For an overview of the more than 14,000 advice centres on various topics throughout Germany go to www.dajeb.de.



Health advice (Beratung zur Gesundheit)

If you have any questions about HIV/Aids and other sexually transmitted diseases, contact the aids assistance service at www.aidshilfe-beratung.de. There you can get help if you are worried that you may have been infected or want to know how to protect yourself. The free advice is available by email, chat, over the phone, or in person. The health offices offer a test, either free of charge or for a small fee. You can have the test done anonymously, i.e. you do not have to give your name. For a list of all test centres, go to <http://www.aidshilfe.de/adressen>.

Advice on pregnancy, contraception, and relationships (Beratung zu Schwangerschaft, Verhütung und Beziehung)

The internet portal at www.zanzu.de, which is specifically targeted at migrants, provides easy-to-understand and clear information in many different languages on topics such as sexuality, pregnancy, contraception, relationships and feelings, sexually transmitted diseases, and the legal situation of these matters in Germany.

Pregnant women can find information online at www.schwanger-und-viele-fragen.de. There is a website providing information and advice specifically for young women at www.schwanger-unter-20.de.

The “Mother and Child – Protection for Unborn Life (Bundesstiftung Mutter und Kind – Schutz des ungeborenen Lebens)” helps pregnant women in emergencies. Without unnecessary red tape, women are given financial assistance designed to make it easier for them to decide in favour of the child’s life and continuing with the pregnancy. More information is available at www.bundesstiftung-mutter-und-kind.de.



Help in an emergency (Hilfe in Notsituationen)

The most important emergency numbers at a glance	
Police	110
Fire service and rescue service	112
Support hotline “Violence against Women” (throughout Germany, free, anonymous, in 17 languages, around the clock)	08000 116 016
Support hotline “Pregnant Women in Distress” (throughout Germany, free, anonymous, in 17 languages, around the clock)	0800 40 40 020
Mental health hotline (free, around the clock)	0800 111 0 111 0800 111 0 222

Police, fire service, and rescue service (Polizei, Feuerwehr und Rettungsdienst)

In an emergency, you call the police on 110. The police will do everything in their power to protect people who have been the victim of a crime.

You can call the fire service and the rescue service on 112.

Support hotline “Violence against Women” (Hilfetelefon „Gewalt gegen Frauen“)

The support hotline “Violence against Women” is a Germany-wide advice service for women who have been or still are the victim of violence. It provides extensive advice on violence and exploitation in prostitution, and on human trafficking. Affected persons can call **08000 116 016** or go online for advice – 365 days a year, around the clock, in German and 17 other languages (Albanian, Arabic, Bulgarian, Chinese, English, French, Italian, Kurdish, Polish, Persian, Portuguese, Romanian, Russian, Serbian, Spanish, Turkish and



Vietnamese). Family members, friends, and professionals can also get anonymous and free advice. The support hotline provides extensive advice about violence and exploitation in prostitution and human trafficking.

Support hotline “Pregnant Women in Distress” (Hilfetelefon „Schwangere in Not“)

In particularly difficult situations, the support hotline “Pregnant Women in Distress” offers free and anonymous advice across Germany on **0800 40 40 020**.

The support hotline “Pregnant Women in Distress” is open around the clock and provides advice in 17 languages (Albanian, Arabic, Bulgarian, Chinese/Mandarin, English, French, Italian, Kurdish, Persian, Polish, Portuguese, Romanian, Russian, Serbian/Croatian/Bosnian, Spanish, Turkish, and Vietnamese). More information is available online at www.schwanger-und-viele-fragen.de.

Telephone Counselling (Telefonseelsorge)

There is a Telephone Counselling hotline for everybody, which is free and open around the clock: **0800 111 0 111** and **0800 111 0 222**.