

FACT SHEET

## *Sex Work Decriminalisation Act 2022*

### CHANGES PERTAINING TO SEXUAL HEALTH

*For Owner/Operators*



The Sex Work Decriminalisation Act 2022 comes into effect in two stages:

- Stage 1-the 10th of May 2022
- Stage 2-the 1st of December 2023

FAQ

**Question:** Do the law changes apply to me if I was previously licensed or unlicensed?

*Answer:* Yes, all laws will apply. Occupational health and safety legislation will also apply to all owners, operators and employers under decriminalisation, regardless of whether you were previously licensed or unlicensed.

**Question:** Will sex workers still be required to provide a sexual health certificate and get tested every three months?

*Answer:* No. Mandatory testing has ended in Victoria as of May 10th 2022. This means that sex workers will no longer be legally required to get sexual health tests or provide certificates every 3 months.

- Clause 10 of the the Sex Work Decriminalisation Act 2022 repeals section 20A of the Sex Work Act 1994. This means that from the 10th of May 2022 (stage 1), mandatory testing is no longer a legal requirement for sex workers, and sex workers will no longer have to undergo mandatory sexual health testing or provide sexual health certificates every 3 months.
- The new laws recognise the ability of sex workers to manage their own sexual health. Sex workers have always been safer sex experts and stay on top of applying preventative strategies and accessing routine testing and treatment when required not because of legal requirements but because their bodies are their business.
- Sex workers are already experts on their own sexual health. Research has shown that mandatory testing does not work, it is costly, and it reinforces the idea that sex workers are vectors of disease. Sex workers already have a high level of knowledge and implementation of safer sex practices, resulting in consistently

equal or lower rates of STIs and BBVs than the general public.

**Question:** Is working with a sexually transmitted infection (STI) or blood borne virus (BBV), like HIV, still criminalised?

**Answer:** No. As of the 10th of May 2022, working with a STI or BBV is no longer a criminal offence. It is no longer an offence to permit a sex worker to work with a STI or BBV. This legislative change ends the criminalisation of HIV for sex workers in Victoria.

- Clause 9 of the Sex Work Decriminalisation Act 2022 repeals sections 19 and 20 of the Sex Work Act 1994. From the 10th of May (stage 1) it will no longer be an offence for a sex worker to work with a sexually transmissible infection or blood borne virus. This means that sex workers living and working with HIV are no longer criminalised, and it is not illegal for a worker to work with an STI or BBV. They are not required to disclose this information to you.
- Criminalisation of sex work, HIV and other BBVs and STIs is based in stigma rather than evidence. Discrimination against anyone with a STI or BBV is unacceptable and creates barriers to accessing testing and treatment.

**Question:** Do sex workers legally need to use condoms at work?

**Answer:** It is no longer a criminal offence under the Sex Work Act 1994 to not use condoms or other personal protective equipment at work. However, businesses and owner-operators, including private sex workers, are still legally required to take reasonable steps to ensure condom use until 1st December 2023 (stage 2).

- Previously it was an offence for sex workers to engage in sex work without using condoms or other protective barriers and take steps to prevent STIs. As of May 10th 2022 (stage 1) it will no longer be a criminal offence under the Sex Work Act 1994. This means that sex workers will be able to independently manage their own sexual health and safer sex practices.
- Up until the 1st of December 2023 (stage 2) sex industry specific provisions in the Public Health and Wellbeing Act 2008 will still be in effect. This means that while it will not be a criminal offence for sex workers under the Sex work Act 1994, it will still be a **legal requirement** for owner/operators to ensure sex workers have

access to condoms and lubricant and to take reasonable steps to ensure workers and clients use condoms.

- While sex industry specific provisions in the Public Health and Wellbeing Act 2008 are still in effect (up until the 1st of December 2023), it is still allowed for an authorised officer to enter a premises that they believe is a brothel or escort agency for the purposes of monitoring compliance with, or investigating a contravention of, the Act.

From the 1st of December 2023 (stage 2), sex industry specific provisions in the Public Health and Wellbeing Act 2008 will be repealed. After this date, it will continue to be a requirement to provide a workplace that is safe and minimises risk under occupational health and safety law. Consistent condom use is a key strategy that sex workers use to prevent STIs and BBVs.

### Sexual Health Information for Owner/Operators

**Question:** Who's at risk of transmitting or catching a sexually transmissible infection (STI) or a blood borne virus (BBV)?

*Answer:* Anyone who is sexually active is at risk but sex workers are the original safer sex experts and protecting themselves from STIs and providing safer sexual services is part of the work they do.

- Research has consistently shown that sex workers have an equal or lower rates of STIs and BBVs when compared to non sex workers. This is because they practise prevention at work such as using condoms and other personal protective equipment (PPE) and routinely test and access treatment when necessary outside of legal requirements.
- As an owner operator you still need to make sure you provide staff with safer sex tools (SSTs) like condoms and lube. This is stated under the Public Health and Wellbeing Act 2008 and will only be repealed from the 1st of December 2023 (stage 2). Following stage 2, obligations to ensure health and safety at work, such as through the provision of PPE, will still be a requirement under the Occupational Health and Safety Act 2004, just as they are for all other businesses.

**Question:** What are some of the STIs and BBVs I need to look out for?

*Answer:* Sexually Transmissible Infections or STIs include chlamydia, genital warts and HPV, herpes (cold sores), gonorrhoea, syphilis. Blood Borne Viruses or BBVs include hepatitis A, B and C and HIV.

- Sex workers success in achieving low rates of STI and BBV transmission and high rates of sexual health testing and treatment is thanks to leadership and rapid action of sex workers. Through advocacy in the 1980's, communities impacted by the HIV/AIDS epidemic quickly organised and pushed for HIV/AIDS prevention and treatment programs to include a 'partnership approach', which recognised the importance of the centrality of peer groups and affected communities as part of the strategy. This allowed for peer organisations to lead, design and deliver prevention and education programs when responding to HIV/AIDS.

**Question:** Why is routine testing and treatment important but not when it's mandated or forced?

*Answer:* It's important because it's part of a sex worker's harm reduction strategy but works best when sex workers themselves manage their own sexual health and testing.

- Testing frequency should be discussed with a doctor or nurse to determine what's most appropriate for a sex worker individually.
- Owner/operators are no longer required to ensure sex workers attend regular tests or keep a certificate of attendance on file. Owner/operators should continue to provide resources and sexual health information in relevant languages, such as the [Red Book](#). Testing frequency should be determined by the type of sex work someone does, the services they offer, and potential risks and symptoms. This is to be determined by the individual sex worker.
- Mandated sexual health testing is discriminatory and based in stigma, not evidence. Sex workers are already experts on their own sexual health, and access regular sexual health testing even when it is not mandated.

**Question:** What safer sex tools (SSTs) should I provide for staff at work?

*Answer: condoms (of all sizes), water-based lubricant, and dental dams should be made freely and readily available, with no limit on the number of condoms sex workers can use.*

- Safer sex tools (SSTs) like condoms and dental dams are some of the most effective strategies protecting sex workers against sexually transmissible infections (STIs) or blood borne viruses (BBVs).
- The most commonly used SST is the condom, and they help prevent the exchange of body fluids during sex. To minimise condom breakage it is best to use water based lubricant and/or silicone-based lubricant.
- Some sex workers also like to use internal condoms (female condoms or Femidoms) and they work just like a regular condom, but are worn internally.
- Dental dams are rectangular sheets of latex that are super thin and can often be flavoured. They are used for vaginal, anal and oral protection and used by stretching the dam over the genital area and holding it in place.
- A crucial element of maintaining safer sex practices in your place of work is ensuring that sex workers are offered sexual health resources and SSTs, have the option of conducting health checks, and are supported in their decision to cancel or change a booking. One way to support this is ensuring all staff, including front of house or reception staff, do not criticise or otherwise punish or dissuade a worker from cancelling or changing a booking.
- Vixen are able to provide safer sex skill shares and training for sex workers. [Contact Vixen](#) for information on the next skillshare or to discuss booking one in at your workplace.

**Question: What's a 'health check' and how do I ensure workers have the option of conducting one?**

*Answer: This can look different depending on where and how you work, but in short it involves checking a client's genital areas, including the bum and also mouth, to make sure there are no visible signs of STIs.*

- When at work, the 'health check' can be an important part of sex workers harm reduction and protective strategy. For example, checking for broken skin, sores, ulcers or 'abnormal' discharge.

- So that a worker can conduct a proper health check, you can provide a lamp or flashlight so that the worker has adequate light to check the client's genitals. It is also important to support the worker in cancelling or changing the booking.
- Management might show new workers how to conduct a client check, or you might refer them to current workers who can teach them. You can also provide workers with resources like Scarlet Alliance's [Red Book](#), which is an extensive peer resource that outlines where to look, visual examples of what to look for, and how to milk a penis.

**Question: What's PrEP and PEP and who's eligible for use?**

*Answer: [Pre-Exposure Prophylaxis \(PrEP\)](#) are antiretroviral drugs used by HIV-negative people to greatly reduce the risk of getting HIV upon exposure. [Post Exposure Prophylaxis \(PEP\)](#) is for HIV-negative people who have potentially been exposed to HIV. Being exposed to HIV in a sex work setting is not grounds alone for being prescribed PEP. The doctor or nurse will make an assessment of whether you should be prescribed PEP.*

- HIV prevention has come a long way and can be prevented with the correct use of Pre-Exposure Prophylaxis (PrEP) or Post-Exposure Prophylaxis (PEP).
- PrEP is taken before any potential exposure to HIV and is usually taken on a daily, ongoing basis or on demand (on demand PrEP use is currently only recommended for cis men who have sex with men).
- The daily use of PrEP is recommended as an effective HIV prevention strategy for all people who are at risk of HIV acquisition, for example men who have sex with men (MSM), transgender people, heterosexual people, and people who inject drugs at risk of HIV.
- PEP is a short course of HIV medication that, if taken within 72 hours of exposure to HIV, can significantly reduce the chance of getting HIV.

Resources:

[Vixen contact](#)

[Vixen services](#)

[Scarlet Alliance: Red book STI & BBV resources for sex workers by sex workers](#)

[Consumer Affairs Victoria: Sex work decriminalisation resources](#)

[Department of Health: Key issues - stage one health reforms](#)

[Victorian Equal Opportunity & Human Rights Commission: Profession, trade or occupation](#)