

FACT SHEET

Sex Work Decriminalisation Act 2022

CHANGES PERTAINING TO SEXUAL HEALTH

For Sex Workers



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: Will I still need to provide a sexual health certificate and get tested every 3 months for work?

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 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 are not legally required to provide sexual health certificates every 3 months.
- For sex workers, our body is our business. Staying on top of routine testing and treatment - including practicing harm reduction and safer sex practices - greatly reduces our risk of catching or passing on an STI or BBV.
- Sex workers are already experts on our 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.

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. 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.

- Criminalisation of sex work, HIV and other BBVs and STIs is based in stigma rather than evidence. Discrimination against anyone with an STI or BBV is unacceptable and creates barriers to accessing testing and treatment. Please refer to the [Red Book](#), a STI and BBV resource that was created by and for sex workers by [Scarlet Alliance](#), to read more about sex workers living with HIV or any other STI or BBV.

Question: Is it still a criminal offence to not use a condom at work?

Answer: The law changes are inconsistent, so it depends on how you work and how the law will be interpreted and enforced. From the 10th of May (stage 1) it will no longer be a criminal offence for sex workers to engage in sex services without using a condom. However, business owners, including private sex workers, are still legally required to take reasonable steps to ensure condom use until 1st December 2023 (stage 2).

- Clause 8 of the Sex Work Decriminalisation Act 2022 repeals section 18A of the Sex Work Act 1994, which once made it an offence if a sex worker or a client did not adopt safer sex practices. The new laws will come into effect from the 10th of May (stage 1) and it will no longer be a criminal offence for sex workers to engage in sex services without using a condom or other protective barrier.
- Under decriminalisation, sex workers will be able to make choices about the services we offer based on personal risk assessment. Sex workers and business owners will still need to comply with mainstream workplace health and safety obligations.
- Up until the 1st of December 2023 (stage 2) 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, it will still be a **legal requirement** for brothel owners and escort agencies to take reasonable steps to ensure sex workers and clients use condoms at work. This is the same for independent/private workers.
- **Independent and private workers** are currently classified as “exempt small owner-operators” under the *Sex Work Act 1994* and defined as a brothel or escort agency. This means as owner-operators, independent and private workers will still

be required to comply with the Public Health and Wellbeing Act 2008 up until stage 2 on the 1st of December 2023. This means that private workers are required to take reasonable steps to ensure condom use is required at work. In the case of non-compliance, the Partner Notification and Support Unit may investigate and provide education and support to understand these requirements. In rare cases, a court-ordered penalty or fine is possible.

- While sex industry specific provisions in the Public Health and Wellbeing Act 2008 are 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 or independent/private workplace, for the purposes of monitoring compliance with, or investigating a contravention of, the Act.
- From the 1st of December 2023 (stage 2) the brothel and escort agency sections of the Public Health and Wellbeing Act 2008 will be repealed, which states that business owners have to ensure the use of condoms. After this date, ensuring the use of condoms at work will no longer be a legal requirement for brothel owners, escort agencies, and independent/private workers under the Public Health and Wellbeing Act. Consistent use of condoms is still regarded as best practice. Obligations to ensure health and safety in the workplace will remain under the Occupational Health and Safety Act 2004.

Sexual Health Information for Sex Workers

Question: Am I at risk of catching a sexually transmissible infection (STI) or a blood borne virus (BBV)?

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

- Research has consistently shown that sex workers have equal or lower rates of STI and BBVs when compared to non sex workers. This is because we practise prevention at work such as using condoms and other personal protective equipment (PPE) and routinely test and access treatment when necessary.

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.

- Recently there have been increased rates of [Chlamydia](#) and [Gonorrhoea](#), so it's important that we continue to practise prevention strategies such as using [condoms](#) and [conducting client checks](#); maintain regular testing and access treatment when needed.
- 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 including peer groups and affected communities as part of the strategy. This allowed for peer community based organisations to lead, design and deliver prevention and education programs when responding to HIV/AIDS.

Question: Why is routine testing and treatment important?

Answer: Because it is part of our harm reduction strategy.

- Testing frequency should be discussed with your doctor or nurse to determine what's most appropriate for you individually. As a guide you can see recommended testing timeframes [here](#).
- Testing frequency should also be determined by the type of sex work you do, the services you offer, and potential sexual risks and symptoms.
- It is also important to know that not all tests are required at the same time.

Please follow this [link](#) to find an ideal health service for you or [contact Vixen](#) to discuss. If you do get an STI or BBV, treatment options are available. If you are a sex worker living and working with a BBV or have contracted an STI, the [Red Book](#) outlines information on each STI and BBV, their related conditions and treatment options.

Question: What safer sex tools (SSTs) should I use at work?

Answer: There are several options available, so you should choose whatever works best for you. Condoms and dental dams are some of our most effective strategies protecting us against catching a sexually transmissible infection (STI) or a blood borne virus (BBV).

- The most commonly used SST is the [condom](#), as they help prevent the exchange of body fluids during sex. Condoms can slip off or break, so it is important to use a condom that fits the penis correctly and if possible, check during the session that it is still on. To minimise condom breakage it is best to use water based lubricant and/or silicone-based lubricant. Using oil-based lubricants with latex condoms can damage them and make them break. If the condom does slip off or break, talk to your local sexual health clinic about accessing treatment or getting a sexual health test. You can access this guide on what to do if a condom breaks [here](#).
- 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. Again, these require plenty of lube on the inside of the internal condom to prevent breakage.
- 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 are used by stretching the dam over the genital area and holding it in place.

Please remember that there are many ways to manage risk and depending on how you work it might not involve any of the SSTs mentioned above. If you conduct or find yourself doing ‘natural’ or unprotected services, there are ways to reduce risk, please follow this [link](#).

Question: What’s a ‘health check’ and how do I do one at work?

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 your harm reduction

strategy. For example, checking for broken skin, sores, ulcers or ‘abnormal’ discharge.

- In some brothel settings, management might show you how to conduct a health check or you might learn from other workers. You might also teach yourself on the job or you can [contact Vixen](#). The [Red Book](#) is an extensive peer resource that outlines where to look, visual examples of what to look for, and how to milk a penis.
- There are many ways to still work if you suspect a client has an STI (you don’t need to cancel the booking). For example, offering an alternate service like a ‘show’ or a hand job. Refer to the [Red Book](#) for more ideas.

You may want to consider a plan of action if you think a client has an STI. For example, in brothel or massage parlour work, you might need to think about the potential of a trusted co-worker conducting a second inspection, and whether management will support you if you want to cancel or change the booking.

Question: What's PrEP and PEP and am I 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. 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. For more information on [PrEP](#) and [PEP](#), check the Scarlet Alliance [Red Book](#).

HIV prevention has come a long way and can be prevented with the correct use of both Pre-Exposure Prophylaxis (PrEP) and Post-Exposure Prophylaxis (PEP).

- PrEP is taken before any potential exposure to HIV and is taken on demand (currently only recommended for cis men who have sex with men) or on a daily, ongoing basis.
- 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 who are 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](#)