

Sexual health and the law

This fact sheet outlines laws about not knowingly passing on Sexually Transmitted Infections (STIs) and laws affecting sex workers in licensed brothels.

Sex workers need to be aware that there are certain legal issues concerning sex work and STIs.

The two key pieces of legislation explained in this fact sheet are:

- the *Health Act 1937*, section 48
- the *Prostitution Act 1999*, section 73.

You can access full versions of these Acts at www.legislation.qld.gov.au. We suggest you read through the legislation carefully and if you have any concerns or questions, contact us for a referral to an appropriate legal practitioner.

The Health Act

The *Health Act 1937* section 48 details the responsibilities of people in relation to recklessly or deliberately infecting another person, or exposing that person to the risk of infection of a controlled notifiable disease. These laws relate to anyone in the community and may be applied to sex workers who are working privately, escort workers and street and beat workers.

Under the Health Act, you must not deliberately or recklessly:

- *put someone else at risk of infection* from a controlled notifiable disease (financial penalty or 18 months in prison)
- *infect* someone else with a controlled notifiable disease (financial penalty or two years in prison).

However, you have not committed an offence if, when the other person was put at risk of infection from the disease or when the disease was transmitted, the other person:

- knew you were infected with the disease, and
- voluntarily accepted the risk of being infected.

The Prostitution Act

The *Prostitution Act 1999*, section 73 was introduced in July 2000, and relates to sex workers in licensed brothels.

Working in a licensed brothel with an infectious sexually transmitted disease

The licensee or approved manager of a licensed brothel must not permit a person to work as a prostitute at the brothel if they are aware the prostitute is infective with a sexually transmissible disease. It does not matter whether the prostitute works under a contract of service or a contract for service. Licensees/ approved managers will need to prove that the prostitute had been medically examined at the recommended intervals and was shown not to be infectious with an STI. Financial penalties apply for breaking these laws.

As a sex worker, you must not work at a licensed brothel if you know you are infectious with a sexually transmissible disease. It does not matter whether you work under a contract of service or for a contract for service. You will need to prove that you had been medically examined at the recommended intervals and were shown not to be infectious with an STI. Financial penalties apply for breaking this law.

There are penalties for both licensees/ approved managers and sex workers for using results of medical examinations to induce clients to believe that the prostitute is not infective with a sexually transmissible disease, regardless of whether the prostitute has a disease or not.

Sexual intercourse or oral sex without a prophylactic

By law, you must not provide prostitution involving sexual intercourse or oral sex , unless a prophylactic is used. A “prophylactic” means a condom or other device that is adequate to prevent the transmission of a sexually transmissible disease.

Clients must not:

- receive services without the use of a prophylactic
- interfere with the effectiveness of, misuse or damage a prophylactic, or
- use, or continue to use, a prophylactic that the person knows, or could reasonably be expected to know, is damaged.

Licensees/approved managers must:

- take reasonable steps to ensure that a person does not provide or obtain prostitution involving sexual intercourse or oral sex at the brothel unless a prophylactic is used
- must not discourage the use of prophylactics at the brothel.

Significant financial penalties apply for breaking these laws.