

*A Guide to Occupational
Health and Safety in the*

New Zealand Sex Industry

Acknowledgments

These guidelines are based on those developed by the Scarlet Alliance, an Australian forum for sex workers' rights organisations, and the Australian Federation of AIDS Organisations, titled *A Guide to Best Practice: Occupational Health and Safety in the Australian Sex Industry*, compiled by David Edler.

OSH acknowledges the New Zealand Prostitutes Collective who provided industry-specific information and understanding of the sex industry in New Zealand.

The Ministry of Health, the New Zealand Police and Local Government New Zealand also made contributions.

OSH's Strategic Policy Unit led the development of the Guide.

Published by the Occupational Safety and Health Service
Department of Labour
PO Box 3705
Wellington
New Zealand

www.osh.dol.govt.nz

Issued: June 2004

ISBN 0-478-28001-7

Contents

- About this Guide 6
- Foreword 7

- PART ONE: APPLICATION OF THIS GUIDE** 9-29
-
- Glossary of Terms 10
- 1: Introduction 17
 - What does occupational health and safety involve? 17
 - Employer-employee relationships 18
 - Who is an employee in the sex industry? 18
- 2: References in this Guide 20
- 3: Roles and Responsibilities 21
 - Prostitution Reform Act 2003 21
 - Health and Safety in Employment Act 1992 23
 - Sex worker organisations 27
 - Unions 27
 - Regulatory agencies 28

- PART TWO: SEX WORKER HEALTH** 31-41
-
- 4: Sexual Health Education for Sex Workers, their Clients and Management 32
- 5: Sexual Health Assessment for Sex Workers 34
 - Immunisation 34
- 6: Personal Protective Equipment 35
 - Storage and handling of PPE, sex toys and other equipment 35
 - Storage and handling of waste including used PPE 37
 - Condom breakage or slippage 37
 - Sexually transmissible infections 39
- 7: Reproductive Health 40
 - Pregnant workers 40
 - Avoiding unintended pregnancy 40
- 8: Overuse Disorders 41

- PART THREE: WORKPLACE AMENITIES** 43-50
-
- 9: Cleanliness of Workplace Amenities 44
 - Showers, baths and toilets 44

Linen	44
Laundry facilities and cleaning linen	44
Cleaning of body fluid spills	45
Sanitary facilities	45
Disinfection of swimming and spa pools	46
Bars and food preparation areas	46
10: First Aid	47
11: Fire Safety	48
12: Heating and Cooling	49
13: Lighting	50

PART FOUR: PSYCHOSOCIAL FACTORS 51-60

14: Security and Safety from Violence	52
Responsibilities of employer	52
Example of procedure with a threatening client	53
15: Alcohol	54
16: Drugs	55
17: Smoking in the Workplace	56
Smoke-free indoor workplaces and licensed premises	56
Under-18 access to cigarettes	57
Complaints	57
18: Complaints	58
19: Employee Participation	59
20: Workplace Documents	60

APPENDICES 61-79

Appendix 1: Roles of Regulatory Agencies	62
Department of Labour	62
Public health	64
Public health laws	65
Appendix 2: Accident Recording and Notification	67
Recording any harm that occurs to people in a place of work	67
Notification and reporting requirements	67
Accident scenes not to be disturbed	68
Appendix 3: New Zealand Prostitutes Collective	69
Appendix 4: Department of Labour Offices	70
Occupational Safety and Health	70
Employment Relations	72
Immigration	72
Appendix 5: Health Agencies	74

Fact Sheet 1: Safety and Security Guidelines for Sex Workers Who Provide Outcall	82
Bookings	82
Getting to the job	83
Doing the job	83
Operators' responsibility for outcall worker safety	83
Fact Sheet 2: Examination of Clients Prior to Provision of Service	85
Fact Sheet 3: Action to be Taken in the Event of Condom Breakage and Slippage	86
During vaginal or anal sex	86
During oral sex	87
During trick sex	88
Preventing pregnancy after condom breakage or slippage	88
Medical follow-up	88
Fact Sheet 4: Minimum Employment Rights	89
Minimum employment rights	89
Your employment agreement	91
Union membership rights	92
Employment relationship problems	92
Fact Sheet 5: Employee Participation Systems	93
Employee participation	93
Frequently asked questions	93
Fact Sheet 6: ACC	96
What levies must be paid?	96
What injuries are covered for workplace injuries?	96
What entitlements can be expected?	97
Other rehabilitation and support services	97
Fact Sheet 7: Health and Safety Information Resources	98
Prostitution Reform Act 2003	98
STIs	98
Further Information	99
Fact Sheet 8: Smoke-free Resources	100



About this Guide

THIS GUIDE HAS BEEN WRITTEN FOR EVERYONE INVOLVED IN THE NEW ZEALAND sex industry: sex workers both employed and self-employed, operators, owners and others such as sex worker organisations.

As all these groups have different information needs, this is a lengthy document. Rather than trying to read and absorb all the information in this Guide, we suggest you browse through it initially and decide which sections are most relevant to you.

The Guide is in four parts.

Part One has information about the terms and concepts used in the Guide, and the legal responsibilities of the various parties, and will be of most use to employers and sex worker organisations.

Part Two covers sex worker health and particularly the responsibilities that employers have towards employees, although employee responsibilities are also dealt with.

Part Three covers the amenities required in brothels and will be of most use to owners and employers.

Part Four, on psychosocial factors such as violence, alcohol and drugs, will also be of most use to employers, although employees should also be aware of their employers' obligations.

The Appendices have information about regulatory agencies and other agencies that can offer health and advice. The contact details were correct at going to print but will not necessarily remain current.

The Fact Sheets will be of most use to workers in the industry, whether employees or self-employed. They may be freely copied and distributed.

We would like to hear from you about how useful you find this Guide and any suggestions you have for improving it. Please use the tear-out reply card provided at the back of this book. Postage is free. No names or personal details are required.

Foreword

WHEN THE PROSTITUTION REFORM BILL WAS BEING CONSIDERED BY THE Justice and Electoral Select Committee, committee members recommended that health and safety guidelines should be developed for the sex industry. As the lead agency responsible for workplace health and safety, the Department of Labour's Occupational Safety and Health Service (OSH) led the development of this Guide.

The Prostitution Reform Bill was passed into law on 27 June 2003. This means that the sex industry now operates under the same health and safety rules as any New Zealand industry.

This Guide is intended for sex industry owner/operators, the self-employed, employers, managers and workers. It covers a broad range of topics and is relevant to all New Zealand sex workers, regardless of their location or mode of work. Where the standards it proposes are also legal duties, this is noted.

When developing guidelines OSH works with employer and worker groups in the industry sector. For this Guide, OSH has consulted with the New Zealand Prostitutes Collective as well as with self-employed sex workers and owners/operators. *A Guide to Best Practice: Occupational Health and Safety in the Australian Sex Industry*, a publication developed by Australia's Scarlet Alliance and the Australian Federation of AIDS Organisations, was used as a model. The Ministry of Health, ACC, New Zealand Police, Local Government New Zealand and the Department of Labour's Employment Relations Service (ERS) have had significant input into their specialist areas.

This is a first, and not a final edition, and OSH welcomes feedback that will assist with the development of a second edition. There is an evaluation form at the back of the book.

Like all New Zealanders, workers in the sex industry have the right to come home from work safe and well. This Guide is a significant step towards securing that right.



Bob Hill
General Manager, Workplace Health and Safety

PART ONE: APPLICATION OF THIS GUIDE

GLOSSARY OF TERMS 10

1: INTRODUCTION 17

2: REFERENCES IN THIS GUIDE 20

3: ROLES AND RESPONSIBILITIES 21

Glossary of Terms

ACC means the Accident Compensation Corporation, as the agency responsible for the administration of the Injury Prevention, Rehabilitation and Compensation Act 2001.

Accident means, in terms of the Health and Safety in Employment Act (HSE Act), an event that:

- causes any person to be harmed; or
- in different circumstances, might have caused any person to be harmed.

At work means, in terms of the HSE Act, in relation to any person, present for gain or reward in that person's place of work. Section 10 of the Prostitution Reform Act (PRA) describes a sex worker providing commercial sexual services as "at work" for the purposes of the HSE Act.

All practicable steps is an important term under the HSE Act. It describes the standard of care that is required of people with duties under the Act, i.e. employees, employers, principals, self-employed persons, persons in control of the place of work, and sellers and suppliers of plant for use in the place of work. It is defined in section 2A of the Act as, in relation to achieving any result in any circumstances, meaning all steps to achieve the result that it is reasonably practicable to take in the circumstances, having regard to:

- the nature and severity of the harm that may be suffered if the result is not achieved; and
- the current state of knowledge about the likelihood that harm of that nature and severity will be suffered if the result is not achieved; and
- the current state of knowledge about harm of that nature; and
- the current state of knowledge about the means available to achieve the result, and about the likely efficacy of each of those means; and
- the availability and cost of each of those means.

A person required to take all practicable steps is required to take those steps only in respect of circumstances that the person knows or ought reasonably to know about.

Antiviral is a term describing a type of drug which blocks the replication of particular viruses.

B&D stands for bondage and discipline.

Brothel is defined by the Prostitution Reform Act as any premises kept or habitually used for the purposes of prostitution. It does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

Business of prostitution, in terms of the PRA, means a business of providing, or arranging the provision of, commercial sexual services.

Client, in terms of the Prostitution Reform Act, means a person who receives, or seeks to receive, commercial sexual services.

Commercial sexual services, in terms of the Prostitution Reform Act, means sexual services that:

- involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
- are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).

Communicable disease (synonym infectious disease) is an illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or reservoir to a susceptible host. It may be transmitted directly or indirectly, or indirectly through an intermediate plant or animal host, vector or the inanimate environment.

Contractor is defined by the HSE Act as a person engaged by another person (otherwise than as an employee) to do any work for gain or reward.

Dams, originally used for dental clinic procedures, were a thick latex square. Later modified at the instigation of Workers in Sex Employment, to a very thin, rectangular latex barrier, dams are utilised during oral/vaginal and oral/anal sex to prevent transmission of sexually transmissible infections (STIs).

District Health Board means a District Health Board established under section 19 of the New Zealand Public Health and Disability Act 2000.

Employee is defined by the HSE Act as any person of any age employed to do any work (including commercial sexual services) for hire or reward under a contract of service. The contract (or agreement) may be express or implied, written or verbal. For the purposes of the Act, the definition of employee includes trainees, loaned workers, and volunteers in some circumstances.

NB: A sex worker is not an “employee” of a client for commercial sexual services.

Employee participation system is any arrangement between an employer and employees (and employee organisations where appropriate) that allows the participation of employees in processes relating to health and safety in the place of work, so that:

- all persons with relevant knowledge and expertise can help make the place of work healthy and safe; and
- when making decisions that affect employees and their work, an employer has information from employees who face the health and safety issues in practice.

Employer is defined by the HSE Act as a person (including a company) who or that employs any other person to do any work (including commercial sexual services) for hire or reward under a contract of service. The contract may be express or implied, written or oral.

NB: A client for commercial sexual services is not an “employer” of the sex worker providing the services.

Harm in terms of the HSE Act means illness, injury or death; and includes physical or mental harm caused by work-related stress.

Harm minimisation is defined by the National Drug Policy 1998 as: “an approach that aims to minimise the adverse health, social and economic consequences of drug use, without necessarily ending such use for people who cannot be expected to stop their drug use immediately. The primary goal of this approach is a net reduction in drug-related harm rather than becoming drug-free overnight, although harm minimisation strategies often lead to a reduced number of people who use drugs over time.”

Hazard in terms of the HSE Act means an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation, or substance (whether arising or caused within or outside a place of work) that is an actual or potential cause or source of harm; and includes:

- (i) a situation where a person’s behaviour may be an actual or potential cause or source of harm to the person or another person; and
- (ii) without limitation, a situation described in (i) above resulting from physical or mental fatigue, drugs, alcohol, traumatic

shock, or another temporary condition that affects a person's behaviour.

Health information, in terms of the PRA, means information on safer sex practices and on services for the prevention and treatment of sexually transmissible infections.

Health and safety inspector is a person appointed under section 29 of the HSE Act to carry out a range of functions under that Act.

HIV stands for Human Immunodeficiency Virus. Infection with this virus may result over time in a person having AIDS, which stands for Acquired Immune Deficiency Syndrome.

HSE Act, in this Guide, stands for the Health and Safety in Employment Act 1992.

The insertive partner during sex places their penis, other body part or a sex toy into the mouth, vagina, neo-vagina or anus of the other person.

An inspector in terms of the Prostitution Reform Act is a person authorised by section 25 to determine whether or not there is compliance with the safer sex requirements of that Act. The inspector may be a Medical Officer of Health or a suitably qualified person appointed by them.

Medical Officer of Health is a person appointed by the Director-General of Health under the Health Act 1956. Medical Officers of Health are employed by District Health Boards and have a number of roles and responsibilities set out under several statutes and regulations including the PRA. Legislated roles and responsibilities include information-gathering, reporting and notification, entry and inspection into premises of various sorts, sampling or testing, compulsorily requiring or giving a medical examination, and isolation or detention of patients in a centre for care and treatment.

Neo-vagina is the name used for a constructed vagina, which replaces the male genitalia, removed during a surgical process undertaken by some male to female transgender people.

Notifiable disease is a disease that, by legal requirements, must be reported by medical practitioners to public health services (Health Act 1956).

Operator is defined by section 5 of the PRA, in relation to a business of prostitution, as a person who, whether alone or with others, owns,

operates, controls, or manages the business; and includes (without limitation) any person who —

- (a) is the director of a company that is an operator; or
- (b) determines —
 - (i) when or where an individual sex worker will work; or
 - (ii) the conditions in which sex workers in the business work; or
 - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

A sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution; and for the purposes of the PRA, a small owner-operated brothel does not require an operator.

Operator certificate means a certificate issued to an operator of a business of prostitution under section 35 of the Prostitution Reform Act.

Outwork is where a sex worker provides commercial sexual services in a client’s own home, hotel room or place other than a brothel.

Personal protective equipment (PPE) in this document refers to items such as condoms, dams, water-based lubricants, and latex and non-latex gloves as well as items required for proper maintenance of equipment and facilities such as disinfection agents.

Person who controls a place of work in terms of the HSE Act is a person who, in relation to a place of work, is:

- (a) The owner, lessee, sublessee, occupier or person in possession, of the place or any part of it; or
- (b) the owner, lessee, sublessee, or bailee of any plant in the place.

A home may be a place of work, but the person whose home it is does not have the duties of a person in control of a place of work in relation to it.

Place of work is defined by the HSE Act as a place (whether or not forming part of a building, structure or vehicle) where any person is to work, is working, for the time being works, or customarily works, for gain or reward.

It includes a place under the control of the employer where an employee:

- comes or may come to eat, rest, or get first aid or pay; or
- where their duties require them to report in or out, get instructions, or deliver goods or vehicles; or
- through which they must pass to reach a place of work.

In the case of outcall work, this would include a client’s home or hotel, as well as the premises where a business is operated.

PRA, in this document, refers to the Prostitution Reform Act 2003.

Principal is defined by the HSE Act as a person who or that engages any person (otherwise than as an employee) to do any work for gain or reward.

A client who engages a sex worker for commercial sexual services may be a principal in terms of the Act.

Prostitution, refer to “Business of prostitution”, above.

Public health, depending on the context, means either the health status of populations (or sections thereof) or, the science and art of preventing disease, prolonging life and promoting health.

The receptive partner during sex has their mouth, vagina, neo-vagina or anus entered by the other partner using their penis, other body part or a sex toy.

Self-employed, in relation to a sex worker, means a person providing commercial sexual services to clients, but who is not an employee. A self-employed person may be a sub-contractor to an operator of a business of prostitution, work at a small owner-operated brothel, or work alone as a sex worker.

Serious harm is defined by the HSE Act as death, or harm of a kind described by regulation or in Schedule 1A of the HSE Act. It includes any case of permanent or temporary severe loss of bodily function, hospitalisation for more than 48 hours, and a range of illnesses and injuries that may arise from work.

Seroconversion is the appearance of specific antibodies in a person as a result of infection or immunisation.

Sexually transmissible infection (STI) means an infection or disease spread by the transfer of organisms from person to person during sexual contact.

Sex worker means a person who provides commercial sexual services.

Significant hazard means, in terms of the HSE Act, a hazard that is an actual or potential cause or source of:

- serious harm; or
- harm (being harm that is more than trivial) the severity of whose effects on any person depend entirely or among other things) on the extent or frequency of the person’s exposure to

- the hazard; or
- harm that does not usually occur, or usually is not easily detectable, until a significant time after exposure to the hazard.

S&M stands for sadism and masochism.

Small owner-operated brothel is defined by the Prostitution Reform Act as a brothel:

- (a) at which not more than four sex workers work; and
- (b) where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel.

Sub-contractor means someone who contracts her/his services to another. Sub-contractors are not covered by minimum wage, holidays or employment dispute resolution services, and are responsible for paying their own accident compensation levies. In terms of the HSE Act, she/he may be considered “self-employed”.

Taping, tucking or strapping refers to the practice of securing the male genitals up between the legs using surgical tape or tight undergarments.

1: Introduction

OCCUPATIONAL HEALTH AND SAFETY IS A BROAD TERM USED TO REFER TO ANY issue, task or condition in a workplace that may impact on the health and wellbeing of the people who are working there.

In New Zealand, all workers, no matter what industry they work in, have the right not to suffer harm through carrying out the normal requirements of their work.

Health and safety for sex workers changed significantly with the passing of the Prostitution Reform Act 2003, which decriminalised the provision of commercial sexual services. The Act provided for the certification of brothel operators. It placed duties on operators, sex workers and clients to follow safer sex practices.

It also set public health requirements for the sex industry, and provided for inspection and enforcement of brothels by Medical Officers of Health.

In addition to the Prostitution Reform Act's specific requirements for the sex industry, the Health and Safety in Employment Act 1992 also provides for the health and safety of all people in places of work or those affected by work activities. For sex workers, it contains health and safety duties and processes for all issues other than the safer sex/public health requirements of the Prostitution Reform Act 2003.

What does occupational health and safety involve?

Occupational health and safety means more than just meeting the minimum standards of the PRA, or general requirements for cleanliness, providing fire extinguishers, or repairing faulty electrical equipment. It involves being aware of health and safety hazards in the workplace and actively working to manage those hazards to prevent harm to the person's health and wellbeing. At a practical level, it means:

- making sure that beds are in good repair and give proper support;
- ensuring that outfits worn by workers when seeing clients are comfortable, appropriate for the worker and do not affect posture if worn for long periods without regular breaks,.
- ensuring the workplace, and access to it, is safe for workers and there are plans to deal with hazards or emergencies;

- supplying water-based lubricants and massage oils which are non-allergenic; and
- ensuring that workers have adequate breaks between clients and between shifts, to avoid stress and fatigue.

Frequently these issues cannot be dealt with by a simple specification or the application of a single rule. Instead they require an employer, principal, or other person who controls the place of work to think constructively, to consult with employees, and to adopt “best practice” approaches to health and safety issues in the workplace. These guidelines therefore set out the basics of compliance with health and safety legislation and give some directions on achieving good practice, but should only be seen in that light, not as a minimum standard which must be followed “to the letter”.

There should always be agreement between workers and management to work out appropriate and relevant policies.

Employer-employee relationships

The basis on which people are employed is important to their health and safety. The employment relationship and the definition of employer and employee are central to the organisation of work in New Zealand. The existence or otherwise of an employment relationship determines:

- access to employment dispute-resolution processes;
- entitlement to join a union and collective bargaining;
- rights and obligations under statute law, such as accident compensation;
- annual leave, sick leave, bereavement leave and public holidays;
- superannuation and other employee benefits;
- coverage under occupational health and safety legislation; and
- obligations for tax.

In the past, sex workers have not generally been given full “employee” status, not least because it was a crime to benefit from the earnings of prostitution. However, the Prostitution Reform Act allows the sex industry to be more consistent with other industries in this respect.

Who is an employee in the sex industry?

The employment standing of sex workers — that is, whether or not a person is an employee — is not an issue under the Prostitution Reform Act. That law describes duties to follow safer sex practices for “sex workers”, regardless of the terms of their employment (section 9). A similar duty applies to the “clients” of commercial sexual services, and there is a duty on operators to promote safer sexual practices (section 8).

However, the nature of employment arrangements is more

important in determining the duties that apply under the Health and Safety in Employment Act, which applies to the sex industry as it does to any other.

It may be difficult to determine whether sex workers are employees or “self-employed” sub-contractors to the operators of businesses. This difficulty is heightened by the perceived benefits to owners and operators of treating workers as independent contractors or contract workers, rather than as employees, regardless of the reality of the working relationship.

2: References in this Guide

THE TERM “EMPLOYEE” IS DEFINED BY THE HEALTH AND SAFETY IN EMPLOYMENT (HSE) Act 1992 as a person of any age employed to do any work (other than residential work) for hire or reward under a contract of service. For the purposes of ensuring occupational health and safety, the HSE Act also includes trainees and people gaining work experience, “loaned” employees, and volunteers in some circumstances. The employment agreement or contract need not be formal or written. Even where the words “independent contractor” are used, this may not be the case. (This has been established by case law.)

The definition is similar to, but not quite the same as, that under the Employment Relations Act (ERA). Nor is it the same definition as applies under tax law.

There may be situations where a sex worker is a “self-employed” contractor. However, even in such cases, under the HSE Act, the operator who contracts their services will still have the duties of a principal, or a person who controls a place of work.

In this Guide, the terms “employee”, “employer”, “principal”, “contractor” and “self-employed person” are used consistently with their definitions under the HSE Act. (Refer to the Glossary of Terms at the beginning of this Guide.)

Where the terms “sex worker”, “operator”, or “client” are used, they have the meanings that apply under the Prostitution Reform Act 2003.

The health and safety practices described in this Guide should be followed by *all* workers, regardless of their employment or contractual standing.

3: Roles and Responsibilities

OPERATORS, SEX WORKERS AND CLIENTS HAVE ROLES AND RESPONSIBILITIES under the laws dealing with prostitution, occupational safety and health and public health. The sex industry is also covered by the employment relations and accident compensation laws. Those roles and responsibilities are described here.

Prostitution Reform Act 2003

The Prostitution Reform Act came into effect in June 2003. It decriminalised prostitution, and applies to all participants in the sex industry — operators, sex workers and their clients. The Act contains a range of provisions concerning:

- where a business of prostitution is conducted;
- who may operate businesses, and means of inspection;
- the rights of sex workers to go unharmed, and to withdraw their services at any time;
- the minimum age and employment rights of sex workers and restrictions preventing people who are not New Zealand citizens or permanent residents from participating in the sex industry;
- health and safety requirements.

These guidelines only discuss the health and safety provisions of the PRA, as set out in sections 8–10 of the Act. Operators in particular should refer to the PRA itself with respect to the other duties.

Operators

The PRA applies to every operator of a business of prostitution, whether or not the business is based at a brothel. Section 8 of the Act creates duties for operators to ensure that sex workers and their clients follow practices that protect them from sexually transmitted infections. It also requires operators to take all other reasonable steps to minimise the risk of sex workers or clients acquiring or transmitting sexually transmissible infections, including providing information to sex workers and clients.

The PRA's definition of "operator" is reproduced in the Glossary of Terms.

Information on safer sex

The PRA requires operators to take all reasonable steps to give health information (whether oral or written) to sex workers and clients.

If the person operates a brothel, they must display health information prominently in that brothel. “Health information” is defined in the Glossary.

The PRA also makes it an offence to state or imply that a medical examination of a sex worker means the sex worker is not infected, or likely to be infected, with a sexually transmissible infection.

Sheaths or barriers

The PRA requires every operator to take all reasonable steps to ensure that no commercial sexual services are provided by a sex worker, unless a prophylactic sheath or other appropriate barrier is used. This duty applies if those services involve vaginal, anal or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

Where the sex worker is an employee of the operator, then any such sheath or barrier must be provided by the operator.

For further information on how operators may meet these requirements, refer to sections 4–6 of this Guide.

Sex workers

The PRA’s health and safety requirements apply to every person who provides commercial sexual services.

Section 9 of the PRA requires every sex worker not to provide commercial sexual services unless they have taken all reasonable steps to ensure that a prophylactic sheath or other appropriate barrier is used. This duty applies if those services involve vaginal, anal or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

The PRA also makes it an offence for a sex worker to state or imply that a medical examination of them means that he or she is not infected, or likely to be infected, with a sexually transmissible infection.

Refusal or withdrawal of consent

Section 17 of the PRA gives every sex worker the right to refuse to provide, or she/he continue to provide, a commercial sexual service to any person. The fact that the person has entered into a contract to provide commercial sexual services does not limit the sex worker’s ability to withdraw his or her services or consent.

Clients

The PRA's requirements apply to any person who receives, or seeks to receive, commercial sexual services.

Section 9 of the PRA requires every client of a sex worker not to receive commercial sexual services unless they have taken all reasonable steps to ensure that a prophylactic sheath or other appropriate barrier is used. This duty applies if those services involve vaginal, anal or oral penetration or another activity with a similar or greater risk of acquiring or transmitting sexually transmissible infections.

Health and Safety in Employment Act 1992

The object of the Health and Safety in Employment (HSE) Act is to promote the prevention of harm to all people at work or in the vicinity of places of work. To do this, the legislation creates a range of duties for people with different roles in places of work. Most of the terms below to describe roles under the HSE Act are defined in the Glossary of Terms.

Persons who control a place of work

The operator of any business providing commercial sexual services has a duty under the HSE Act to make sure that any premises or equipment they operate are safe. This means ensuring that hazards do not harm any people who are:

- lawfully at work in the place (as employees, contractors etc.);
- there as customers or to undertake an activity; or
- in the vicinity.

In some circumstances, there may also be a duty to warn authorised visitors of any significant hazards in a place of work.

These duties are set out in section 16 of the HSE Act.

Defining a "place of work"

Wherever a person performs commercial sexual services is a "place of work" in terms of the HSE Act. This includes the premises of a brothel or other business that provides commercial sexual services. In the case of a sex worker who provides outcall, it includes a client's home or hotel, a car, a public place or elsewhere that services are provided.

A "place of work" is where work has, is, or will be going on for gain or reward.

A "person who controls a place of work" is defined widely by the HSE Act (see Glossary of Terms). It includes the owner, occupier or person in possession of a place of work or any part of it.

A home may be a “place of work”, but the person whose home it is does not have the duties of a person who controls a place of work.

What the duty means for brothel operators

Brothel operators need to ensure that their premises, and any furnishings, plant or equipment in them, are safe — not only for those who work on the premises, but also for guests and clients. In some cases, operators may be responsible for places of work or equipment beyond their actual premises. Essentially, this means operators are responsible for managing all hazards to which people in a place of work may be exposed. This is in addition to the duties of operators under the Prostitution Reform Act.

Employers

Employers have the most duties under the HSE Act. Most are directed towards keeping employees safe and healthy — although there are others.

In the case of the sex industry, an employer may be a brothel owner or operator, an outcall service proprietor or manager, or a massage parlour owner or manager.

An employer is defined by the HSE Act as a person (including a company) who or that employs any other person to do any work for hire or reward. The person must be employed under a contract of service (employment agreement). For the purposes of the HSE Act, the contract or agreement may be express or implied, written or verbal.

A client for commercial sexual services is not an “employer” of the sex worker providing the services.

Employers are required to take “all practicable steps” (see Glossary of Terms) to protect the health, safety and welfare of their employees at work. This includes providing a workplace that is safe for employees and free from health risks. For employers to meet their responsibilities they must:

- Maintain places of work under their control in a safe condition and provide and maintain systems of work that are safe and without risk to health, including safe access to and from the workplace (section 6).
- Provide and maintain work-related equipment (including personal protective clothing and equipment), at no cost to the employee (section 10).
- Identify and manage any hazards in the place of work (sections 7-10).
- Make arrangements for the safe use, handling, storage and transportation of equipment and substances, and provide employees with adequate information (sections 6 and 12).
- Develop emergency procedures and provide employees with

- the information they need about them (section 6 and 12).
- Provide the information, instruction, training and supervision needed to ensure the health and safety of all employees (sections 12 and 13).
- Where employees are exposed to hazards, monitor their exposure and, where necessary, their health in relation to the hazard, and inform employees of the results of monitoring (sections 10 and 11).
- Provide reasonable opportunities for employees to participate effectively in the improvement of health and safety (section 19B).
- Record, notify and report as appropriate any accidents or occurrences of serious harm to employees or others in the place of work (section 25).

Sections 4–13 of this Guide provide more detail on accepted means of employers meeting these duties. Appendix 2 provides more detail on accident and illness recording, notification and reporting requirements.

An employer’s duties under the HSE Act are in addition to those of the Prostitution Reform Act 2003.

Self-employed people

Where a sex worker is self-employed, including as an “independent contractor” to an agency or other operator of a business of prostitution, they have a general duty under the HSE Act to maintain their own safety and health and that of others.

The duty is to take “all practicable steps” to ensure that no action or inaction by them while at work harms the self-employed person or any other person. A self-employed person is also required to record, notify and report to OSH any serious harm (injuries or illness) that they or others suffer as a result of their work activities (section 25). These duties are in addition to the Prostitution Reform Act’s requirements for sex workers to follow “safer sex” practices.

Employees

All employees have a duty under the HSE Act to act responsibly, and to perform their work in accordance with safety standards applied by their employer. Employees are expected to take “all practicable steps” to ensure their own health and safety and that of others (section 19).

“Employees” are usually employed under an agreement with their employer. Alternatively, they may be volunteers, trainees, or “loaned” workers that are deemed “employees” by the HSE Act.

Where an employer provides work equipment, systems of work or personal protective clothing or equipment designed to protect employees

and/or others in the workplace, then employees must use them.

Safe systems of work might include requiring employees to follow a set procedure when disinfecting sex aids, or in the case of a sex worker who provides outcall, a process to follow when visiting a client.

Employees must be adequately trained and supervised. They must also be provided with, and have ready access to, relevant information on emergency procedures and any hazards they face.

The employer should consult employees on the best ways of achieving health and safety, and on the effects of any changes to the workplace or how work is done.

Employees in turn should co-operate with employers in meeting their health and safety obligations. Employees should also be encouraged to participate in improving health and safety, either by electing health and safety representatives or committee members, or by contributing to processes directly themselves.

The HSE Act provides that an employee may refuse to perform any work which they believe is likely to cause them serious harm. This right is in addition to the protections for sex workers contained in sections 16 and 17 of the Prostitution Reform Act.

Principals

A person who engages another person (other than as an employee) to do any work for gain or reward is a “principal”, i.e. to a contract, in terms of the HSE Act. This includes any operator of a business of prostitution who engages sex workers as “independent contractors”. In some situations it may also include a client, or another purchaser of sexual services (for themselves or others) who engages sex workers to provide services in a place other than a brothel — such as in a hotel room, vehicle or home.

An operator of a business of prostitution who is a principal to a sex worker working as an “independent contractor” has a duty to take “all practicable steps” to ensure that the sex worker is not harmed while carrying out any work that she/he was contracted to do (section 18). A principal to a contract is required to notify and report to OSH any occurrences of serious harm to a self-employed person that occurs while she/he is working for them as a contractor (section 25).

The section 18 duty under the HSE Act may apply where a client or another person engages a sex worker under a contract to provide commercial sexual services in a place other than a brothel. To the extent that the purchaser is able, they must take all practicable steps to ensure that the sex worker is not harmed while carrying out their work. This is in addition to the “safer sex” requirement of section 9 of the Prostitution Reform Act and other protections under the criminal law.

Clients

Clients who visit a brothel for commercial sexual services are unlikely to have any duties under the HSE Act, although they do have the “safer sex” duty under section 9 of the Prostitution Reform Act. Clients also have the protection of the duties on brothel operators as “persons who control a place of work”, just as if they were visiting a supermarket or a gymnasium.

In some situations a client of a sex worker who provides outcall or an outworker who commissions commercial sexual services may be a “principal” in terms of the HSE Act, and have a duty to ensure the safety and health of the sex worker (see Principals, above).

Sex worker organisations

The New Zealand Prostitutes Collective (NZPC) contracts to the Ministry of Health to provide sexual and reproductive health promotion and community-based peer education programmes. Outside of this contract, NZPC operates to improve the rights and conditions of sex workers. It advocates for the interests of sex workers and also works to help individuals at a workplace level.

NZPC has branches in Auckland, Tauranga, New Plymouth, Wellington, Christchurch and Dunedin. Outreach workers cover other areas of the country, such as the Hamilton, Hawke’s Bay, Manawatu, and Nelson (see Appendix 3 for details).

Unions

There is no single union in New Zealand that represents the interests of sex workers. Some unions are seeking to have sex workers join them, making their services available to people in the sex industry — helping to negotiate contracts and maintaining the interests of sex workers.

Sex workers may choose whether or not they join a union.

Joining a union gives sex workers access to a collective employment contract where one exists; otherwise, it permits one to be negotiated.

Collective employment agreements

Sex workers who are employees may have either an individual or collective employment agreement with their employer. The Employment Relations Act 2000 requires employment agreements to be in writing.

Employees in a workplace have a right to join a union, and it is open to a workers’ union to negotiate on behalf of its members for a collective employment agreement. Provided that they are authorised to do

so by the member, unions may also represent a worker on individual employment issues and agreements.

Only a registered union can negotiate with an employer for a collective employment agreement. As part of any negotiation, the parties must act in “good faith”. This includes requirements to meet, and to consider and respond to each other’s proposals. It does not mean they have to reach agreement. The parties can seek the assistance of a mediator from the Department of Labour’s Employment Relations Service when negotiations become stalled.

When a collective employment agreement is in force with an employer, or a group of employers, the agreement only applies to those employees who are members of the union. Other workers would need to negotiate individual agreements. The exception is for new workers. Where a new employee commences work in an establishment where a collective employment agreement exists, that employee is automatically covered by the conditions in the collective for the first 30 days of employment. During that time they can decide to join the union and become a party to the collective, or if they do not join the union they would then need to negotiate an individual employment agreement.

For detail about what might be included in employment agreements, and for a range of other information about employment relationships, employers and employees alike may seek assistance about employment-related matters through the Employment Relations Infoline (0800 800 863) or visit the Employment Relations website www.ers.dol.govt.nz.

Regulatory agencies

Occupational health and safety, accident compensation, prostitution and public health laws all regulate health and safety at work. Details of the applicable legislation, and the agency responsible are summarised in the table on page 29.

Appendix 1 contains more information on the roles of regulatory agencies and the legislation they administer. Fact Sheet 6 describes the role of the ACC in more detail.

Legislation	Area it covers in relation to the sex industry	Agency responsible
Prostitution Reform Act 2003	The PRA decriminalised prostitution and covers such matters as: <ul style="list-style-type: none"> • safeguarding the human rights of sex workers and protecting them from exploitation; • setting health and safety requirements in regard to safe sex; • the rights of territorial authorities to make bylaws; • certification of the operators of businesses of prostitution. 	The Ministry of Health is responsible for the inspectorate and the health and safety requirements under section 8–9 of the Act.
Health Act 1956	The Health Act 1956 and associated regulations specify certain infectious diseases, such as STIs, which are notifiable to the Medical Officers of Health. Medical Officers of Health may undertake prevention and control measures in relation to these diseases.	Medical Officers of Health as appointed by Director-General of Health
Health and Safety in Employment Act 1992	The HSE Act covers health and safety in all workplaces.	The Occupational Safety and Health Service of the Department of Labour. (Civil Aviation Authority in aviation and Maritime Safety Authority in shipping sectors respectively).
Employment Relations Act 2000	The ER Act covers employment relationships in the workplace.	The Employment Relations Service of the Department of Labour
Injury Prevention, Rehabilitation and Compensation Act 2001	The IPRC Act governs the accident compensation scheme, which provides accident insurance for all New Zealand citizens, residents and temporary visitors to New Zealand.	Accident Compensation Corporation

PART TWO: SEX WORKER HEALTH

4: SEXUAL HEALTH EDUCATION FOR SEX WORKERS,
THEIR CLIENTS AND MANAGEMENT 32

5: SEXUAL HEALTH ASSESSMENT FOR SEX WORKERS 34

6: PERSONAL PROTECTIVE EQUIPMENT 35

7: REPRODUCTIVE HEALTH 40

8: OVERUSE DISORDERS 41

4: Sexual Health Education for Sex Workers, their Clients and Management

UNDER THE PROSTITUTION REFORM ACT 2003, SECTIONS 8–9, THERE ARE certain health and safety requirements for operators of businesses of prostitution, for sex workers and for clients. The practice of safer sex must be the basis on which workplaces operate.

Employers should provide information to employees in the workplace and to clients on their obligations regarding safer sex. This should include information on sexually transmissible infections (STIs) and blood-borne viruses including HIV and Hepatitis A, B and C, and on cleaning and disinfection of equipment as is necessary for safe work. Health education resources are available from local Public Health Services, Sexual Health Services and the NZPC (see Fact Sheet 7).

Workers from the local sex worker organisation, sexual health service, or other relevant health service should have reasonable access to sex workers who are employees. This will assist in ensuring that all workers have a good understanding of the above health issues.

Employers should provide both oral and written information for clients at the workplace about the transmission of STIs, including HIV and Hepatitis A, B and C. Information must be prominently displayed stating that sex workers and their clients must adopt safer sex services practices (by using a condom or other appropriate barrier) to reduce the risk of getting or passing on sexually transmissible infections.

This information should be provided in a form that is readily comprehensible to employees. If an employee has difficulty communicating in or understanding spoken and/or written English, the employer should provide the information in a language the employee is familiar with. The local sex worker organisation may be able to assist in locating an appropriate interpreter or printed information in the necessary language.

Employers should ensure that all employees are properly informed of the need to use condoms, dams and water-based lubricants, and that ongoing access to information and training regarding safer sex practice is provided. Accurate and current information is available from local sex

worker organisations, sexual health services and from Public Health Services.

The PRA requires that “all reasonable steps to give health information (whether oral or written) to sex workers and clients” be taken; and if the person operates a brothel, they must display health information prominently in that brothel. This information could be in the form of brochures, pamphlets, booklets, posters, etc. (see Fact Sheet 7). It could be displayed in an area specially designated for the purpose — an “information corner” — or in:

- reception;
- rooms;
- toilets and shower areas;
- staff rooms; or
- kitchen.

5: Sexual Health Assessment for Sex Workers

SEX WORKERS SHOULD ATTEND A SEXUAL HEALTH SERVICE, FAMILY PLANNING Association clinic or general practitioner for regular sexual health assessment, counselling and education appropriate to the individual's needs. Frequency of assessment is a matter for determination by the individual sex worker in consultation with her/his clinician and must be voluntary. At a minimum, however, a comprehensive sexual health screen should be obtained twice a year. Testing should also occur 10–14 days following a condom slippage or breakage.

Sexual health certificates do not guarantee freedom from sexually transmitted infections, and must not be presented to clients as such. Nor can they be used as an alternative to strict adherence to safer sex practices.

Employers should encourage employees to monitor their own sexual health. They may request that employees present a certificate which indicates attendance for regular sexual health assessment but which does not disclose results of this assessment. These certificates are the property of the employee and must not be displayed anywhere in the sex industry establishment.

Immunisation

It is recommended that sex workers be immunised against Hepatitis A and B, following consultation with their medical practitioner or sexual health service.

6: Personal Protective Equipment

SEX INDUSTRY EMPLOYERS HAVE A DUTY UNDER THE HSE ACT TO PROVIDE, AND make accessible free of charge to employees, suitable personal protective equipment (PPE). This includes items such as condoms, water-based lubricants, latex and non-latex gloves, and other items required to properly maintain equipment and facilities, such as disinfectant. In the case of sex workers who provide outcall, PPE should include personal alarms and mobile phones. PPE should be easily accessible to the employee at all times during the course of her/his time at work. A variety of condoms of different sizes and thicknesses should be provided. All condoms, gloves and dams should comply with New Zealand standards.

As part of the employer's general duty to ensure employees' safety, employees should not be required to pay for anything required to meet legislative duties. For example, the installation of condom vending machines might require employees to pay for their own PPE. This could be construed as requiring employees to pay to meet legislative requirements.

Where employees can demonstrate an allergy to latex products (through a medical certificate), the employer should take steps to minimise the likelihood of the employee having an allergic reaction to latex. Latex allergy may result in asthma, anaphylaxis and other serious reactions in some sensitised individuals. The employer should provide an alternative means of protection for those who are allergic to latex, such as sheaths made out of polyurethane. The Durex Avanti Superthin Lubricated Polyurethane Condom is marketed in New Zealand and can be purchased from pharmacies.

Storage and handling of PPE, sex toys and other equipment

- To prevent premature deterioration, condoms and dams must be stored away from light and heat. Store equipment including condoms, dams and lubricants in a dry, cool and dark storage area, where the temperature does not exceed 22°C.
- All sex workers should wash their hands with soap and water after disposing of condoms and dams, or handling other equipment which has been used. Equipment such as sex toys

which have the potential for contact with another person's body fluids must be covered with a new condom for each partner. The condom must be removed and discarded after each use, and the equipment cleaned and then disinfected.

- In situations where more than one worker is providing service to a client (e.g. threesomes) it is necessary to ensure that equipment such as vibrators and dildos is not used by one person and then another without being cleaned, disinfected and having a new condom put on first. Ideally each worker should have her/his own toys and equipment, which are not used by other workers. Each worker may choose to use a condom of a different colour in order to identify who has used the dildo last.
- Sex toys can also be used to provide stimulation without penetration. Again it is stressed that sex toys must be cleaned and disinfected after use with each client. When, as part of their regular work, employees are to operate equipment such as that used in B&D fantasies, it is imperative for the safety of both employees and clients that the employer provides comprehensive training on safe use of the equipment for the employee.

Disinfecting equipment

- Equipment must be cleaned by scrubbing or wiping all surfaces with detergent and water.
- To disinfect after cleaning, equipment must be rinsed and immersed for 10 minutes in a solution of one part bleach to two parts water. After immersion, the equipment must be rinsed and dried prior to use.
- Equipment which will not tolerate immersion (for example, vibrators) must be cleaned by wiping with detergent and water and then disinfected by wiping with either a solution of one part bleach to two parts water or 70% alcohol, then rinsed and allowed to dry prior to use.
- In order to avoid transmission of Hepatitis C, HIV and other blood-borne infections, disposable razors and razor blades must be disposed of in a sharps disposal container after being used once. "Cutthroat" razors, scalpels and piercing tools must be cleaned and sterilised after use with each client.
- The employer must provide adequate disinfection fluids and systems together with appropriate training for staff. All equipment used, such as sex aids and restraints, and surfaces such as bench tops and massage tables, must be disinfected after each use.

Storage and handling of waste including used PPE

PPE such as condoms, dams and gloves must *never* be reused. There should be provision for disposal of used condoms, dams, gloves, soiled tissues, etc. in the workrooms. Sex workers who provide outcall should carry plastic bags in which to dispose of used PPE. All workplaces should provide non-reusable sharps containers.

Any object that cuts, punctures or otherwise breaks the skin should be disposed of in a sharps container. Any object which has come into contact with a client's blood or has broken the skin should only be handled for disposal by the client her/himself, or by an employee wearing gloves. Such objects include syringes, needles, razors and scalpels.

Condom breakage or slippage

Employers should not only require condom use, but should also identify condom use and other safer sex practices clearly to employees and clients as the standard, expected practice of the establishment.

Most sex workers are skilled at using condoms, which have been proven to be a very effective barrier to pregnancy and the transmission of HIV and other STIs. However, condom breakage or slippage will still occur from time to time. When this occurs, workers should obtain a comprehensive sexual health screen 10–14 days after the event, or earlier if symptoms develop.

Unfortunately, incidents occur where workers are forced by clients to have sex without a condom against their will (i.e. rape). Sex without a condom can result where the client removes or breaks the condom during the service without the worker's knowledge.

In these situations, the employee must have information and support on taking appropriate action (see Fact Sheet 3).

Condom breakage is most likely to occur if:

- The condom is of inferior standard. Only condoms with indication on the packaging that they meet New Zealand Standards should be used.
- The condom has passed its expiry date, or has been stored incorrectly. If a bulk supply of condoms is kept where service is being provided, ensure that condoms at the bottom of the supply are rotated to the top of the pile when stocks are replenished.
- The condom is torn or damaged by a fingernail or jewellery during application or use.
- Insufficient lubricant has been used (particularly in anal sex or just after menstruation when the vagina can be drier than usual).

- Oil-based lubricant has been used, resulting in a breakdown of the latex the condom is made from. Only water-based lubricant should be used with condoms and dams.
- If the sexual act is of particularly long or vigorous duration.

Condom slippage may occur:

- If the insertive partner does not have the condom rolled on all the way to the base of his penis.
- If the insertive partner fails to hold on to the end of the condom at the base of his penis while withdrawing.
- If the insertive partner's penis is only semi-erect or flaccid.
- If the insertive partner's penis is small and/or thin, or flared.
- During sexual acts of particularly long duration.

To avoid condom breakage and slippage, the employee should:

- Regularly check the condom when the service has been occurring for more than 5 minutes. Relubrication is a good excuse to use to stop the service and check/change the condom.
- Become familiar with what a condom breaking and a broken condom feels like, possibly by discussing it with other workers who have experienced it.
- Before starting a service, ensure that condoms and water-based lubricant are close at hand.
- Alert the employer and other workers to any client who attempts to break or remove a condom during a service.

The employer should:

- Ensure that condoms in a variety of shapes and sizes are always available for employees to use in their work.
- Ensure that condoms supplied meet New Zealand standards, have not passed their expiry date and have been stored in a cool, dry place.
- Provide adequate supplies of water-based lubricant.
- Support an employee's right not to provide service to a client who refuses to use a condom, or who attempts to break or remove the condom during service.

Please refer to Fact Sheet 3 for action to be taken in the event of condom breakage or slippage.

Sexually transmissible infections

Each person must accept responsibility for preventing themselves and others from becoming infected with sexually transmissible infections. There are many infections, including HIV, that can be transmitted through sexual intercourse. The consistent use of condoms for oral, vaginal and anal sex will prevent most of these from being transmitted.

Syphilis and blood-borne viruses such as HIV and Hepatitis B and C can be transmitted by means other than penetrative sex and other sexual activity. This includes the sharing of needles and other drug-injecting equipment among injecting drug users (IDUs), unsterile skin-piercing procedures, childbirth and breastfeeding, and transfusion of infected blood.

7: Reproductive Health

DAMAGE TO REPRODUCTIVE HEALTH CAN BE CAUSED BY FACTORS IN THE WORK environment, including the work environment of the sex industry. Any occupational health and safety hazard that damages the fertility of people working in the sex industry must be removed from the workplace.

Pregnant workers

Pregnant women working in the sex industry should be afforded all possible protection to minimise harm to themselves and the foetus they are carrying.

Sex industry workplaces should develop operational policies for members of staff who are pregnant. This may include a limitation placed on the amount of shift work pregnant workers engage in, longer breaks between clients, and exemption from performing certain duties such as heavy lifting.

The employer should be aware of any possible risks for pregnant employees in the workplace, and eliminate those risks.

The pregnant employee should seek medical advice regarding any particular risks to herself or her foetus, which may arise from her normal work practices.

Avoiding unintended pregnancy

Unintended pregnancy may be a consequence of working in the sex industry. For guidelines specific to possible unwanted pregnancy, see Fact Sheet 3: Action to be Taken in the Event of Condom Breakage or Slippage. Sex workers are advised to consult their medical practitioner for advice on other contraception.

8: Overuse Disorders

OVERUSE DISORDERS ARE A RANGE OF CONDITIONS INCLUDING INJURY characterised by discomfort or pain in the muscles, tendons and other soft tissues, with or without physical signs. Overuse disorders used to be referred to as Repetitive Strain Injury (RSI). This condition can affect all parts of the body, and symptoms can be fatigue, muscle soreness, a burning sensation, weakness, stiffness and aches and pains.

Overuse conditions occur particularly among people who work in fixed or constrained postures, or who perform rapid repetitive tasks or use forceful movements. Many sex workers work with these conditions daily. An overuse disorder can be difficult to diagnose.

Measures that can be undertaken to eliminate occupational overuse are:

- The employer carrying out regular health and safety audits of the workplace.
- Ensuring that all beds and other workstations support the back and allow for a variety of services to be performed without strain or discomfort. Where possible, beds, massage tables, etc. should be adjustable, allowing for a variety of employees to use them safely and without strain.
- Comprehensive training in the safe use of all equipment, particularly that used in B&D and S&M fantasy work, as well as training in correct massage techniques, should be provided to workers who use these techniques.

In the sex industry, as in other industries, some repetitive activities cannot be avoided. The best way to avoid overuse disorders for sex workers is to try to alternate between repetitive and non-repetitive activities. For example, repetitive massage which could cause overuse injury to the hands, arm and back could be alternated with other (non-repetitive) activities.

Employers should supply employees with appropriate information on how to rotate their work duties to avoid overuse disorders. Identifying potential overuse disorder situations, developing strategies and providing training to employees on how to avoid these situations are a positive means of reducing overuse injury in the workplace.

PART THREE: WORKPLACE AMENITIES

9: CLEANLINESS OF WORKPLACE AMENITIES 44

10: FIRST AID 47

11: FIRE SAFETY 48

12: HEATING AND COOLING 49

13: LIGHTING 50

9: Cleanliness of Workplace Amenities

PREMISES SHOULD BE KEPT IN A CLEAN CONDITION AT ALL TIMES. THE EMPLOYER should ensure that all employees understand who is responsible for general, spot and maintenance cleaning. A designated person should regularly monitor cleanliness.

Cleaning is not necessarily part of a sex worker's role and should be negotiated at the start of employment.

Sex workers who provide outcall must have the right to terminate a booking if the client's residence does not meet an acceptable level of cleanliness.

Particular attention should be paid to the areas listed below.

Showers, baths and toilets

Regular cleaning with detergents and hospital-grade disinfectants is required to control mould and fungus. The employer should ensure that baths and showers are cleaned and disinfected after each use, preferably with bleach. Broken or chipped tiles need to be replaced as soon as possible, as they provide a receptive environment for bacteria and other infectious agents.

Liquid soap and single-use towels should be provided at all hand basins in the premises.

Linen

Employers should provide:

- clean bed linen or clean bed covers; and
- clean towels for the use of clients and staff.

All linen, including towelling, which comes into contact with clients or workers should be changed immediately after each session.

Laundry facilities and cleaning linen

The following steps will assist in minimising health risks associated with linen:

- provide at least two receptacles in the laundry for the separate storage of clean and used linen;
- wash linen in warm water using laundry detergent;
- thoroughly dry all items of linen after washing.

Cleaning of body fluid spills

Body fluids such as blood, vomit, urine, faeces, saliva and semen may contain infectious organisms. Special care must be taken in cleaning up spills of these fluids to avoid transmission of viruses such as Hepatitis A, B or C, HIV and others.

All employees, not only cleaning staff, should be required to take the following precautions:

- Protective gloves must always be worn when dealing with these body fluids.
- Should any of these fluids come in contact with a person's skin, they should wash the area with warm water and soap. The person should not touch themselves, or anyone else, where they have a break in their skin (cuts, grazes, dermatitis, etc.) or touch any body openings (mouth, genitals, eyes, etc.) until they have washed their hands. Sex workers who provide outcall are advised to carry soap and disposable gloves with them on calls.
- Breaks in the skin (for example cuts, grazes, rashes, recent injection sites, recent piercings or tattoos) should be kept covered by a dressing while working.
- Disposable paper towels or tissues should be used to clean up the bulk of the spilled fluid. Used paper towels should be placed in a plastic bag, which is then sealed and disposed of in a manner which will not require it to be handled again directly by anyone.
- Hard surfaces should then be mopped or sponged over with cold water and soap or detergent.
- Carpets and rugs should be sponged thoroughly with cold water and soap, rinsed and air-dried.
- Remove as much soiled matter (vomit, faeces, blood, etc.) as possible from bedding using paper towels, and then machine wash bedding separately in warm water and regular laundry detergent, then dry thoroughly.

Sanitary facilities

Sanitary facilities (including toilets and hand basins) must be provided in accordance with local authority requirements and the Health and Safety in Employment Regulations 1995.

Private showers, toilets and changing facilities, separate from those used by clients, should be provided for employees.

Unisex toilets can be used for premises where under 15 people are employed, provided they are enclosed for privacy, have an efficient inside lock and have sanitary towel disposal facilities.

Hand basins should include running hot and cold water. Soap and suitable face and hand drying facilities should be provided. Workers should not share towels, so paper towels and electrical hand dryers would meet this requirement.

Disinfection of swimming and spa pools

Employers and operators should ensure that strict hygiene standards are maintained if spas are in use. Spa pools provide a higher risk of infection than swimming pools because of their warm, aerated turbulent water and the smaller body of water is ideal for organisms such as *Giardia* and *Cryptosporidium*. Bacteria such as *Staphylococcus aureus* and *Pseudomonas aeruginosa* can give ear, eye, nose, throat and skin infections. The close proximity of people in a spa also means that organisms are more easily transferred.

Spa water should be treated to NZ Standard 5826:2000 *Pool Water Quality*. Water tests should be taken daily. Public spas should be drained, cleaned and refilled with fresh water at least weekly or more frequently if warranted.

Bars and food preparation areas

The brothel operator or manager (or whoever is in charge of the food handling part of the service/business) must contact their local council to find out exactly what they are required to do to comply with the Food Act.

Everyone who provides food for consumption, as part of their business or service, will need to comply with the Food Act and Food Hygiene Regulations and will be inspected by environmental health officers (EHOs) from time to time to ensure compliance. If not, they can be closed down temporarily or permanently by the environmental health officer. The operator might also require a resource consent, depending on local council planning provisions.

10: First Aid

ALL WORKPLACES, FROM ONE- OR TWO-PERSON OPERATIONS UP TO MUCH larger businesses, should have at least one first aid kit on the premises. In premises with more than one level, a kit should be located on each floor of the building. For those who work on outcalls, small mobile first aid kits are available.

It is the employer's legal responsibility to provide all first aid equipment. A number of providers sell a range of fully equipped first aid kits to meet different requirements.

First aid kits should be:

- kept in a convenient, central and accessible location;
- maintained in a fully equipped state at all times;
- shown and explained to new employees as part of their induction to the workplace.

Identifying whose responsibility it is to regularly check the kit/s and replace used supplies is essential in ensuring the first aid kit/s are ready for use in an emergency.

Having someone on site with the knowledge to administer first aid in the event of an accident or sudden medical emergency can save a life or avert serious health complications. First aid training for one or more people who are usually on site in the workplace is recommended. Training is available through a variety of providers.

Recommendations are given in the *OSH Guidance Notes on Providing First Aid Equipment, Facilities and Training*.

11: Fire Safety

EMPLOYERS ARE LEGALLY RESPONSIBLE FOR ENSURING THAT THEIR PREMISES meet the required standards of Fire Regulations, and the requirements of the Local Authority.

After an initial fire safety evaluation is carried out, employers should regularly monitor that:

- entrances, exits and passageways are kept clear and, in the case of exits, are indicated by clear signage;
- fire extinguishers suitable for different types of fires are provided, and all employees know their location and means of operation;
- employees are given training in how to react to a fire or other emergency situation.

12: Heating and Cooling

AS IN OTHER WORKPLACES, SEX INDUSTRY WORKPLACES NEED TEMPERATURE control. Workrooms and employee spaces should be maintained at between 19–24°C in summer and 18–22°C in winter. Some rooms, such as those where employees are expected to spend extended periods of time with little or no clothing, may need to be maintained at a temperature higher than 25°C, as suitable to the individual employee. Employers must provide heating and air-cooling to ensure a comfortable temperature.

13: Lighting

INTERNAL AND EXTERNAL LIGHTING MUST COMPLY WITH THE LOCAL SAFETY regulations. While some smaller wattage lighting may be required within work rooms and other areas of the workplace for effect, it is very important that stairs, passageways, entrances, exits and common areas are well lit. Recommended lux is 100–150 for these areas.

In the case of outcalls, an employee should carry a small torch to be used in the event of unsatisfactory lighting in the client's home, hotel, car or access paths.

PART FOUR: PSYCHOSOCIAL FACTORS

14: SECURITY AND SAFETY FROM VIOLENCE 52

15: ALCOHOL 54

16: DRUGS 55

17: SMOKING IN THE WORKPLACE 56

18: COMPLAINTS 58

19: EMPLOYEE PARTICIPATION 59

20: WORKPLACE DOCUMENTS 60

14: Security and Safety from Violence

VIOLENCE IN THE WORKPLACE IS NEVER ACCEPTABLE. VIOLENCE CAN TAKE many forms. It can be abusive communication, intimidation or bullying, as well as physical abuse, sexual harassment or stalking. Abusive or violent situations may arise through working with clients, and in some cases from co-workers or management.

Being on the receiving end of any form of abuse can affect different people in different ways. Physical and emotional reactions to violence or abuse may appear some time after the actual event. Additionally, other employees may be adversely affected by the abuse of one of their co-workers.

Sex workers who provide outcall may face particular hazards in relation to security and safety from violence (see Fact Sheet 1).

Responsibilities of employer

Employers, owners or operators are responsible under the HSE Act for managing hazards in the workplace, including violence. Their object should be to eliminate potentially abusive situations, violence or intimidation from the workplace, whatever the source. Where a hazard cannot be eliminated, it should be isolated; and if it cannot be isolated, it should be minimised.

Employers and/or operators may meet this responsibility in the following ways:

- Identify tasks or circumstances where sex workers or others may be exposed to some form of abuse or violence.
- Provide communication skills training as part of employee induction.
- Work with employees to develop strategies to eliminate risks.
- Develop and document procedures to be followed at times when potentially dangerous situations arise (see example below of steps to include in the development of a procedure).
- Ensure all existing and new employees are made aware of these procedures.
- Organise training for sex workers on how to identify

potentially dangerous situations and how to protect themselves.

- Install safety devices such as accessible alarm buttons in all rooms, and ensure that everyone is aware of the procedure to follow if the alarm sounds.
- Enforce a strict policy of ejecting and not readmitting clients who are behaving unacceptably, for example clients who are verbally or physically threatening or abusive.
- Provide appropriate training and procedures for employees taking bookings, staffing phones or performing reception work.
- Support and encourage employees to report all incidents of violence to the employer and/or the police. This may be done with the assistance of the local sex worker organisation.
- Ensure an employee who has experienced a violent or abusive work situation receives any medical, legal, support and counselling services that they require.
- Acknowledge and maintain the right of sex workers to refuse any client, or to refuse to continue providing any client with commercial sexual services.
- Provide secure lockable facilities in which employees may leave their clothes, valuables, etc. while they are working.

Example of procedure with a threatening client

A procedure to follow when an employee is with a client, and the client begins to threaten the employee, should include:

- How the employee should extricate her/himself safely from the client's presence.
- What measures to take to alert others to the situation.
- Instructions as to how the receptionist is expected to act in the situation.
- Advice as to how other staff should respond.
- Advice on the circumstances in which the police must be called.
- Follow-up as needed to ensure that the client is not admitted or booked again.
- Encouraging sex workers to share information about problem clients, e.g. in the "Ugly Mug" publication.
- Identifying what support mechanisms are provided for the worker.

The police have appointed sex worker liaison officers in some areas to assist sex workers in accessing the protection of the law, and in prosecuting those who commit crimes against sex workers.

Your local sex worker organisation can advise you about any contact you may have, or consider having, with the police.

15: Alcohol

SOME SEX INDUSTRY BUSINESSES HAVE ALCOHOL ON THEIR PREMISES WHILE others do not. Those who supply alcohol on premises must ensure that they comply with local and national licensing requirements.

It is strongly recommended that sex workers (as is the case with any other workers) do not use alcohol on the job, as this may impair judgment and could result in sex workers making decisions that may affect the health and safety of themselves and clients.

However, if alcohol is used by sex workers, it is strongly recommended that an alcohol policy is established. It should be developed in consultation with employees and provided to each new and existing employee, outlining:

- when it is considered appropriate to consume alcohol;
- acceptable standards of work performance;
- a prohibition on being intoxicated in the workplace.

16: Drugs

IF A SEX WORKER IS COMING TO WORK AFFECTED BY DRUGS, THEN SHE/HE MAKES her/himself and co-workers vulnerable to violent or exploitative clients.

Bringing illegal drugs into or around the premises of the workplace compromises the legality of the workplace. The possession or use of illegal drugs in the place of work should not be condoned or allowed.

17: Smoking in the Workplace

EXPOSURE TO SECOND-HAND SMOKE CAUSES AN ESTIMATED 388 DEATHS A YEAR in New Zealand — almost the same as the national road death toll — and it is a significant health risk in the workplace. As well as standard health and safety legislation and protections, the Smoke-free Environments Act 1990 provides specific health protections for workers and non-smokers from exposure to second-hand smoke.

Smoke-free indoor workplaces and licensed premises

Before December 2004:

Before December 2004, the Smoke-free Environments Act 1990 requires that:

- An employer must have a written policy, complaints procedure and prominent notices about where smoking is allowed (or not) in a workplace, with no smoking in office areas where more than one person works.
- The policy should be based on the principle that employees who do not smoke or do not wish to smoke are, as far as is reasonably practicable, protected from second-hand smoke in the workplace.
- If an indoor designated smoking area is provided, an employer should ensure that non-smoking employees need not access the smoking area as part of their job, and the smoking room is separately ventilated.

After 10 December 2004:

After 10 December 2004, the Smoke-free Environments Act 1990 will increase coverage of worker protections by requiring 100% smoke-free in *all* indoor areas of workplaces and licensed premises. In particular:

- An employer must ensure *all* indoor workplaces are 100% smoke-free (no designated smoking areas or smoking policies).
- Indoor workplace areas include reception areas, client waiting

- rooms, bar areas and bedrooms.
- Smoking employees and clients must smoke outside. Decks and other areas that are not “substantially enclosed” by walls and a roof may be considered an outdoor area (but no smoke should drift indoors).
- The 100% smoke-free ban applies to:
 - an indoor workplace with at least one employee;
 - licensed premises that serve alcohol or have a gambling licence; and
 - employees and volunteers (but not volunteers or independent contractors if there is no employee in the workplace).

Under-18 access to cigarettes

An employer must also ensure that people under 18 are not sold or given cigarettes by workers or clients on the premises. It is an offence to supply a minor (under 18) with cigarettes in a “public place” such as a workplace.

For further information, see Fact Sheet 8: Smoke-free Resources.

Complaints

- Employees and clients have a right to complain if they are exposed to second-hand smoke in contravention of the smoke-free law.
- Employees and clients should complain in the first instance to the employer or person in charge of the premises; and if that is unsuccessful, they may complain to a smoke-free officer at the Public Health Service at your local District Health Board.
- If smoking is discovered on your premises, an employer may be liable to pay a fine of up to \$400 for an individual, or \$4,000 for a body corporate.
- There are also powers under OSH legislation for the Department of Labour to prosecute employers who refuse to comply with their legal obligations to ensure worker health and safety.

18: Complaints

IF YOU HAVE A WORKPLACE HEALTH AND SAFETY PROBLEM, OR AN EMPLOYMENT-related issue, you should raise it with first with your employer. If that is unsuccessful, and you feel you wish to make a complaint, then you should contact the Department of Labour.

The Occupational Safety and Health Service will investigate complaints about health and safety management issues that result in illness or harm to clients or sex workers. For contact details, see Appendix 4: Department of Labour Offices or visit www.osh.dol.govt.nz.

You can contact the Employment Relations Service for information on employment rights and responsibilities, and guidance on resolving employment relationship problems. Call the Employment Relations Infoline on 0800 800 863 or visit www.ers.govt.nz. Labour inspectors will investigate complaints about wages, holidays, leave or similar issues.

If your problem or complaint concerns an immigration matter, then contact the New Zealand Immigration Service. This also is a Service of the Department of Labour, and contact details are given in Appendix 4.

If your complaint is about workplace practices or environmental factors that pose a risk to public health — for example the use of protective equipment, or policies in relation to workers or clients infected with STIs — you should contact a Medical Officer of Health (see Appendix 5: Health Agencies). The Public Health Service will investigate public health related complaints about sex industry establishments. Medical Officers of Health should be the first point of contact for complaints related to STIs.

19: Employee Participation

THE HSE ACT RECOGNISES EMPLOYEE PARTICIPATION AND EMPLOYEES' contributions as an important part of the development and implementation of good health and safety practices at work.

Specifically, the HSE Act requires that all employers provide reasonable opportunities for employees to participate in an ongoing process for the improvement of health and safety.

Employers, employees who wish to be involved, and unions representing them are required to co-operate in good faith and develop, agree, implement and maintain a participation system.

If an employer has:

- fewer than 30 employees, and one or more employees requires it, an employee participation system must be developed;
- 30 or more employees, an employee participation system must be developed.

Practically, an employee participation system can be informal, such as weekly staff meetings, or employees discussing health and safety concerns with their employer; or it may be something more formal such as having a health and safety representative, or a health and safety committee.

For more information, see Fact Sheet 5: Employee Participation Systems.

20: Workplace Documents

IT WOULD BE GOOD PRACTICE FOR ALL SEX INDUSTRY ESTABLISHMENTS — BE THEY brothels, strip clubs or escort agencies — to develop relevant written workplace documents for staff and management. These documents should contain rules, requirements and guidelines about various issues and activities in the workplace, including:

- Safer sex practice.
- Condom breakage and slippage policy (see Fact Sheet 3).
- A hazard register, detailing significant hazards in the workplace and how they can be dealt with. This might include such things as:
 - procedures for handling difficult or potentially dangerous clients;
 - safety procedures for sex workers who provide outcall.
- An accident register, that details every accident or incident that might have harmed or harmed an employee, and every occurrence of serious harm to an employee.
- Details, if one is required, of an agreed employee participation system (see Fact Sheet 5).
- Written employment agreements where an employment relationship exists.

These documents are useful in developing an understanding between employees and employers about the conditions they work in. Where employees do not understand spoken or written English, employers should arrange for an interpreter service, and make these documents available in appropriate languages.

APPENDICES

APPENDIX 1: ROLES OF REGULATORY AGENCIES 62

APPENDIX 2: ACCIDENT RECORDING AND
NOTIFICATION 67

APPENDIX 3: NEW ZEALAND PROSTITUTES
COLLECTIVE 69

APPENDIX 4: DEPARTMENT OF LABOUR OFFICES 70

APPENDIX 5: HEALTH AGENCIES 74

Appendix 1: Roles of Regulatory Agencies

SINCE THE PROSTITUTION REFORM ACT, HEALTH AND SAFETY LAWS HAVE applied to the sex industry, and to sex workers providing commercial sexual services.

Department of Labour

Occupational Safety and Health

OSH is a Service of the Department of Labour that is responsible for administering legislation relating to the health, safety and welfare at work of all employees and other people affected by work activities. The main legislation involved is the Health and Safety in Employment (HSE) Act.

OSH employs safety and health professionals. Their role is to assist workplaces to improve health and safety and monitor whether the HSE Act is being applied.

The legislation provides OSH inspectors with various powers to carry out their role in workplaces. These include powers to enter and inspect places of work; to require improvements to ensure the safety and health of workers and others; and to prohibit unsafe work or plant. Inspectors may issue infringement notices, which attract a fee, or prosecute for breaches of the Act.

The powers of entry and inspection do not generally apply to a private home.

OSH does not enforce the requirements of the Prostitution Reform Act.

Employment Relations

The Employment Relations Service (ERS) is a Service of the Department of Labour which is responsible for promoting and supporting fair and productive employment relationships. The legislation involved is the Employment Relations Act 2000.

Its services include:

- providing information and advice to the public on employment rights and obligations — such as minimum pay and conditions, holidays, paid parental leave;
- providing investigation and enforcement services in relation to statutory employment rights and conditions; and
- providing mediation services to facilitate the resolution of problems between employers, unions and employees.

ERS labour inspectors are responsible for the enforcement of certain employment relations laws such as annual leave, sick leave, parental leave, public holidays and minimum pay. Labour inspectors are also able to provide assistance to employers during their investigations to ensure that wage records and systems, agreements and policies meet the law's requirements. Labour inspectors investigate impartially, and work with employers and employees to ensure that problems are resolved in a way that stops them recurring. If it appears that an employer has breached any of these laws, employees can ask a labour inspector to investigate the matter on their behalf, or they can take action themselves. See Appendix 4 for contact details.

Immigration

The New Zealand Immigration Service of the Department of Labour manages permanent and temporary migration to New Zealand.

Under the Prostitution Reform Act 2003, people who are not New Zealand citizens or permanent residents are prohibited from coming to New Zealand in order to provide commercial sexual services (whether directly, as an operator, or through investment in a business). In addition, a person on a temporary permit (work, student, or visitor) may not, while in New Zealand, provide commercial sexual services, act as an operator of a New Zealand business of prostitution, or invest in a New Zealand business of prostitution. Anyone who is found to be in breach of their temporary permit is liable to have it revoked, and to be required to leave New Zealand.

New Zealand is also a signatory to international conventions which aim to combat trafficking in and smuggling of women and children. (Both terms refer to moving people unlawfully across borders; in general, smuggling involves the individual's consent, while trafficking involves coercion.)

The New Zealand Immigration Service's principal role with regard to the commercial sex industry therefore relates to enforcing compliance with the relevant legislation. This means ensuring that foreign nationals are not breaching their permit conditions through participating in the sex industry, and working with other countries to combat people smuggling and trafficking.

It does not mean that people who have worked or work in the sex industry overseas may not enter or apply to live in New Zealand. However, a residence application cannot be based on previous experience in, or future intention of, the provision of commercial sexual services. Any immigration applications will be assessed on their own merits.

The New Zealand Immigration Service has a contact centre where information about potential law breaches can be left (anonymously if desired). Telephone 914 4100 (Auckland) or 0508 55 88 55 (rest of the country).

Public health

Public Health Act 1956

This Act (in section 23) confers “general powers and duties of local authorities in respect of public health”. Subject to the provisions of the Health Act, it is the duty of every local authority to improve, promote and protect public health within its district.

Public health services

Public health services are centrally funded by the Ministry of Health but are delivered by 12 District Health Board (DHB) owned public health units and various non-governmental organisations (NGOs).

Public health services focus on “core public health services” as specified in the *Public Health Services Handbook*, including environmental health, communicable disease control, tobacco control and health promotion programmes. Many of these services include a regulatory component performed by statutory officers appointed under a variety of legislation, though principally under the Health Act 1956. These statutory officers are employed by DHBs but are personally accountable to, and subject to, direction from the Director-General of Health. Statutory officers also work closely with the Ministry’s Public Health Directorate in respect of funding, co-ordination of services and ongoing support.

Medical Officers of Health – District Health Boards

Medical Officers of Health have the primary responsibility for health and safety related complaints for clauses 8 and 9 of the Prostitution Reform Act 2003, and where the complaints relate to public health. Legally, Medical Officers of Health have the power to enter and inspect compliance with the health and safety responsibilities for sections 8 and 9.

Public health laws

Statutory powers available to control communicable disease

Existing legislative provisions are available within the Health Act 1956 which allow a Medical Officer of Health or any Health Protection Officer to take action with respect to an individual likely to spread infectious disease. The Health Act allows for a person suffering from specified infectious diseases (or suspected to be suffering from such a disease) to be removed to a hospital or other suitable place where she/he can be effectively isolated.

The focus of this legislation is therefore on the isolation of the individual in order to protect the public health. Future legislation is likely to be included in a Public Health Act which will provide for a range of complementary options which aim to protect the public health and to respect the individual's rights.

Section 80 of the Health Act 1956

Section 80 of the Health Act provides offences relating to the spread of infectious diseases. This includes persons who know that they are suffering from an infectious disease and fail to take proper precautions against the spread of infection.

Infectious disease is defined in section 2 of the Health Act 1956 as any diseases specified in Parts I or II of the First Schedule to the Act. It is important to note that this definition includes a wide range of infectious and communicable diseases and is not just limited to sexually transmissible infections.

Venereal Disease Regulations 1982

The Venereal Disease Regulations 1982 allow for public health follow-up if a patient defaults from treatment of certain STIs and for tracing of contacts of cases of certain diseases, provided the name of the contact is given.

Crimes Act 1961

There are provisions under the Crimes Act 1961 that outlaw the intentional spread of communicable disease. Section 201 of the Crimes Act makes it an offence to wilfully, and without lawful justification or excuse, cause or produce in any other person any disease or sickness.

Criminal law provisions are considered as a last resort after a

number of public health measures have been undertaken (including health education, individual counselling, treatment, and health promotion activities).

Appendix 2: Accident Recording and Notification

THE HSE ACT REQUIRES EMPLOYERS, THE SELF-EMPLOYED AND PRINCIPALS TO record all accidents and incidents that cause (or could have caused) harm to people in the place of work. It requires employers to investigate all accidents and incidents to determine whether or not they were caused by a significant hazard, and if so to manage the hazard.

The Act also requires immediate notification by employers, the self-employed and principals of all accidents or cases of occupational illness involving serious harm to employees to the nearest OSH office. This must be followed by a written report in the prescribed form within seven days. The purpose of informing OSH is to allow the agency to form a picture of the types of injury and illness occurring in workplaces and to monitor compliance with the law.

Recording any harm that occurs to people in a place of work

Employers, the self-employed and principals are each required to keep a register of all accidents involving any person in the place of work (section 25(1)).

The Act defines “accident” broadly, as any event that:

- causes any person to be harmed; or
- in different circumstances, might have caused any person to be harmed.

Employers must also record any occurrence of serious harm to an employee that arises from a hazard they were exposed to at work. Preprinted accident registers are available from selected stationers. Forms for recording accidents are available at www.osh.dol.govt.nz.

Notification and reporting requirements

Employers, self-employed and principals with the duty to record accidents must also notify OSH of occurrences of serious harm (section 25(2) and (3)).

Where serious harm occurs to any person, the person recording is

required to notify the Secretary of Labour at the nearest OSH regional office as soon as is reasonably possible after its occurrence or detection. (For a full definition of serious harm, refer to the OSH website or contact your nearest OSH office in the Blue Pages.) Notification should be made by telephone or fax — not by mail. It should describe:

- what has happened;
- to whom; and
- where.

The seriousness of the event may determine how rapidly notification occurs. In the case of a fatality or grave injury, notification should occur immediately after the event. Alternatively, in the case of serious harm arising from occupational illness or disease, it may be sufficient to send a written report after an initial diagnosis is made.

The purpose of the notification is so that OSH can determine whether or not to investigate the serious harm; also so that where necessary OSH can authorise the release of the accident scene.

Within 7 days after the occurrence, and in addition to the notification described above, the nearest branch of OSH must be provided with written notice.

The notice must be in the manner prescribed by regulation. Pre-printed forms are available from selected stationers, or from www.osh.dol.govt.nz.

Accident scenes not to be disturbed

Where an accident causes serious harm in a place of work, it is an offence under the HSE Act to disturb the scene unless authorised by an inspector, or to save the life or prevent harm to a person, maintain access to an essential service or utility, or prevent serious damage to or loss of property (section 26). This requirement doesn't apply to an incident being investigated by the police or a motor vehicle accident.

Appendix 3: New Zealand Prostitutes Collective

National Office and Wellington Office

PO Box 11 412

Manners Street

Wellington

Telephone (04) 382 8791

Fax (04) 801 5690

E-mail pcdp@globe.net.nz

Web <http://www.nzpc.org.nz>

Outreach to other Centres

Hawke's Bay (06) 835 1400

Hamilton (07) 839 5519

Palmerston North (06) 357 3150

Auckland Office

PO Box 68 509

Newton

Auckland

Telephone/fax (09) 366 6106

Tauranga Office

PO Box 13 092

Greerton

Tauranga

Telephone/fax (07) 571 0640

New Plymouth Office

19 Robe Street

New Plymouth

Telephone (06) 758 6228

Christchurch Office

PO Box 13 561

Christchurch

Telephone/fax (03) 365 2595

Dunedin Office

PO Box 64070

Dunedin

Telephone (03) 477 6988

Fax (03) 477 2517

Appendix 4: Department of Labour Offices

Occupational Safety and Health

For workplace health and safety information, contact either the following offices or visit www.dol.govt.nz. For information on the HSE Act, please call Workinfo on 0800 209020 or visit www.workinfo.govt.nz.

OSH HEAD OFFICE

4th Floor, Unisys House
56 The Terrace
PO Box 3705
Wellington
Phone (04) 915 4444
Fax (04) 499 0891

Manukau

12 Lambie Drive
Manukau City
PO Box 63010
Papatoetoe South
Auckland
Phone (09) 262 5300
Fax (09) 262 5301

Northland

2nd Floor, Manaia House
Corner Rathbone and Dent Streets
PO Box 141
Whangarei
Phone (09) 438 0552
Fax (09) 438 4874

Penrose

1st Floor, 638 Great South Road
Penrose
PO Box 11177
Ellerslie
Auckland
Phone (09) 915 6290
Fax (09) 525 0372

AUCKLAND

North Harbour

5 Argus Place
Glenfield
PO Box 33790
Takapuna
Auckland
Phone (09) 443 3460
Fax (09) 443 4246

West Auckland

Westgate Business Estate
5 Pinot Lane, Massey
Waitakere City
PO Box 84245
Westgate
Auckland
Phone (09) 833 5651
Fax (09) 833 5157

OTHER OFFICES

Waikato/Thames

93 Collingwood Street
PO Box 958
Hamilton
Phone (07) 957 3560
Fax (07) 838 0054

Taupo/Eastern Bay of Plenty

1st Floor, 1231 Haupapa Street
PO Box 2428
Rotorua
Phone (07) 347 9656
Fax (07) 346 0229

Hawke's Bay/East Coast
(Napier and Gisborne offices)

6 Taradale Road
PO Box 546
Napier
Phone (06) 835 7017
Fax (06) 835 7102

295 Gladstone Road
PO Box 139
Gisborne
Phone (06) 868 8809
Fax (06) 868 8832

Western Bay of Plenty

Unit 2, ProMed House
Corner 10th Ave and Edgcumbe Road
Tauranga
PO Box 66
Tauranga
Phone (07) 578 2090
Fax (07) 577 6396

Taranaki

97 Gill Street
PO Box 342
New Plymouth
Phone (06) 758 0516
Fax (06) 757 8166

Manawatu/Whanganui

Corner Taonui and Walding Streets
PO Box 241
Palmerston North
Phone (06) 359 1919
Fax (06) 359 1431

Hutt/Wairarapa

Professionals Building
Corner Cornwall Street and Kings Crescent
PO Box 30556
Lower Hutt
Phone (04) 566 8962
Fax (04) 566 7363

Wellington/Kapiti

Level 3, Southmark House
203–209 Willis Street
PO Box 27463
Wellington
Phone (04) 385 7771
Fax (04) 382 9159

Nelson/Marlborough

60 Vickerman Street
PO Box 5079
Port Nelson
Phone (03) 546 8180
Fax (03) 546 8136

Canterbury/West Coast

Lincoln House
81 Lichfield Street
PO Box 22165
Christchurch
Phone (03) 366 5500
Fax (03) 365 2616

Greymouth

54 Tainui Street
PO Box 37
Greymouth
Phone (03) 768 0480
Fax (03) 768 6930

Timaru

1st Floor 16 Beswick Street
 Timaru
 Phone (03) 684 9120
 Fax (03) 684 9127

Otago

392 Hillside Road
 Dunedin
 PO Box 537
 South Dunedin
 Phone (03) 455 0855
 Fax (03) 455 6680

Southland

Victoria House
 70 Victoria Avenue
 PO Box 548
 Invercargill
 Phone (03) 218 2126
 Fax (03) 218 2152

Employment Relations

For information on employment rights and responsibilities, and guidance on resolving employment relationship problems, call Employment Relations Infoline on 0800 800 863 or visit www.ers.govt.nz.

Immigration

AUCKLAND REGION

Central Auckland

New Zealand Immigration Service
 Level 3 450 Queen Street
 Private Bag
 Wellesley Street
 Auckland
 Office Hours: Monday, Wednesday, Thursday,
 Friday — 8:30am to 4:00pm
 Tuesday — 8:30am to 3:00pm

Manukau

New Zealand Immigration Service
 Westfield Tower Westfield Shopping Centre
 Manukau City
 Auckland

Henderson

35 Paramount Road
 Henderson
 Auckland

OTHER BRANCHES

Hamilton Branch

New Zealand Immigration Service
 Westpac Trust House
 Cnr Victoria and Alma Streets
 Private Bag 3013
 Hamilton
 Office Hours: Monday, Thursday,
 Friday — 9:00am to 4:00pm
 Tuesday, Wednesday — 9.30am to 4:00pm

Palmerston North Branch

New Zealand Immigration Service
 State Insurance Building
 61–75 Rangitikei Street
 PO Box 948
 Palmerston North
 Office Hours: Monday, Tuesday, Thursday,
 Friday — 9am to 3pm
 Wednesday — 10am to 3pm

Wellington Branch

New Zealand Immigration Service
Level 7 Regional Council Centre
142–146 Wakefield Street
PO Box 27-149
Office Hours: Monday, Wednesday, Thursday,
Friday — 8.30am to 3.30pm
Tuesday — 8.30am - 3.00pm

Christchurch Branch

New Zealand Immigration Service
Level 1 Crystal Plaza
73-75 Cathedral Square
PO Box 22111
Christchurch
Office Hours: Monday, Tuesday, Thursday,
Friday — 8am to 4pm
Wednesday — 10am to 4pm

Dunedin Branch

New Zealand Immigration Service
6th Floor Evan Parry House
43 Princes Street
PO Box 557
Dunedin
Office Hours: Monday to Friday —
9am to 4pm

Appendix 5: Health Agencies

PUBLIC HEALTH SERVICES

Northland Health

Dr Jonathan Jarman

Maunu House

155 Maunu Road

PO Box 742

Whangarei

Telephone (09) 430 4100

Fax (09) 430 4124

Auckland Healthcare Services

Dr Wilson Young

2 Owens Road

Epsom

Private Bag 92605

Symonds Street

Auckland

Telephone (09) 262 1855

Fax (09) 630 7431

Health Waikato

Dr Dell Hood

222 Pembroke Street

PO Box 505

Hamilton

Telephone (07) 838 2569

Fax (07) 838 2382

Toi Te Ora Public Health, Pacific Health

Dr Phil Shoemack

1st Floor 510 Cameron Road

PO Box 2121

Tauranga

Telephone (07) 838 2569

Fax (07) 838 2382

Toi Te Ora Public Health, Pacific Health

Dr Phil Shoemack

Hauora House

1143 Haupapa Street

PO Box 1858

Rotorua

Telephone (07) 349 3520

Fax (07) 346 0150

Toi Te Ora Public Health, Pacific Health

Dr Phil Shoemack

Corner Garaway Street and Stewart Street

PO Box 241

Whakatane

Telephone (07) 306 0720

Fax (07) 306 0987

Tairāwhiti Healthcare

Dr Bruce Duncan

Bright Street

PO Box 119

Gisborne

Telephone (07) 306 0720

Fax (07) 306 0987

Healthcare Hawke's Bay

Dr Caroline McElnay

4th Floor Library Building

22 Station Street

PO Box 447

Napier

Telephone (06) 834 1815

Fax (06) 835 4813

Wanganui Public Health
 Dr Patrick O'Connor
 Lambie Hostel
 Wanganui Hospital
 Private Bag 3003
 Wanganui
 Telephone (06) 348 1775
 Fax (06) 348 1783

Choice Health
 Dr Margot McLean, Dr Annette Nesdale
 Public Health Wairarapa
 26 Chapel St
 Private Box 58
 Masterton
 Telephone (06) 378 9029
 Fax (06) 946 9800

Hutt Valley Health
 Dr Margot McLean, Dr Annette Nesdale
 1st Floor Pilmuir House
 Private Bag 31907
 Lower Hutt
 Telephone (04) 570 9002
 Fax (04) 570 9211

Nelson Marlborough Health
 Dr Maree Leonard
 Wairau Hospital
 Hospital Road
 PO Box 46
 Blenheim
 Telephone (03) 577 1914
 Fax (03) 578 9517

Nelson Marlborough Health
 Dr Ed Kiddle,
 36 Franklyn Street
 Private Bag 647
 Nelson
 Telephone (03) 546 1537
 Fax (03) 546 1542

Crown Public Health Ltd
 Dr Mel Brieseman
 Datacom House

76 Chester Street East
 PO Box 1475
 Christchurch
 Telephone (03) 379 9480
 Fax (03) 379 6125

Dr Cheryl Brunton
 Tarapuhi Street
 Private Box 443
 Greymouth
 Telephone (03) 768 1160
 Fax (03) 768 1169

Dr Daniel Williams
 6B Sefton Street
 Private Box 510
 Timaru
 Telephone (03) 688 6019
 Fax (03) 688 6091

Public Health South
 Dr John Holmes
 Moray Place
 57 Hanover Street
 PO Box 5144
 Dunedin
 Telephone (03) 474 1700
 Fax (03) 474 0221

Public Health South
 Dr Derek Bell
 92 Spey Street
 PO Box 1601
 Invercargill
 Telephone (03) 211 0900
 Fax (03) 211 0899

Queenstown/Central Otago
 Dr Derek Bell
 Queenstown Frankton Hospital,
 Queenstown
 PO Box 2180
 Frankton
 Telephone (03) 442 2500
 Fax (03) 442 2505

SEXUAL HEALTH CLINICS

Ashburton Clinic

Outpatients Department Ashburton Hospital
Ashburton
Telephone (03) 308 7447
Fax (03) 308 8783

Auckland Central Sexual Health Service

Building 16 Auckland Hospital Park Road
Grafton
Auckland
Telephone (09) 307 2885
Fax (09) 307 2884

Auckland North Shore Sexual Health Clinic

418 Glenfield Road
Corner Peach and Glenfield Road
Glenfield
Auckland
Telephone (09) 443 2544
Fax (09) 443 2554

Auckland South Sexual Health Clinic

Manukau City Health Centre
18 Wiri Station Road
Manukau City
Auckland
Telephone (09) 263 7604
Fax (09) 263 8146

Auckland West Sexual Health Clinic

West Auckland Clinic
Waitakere Hospital
Henderson
Telephone 838 6199 ext 2107
Fax (09) 837 6637

Blenheim Sexual Health Clinic

C/o Wairau Hospital
Hospital Road
Blenheim
Telephone (03) 577 1913
Fax (03) 578 3047

Christchurch Sexual Health Centre

Christchurch Hospital
33 St Asaph Street
Christchurch.
Telephone (03) 364 0485
Fax (03) 379 8373

Christchurch Family Planning Outreach Centre

Arts Centre
301 Montreal Street
Christchurch
Telephone (03) 379 0514
Fax (03) 365 5757

Dannevirke Outreach Clinic

Guy Street Entrance
Dannevirke Hospital
Dannevirke
Telephone 0800 808 602

Dunedin Sexual Health Clinic

Outpatients Department
Dunedin Hospital
201 Great King Street
Dunedin
Telephone (03) 474 7919
Fax (03) 474 7651

Gisborne Sexual Health Clinic

Community Health Centre
141 Bright Street, Gisborne
Telephone (06) 868 9005
Fax (06) 867 8414

Gore Outreach Clinic

Gore Hospital
Gore
Telephone (03) 208 9090

Hamilton Sexual Health Service

C/o Waikato Hospital Campus
3 Ohaupo Road
Hamilton
Telephone (07) 839 8732
Fax (07) 839 8892

Hastings Sexual Health Centre
Downtown Health
200 Warren Street
South Hastings
Telephone (06) 878 1640
Fax (06) 878 1637

Horowhenua Outreach Clinic
Kowhai House
Horowhenua Hospital
Liverpool Street
Levin
Telephone (06) 368 9199 or 0800 808 602
Fax (06) 368 9670

Hutt Sexual Health Outreach Clinic
After Hours Medical Centre
729 High Street
Lower Hutt
Telephone (04) 385 59996 or (04) 385 5997
Fax (04) 389 1140

Invercargill Sexual Health Service
Outpatients Department, Kew Hospital
Invercargill
Telephone (03) 214 5768
Fax (03) 214 5789

Napier Sexual Health Centre
Healthcare Hawke's Bay
14 Herschell Street
Napier
Telephone (06) 834 1812
Fax (06) 834 1894

Nelson Clinic
50 Halifax Street
Nelson
Telephone (03) 546 1537
Fax (03) 546 1542

New Plymouth Sexual Health Clinic
Outpatients Department
Taranaki Base Hospital
David Street

New Plymouth
Telephone (06) 753 7805
Fax (06) 753 7757

Palmerston North Sexual Health Centre
9 Heretaunga Street
Palmerston North
Telephone (06) 350 8602
Fax (06) 350 8602

Porirua Outreach Clinic
Family Planning Clinic
1 Hartham Place
Porirua
Telephone (04) 385 5996 or (04) 385 5997
Fax (04) 389 1140

Rotorua Sexual Health Clinic
Rotorua Hospital
Rotorua
Telephone (07) 349 7918
Fax (07) 349 7922

Taupo Outreach Clinic of Lakeland Health
CHE
Waiora House
129 Spa Road
Taupo
Telephone (07) 378 3895
Fax (07) 378 3895

Tauranga Sexual Health Clinic
Outpatients Department
Tauranga Hospital
Cameron Road
Tauranga
Telephone (07) 577 8130
Fax (07) 577 8147

Timaru Sexual Health Clinic
Outpatients Department
Timaru Hospital
Timaru
Telephone (03) 684 3089 ext 8768
Fax (03) 688 0238

Tokoroa Sexual Health Service Outreach Clinic
 OPD Department
 Tokoroa Hospital
 Tokoroa
 Telephone (07) 886 7239
 Fax (07) 886 4701

Wanganui Sexual Health Clinic
 Public Health Centre,
 Outpatients Department
 Wanganui Base Hospital
 Wanganui
 Telephone (06) 348 1234
 Fax (06) 348 1251

Wellington Sexual Health Centre
 175A Adelaide Road
 Newtown,
 Wellington South
 Telephone (04) 385 5996 (male clinic)
 (04) 385 5997 (female clinic)
 Fax (04) 389 1140

Westland Sexual Health Centre
 Clinic Rooms outside McBearty Ward
 Ground Floor
 Grey Hospital
 Greymouth
 Telephone (03) 768 0499
 Fax (03) 768 579

Whakatane Sexual Health Clinic
 Outpatients Department
 Whakatane Hospital
 Stewart Street
 Whakatane
 Telephone (07) 307 8818
 Fax (07) 307 8852

Whangarei Sexual Health Clinic
 123 Maunu Road
 Whangarei
 Telephone (09) 430 4100 x 7652
 Fax (09) 430 4122

GENERAL PRACTITIONERS

Contact through your local telephone book under Registered Medical Practitioners.

COMMUNITY GROUPS

Alcohol and Drug Dependency Centres
 Contact through your local hospital.

Needle Exchange New Zealand
 National Office
 Telephone (03) 366 9403
 www.needle.co.nz

Family Planning Association FPA
 National Office
 PO Box 11 515
 Wellington
 Telephone (04) 384 4349
 Fax (04) 382 8356

National Society on Alcoholism and Drug
 Dependence
 Hope Gibbons Building
 Dixon Street
 Wellington
 Telephone (04) 385 1517
 Fax (04) 237 0283

New Zealand AIDS Foundation
 National Office
 31-35 Hargreaves Street
 College Hill
 Ponsonby
 PO Box 6663
 Wellesley Street
 Auckland
 Telephone (09) 303 3124
 Fax (09) 309 3149,
 E-mail nzaf@iconz.co.nz

AIDS Hotline – 24-hour
 0800 80 AIDS (0800 802 437)
 Auckland callers: 359 0099

MAORI

Te Puawai Tapu
PO Box 6044
Te Aro
Wellington
Telephone (04) 801 8859

Te Roopu Tautoko
National Office
PO Box 5720
Dunedin
Telephone (03) 477 4670

Te Waka Ahina Takataapui Inc.
PO Box 68415
Newton
Auckland
Peter Pohatu: Telephone (09) 636 1243
Lennid Taku: Telephone/fax (09) 358 2328

PACIFIC PEOPLE

Pacific Island AIDS Trust (PIAT) and the
Mafutaga a Uso Fa'afafine ma Aiga
Fuimaono Karl Pulotu-Endemann
Apartment 8
5 Levy Street
Mt Victoria
Wellington
Telephone/fax (04) 385 7435
Mobile 025 241 8334

AFA , C/o NZ AIDS Foundation
PO Box 6663
Wellesley Street
Auckland
Telephone (09) 303 3124
Fax 309 3149
E-mail: nzaf@iconz.co.nz

Family Life Education Pasefika
PO Box 22717
Otahuhu
Auckland
Telephone (09) 276 2737

Positive Women - Women living with HIV/AIDS
76 Grafton Road
Auckland
Telephone (09) 309 5560
Fax (09) 302 2338

Ministry of Health
PO Box 5013
Wellington
133 Molesworth Street,
Thorndon
Wellington
Telephone (04) 496-2000
Fax (04) 496-2340



FACT SHEETS

FACT SHEET 1: SAFETY AND SECURITY GUIDELINES FOR SEX WORKERS WHO PROVIDE OUTCALL 82

FACT SHEET 2: EXAMINATION OF CLIENTS PRIOR TO PROVISION OF SERVICE 85

FACT SHEET 3: ACTION TO BE TAKEN IN THE EVENT OF CONDOM BREAKAGE OR SLIPPAGE 86

FACT SHEET 4: MINIMUM EMPLOYMENT RIGHTS 89

FACT SHEET 5: EMPLOYEE PARTICIPATION SYSTEMS 93

FACT SHEET 6: ACC 96

FACT SHEET 7: HEALTH AND SAFETY INFORMATION RESOURCES 98

FACT SHEET 8: SMOKE-FREE RESOURCES 100

Fact Sheet 1: Safety and Security Guidelines for Sex Workers Who Provide Outcall

SEX INDUSTRY WORKERS PROVIDING OUTCALL HAVE SAFETY AND SECURITY issues particular to this form of sex work. Operators in an outcall service also have added responsibilities to ensure the safety of their sex workers while working.

Having an established outcall work safety procedure is essential — as is adhering to it. The following guidelines are designed to assist outcall workers maximise their health, safety and well-being.

Bookings

Whoever is taking bookings for outcall work, either the receptionist or the sex worker themselves, should take the following steps:

- When a client calls, take their name, address and phone number and tell the client you will call them back to take the booking. Call Telecom Directory Assistance (018) and verify that the name matches the name and address given.
- Keep a list of bad clients at hand, and share this information with other sex workers.
- When calling the client back, ascertain whether the client is alone. Explain that the sex worker will not stay if the client has misrepresented how many people are there.
- Make it clear to the client that the sex worker will only provide services that conform to safer sex practices.
- Receptionists should keep all potentially necessary emergency phone numbers up-to-date and share them with sex workers. Financial incentives for receptionists are sometimes used to encourage them to book as many jobs as possible. This may lead to sex workers going on a job to a bad client. Safety of the worker — not financial profit — must be the first consideration.

Getting to the job

- Drivers must be provided with training in their role by the employer and be clear as to their responsibilities.
- On arrival, the sex worker should note whether the house is well lit and listen as she/he approaches the front door for voices that may indicate more than one person. If the client is not alone, then the sex worker may require the driver to accompany her/him inside. The sex worker should try to ascertain whether the client is too intoxicated. If the sex worker feels uncomfortable or endangered at any stage, she/he should leave immediately.
- The sex worker should always get the payment first. She/he should give it to the driver or put it straight into a discreet pocket or bag. The money bag should be kept within sight at all times, even when the sex worker goes to the bathroom.
- The sex worker should phone in on arrival. Repeating the address, the booking in and out time and having a pre-arranged code word or phrase that represents a dangerous situation is strongly advised.
- If the sex worker is working alone, she/he should still make the phone call to a friend. Even calling her/his own number is better than nothing, so that the client believes that someone is aware of her/his location at all times.

Doing the job

- The sex worker should always carry a “work kit” containing condoms, lubricant, dams, gloves and any other tools of the trade with them at all times.
- Checking the client for visible signs of sexually transmissible infections is strongly advised.

Operators’ responsibility for outcall worker safety

- Operators should ensure that sex workers are aware of, understand and follow any safety guidelines and policies.
- Operators who provide outcall services should provide sex workers with a mobile phone and personal alarm while working, at no cost to the sex worker.
- Operators should provide training in procedures and responsibilities to all sex workers providing outcall services, reception staff and drivers.
- Operators should ensure that drivers have adequate driving skills, do not indulge in intoxicating substances while working

and interact with sex workers in a respectful and supportive manner.

- Operators should provide training to new sex workers on all aspects of outcall work including safer sex practices. Local sex work organisations can assist with training provision.
- Operators who provide outcall should provide secure lockable facilities for sex workers to store clothing, valuables, etc.

Fact Sheet 2: Examination of Clients Prior to Provision of Service

CLIENTS MAY HAVE A SEXUALLY TRANSMISSIBLE INFECTION AND NOT BE displaying any visible signs of infection. Checking of clients by sex workers should not be seen as a guarantee that the client does not have a STI. Sex workers and clients need to be aware that most STIs are invisible to the naked eye.

The sorts of things that may be seen may include:

- sores, ulcers, lumps, warts or blisters on the genitals or surrounding area;
- pubic lice (crabs) or their eggs in the pubic hair;
- signs of itching or rashes in the genital or anal area;
- cold sores on the mouth;
- discharges from the genital or anal area.

You may also notice an unpleasant odour.

Workers doing outcalls should carry a small torch to be used in the event of there being unsatisfactory lighting for a thorough examination of a client in the client's home, hotel room, car, etc.

In New Zealand, sex workers have the right to refuse to engage in any sexual practice with a client, for any reason.

If a sex worker suspects the client has a STI, she/he should be encouraged to refer the client for medical consultation at a sexual health clinic or private general practitioner.

A client who will not agree to safer sexual practice and tries to have unsafe sex may be in breach of the law, and subject to prosecution before the court.

For further information or advice on checking clients for STIs, contact the New Zealand Prostitutes Collective or Sexual Health Services.

Fact Sheet 3: Action to be Taken in the Event of Condom Breakage or Slippage

IN THE EVENT OF A CONDOM BREAKING OR SLIPPING, REGARDLESS OF WHETHER the male has ejaculated, there is the potential for the exchange of body fluids, in either direction, between the two partners.

If the worker or the client realises that the condom has broken, the worker should ensure the following steps are carried out.

During vaginal or anal sex

Stop the service immediately. The insertive partner should withdraw holding the condom on at the base of the penis, he should then urinate to clear the urethra and wash the genital area thoroughly, particularly under the foreskin if present.

The receptive partner should remove excess semen:

- From the vagina by squatting and squeezing it out using vaginal muscle exertion. Fingers can be used to scoop out any excess semen that remains, however care must be taken to avoid scratching the lining of the vagina with nails or jewellery. It is not necessary to urinate.
- From the neo-vagina by urinating. Fingers may be used to remove excess semen, with care being taken not to scratch the lining of the neo-vagina with the fingernails.
- From the anus by sitting down on the toilet and bearing down. Fingers should not be used in the anus.

Spermicides and douching

Spermicidal foams and creams are designed to prevent pregnancy occurring by destroying the sperm with which they come in contact. Claims have also been made that nonoxynol-9, a major ingredient in many spermicides and pessaries, will prevent transmission of STIs such as chlamydia, gonorrhoea and herpes by killing sperm and infectious cells in the vaginal tract. While it has killed HIV in the test tube, there has been

no proof of this occurring in the body. Some brands of condoms are coated with nonoxynol-9, although this is regarded as not being a large enough quantity to be effective in destroying HIV.

Over the last 10 years, there has been a growing body of evidence to suggest that frequent and regular use of nonoxynol-9 may lead to genital irritation, vaginal and cervical ulcers and recurring yeast infections. These conditions, were they to occur, would result in a greater risk of STI.

While findings on this subject are not conclusive, there would seem to be enough evidence to recommend that spermicides and pessaries containing nonoxynol-9 should not be used on a regular basis by sex workers. However, sex workers may choose to use them as a one-off measure in the event of a condom breakage or slippage, primarily to prevent pregnancy occurring.

If spermicide is used, the worker should monitor to ascertain whether any irritation is occurring.

Regular douching is a common practice amongst sex workers. However, it has been proven that frequent douching of the vagina, neo-vagina and anus may have a detrimental impact. Douching can lead to the destruction of the body's natural defences against infection in these areas as well as, particularly in the case of the anus, being responsible for creating small tears in the delicate mucus membrane. It can thus open an opportunity for infections to easily enter the bloodstream.

Douching the vagina is only recommended if the receptive partner is using a diaphragm. Without a diaphragm, the effect of douching can be to push semen up into the cervix. Douching and using spermicides and pessaries should only be used in the situation where a condom has broken or slipped. **Regular douching will have a detrimental effect on the vagina.**

Using an applicator, insert one-half to a full applicator of spermicide well into the vagina, spreading it all over with the fingers, being careful not to scratch the lining of the vagina with nails or jewellery.

Douching the neo-vagina is not recommended. Follow the same procedure as for the vagina when a diaphragm is not being used.

Douching of the anus is not advised as it can cause tears in the sensitive lining of the anus, possibly enabling the transmission of STIs including HIV.

Spermicide may be applied inside the anus, although irritation may occur.

During oral sex

The receptive partner should spit out any semen, and rinse their mouth with a chlorhexidine-based mouthwash, a diluted tea tree oil mixture or Betadine. They should not brush, floss their teeth or eat for at least an hour after.

The insertive partner should urinate and wash the penis thoroughly, particularly under the foreskin.

During trick sex

Trick sex is having intercourse between the thighs, under the armpits or in a cupped hand held in the genital area. If a worker has shaved or waxed their body or pubic hair, they need to be careful of cuts and scrapes. Any cuts, abrasions, rashes or grazes should be covered to prevent possible contact with body fluids.

If a sex worker is taping, strapping or tucking, it could create a warm, moist area which may lead to skin disorders, chafing or dermatitis. Removal of tape can also cause breaks in the skin. Protecting these breaks from contact with another person's body fluids is vital.

The insertive partner should wash the genital area thoroughly, particularly under the foreskin if present.

The receptive partner should wash the area with a mild antiseptic like chlorhexidine-based preparations or a solution such as Betadine.

Preventing pregnancy after condom breakage or slippage

Unless certain they are not in a fertile period of their menstrual cycle, using another form of contraception, or know they are unable to get pregnant, female workers may also require emergency contraception.

The worker should attend a sexual health or family planning clinic or visit their GP within 72 hours of the breakage or spillage where they can obtain the "morning after" pill to prevent pregnancy.

Medical follow-up

Sexual health screening following a condom break or slippage event is always recommended. If there are no symptoms after a break or slip has occurred, then tests for sexually transmitted infections should be taken 10 to 14 days after the event. If symptoms are apparent then screening can occur earlier.

Blood tests for syphilis, Hepatitis B, C and HIV should be taken if indicated at any time after the event and repeated at 3 months.

Fact Sheet 4: Minimum Employment Rights

THE MINIMUM RIGHTS DESCRIBED IN THIS FACT SHEET APPLY BY LAW TO ALL employees — including those in the sex industry. They apply even if they haven't been included in your employment agreement. You can't agree to get rid of any of these minimum rights, but you can agree to things that are better than the minimum.

Minimum employment rights

Annual holidays – Holidays Act 2003

At the end of each year of employment with any one employer, you are allowed 3 weeks' paid annual holidays. You'll still get holiday pay for any shorter periods of work (but you won't be entitled to the time off). For example, if you leave the job after 6 months, holiday pay would be 6 percent of your gross earnings.

If you have been employed for a fixed term of less than 12 months, or you're a casual employee who works so irregularly that it isn't possible for your employer to give you 3 weeks' annual holiday, you can agree to get your holiday pay on a "pay as you go" basis. This means that your holiday pay is included in your regular pay. Your employment agreement has to clearly say that this is how you will be paid your holiday pay, and the amount paid as holiday pay has to be at least 6 percent and shown separately on your pay slip.

Public holidays – Holidays Act 2003

You are allowed 11 paid public holidays per year away from work, if they fall on days you would normally work.

If you work on the public holiday, you are entitled to be paid time and a half for the time you work. If you work on a public holiday that falls on a day that you would normally work, you are also entitled to an alternative holiday.

The 11 public holidays are specified in the Holidays Act 2003. You can agree with your employer to observe public holidays on other days.

Sick leave – Holidays Act 2003

After 6 months' employment with an employer, you're allowed 5 days' paid sick leave per year. You can take sick leave for yourself, or to care for your partner, dependent child or parent. Unused sick leave can accumulate up to 20 days. Special eligibility tests apply if you're in intermittent employment.

Bereavement leave – Holidays Act 2003

After 6 months' employment with an employer, you're allowed paid bereavement leave of:

- 3 days on the death of a spouse, parent, child, sibling, grandparent, grandchild or your spouse's parent;
- 1 day if your employer accepts that you've suffered a bereavement.

Special eligibility tests apply if you're in intermittent employment.

Minimum wages – Minimum Wage Act 1983

There is a legal minimum wage for adult employees aged 18 or more. The rate of pay in your employment agreement can't be less than this. You must be paid at least the minimum wage for your age whether you are a full-time, part-time or casual employee. If you work over 8 hours a day, or 40 hours a week, the extra hours must be paid for at least the hourly rate. Minimum pay rates are reviewed each year. You can get the current rates from the Employment Relations Infoline on 0800 800 863 or at www.ers.dol.govt.nz.

Payment of wages – Wages Protection Act 1983

Your employer generally needs to get your written consent to make deductions from your pay, or to pay your wages in a form other than cash. You can give consent in your employment agreement.

Equal pay and equal rights – Equal Pay Act 1972 and Human Rights Act 1993

Your employer can't pay employees differently if the only difference is being male or female. Also, in most cases, your employer can't discriminate in hiring or firing, training or promoting because of your race, colour, national or ethnic origin, sex or sexual orientation, marital or

family status, employment status, age, religious belief or political opinion, or if you have a disability.

Parental leave – Parental Leave and Employment Protection Act 1987

You and your partner can apply for unpaid leave when your baby is born, or when you adopt a child under 5.

You must have worked at least an average of 10 hours each week, including at least 1 hour a week or 40 hours a month, for the same employer for 12 months before the expected date of birth or adoption. You may also be entitled to up to 12 weeks' paid parental leave, which is taxpayer-funded. The payment can be taken by one parent, or shared between two eligible partners.

The maximum payment per week for the jobs that you have taken parental leave from is reviewed every year.

If you have more than one job, you are entitled to this maximum in total, not for each job. Like wages, the payment is taxed. It's illegal for your employer to either dismiss or discriminate against you because you're pregnant or if you take, or have taken, parental leave under the Act.

As changes are planned to the present law, you should check your entitlements by calling the Employment Relations Infoline free on 0800 800 863 or visit www.ers.dol.govt.nz.

Your employment agreement

Employment Relations Act 2000

At the present time, there is no collective agreement covering workers in the sex industry.

This means your employer will need to work out an individual employment agreement. Your employer has to give you a written offer and give you a chance to get advice about it. You can go back to your employer and ask for changes if you want. When you and your employer have agreed, your employer has to give you a written copy of the agreement, containing:

- your employer's name and your name;
- a description of the work you are to do;
- an indication of where you will work and arrangements relating to your working hours;
- your wage rates or salary;
- a plain-language explanation of the services available to you (and your employer) to help sort out any employment relationship problems.

You can agree to be employed for a fixed term, e.g. 3 months, rather than being a permanent employee. You have the same rights as other employees, except that your job will finish at the end of the fixed term. Your employer can only offer you fixed-term employment where:

- there is a genuine reason for it (like seasonal work, temping work, or where you are filling in for a permanent employee on leave); and
- they tell you the reasons and how or when the employment will end, before they employ you.

In other words, your employer must make these things clear to you at the start.

Union membership rights

At the present time, there is no union representing sex workers. Should such a union be formed in the future, then you would have the right to decide whether you want to join it. It would be illegal for an employer or anyone else to put unreasonable pressure on you to join or not to join a union, or to discriminate against you because you joined or didn't join a union.

Employment relationship problems

Sometimes you might be worried about something at work. Maybe you're not sure if your employer is paying you enough, or letting you have the leave you should get. Perhaps you think your employer has done something unfair, or hasn't stopped something unfair happening.

First, you should check your facts, and talk about the problem with your union, a family member or friend, or an advisor. You could contact Employment Relations Infoline on 0800 800 863 for free information about your rights and obligations, and what to do. You should talk about the problem with your employer. You might want to take a union representative, or a family member or friend, to support you. If you and your employer can't resolve the problem by talking, you or your employer can ask the Employment Relations Service for mediation to help sort things out. The service is free: call Employment Relations Infoline free on 0800 800 863 to find out more. You can also check the ERS website at www.ers.dol.govt.nz.

If mediation doesn't solve the problem, then you or your employer can take the problem to the Employment Relations Authority or later to the Employment Court.

Fact Sheet 5: Employee Participation Systems

THE HEALTH AND SAFETY IN EMPLOYMENT ACT AIMS TO PROMOTE THE health and safety of everyone at work and of other people in or around places of work. To achieve this, it requires people who are responsible for work and those who do the work to take steps to ensure their own health and safety and that of others.

The Act also recognises that employees have a valuable contribution in making workplaces safe.

Employee participation

Employee participation is an important part of developing and implementing health and safety practices in a place of work.

Employers must provide reasonable opportunities for employees to participate in ongoing processes for the improvement of health and safety, and employees are expected to actively participate in health and safety matters. The systematisation of this participation is covered under the Act.

Employers, employees who wish to be involved, and unions representing them are required to co-operate in good faith and develop, agree, implement and maintain a participation system.

Frequently asked questions

Below are the answers to some frequently asked questions, which illustrate how the Act applies to employee participation systems.

Q: When do we have to develop an employee participation system?

A: If an employer has fewer than 30 employees, and one or more of those employees require the development of an employee participation system, then a system must be developed.

If an employer has 30 or more employees, an employee participation system must be developed.

The employer, employees who wish to be involved, and any unions representing the employees are required to co-operate in good faith to develop, agree, implement, and maintain a participation system.

Q: We already have employee involvement in health and safety at work. Do we have to start again with a new system?

A: No, not necessarily. If you already have an employee participation system and the employer, employees and their unions agree to keep it, then you may continue to use that system. There is no need to establish a new system if everyone in the workplace agrees to retain the existing one.

The only new requirement is that existing systems must include a process by which that system can be reviewed. The review process may be decided on by the parties, who should work together in good faith to reach a decision.

Q: What does an employee participation system involve?

A: An employee participation system may include whatever the parties agree on, but the Act gives some examples of matters that could be included. These are:

- Electing health and safety representatives, and deciding whether they should act individually or as part of a health and safety committee;
- Developing processes for ensuring regular and co-operative interaction between employers and employees on health and safety issues.

A practical part of the system may be about the employees' role in hazard identification.

A system may allow for more than one health and safety representative or health and safety committee. Each representative or committee may represent a particular type of work, or place of work, of the employer.

For an agreed system there is no limit (or minimum) to the number of health and safety representatives that the parties can agree to.

Q: What if we can't agree on an employee participation system?

A: The Act sets out what to do if employers and employees cannot agree on an employee participation system within 6 months. Exactly what employers need to do depends on how many employees they have.

If an employer has fewer than 30 employees, the employees and any union representing them must hold an election for at least one health and safety representative.

If an employer has 30 or more employees, the employees and any union representing them must hold an election for at least one health and safety representative, with a maximum of five health and safety representatives if they are to be members of a health and safety committee. The employee health and safety representatives must comprise at least half of any committee.

There are mandatory functions for health and safety representatives who are elected where the parties have not been able to agree on an employee participation system within 6 months. They are required to:

- Encourage positive health and safety practices in the workplace.
- Identify and bring to the employer's attention hazards in the workplace, and discuss with the employer ways that the hazards may be dealt with.
- Consult with inspectors on health and safety issues.
- Promote health and safety interests of employees, especially employees who have been harmed at work and who need assistance with rehabilitation and return to work.
- Carry out any functions referred to in a code of practice.

Q: Who is responsible for organising the election of a health and safety representative?

A: The employees and their representatives are responsible for organising the election, but they may require the employer to hold the election. If the employer is required to hold the election, he or she must hold it within 2 months of receiving notification.

Fact Sheet 6: ACC

THE ACCIDENT COMPENSATION SCHEME APPLIES TO ALL WORKERS IN NEW Zealand — including workers in the sex industry. The scheme covers you for injuries that you suffer at work through levies paid by your employer. If you are self-employed, then you pay the levy yourself.

This Fact Sheet provides a brief overview of your coverage and entitlements under the scheme. It also explains about levies.

What levies must be paid?

Employers must pay levies for work-related injury cover according to the amount they pay in wages.

Sex workers are also eligible for cover for injuries sustained outside of work — for example at home or playing sport. Employees pay for non-work injury cover through levies collected by Inland Revenue together with Pay As You Earn (PAYE) tax.

If you are self-employed, then you must pay levies to cover both work and non-work injuries.

Levy rates change from time to time after consultation, and you can get the most up-to-date rates from www.acc.co.nz or request a copy from ACC.

What injuries are covered for workplace injuries?

Work-related injuries are generally covered by the ACC scheme. Certain mental injuries are also covered.

The ACC scheme covers physical injuries, including injuries caused by external force or resistance, and injuries caused by sudden movement to avoid such force or resistance external to the human body.

ACC cover is only available for heart attacks and strokes if physical effort or physical strain, while working, causes the episode, and that effort or strain must be abnormal in application or excessive in intensity for the person. In other words it has to be an unusual physical stress which causes the injury.

ACC cover may be available for a sexually transmitted infection or infestation if the tests set out in the Injury Prevention, Rehabilitation and

Compensation Act 2001 for workplace injury caused by work-related gradual process, disease or infection injury are met.

ACC also can cover claims under the IPRC Act 2001 for mental or physical injury arising out of sexual abuse.

What entitlements can be expected?

If a claim is accepted, ACC can provide a range of entitlements, including help with the cost of:

- medical or dental treatment;
- hospital treatment or surgery;
- prescriptions or X-rays;
- weekly compensation for lost earnings as a result of the injury (assessment by a registered medical practitioner and evidence of taxable earnings are required to obtain weekly compensation for time off work);
- a lump sum or an independence allowance if the injury has a serious, long-term effect, resulting in permanent impairment;
- transport to treatment and related accommodation costs.

Other rehabilitation and support services

ACC provides a range of other rehabilitation and support services.

If the injury requires more than just a short recovery time, an ACC case manager will work with a claimant, occupational assessors and medical assessors to develop a rehabilitation plan.

Lump sums are paid out in some circumstances where there is permanent impairment resulting from an injury. These are physical impairment, mental injury as the result of physical injury or mental injury as the result of specified criminal acts (including sexual abuse).

Fact Sheet 7: Health and Safety Information Resources

THE MINISTRY OF HEALTH HAS INFORMATION RESOURCES FOR OPERATORS, SEX workers and clients to help them comply with the health and safety requirements of the Act. The resources include:

Prostitution Reform Act 2003

Health and Safety Information for Operators of Businesses of Prostitution
Code 1505 Flyer in pads of 25

Health and Safety Information for Sex Workers
Code 1506 Flyer in pads of 25

Information for Clients
Code 1507 Sticker

Information for Clients
Code 1508 A4 Poster

Information for Clients
Code 1509 Flyer in pads of 25

Copies of the health education resources are available from the Public Health Unit of your local District Health Board or can be ordered from the Ministry of Health's HealthEd website: <http://www.healthed.govt.nz>.

STIs

What is Chlamydia?
Code 1441

What is Gonorrhoea?
Code 1442

What is Genital Herpes?
Code 1443

What are Genital Warts?
Code 1444

What are STI Tests?

Code 1445

Using a Condom

Code 4098 Poster

Gotcha Keys

Code 4099 Poster

AIDS Pamphlets in various Pacific languages

Codes 4202-4206A

Pelvic Inflammatory Disease

Code 4229 Pamphlet

Women and HIV/AIDS

Code 6001 Pamphlet

Safer Sex is Choice

Code 6039 Video

Being Safer Sexually

Code 7002 Pamphlet

HIV/AIDS for Health Professionals

Code 1113 A4 Book

Dance Party Goers — What U Should Know

Code 1304 Pamphlet

Further Information

If you would like more information on sexual health issues contact:

- Sexual Health Services under “S” in the white pages of your local phone book or details on www.sexfiles.co.nz.
- Family Planning Association on 0800 FPA LINE or www.fpanz.org.nz (also see Appendix 5).
- Public Health Unit of your local District Health Board (see Appendix 5 for contact details).
- New Zealand Prostitutes Collective (see Appendix 3 for contact details). The NZPC provides a video *Sold on Safe Sex* and other resources of relevance to sex work and sexual health. It also provides new sex worker kits for male, female and migrant sex workers.

Fact Sheet 8: Smoke-free Resources

Quitline

Telephone 0800-778-778. This free service provides non-judgmental phone counselling to anyone who is considering quitting smoking, and may also provide an eligible smoker with cheap (subsidised) quitting aids, e.g. nicotine patches.

Information on tobacco, second-hand smoke, health and the smoke-free law

Access information or contact the Ministry of Health through the National Drug Policy website at www.ndp.govt.nz.

Smoke-free resources, enquiries and complaints

Order smoke-free resources such as smoke-free stickers at www.cpublichealth.co.nz. For other resources, enquiries and complaints, telephone a smoke-free officer at the Public Health Service at your local District Health Board, or contact the Ministry of Health in Wellington on (04) 496 2000 or at www.moh.govt.nz.