

DRAFT

**SIERRA LEONE WORK PLACE
POLICY ON HIV/AIDS**



NATIONAL HIV/AIDS SECRETARIAT

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Foreword

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Acknowledgement

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ACRONYMNS

AIDS	-	Acquired Immune Deficiency Syndrome
ART	-	Anti –Retroviral Therapy
ARV	-	Anti-retroviral
BCC	-	Behavioural Change Communication
CBOs	-	Community Based Organizations
CSOs	-	Civil Society Organizations
HIV	-	Human Immunodeficiency Virus
IEC	-	Information, Education and Communication
ILO	-	International Labour Organization
MOHS	-	Ministry of Health and Sanitation
MOLSSIR	-	Ministry of Labour, Social Security and Industrial Relations
M&E	-	Monitoring and Evaluation
NAC	-	National HIV/AIDS Council
NAS	-	National HIV/AIDS Secretariat
NGOs	-	Non-Governmental Organizations
PLWHA	-	People Living with HIV/AIDS
STIs	-	Sexually Transmitted Infections
TOT	-	Training of Trainers
STDs	-	Sexually Transmitted Diseases
SWAASL	-	Society for Women and AIDS in Sierra Leone
UNFPA	-	United Nations Population Fund
UNICEF	-	United Nations Children Fund
UNAIDS	-	Joint United Nations Programme on HIV/AIDS
VCCT	-	Voluntary Confidential Counselling and Testing

DEFINITIONS

In this policy,

“Workplace” means where a person(s) work to earn a living

“AIDS” means the Acquired Immune Deficiency Syndrome, which refers to the final phase of HIV infection.

“HIV” means the Human Immunodeficiency Virus.

“STIs” means Sexually Transmitted Infections

“HIV testing” means subjecting a person to a test to determine her/his HIV status. At present this normally takes the form of an antibody test (Rapid Screen Device).

“Informed consent” means a process of obtaining consent from a patient that ensures that the person fully understands the nature and consequences of the test before his/her agreement.

“Pre and post-test counselling” means a process of counselling which facilitates an understanding of the nature and purpose of the HIV test. It examines the advantages and disadvantages that the test holds for the person and the result, positive or negative, will have on them. This counselling must be conducted in person.

“Prevalence assessment” includes various methods to assess knowledge, attitude and extent of HIV prevalence (e.g., questionnaires, verbal interviews etc.).

“Unfair discrimination” means direct or indirect unfair discrimination against anyone on one or more grounds in terms of the Constitution of the Republic of Sierra Leone, 1992. In the context of this policy, unfair discrimination may occur when an employee is treated differently due to their real or perceived HIV positive status in a way which impairs that employee’s fundamental human dignity. Discrimination is not unfair if it is based on the inherent requirements of the job.

“Voluntary Confidential Counselling and Testing (VCCT)” means a programme, which provides facilities for employees to be tested for the Human Immunodeficiency Virus. Generally, this is combined with a programme, which encourages them to undergo testing and counselling voluntarily. This is founded on the belief that people need to know their HIV and AIDS status in order to protect themselves and others from infection but also to obtain the proper care for themselves.

“Chronic illness” means illness lasting for a long time.

“Employer” means a person or organization employing workers under a written or verbal contract of employment, which establishes the rights and duties of both parties, in accordance with national law and practice. Government, public authorities, private enterprises and individuals may be employers.

“Formal Sector” means the sector of the economy in which workers and employers are registered and/or organized into unions and associations; in which there are rules and regulations governing participation in the sector.

“Informal Sector” means small scale units producing and distributing goods and services, consisting largely of independent self employed persons, some of whom also employ family labour and/or a few hired workers or apprentices; which operate with very little capital or none at all; which use very low level of technology and skills; which therefore operate at a low level of productivity; and which generally provide very low or irregular incomes and highly unstable employment to those who work in it.

“Infection” means an invasion or entry into the body by a disease-causing organism.

“Pandemic” means a disease that has spread over a whole country or over the whole world.

“Worker” is any person(s) who has entered into or works under a contract with an employer either verbally or in writing and whether it is a contract of service or of apprenticeship.

“Screening” means measures whether direct (HIV testing), indirect (risk assessment) or asking questions about tests already taken or about medications.

“Termination of Employment relationship” refers to the meaning in the ILO Convention on Termination of Employment (No.158) of 1982, mainly at the initiative of the employer.

“Vulnerability” refers to socio-economic disempowerment and cultural context and work situations that make workers more susceptible to the risk of infection and situation, which put children at greater risk of being involved in child labour.

1.0 BACKGROUND

Sierra Leone is a multi-party democratic state with a republican constitution. Administratively the country is divided into the Western Area, three provinces namely; Northern, Southern and Eastern. These are further divided into twelve districts made up of 149 chiefdoms. The Western Area is divided into Western Rural and Western Urban where the capital city Freetown and the seat of Government are located.

The Country's population, which is growing at the rate of 2.7% per annum, is estimated at 4,963,298 million. Women account for about 51% of the total population (Statistics Sierra Leone December 2004 Population and Housing Census). With a persistently high Total Fertility Rate of over 6, this has largely contributed to the youthful nature of the population.

Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) is considered by the Government as a potential development threat to Sierra Leone. From the first officially reported case in 1986, the pandemic continues to spread at an alarming rate. The adult HIV prevalence has increased from 0.9% in 2002 to 1.5% in 2005. Also, the results of the first antenatal prevalence study in 2004 reported an overall national prevalence of 3.4%. These more reliable figures regarding HIV prevalence in the country, further demonstrate the urgent need for assistance to control or rapidly stem a potential post conflict epidemic.

Nearly 85% of new HIV infections in Sierra Leone are reported from the most productive 15 – 49 years of age brackets. It is, therefore, necessary to develop policies and programmes to protect the Sierra Leonean working population from this epidemic. The National HIV/AIDS Policy of the Government of Sierra Leone stresses that HIV/AIDS is a multi-sectoral development problem that impacts negatively on all sectors of society, as well as on individuals, families and communities and therefore warrants all sectors of society to be actively involved in HIV prevention activities.

AIDS is a workplace issue not only because it affects labour and productivity, but also because the workplace has a vital role to play in the wider struggles to limit the spread and effects of the epidemic. HIV/AIDS threatens the livelihoods of many workers and those who depend on them - families, communities and enterprises. In doing so, it also weakens national economies.

HIV/AIDS hits the world of work in numerous ways. It has shown its maximum impact on 15-49 years age group, the segment to which most of active workers belong. In badly affected countries, it has cut the supply of labour and slashed income of workers. As illnesses force workers to leave their jobs, valuable skills and experiences are lost. Along with lower productivity and profitability, tax contributions also decline, while the need for public services increases. National economies, particularly in the badly affected regions like sub-Saharan Africa have experienced the impact on virtually every sector. AIDS has emerged as the biggest threat to the continent's development.

The Government of Sierra Leone and its tripartite constituents have recognized that the workplace can play a vital role in limiting the spread and effects of the HIV and for that reason have committed themselves to formulating a National Workplace Policy on HIV/AIDS, based on the principles of the HIV/AIDS Policy of the Government of Sierra Leone and the ILO Code of Practice on HIV/AIDS and the world of work.

The development of appropriate workplace policies and programmes however, need to be guided by a consistent national framework, aimed at providing guidelines for addressing HIV/AIDS-specific issues at the workplace. It must also provide a basis for translating the broad guidelines into specific workplace policies and for addressing existing gaps in the labour laws. This policy shall assist to define an organization's position and practices in preventing the transmission of HIV/AIDS; and for handling cases of HIV infection among employees. The policy shall also provide guidance for supervisors who deal with the day-to-day HIV/AIDS issues and problems that arise within the workplace; and help to inform employees about their responsibilities, rights and expected behaviour on the job.

This policy applies to workers in the public and private sectors; all workplaces and contracts of employment including all employees and workers, including prospective employees and those persons working in the informal economy and the self-employed; and all employers and/or contractors of labour in the public and private sectors.

1.1 Rationale for the Policy

HIV/AIDS has emerged as a major threat to the world of work. Therefore, it is imperative to define the position of Government on this issue, and provide the Ministry of Labour, Social Security and Industrial Relations guidelines for development and implementation of

HIV/AIDS policies and programme at workplaces in both the formal and informal economies in Sierra Leone.

The workplace is an ideal setting to advocate for prevention, treatment, care and support for people living with and affected by HIV/AIDS. Workplaces provide the ideal fora for the congregation of diverse population groups in any society. A national policy on HIV/AIDS in the world of work is therefore essential to provide specific guidelines within the overall National HIV/AIDS Policy of Sierra Leone.

Developing a multi-sectoral response to HIV/AIDS is a key component of the National HIV/AIDS Secretariat in Sierra Leone. This policy statement is a reflection of the involvement of the Government and its tripartite partners in the national efforts in the fight against HIV/AIDS in Sierra Leone.

The National HIV/AIDS Secretariat, in collaboration with tripartite partners and the ILO has been involved in the HIV/AIDS control efforts in the world of work in Sierra Leone in 2005. There has been consultation/workshop as well as capacity building efforts in which tripartite partners have discussed scientific, legal, and ethical and human rights aspects of HIV/AIDS. People Living with HIV/AIDS (PLWHAs) have been involved and their perspectives have been shared. There has been a general consensus on issues like HIV testing, treatment, prevention of HIV/AIDS and care at workplaces. This consensus is reflected in this policy statement.

2.0 THE POLICY FRAMEWORK

2.1 Goal

This policy will guide the national response to HIV/AIDS in the world of work. It is a framework for action at the workplace to reduce the spread of HIV/AIDS, to manage its impact and ensure the best possible outcomes for workers, employees and the nation in this context.

2.2 Objectives

The broad objectives of this policy are to:

- prevent HIV/AIDS spread among workers;
- provide protection from discrimination in the workplace to people living with HIV/AIDS;
- provide care, support and counselling for those infected and affected at the workplace;
- Facilitate the establishment of workplace responses to HIV/AIDS in all workplaces in the formal and informal sectors;
- build the capacity of workplace management and workers in handling HIV/AIDS issues in the workplace;

The Policy framework is based on the following facts about HIV/AIDS:

Human Immuno-deficiency Virus (HIV) infection can be transmitted through:

- Unprotected sexual contact with an infected person;
- Transfusion of infected blood or blood products;
- Sharing of infected needles/syringes; and
- From infected mother-to-child during pregnancy, child birth or breast feeding.

HIV cannot be transmitted through casual contact (talking to or touching the person, using the same office equipment, tools, utensils or bathroom). Employers should ensure a safe and healthy working environment, including the application of Universal Precautions. In workplaces where workers come into regular contact with human blood and body fluids, employers need to take additional measures to ensure that all workers are trained in Universal Precautions that they are knowledgeable about procedures to be followed in the event of an occupational incident.

Persons Living with HIV/AIDS (PLWHAs) are entitled to the same rights and opportunities as persons with any other serious, chronic or life-threatening illness. Persons with these conditions should be able to work as long as medically fit for available, appropriate work. For these reasons pre-employment HIV/AIDS screening and/or screening during employment is unnecessary and should not be required.

2.3 Scope

This policy shall apply to:

- All employers;
- All employees and prospective employees;
- All workplaces and contracts of employment;
- All human resource policies and practices of any organization;
- All self employed persons and workers in the informal sector.

3.0 Key principles of the policy:

The policy is based on the following ten principles of the ILO Code of Practice on HIV/AIDS and the world of work, which is in line with the Government of Sierra Leone HIV/AIDS policy and is also endorsed by the National HIV/AIDS Council in Sierra Leone:

- i) **A Work Place Issue:** HIV/AIDS is a workplace issue because it affects the workforce, and because the workplace can play a vital role in limiting the spread and effects of the epidemic.
- ii) **Non-discrimination:** There should be no discrimination or stigmatization against workers on the basis of real or perceived HIV status.
- iii) **Gender Equality:** More equal gender relations and the empowerment of women are vital to preventing the spread of HIV infection and people manage its impact;
- iv) **Healthy Work Environment:** The workplace should minimise occupational risk, and be adapted to the health and capabilities of workers.
- v) **Social Dialogue:** A successful HIV/AIDS policy and programme requires cooperation and trust between Employers, workers and the Government, where appropriate, with the active involvement of workers infected and affected by HIV/AIDS.
- vi) **No Screening for purposes of employment:** HIV/AIDS screening shall not be required of job applicants or persons in employment and testing for HIV should not be carried out at the work place except for unanimous unlinked HIV prevalence studies, following the norms of confidentiality.
- vii) **Confidentiality:** There is no justification for asking job applicants to disclose HIV-related personal information. Nor should co-workers be obliged to reveal such personal information about fellow workers. Access to personal data relating to worker's HIV status should be bound by the rules of confidentiality consistent with the ILO's Code of practice on the protection of workers' personal data (1997).

- viii) **Continuing the Employment Relationship:** HIV infection shall not be a cause for termination of employment. As with many other conditions, workers with HIV-related illnesses should be able to work for as long as medically fit in available, appropriate conditions.
- ix) **Prevention:** The social partners are in a unique position to promote prevention efforts through information and education, and support for behaviour change.
- x) **Care and Support:** Workers are entitled to affordable health services and to benefits from statutory and occupational schemes.

4.0 STRATEGIES TO ACHIEVE OBJECTIVES

A right-based and participatory approach was used in developing this policy. All stakeholders will be actively involved in the planning and implementation of this policy. Strategies and activities will focus on:

- **Prevention;**
- **Care and Support;**
- **Impact Mitigation;**
- **Technical and Operational issues.**

4.1 Prevention

The National HIV/AIDS Secretariat in collaboration with the Ministry of Labour, Social Security and Industrial Relations will provide technical support for HIV/AIDS policy formulation and implementation in each workplace by setting up Workplace HIV/AIDS Management Teams. The Management Teams will provide technical support and guidance for program formulation and implementation including training, HIV/AIDS education and service provision in the work place and mobilize resources for the implementation of the workplace programmes.

Promote and maintain a climate of information and education is essential. Maintaining a climate of mutual understanding is necessary to ensure the protection of workers living with or affected by HIV/AIDS.

Strategies for workplace HIV/AIDS education using various methods such as the training of peer educators and counselors in the work place shall be put in place. Print and electronic communication materials and organizational policies shall be produced to address specific issues. These will include the HIV/AIDS workplace education resource kit.

Communication for behaviour change programmes shall be undertaken in the workplace with a view to improving health-seeking behaviour, increasing VCCT uptake and reducing the negative attitude to PLWHAs, increase in protective behaviours such as consistent and correct use of condoms.

4.2 Care and Support

A comprehensive program of Care and Support for workers living with HIV/AIDS shall be developed and implemented by integrating treatment, hospital/clinical based care, home based care and support. Adequate attention should be given to educating and encouraging workers on positive living with HIV/AIDS.

Access to ARVs (in line with the Treatment Guidelines produced by the HIV/AIDS Response Group of the Ministry of Health and Sanitation) and treatment of tuberculosis and other opportunistic infections will be offered by establishing linkages with healthcare delivery systems in the country such as tertiary and primary healthcare institutions including the private sector.

Employers, including both government and private sector, are encouraged to have a budget line for Care and Support.

To mitigate the impact of the HIV/AIDS pandemic in the workplace, organizations should endeavour to provide counseling and other forms of social support to workers infected and affected by HIV/AIDS.

The workplace response in each situation should be situated or placed within the context of the peculiarity of each enterprise, situation or workplace. The workplace should therefore take a decision on the best option available to it within its own context. Different situations occur in the workplace with respect to their health care delivery. While some provide healthcare services within their establishments, others either patronize private health care providers or rely on public health care services. Another category just pays a lump sum to each staff in lieu of their healthcare. Some however use health insurance schemes. Where available and in use, no worker shall be denied health insurance based on real or perceived HIV status. Where healthcare services exist in the workplace, appropriate treatment shall be provided. Where these services are not possible, workers shall be informed about the location of available

outside services. Referrals shall be made as appropriate. Such external services will include support groups, counseling services, and clinical services including access to ARV as well as VCCT.

Mechanisms shall be put in place for financial mitigation of the impact of HIV/AIDS, to include financial assistance for cost of treatment and other care. Linkages should reach beyond the worker to cover their families, in particular, their spouses and children.

Each workplace should identify and harness various opportunities that exist within the Civil Society Organizations, NGOs, international donor agencies and Government. The National HIV/AIDS Secretariat will provide technical support and coordinate such efforts.

4.3 Impact Mitigation

The National HIV/AIDS Secretariat working with stakeholders like the Ministry of Labour, Social Security and Industrial Relations including employers, employees, workers infected and affected by HIV/AIDS, and families affected by HIV/AIDS shall create a strategic framework for mitigating the social, economic and other impacts of HIV/AIDS. Employers should work out proper retirement benefits in a non-discriminatory manner with adequate support provided to workers living with HIV/AIDS. This would be done in consultation with other stakeholders.

A proper retirement strategy will be worked with adequate support being provided for workers living with HIV/AIDS in and out of work in a nondiscriminatory and non-judgmental manner.

Mechanisms shall be put in place to ensure that workers shall not be laid off on account of their sero-status rather; such workers will be encouraged and supported to continue to work and where situation dictates, an adequate continuous support mechanism and exit strategies will be put in place.

Provision of ARVs and other care should be adequately planned and provided for in the work place.

4.4 Establishment of workplace responses to HIV/AIDS in all workplaces

Employers' organizations/enterprises in both public and private sector are encouraged to set in place workplace policies and programmes in their individual work place, based on the principles of this policy. They should integrate HIV/AIDS in their ongoing welfare/corporate social responsibility initiatives, seeking technical support from NAS, ILO and NGOs.

Training in the prevention and management of HIV/AIDS as well as provided for staff at different levels within the organization – to managers, supervisors, human resource officers, workers' representatives and occupational health and safety officers. Training should ensure that there is sensitization to the socio-economic, cultural and gender issues surrounding HIV/AIDS.

Workers' organizations should play a key role in the development of HIV/AIDS workplace policy and programmes. In collaboration with the employers, workers organizations should take into consideration protecting workers from HIV/AIDS. Central unions could make a big contribution by developing their own policy statements and including HIV/AIDS in their education and training programmes. They should also take up HIV/AIDS efforts among the workers in the informal economy in collaboration with their affiliated units, both at the central and the state levels.

5.0 TECHNICAL AND OPERATIONAL ISSUES

5.1 Workplace HIV/AIDS Response Forum

The National HIV Workplace Response Forum (which includes the social partners, public and private sector representatives, development agencies and service providers) shall be strengthened to engender effective public/private partnerships. The Forum shall also provide an opportunity for joint planning, implementation, advocacy and conflict resolution, among others.

The HIV/AIDS Management Committee will organise and implement policy programme activities such as training, education and sensitization, counselling, referrals, dissemination of the policy to all workers, ensuring care and support to workers affected or infected by HIV and ensuring that the confidentiality and privacy of workers' HIV status is maintained.

The Committee shall also evaluate and report on the progress of the HIV/AIDS policy programme to Management and other stakeholders.

5.2 Right-Based Participatory Approach

The rights based approach will ensure active participation of all stakeholders including persons living with HIV and AIDS, employers, workers etc, in all the processes involved such as information gathering, prioritization of issues, planning and implementation.

5.3 Capacity Building

The need for capacity building for prevention, impact mitigation, care and support, is recognized. In workplaces, Training of Trainers, work-based training; capacity building programmes should be undertaken. The Ministry of Labour, Social Security and Industrial Relations (MOLSSIR) in collaboration with the National HIV/AIDS Secretariat will establish a mechanism for institutionalizing this process.

5.4 Support Groups

The establishment of community and sectoral based support groups shall be encouraged. HIV/AIDS Support Association (HACSA) should be supported financially and technically by the Government at various levels and development partners to decentralize their association.

5.5 Research

Government, Employers, Workers, other stakeholders and research institutions shall facilitate the implementation of research into HIV/AIDS issues in the workplace.

The National HIV/AIDS Secretariat shall collaborate with the Ministry of Labour, Social Security and Industrial Relations to establish a database on HIV/AIDS workplace programmes and researches shall be commissioned to provide information on HIV/AIDS to aid implementation of HIV/AIDS workplace programmes.

5.6 Policy Issues

Formulation and implementation of a workplace policy on HIV/AIDS at various levels - National, Local Government and Organizational/Enterprise levels shall be promoted, facilitated and monitored jointly by the National HIV/AIDS Secretariat and Ministry of Labour, Social Security and Industrial Relations.

5.7 On-going Programs

This policy recognizes that there are ongoing workplace based HIV/AIDS programmes in place. Best practices should be identified with a view to replicating them. In addition such programmes should link up with the National workplace response to HIV/AIDS.

5.8 Participatory Monitoring and Evaluation

The National HIV/AIDS Secretariat and the Ministry of Labour, Social Security and Industrial Relations in collaboration with stakeholders will develop applicable tools for monitoring and evaluation of workplace responses to HIV/AIDS. As a way of integrating the workplace response in the national strategy, indicators appropriate to the workplace response to HIV/AIDS will be developed.

5.9 Work Plan

Based on the strategies identified above, specific activities, which will be undertaken, should be worked out for all workplaces.

Every workplace/organization should establish an HIV/AIDS Management Committee and designate/appoint an HIV/AIDS Focal Point to coordinate and implement the HIV/AIDS workplace policy.

The Focal Point person shall effectively manage the day-to-day activities of the workplace programmes.

6.0. GRIEVANCE PROCEDURE

Employers shall put in place procedures that can be used by workers and their representatives for work-related grievances, especially to seek redress for offences against the principles of this policy. To achieve this:

- Employers shall ensure that the rights of workers with regard to HIV/AIDS, and remedies available to them in the event of breach of such rights become integrated into grievance procedures.
- Employers should create an awareness and understanding of the grievance procedures and how employees can utilize them.

- These procedures, in accordance with article 5.2 of the ILO Code of Practice on HIV/AIDS and the world of work, should specify under what circumstances disciplinary proceedings can be commenced against any employee who discriminates on the ground of real or perceived HIV status or who violates the workplace policy on HIV/AIDS.
- Employers should develop special measures to ensure confidentiality of the complainant during such proceedings including ensuring that such proceedings are held in private.

7.0 ROLE AND RESPONSIBILITIES OF SOCIAL PARTNERS

The HIV/AIDS epidemic can undermine the whole national development strategy. Due to the serious national development problems associated with the epidemic, there is wide consensus among nations on the need to broaden HIV/AIDS responses to cover all sectors. In Sierra Leone, this multi-sectoral approach is led by the Government acting through the National HIV/AIDS Secretariat (NAS). In this regard the National HIV/AIDS Secretariat (NAS) shall co-ordinate the activities of all agencies to provide a meaningful framework for partnership among the social partners. These social partners who are the main workplace actors shall have direct access to the National HIV/AIDS Secretariat (NAS).

7.1 The Role of Government

Government has a key-role to play in an effective response to HIV/AIDS prevention and control. Government response can come through its own HIV/AIDS-specific and HIV/AIDS-related activities, and through its ability to mobilize society. Central to Government's role should be the establishment of an enabling framework of policies and laws that establish the key principles of public/private and civil society action. Such action should be directed at ensuring that those infected and affected by the epidemic are protected from all forms of discrimination and stigmatization.

The Role of Government in the particular area of workplace HIV/AIDS policies will be performed by the sector Ministry responsible for labour issues. It shall be the duty of Government to facilitate, monitor, review and enforce this policy through the Ministry of Labour, Social Security and Industrial Relations in collaboration with social partners and other stakeholders.

7.1.1 Social Protection: Government should ensure that benefits under national laws and regulations equally apply to workers living with HIV/AIDS no less favourably than to workers with other serious illnesses.

7.1.2 Coherence: Government should ensure coherence in national HIV/AIDS strategy and programmes, recognizing the importance of including the world of work in national plans for example..

7.1.3 Multi-sectoral participation: The National HIV/AIDS Secretariat through the Ministry of Labour and Social Security shall mobilize and support broad partnership for protection and prevention, including public agencies, the private sector, workers' and employers' organizations, Civil Society Organizations (e.g. NGOs, CBOs).

7.1.4 Coordination: The coordination of the national multi-sectoral response to the HIV/AIDS pandemic is the statutory responsibility of the National HIV/AIDS Secretariat.

7.1.5 Prevention and Health Promotion: The competent authority shall work in partnership with other social partners to promote awareness and HIV/AIDS prevention programmes, particularly in the workplace.

7.1.6 Legislation: The National HIV/AIDS Secretariat in collaboration with the Ministry of Labour, Social Security and Industrial Relations shall jointly liaise with the social partners and experts in the field of HIV/AIDS to facilitate the enactment or review of laws in order to eliminate workplace stigmatization and discrimination against people living with and affected by HIV/AIDS, and ensure workplace prevention and social protection..

7.2 The Role of Workers' Organizations (Associations)

Workers' organizations should participate actively in developing workplace policies and programmes that ensure maximum prevention, protection and care for those affected by HIV/AIDS. Workers need to be strengthened and empowered to mobilize their workforce on HIV/AIDS issues through information education and communication training and support.

Specifically workers' involvement should include the following:

7.2.1 Workplace policy: Workers and their representatives should consult with their employers on the formulation and implementation of an appropriate policy and programme for their workplace, designed to prevent the spread of the infection and protect all workers from discrimination related to HIV/AIDS.

7.2.2 National, Sectoral Workplace/Enterprise Agreements: Workers and their organizations shall adhere to national laws and practices when negotiating terms and conditions of employment relating to HIV/AIDS issues, and endeavour to include provisions on HIV/AIDS protection and prevention in national, sectoral and workplace/enterprise agreements.

7.2.3 Information and Education: Workers and their organizations should use existing structures and facilities to provide information on HIV/AIDS issues in the workplace, including regularly updated information on workers' rights and benefits.

7.2.4 Risk Reduction and Management: Workers and their organizations should advocate for, and cooperate with employers to maintain a safe and healthy working environment.

7.2.5 Support for Confidential Voluntary HIV Counseling and Testing: Workers and their organizations should work with employers to encourage and support access to confidential voluntary counseling and testing.

7.2.6 Confidentiality: Workers have the right to access their own personal and medical files. Workers' organizations should not have access to personal data relating to a worker's HIV status. In all cases, when carrying out trade union activities and functions, the rules of confidentiality set out in the ILO Code of Practice on HIV/AIDS in the world of work and in the Occupational Health Services Recommendation, 1985 (No.171), should apply.

7.2.7 Workers in the Informal Sector: Workers and their organizations should extend their activities to these workers in partnership with all other relevant stakeholders. Employers in the informal sector shall form partnerships and develop appropriate prevention and care programmes for their workers consistent with the guidelines provided in this policy. Government, NGOs and other stakeholders should endeavour to assist the informal sector to create such partnerships.

7.2.8 Role of workers living with HIV/AIDS: It shall be the duty of workers living with HIV/AIDS to mobilize their peers to form support groups and encourage positive living. They should also be involved in peer counseling, advocacy and resource mobilization for the workplace response.

7.2.9 Personnel Policies: Workers and their representatives should support and encourage employers in creating and implementing personnel policies and practices that do not discriminate against workers living with HIV/AIDS.

7.2.10 Monitoring and Compliance: Workers' representatives have the right to take up issues at their workplaces through existing grievance and disciplinary procedures.

7.2.11 Risk Reduction and Management: Workers and their organizations should advocate for, and cooperate with employers to maintain a safe and healthy working environment.

7.2.12 Vulnerability: Workers and their organizations should ensure that factors that increase the risk of infection for certain groups of workers are addressed in consultation with employers.

7.2.13 Partnerships: Workers' organizations may be encouraged to build networks at local, regional and international levels by using sectoral, regional and international groupings to highlight HIV/AIDS and the world of work.

7.3 Employers and their Organizations.

Employers shall be encouraged to develop policies to prevent discrimination against workers who are infected with HIV and to implement HIV/AIDS educational programmes for their employees and their families.

Employers shall also be educated to use the skills of people living with HIV/AIDS to the maximum as long as possible. This will include re-training of employees, where necessary and appropriate use of their services.

The specific role of the employer should include the following:

7.3.1 Workplace Policy: Employers should consult with workers and their representatives to develop and implement an appropriate policy for their workplace.

7.3.2 National Sectoral and workplace/enterprise agreement: Employers should adhere to national laws and practices in relation to negotiating terms and conditions of employment about HIV/AIDS issues with workers and their representatives.

7.3.3 Education and Training: Employers and their organizations, in consultation with workers and their representatives should initiate and support programmes at their workplaces to inform, educate and train workers about HIV/AIDS prevention, care and support.

7.3.4 Economic Impact: Employers, workers and their organizations, should work together to develop strategies to assess and respond to the economic impact of HIV/AIDS on their particular workplace and sector.

7.3.5 Personnel Policies: Employers should not engage in nor permit any personnel policy or practice that discriminates against workers infected with or affected by HIV/AIDS. In particular, employers should:

- not require HIV/AIDS screening or testing unless otherwise specified in the section under testing of this policy;
- ensure that work is performed free of discrimination or stigmatization based on perceived or real HIV status;
- encourage persons with HIV and AIDS-related illnesses to work as long as medically fit for appropriate work; and
- provide that, where a worker with an AIDS-related condition is too ill to continue to work and where alternative working arrangements including extended sick leave have been exhausted, the employment relationship may cease in accordance with anti-discrimination and labour laws and respect for general procedures and full benefits.

7.3.6 Grievance and Disciplinary Procedures: Employers should specify under what circumstances disciplinary proceedings can be commenced against any employee who discriminates on the grounds of real or perceived HIV status or who violates the workplace

Policy on HIV/AIDS.

7.3.7 Confidentiality: HIV/AIDS-related information of workers should be kept strictly confidential and kept only on medical files. Accessing employee HIV/AIDS-related information should be strictly limited to medical personnel and management and such information may only be disclosed if legally required or with the consent of the person concerned.

7.3.8 Risk Reduction and Management: Employers should ensure a safe and healthy working environment including the application of universal precautions and measures such as the provision and maintenance of protective equipment and First Aid. To support behavioural change by individuals, employers should also make available, where appropriate, condoms.

7.3.9 Workplaces where workers come into regular contact with human blood and body fluids: In such workplaces, employers need to take additional measures to ensure that all workers are trained in Universal Precautions that they are knowledgeable about procedures to be followed in the event of an occupational incident.

7.3.10 Advocacy: Employers and their organizations should encourage fellow employers to contribute to the prevention and management of HIV/AIDS in the workplace.

7.3.11 Reasonable accommodation: Employers, in consultation with the workers and their representatives, should take measures to reasonably accommodate the workers with AIDS-related illnesses. These could include rearrangement of working time, special equipment, opportunities for rest breaks, time off for medical appointments, flexible sick-leave, part-time work and return-to-work arrangements.

7.3.12 Support for Confidential Voluntary HIV Counseling and Testing: Employers and their representatives should encourage support for, and access to, confidential voluntary counseling and testing that is provided by qualified health services.

7.3.13 Workers in informal activities (also known as Informal Sector): Employers of workers in informal activities should investigate and develop prevention and care programmes for these workers.

7.3.14 International Partnerships: Employers and their organizations should contribute to international partnerships in the fight against HIV/AIDS.

8.0 POLICY REVIEW

The National HIV/AIDS Secretariat in collaboration with the Ministry of Labour, Social Security and Industrial Relations and social partners, shall review this policy every 5 (five) years and whenever substantial scientific and developmental concerns so dictate. Enterprises are also expected to undertake a review within the same time frame and conditions.

9.0 CONCLUSION

The National Workplace Policy on HIV/AIDS provides opportunity for Government, Employers and Workers to take action on HIV/AIDS issues as it affects various aspects of the workplace. It is hoped that the overall goal of improving access to HIV/AIDS information and services; as well as HIV/AIDS prevention, impact mitigation, care and support will be achieved with the collective participation of all stakeholders in the implementation of this policy. It will in addition provide excellent reference material for workplaces in the development of their organization's workplace policies on HIV/AIDS. The strategies contained therein will be useful in designing workplace response programmes at the enterprise and sectoral levels. In conclusion, we recommend that this policy should be translated into programmes of action, implemented and monitored in a sustainable manner.