



REPUBLIC OF SEYCHELLES

**POLICY ON HIV/AIDS
IN THE WORKPLACES**



MINISTRY OF EMPLOYMENT AND
HUMAN RESOURCES DEVELOPMENT
AND
SOCIAL PARTNERS

**ACTION
AGAINST
HIV/AIDS**

**NOW
NOW
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NOW
NOW**

SEYCHELLES POLICY ON HIV/AIDS IN THE WORKPLACE

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PREFACE

The HIV/AIDS epidemic is now a global crisis and constitutes one of the most formidable challenges to development and social progress.

The Government has pledged its commitment in the fight against HIV/AIDS in Seychelles and the first multi-sectoral HIV/AIDS Strategic Plan has been approved by Cabinet. The publication of this National Policy on HIV/AIDS in Workplaces is further testimony of our seriousness to tackle the HIV/AIDS issue from all fronts. This document is a product of tripartite collaboration between Government and its social partners including NGOs. This collaborative approach emphasises the growing awareness among all partners that the challenges of HIV/AIDS can only be successfully addressed by working together for a common cause.

HIV/AIDS is a major threat to the world of work. It is affecting our productive labour force, causing reduction of earnings in families, imposing huge costs on enterprises in all sectors through declining productivity, increasing labour costs and loss of skills and experience. This is why, through introduction of this policy on HIV/AIDS in the world of work, Government is further demonstrating its strong commitment towards the fight against this deadly disease and is calling for the support and commitment of all employers and workers in the implementation of this document. The workplace is well situated in the management and control of this pandemic, as it has a vital role to play in the wider struggle to limit the spread and effects of this deadly disease.

This is a forward-looking and pioneering document which will be instrumental in helping to control the spread of the epidemic, mitigate its impact on workers and their families and provide social protection to help cope with the disease. It covers key principles such as, the recognition of HIV/AIDS as a workplace issue, non-discrimination in employment, gender equality, screening and confidentiality, as well as social dialogue, as the basis for addressing the epidemic in the workplace.

Let us join together for the protection of the rights and dignity of workers, all people living with HIV/AIDS as well as in the fight against HIV/AIDS, and in making our workplaces safe, healthy and productive.

President of the Republic

Chairman of the National AIDS Council.

1. GENERAL STATEMENT

Acknowledging the seriousness of the HIV/AIDS epidemic the world over and its impact on the workplaces.

Recognizing the rights of each individual worker as enshrined in the Seychelles Constitution.

Supporting the national efforts being made to reduce the spread of HIV/AIDS and minimize the impact of the disease...

Desiring to ensure a consistent and equitable approach to the prevention of HIV/AIDS in the workplace and to the management of the consequences of HIV/AIDS, including the care and support of workers living with HIV/AIDS.

Taking into account existing legislation prohibiting discrimination and protecting the safety and health of workers.

Recognizing workplaces as an appropriate place to offer HIV/AIDS information, education for behavioral change, services and protection of workers.

Recognising the 10 key principles of the ILO Code of Practice on HIV/AIDS and the World of work as basis for action on HIV/AIDS;

The Ministry of Employment and Human Resources Development (MEHRD) in collaboration with Social Partners hereby introduces the Seychelles HIV/AIDS Workplace Policy.

2. **OBJECTIVES**

The policy establishes a set of guidelines to protect the rights, health as well as the earning power of the workers and productivity of Seychelles business and industry in the face of the challenges presented by the HIV/AIDS epidemic.

Specifically the objectives of this policy are to:

- (i) Develop concrete response at workplace, community, sectoral and national levels to deal with issues of HIV/AIDS prevention, stigma and discrimination, the productivity of workers and businesses, and the care and support of workers infected or affected by HIV/AIDS.
- (ii) Promote processes of dialogue, consultations, negotiations and all forms of cooperation between government, employers and workers and their representatives, occupational health personnel, specialists in HIV/AIDS issues, and all relevant stakeholders including non-governmental organisations.
- (iii) Give effect to its contents in consultation with social partners;
 - In national laws, policies and programmes of action
 - Workplace/enterprise agreements and
 - Workplace policies and plans of action

3. **DEFINITIONS**

HIV The Human Immunodeficiency Virus, a virus that weakens the body's immune system, ultimately causing AIDS.

AIDS The Acquired Immune Deficiency Syndrome.

Discrimination is used in the policy in accordance with the definition given in the Employment (Amendment) Act of 2006.

Employer is accorded the definition as found in the Employment Act, 1995. For the purpose of this policy, employer also includes the government for which the policy shall apply and parastatal organizations.

Screening is defined as measure/s whether direct (HIV testing), indirect (assessment of risktaking behaviour) or asking questions about tests already taken or about medication.

4. SCOPE

This Policy applies to:

- (i) All employers, workers in the public and private sectors in the Republic of Seychelles and
- (ii) All aspects of work (e.g. physical, intellectual, individual, team) both formal and informal.

5. KEY PRINCIPLES

In tripartite, the Social Partners endorse the following as key principles that will guide action regarding workplace policies, programmes and activities with regards to HIV/AIDS in the workplace in Seychelles:

5.1. Tripartism

The synergic collaboration and co operation of the ministry responsible for employment, and representatives of workers' and of employers' associations is critical to combat the spread of HIV/AIDS. Government generally seeks to facilitate the active participation and co-operation of workers and employers. Employers frequently provide the leadership to combat stigma and discrimination, improving safety to protect workers and ensuring the viability of business and industry. Workers often identify the issues necessary to protect their health, their ability to generate income and their role in building a vibrant economy. The three perspectives are necessary and will be pursued.

5.2. Social dialogue

Through social dialogue joint effective strategies to counter the HIV/AIDS epidemic will be identified and implemented. The successful implementation of a HIV/AIDS policy and programme will be based on co-operation and trust between employers, workers and their representatives and government, where appropriate, with the active involvement of workers infected and affected by HIV/AIDS.

5.3 Partnership

Other stakeholders important for combating HIV/AIDS in the world of work shall include several government Ministries and NGOs in the country. Because preventive measures against the epidemic are required, broad measures will be needed which rely heavily upon public health measures but which extend beyond them. For this reason, the co-ordination, co-operation and communication among many bodies are critical and will be pursued.

5.4 Involvement of people living with HIV/AIDS

The policy is built upon the principle of the full involvement of people in Seychelles living with HIV/AIDS. Involvement should include policy and workplace programme development but shall also imply involvement of people living with HIV/AIDS in the workplace without stigma or discrimination. In this domain, the ministry responsible for employment, will help workplaces put in place tailor-made programme or policies in line with this policy.

5.5. Recognition of HIV/AIDS as a workplace issue

HIV/AIDS is a workplace issue, and shall be treated like any other serious illness/condition in the Seychelles workplace. This is necessary not only because it affects the workforce, but also because the workplace, being part of the local community, has a role to play in the wider struggle to limit the spread and effects of the epidemic.

5.6. Non-discrimination

The Ministry responsible for employment, recognizes that HIV/AIDS is not transmitted when proper precautions are taken, and, when HIV/AIDS is properly managed, it does not have to prevent an individual from earning a living. As a result, no sort of discrimination or stigmatization of workers with the virus or full blown AIDS should be permitted. On the contrary, Ministry responsible for Employment will endeavour to promote a positive and supportive workplace environment for individuals infected and affected by HIV or AIDS.

To ensure uniformity in the application of the concept of non-discrimination the Social Partners agree on the following.

- (i) No employee shall be dismissed or have his or her employment terminated based solely on his or her HIV status.

- (ii) The same legislation, regulations and policies regarding employment shall govern employees or prospective employees with HIV/AIDS as they do any other.
- (iii) HIV status shall not be a criterion for refusing to promote, train and develop a worker.
- (iv) HIV status shall not deny an employee full participation in any activity organized by the employer, provided that it does not pose risk of transmission.
- (v) Should a worker be unable to continue to perform the duties for which she or he is employed, for reasons of his or her HIV/AIDS status, suitable alternative employment, with the relevant reduction in salary and status, if necessary, may be considered by the employer subject to prior approval of the Employment Department.
- (vi) The policies and procedures pertaining to termination of services on grounds of ill health that apply to all employees will also apply to employees who have HIV/AIDS.
- (vii) The HIV status of an employee shall not be used as a criterion to identify or influence the selection of employees for redundancy.
- (viii) An employee who refuses to work with another employee who is HIV/AIDS positive shall be regarded as having breached his/her employment contract.

- (ix) Existing sick leave procedures shall also apply to employees with HIV/AIDS.
- (x) No flags, symbols or any other means of identification will be used on an employee's personal or other records to indicate HIV status.
- (xi) An employee's HIV status shall not be required on any medical or personnel report, unless it is very important in informing the course of treatment beneficial to the employee and with his/her consent.

5.7. Gender Equality

Similarly, unequal treatment of either male or female workers affected by HIV/AIDS will not be tolerated in workplaces. The greater the gender discrimination in society and the lower the position of one gender or the other, the more negatively they are affected by HIV. Therefore, more equal gender relations and the empowerment of people consistently victimized on the basis of gender should be promoted to prevent the spread of HIV infection and enable members of both genders to cope equally well with HIV/AIDS.

5.8. Healthy Work Environment

Employers as well as workers shall share a responsibility to ensure that the work environment is healthy. This should include maximizing the safety of workers from contamination with the HIV virus (e.g. needle sticks, blood transmission). Government will endeavour to ensure that workers and owners of business achieve and maintain a healthy work environment and observe the provision of the Occupational Health and Safety Decree and Regulations.

5.9. No Screening Solely For Purposes Of Exclusion From Employment Or Work Processes

Workplaces shall not violate individual human rights by attempting to use HIV screening for purposes of exclusion from employment or work processes. To give effect to this provision Social Partners affirm that:

- (i) A prospective employee is under no obligation to inform his employer of his or her HIV/AIDS status.
- (ii) Employees who wish to be tested for HIV shall have access to counseling and referral to appropriate facilities in collaboration with Department of Health.

5.10. Confidentiality

Access to personal data relating to worker's HIV status shall be bound by the rules of confidentiality. Social Partners affirm that:

- (i) If an employee informs an employer of his or her HIV/AIDS status, this information shall not be disclosed to a third party without that employee's written and express consent.
- (ii) A third party who is in breach of confidentiality in this respect will be subject to disciplinary measures which may include dismissal.
- (iii) An employee who discloses his/her HIV/AIDS status to his/her employer and experiences a breach of confidentiality in this respect may have grounds for constructive dismissal.

5.11. Continuation Of Employment Relationship.

- 5.11.1 HIV infection shall not be a cause for termination of employment; it is a violation of human rights and shall be treated as such and is an offence.
- 5.11.2 Employers shall devise and implement strategies which deal flexibly with workers with HIV/AIDS and which do not unduly affect the ability of the business to profit and progress.
- 5.11.3 Employers shall be encouraged to create an environment to permit workers adequate time for HIV/AIDS-related behavioural change education and medical appointments. HIV/AIDS shall be treated as any other medical condition.

5.12 Prevention

The practice of the Ministry responsible for Health which is to place adequate emphasis upon preventive health measures is endorsed by all partners co-operating on this policy initiative. At present, HIV/AIDS has no cure, but it is preventable. Adequate effort shall therefore be required to use the workplace as one of the important sites for enacting appropriate preventive measures, targeted to suit national conditions and provided in sensitive ways.

5.13 Care and Support

5.13.1 Finally, Social Partners, endorse a responsibility for including adequate measures for the care and support of individuals who are HIV positive or affected by AIDS. This responsibility shall be shared not only by the tripartite body but also all other key stakeholders.

5.13.2 Social Partners affirm that measures in terms of education for behavioural change, patient care and psychological support shall be undertaken by a range of institutions. These measures shall include ensuring that workers with HIV/AIDS understand their responsibilities and conditions as laid down in this policy. This strategy is intended to increase the number of workers agreeing to voluntary counselling, testing and, where necessary, following up with proper care and medication.

6. COMMITMENTS

The tripartite partners commit themselves to the following actions:

- Raise national awareness, particularly of workers, involving other appropriate and concerned groups, to eliminate stigma and discrimination associated with HIV/AIDS through fair practices and the provision of behavioural change education, to fight the culture of denial and thereby prevent the spread of HIV/AIDS;
- Strengthen the capacity of the Social Partners in Seychelles to address the pandemic;
- Strengthen occupational safety and health systems to protect groups at risk, and in a manner which protects the health and income of those workers as well as the profitability of business and industry;

- Formulate and implement social and labour policies and participatory programmes that mitigate the effects of AIDS in workplaces; and,
- Effectively mobilize resources both in Seychelles and internationally for assistance, both technical or otherwise in the fight against HIV/AIDS in workplaces and its effects thereon in Seychelles.

7. RESPONSIBILITY

- 7.1 All employer, employees and workplaces shall be held responsible and accountable for complying with this policy.
- 7.2 All employers must ensure that all members of staff are aware of and understand the contents of this policy.
- 7.3 All employers are responsible for implementing this policy ensuring compliance with the knowledge of its terms, and for taking immediate and appropriate corrective action where necessary.
- 7.4 All employers must ensure that every new employee has access to this policy.
- 7.5 All employers must open and maintain communication channels to raise awareness concerning HIV/AIDS.
- 7.6 The administration of any complaint procedures arising from this policy are assigned to the Department of Employment.
- 7.7 Employment Department is responsible for ensuring that this policy is properly distributed in workplaces and that every employer has personally received a copy of the policy.
- 7.8 The Employment Department in collaboration with the Ministry responsible for Health shall be responsible for the compilation of information on HIV/AIDS for policy formulation, including modes of transmission, preventive measures, addressing the myths or misconception, and other general information.

7.9 The Department of Employment and the Ministry responsible for Health in collaboration with NGOs shall be responsible for the dissemination of HIV/AIDS information to all workplaces.

8. IMPLEMENTATION

(i) Focal Point

The Employment Department shall encourage all workplaces to:

- (i) Have a focal point to follow-up on policy-related challenges and issues related to HIV/AIDS in the world of work.
- (ii) Support the implementation of HIV/AIDS in the workplace and
- (iii) Plan, communicate and co-ordinate with other focal points and with the AIDS Control Programme Manager.

(ii) Dispute Resolution

Any dispute between the employer and an employee in relation to or arising from the interpretation of this policy shall be subject to a process of conciliation by the Chief Executive of the Employment Department.

Where the alleged dispute remains unresolved, it shall be referred to the office of the Chief Executive of the Employment Department.

9. POLICY REVIEW

This policy shall be reviewed for changes and improvements every 2 years.

Endorsed and signed by Social Partners in Tripartite on -----in the month of-----2007.

Government

Employers

Workers