



THE MINISTER OF MANPOWER AND
TRANSMIGRATION OF
THE REPUBLIC OF INDONESIA

THE DECREE OF
THE MINISTER OF MANPOWER AND
TRANSMIGRSTION OF
THE REPUBLIC INDONESIA

NUMBER: KEP. 68/MEN/2004

ON

HIV/AIDS PREVENTION AND CONTROL
IN THE WORKPLACE

MINISTER OF
MANPOWER AND TRANSMIGRATION OF
REPUBLIC OF INDONESIA

Considering:

- a. that HIV/AIDS cases in Indonesia are increasing over time.
- b. that the majority of people with HIV/AIDS are those of productive working age; this adversely impacts the enterprise's productivity.
- c. that in order to anticipate the negative impact of HIV/ AIDS cases in the workplace, prevention and control efforts needs to be made optimally.
- d. that efforts to prevent and control the transmission of HIV/ AIDS in the workplace needs to be regulated with a ministerial decree.

Mindful of:

1. Act No. 1 of the year 1970 on Occupational Safety (State Gazette No. 1 of the year 1970, Additional State Gazette No. 1818);
2. Act No. 13 of the year 2003 on Employment (State Gazette No. 39 of the year 2003, Additional State Gazette No. 4279);
3. Presidential Decision No. 36 of the year 1994 on National AIDS Commission in Indonesia
4. Presidential Decision No. 228/M of the year 2001 on HIV/ AIDS control in Indonesia.

5. Minister of Manpower Regulation No. Per. 02/MEN/1980 on Examination of the Worker's Health in Administering Occupational Safety.
6. Minister of Manpower Regulation No. Per. 03/MEN/1982 on Occupational Health Service.

Paying attention to:

1. The Declaration of the U.N. General Assembly Special Session No. 526/2001.
2. The ASEAN Declaration on HIV/AIDS Control, 2001
3. The National Strategy for HIV / AIDS Control for the 2003-2008 Period, which was established by the National AIDS Commission.
4. Guideline for HIV/AIDS Control in the Workplace, Ministry of Manpower and Transmigration of the year 2003.
5. ILO Code of Practice on HIV / AIDS and The World of Work which has been translated into Indonesian, together with its supplementary description titled ILO Code of Practice on HIV/ AIDS in the World of Work of the year 2003 (*Kaidah ILO tentang HIV / AIDS di Dunia Kerja 2003*).
6. The National Tripartite Declaration Commitment to Combat HIV/AIDS in The World of Work of the year 2003.

DECIDES

To adopt:

DECREE OF MINISTER OF MANPOWER AND TRANSMIGRATION OF REPUBLIC OF INDONESIA ON HIV/AIDS PREVENTION AND CONTROL IN THE WORKPLACE

Article 1

Under this ministerial decision, the following definitions shall apply:

1. “Human Immunodeficiency Virus” (HIV) is a virus that attacks the human immune system and later on may develop into AIDS.
2. “Acquired Immune Deficiency Syndrome” (AIDS) is a medical condition marked by a collection of signs and symptoms resulting in a reduction or loss of the body’s immunity due to HIV infection, frequently taking the form of opportunistic infections and still incurable.
3. “HIV/AIDS Prevention and Control” refers to an effort made to prevent the transmission of HIV/AIDS and to cope with the negative impact of HIV/AIDS.
4. “HIV test” refers to blood test used to determine whether a person has been infected with HIV or not.
5. “Workers/Laborers” refers to every person who works or

- are employed and receives wages or other forms of remuneration in exchange of the work.
6. “Employers” refers to:
 - a. Individuals, partnerships, or legal bodies that run an enterprise that they own;
 - b. Individuals, partnerships, or legal bodies that independently run enterprises that do not belong to them;
 - c. Individuals, partnerships, or legal bodies that are situated in Indonesia representing enterprises, as referred to under points a and b, that are domiciled outside of Indonesia’s territory.
 7. “Officials” (*pengurus*) refers to persons whose duty is to directly lead a workplace or part of it that stands alone.
 8. “Enterprises” refers to:
 - a. Every form of business, which is a legal entity or not, which is owned by an individual, a partnership, or a legal body, either belonging to the private sector or the State, which employs workers/ laborers by paying them wages or other forms of remuneration;
 - b. Social undertakings and other undertakings with officials to manage them, and which employ other people, by paying them wages and other forms of remuneration.
 9. “Workers with HIV/AIDS” are workers/ laborers who have been infected with HIV.
 10. “Counseling” is a consultation activity that is aimed at helping workers/laborers’ tackling problems faced.

Article 2

- (1) Employers are obliged to take steps to prevent and control the spread of HIV/AIDS in the workplace.
- (2) In order to prevent and control the spread of HIV/AIDS in the workplace, employers and workers/ laborers are obliged to:
 - a. Develop policies on HIV/AIDS prevention and control in the workplace, which may be put into the Enterprise Regulations or Collective Bargaining Agreements.
 - b. Communicate efforts to prevent and control the spread of HIV/AIDS by disseminating information and organizing education and training.
 - c. Protect Workers with HIV/AIDS from discriminatory action and treatment.
 - d. Establish occupational safety and health (OSH) schemes for HIV/AIDS prevention and control that is in accordance with valid regulations and standards.

Article 3

Workers with HIV/AIDS have the right to occupational health service and employment opportunity equal to that which other workers/ laborers are entitled to.

Article 4

- (1) The Government is obliged to provide advisory and supervisory assistance to help develop HIV/AIDS prevention and control programs in the workplace.

- (2) The Government, the employer and the trade/labor union, alone or together, are obliged to implement HIV/AIDS prevention programs in the workplace,
- (3) Efforts to prevent and control the spread of HIV/AIDS in the workplace as referred to under subsection (2) above may be made by involving parties who are concerned with, or are experts in, HIV/AIDS.

Article 5

- (1) Employers or officials are prohibited to perform HIV tests as part of recruitment requirements or working status of workers/laborers or as a compulsory regular medical check up.
- (2) HIV tests can only be performed on the basis of a written agreement from workers/laborers concerned, with a condition that the result will not be used as mentioned in Article (1).
- (3) If an HIV test is needed as referred to under subsection (2) of Article 6, the employer or the official must provide counseling service to workers/ laborers before and after the HIV test is performed.
- (4) HIV tests as mentioned in the Article (2) should only be performed by specialized medical doctors in accordance with valid standard requirements and provisions.

Article 6

Any information obtained from counseling activities, HIV tests, medical treatment, medical care and other related activities must be kept confidential just like any medical records.

Article 7

- (1) Technical matters concerning the implementation of this decision shall be determined and elaborated in the form of guidelines, technical instructions, and implementing regulations.
- (2) This decision shall come into force upon the date of its adoption.

Adopted in Jakarta

On 28 April 2004

**MINISTER OF
MANPOWER AND TRANSMIGRATION OF
THE REPUBLIC OF INDONESIA,**

JACOB NUWA WEA

Tripartite Declaration Commitment to Combat HIV/AIDS in the World of Work

We, the Government of Indonesia, Coordinating Ministry for People's Welfare and Ministry of Manpower and Transmigration, Indonesian Chambers of Commerce and Industry (KADIN), Indonesia Employers' Association (APINDO) and Workers' Organization representative: SBSI (Indonesian Prosperous Trade Union), KSPI (Indonesian Trade Union Congress), and KSPSI (Confederation of the All Indonesian Worker Union) hereby:

- RECOGNIZE that the transmission of HIV/AIDS in Indonesia will potentially threaten business' profitability and productivity, workers' occupational health and society;
- EXPRESS our deep concern that the threat of HIV/AIDS impacts on sustainable national development;
- URGE all parties to collaborate with other efforts among the society especially in the private sector to prevent the spread of HIV/AIDS;
- URGE all parties at the workplace to work together under a tripartite framework with emphasis on the following:
 1. To use the principles of the **ILO Code of Practice on HIV/AIDS and the World of Work** as a basis for implementing workplace programme on prevention, care and support;
 2. To give priority to prevention programmes on HIV/AIDS including encouraging business and unions to support these programmes;
 3. To encourage and support an effort to deal with stigma and discrimination against workers with HIV/AIDS.



Handwritten signatures of the signatories, each followed by a blacked-out name and title.

The ILO Code of Practice on HIV/AIDS and the World of Work

The ILO has adopted a *Code of Practice on HIV/AIDS and the World of Work*. It is the product of collaborative efforts between the tripartite constituents of the ILO, namely governments, employers' and workers' representatives. The objective of the Code is to provide guidance to help reduce the spread and impact of HIV/AIDS. The Code contains principles for policy development and practical guidelines from which concrete responses can be developed at the enterprise, sectoral and national levels.

The 10 key principles of the ILO Code of Practice on HIV/AIDS and the World of Work

1. Recognition of HIV/AIDS as a workplace issue:

HIV/AIDS is a workplace issue and it should be treated like any other serious illness/ condition in the workplace.

2. Nondiscrimination:

There should be no discrimination against workers on the basis of real or perceived HIV status. Discrimination and stigmatization of people living with HIV/AIDS inhibits efforts aimed at promoting HIV/AIDS prevention.

3. Gender Equality:

The Gender dimension of HIV/AIDS should be recognized. Women are more likely to become infected and are more often adversely affected by the HIV/AIDS epidemic than men. Therefore, more equal gender relations and the empowerment of women are vital to successfully prevent

the spread of HIV infection and enable women to cope with HIV/AIDS.

4. Healthy Work Environment:

The work environment should be healthy and safe, as far as is practicable, for all concerned parties, to prevent transmission of HIV, in accordance with provisions of the ILO Convention No. 155 of 1988 on Occupational Health and Safety.

5. Social Dialogue:

The successful implementation of an HIV/AIDS policy and program requires cooperation and trust between employers, workers and their representatives and government, where appropriate, with their active involvement of workers infected and affected by HIV/AIDS.

6. No Screening for purposes of exclusion from employment or Work Processes:

HIV/AIDS screening should not be required of job applicants or persons in employment.

7. Confidentiality:

There is no justification for asking job applicants or workers to disclose HIV-related personal information. Access to personal data relating to a worker's HIV status should be bound by rules of confidentiality consistent with the ILO's code of practice on the protection of workers' personal data, 1977.

8. Continuation of Employment Relationship:

HIV infection is not a cause for termination of employment. As with many other conditions, persons with HIV-related

illness should be able to work as long as medically fit in available, appropriate work.

9. Prevention:

HIV infection is preventable. Prevention of all means of transmission can be achieved through a variety of strategies which are appropriately targeted to national conditions and which are culturally sensitive. Prevention can be furthered through changes in behaviour, knowledge, treatment and the creation of non discriminatory environment.

10. Care and Support:

Solidarity, care and support should guide the response to HIV/AIDS in the world of work. All workers, including workers with HIV, are entitled to affordable health services. There should be no discrimination against them and their dependents in access to and receipt of benefits from statutory social security programs and occupational scheme.