National Workplace Policy on HIV and AIDS and other Chronic Diseases

Government of St. Kitts and Nevis
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1. Acknowledgements

This St Kitts and Nevis Workplace Policy on HIV and AIDS and other Chronic Diseases was developed by the Ministry of Labour in collaboration with its Core Working Committee and in consultation with partners from the World of Work.

This Core Working Committee includes representatives from the:

Department of Labour (St Kitts and Nevis)
St Kitts-Nevis Trades and Labour Union
Nevis Teachers’ Union
St Kitts and Nevis Chamber of Industry & Commerce
Ministry of Health (St Kitts and Nevis)
Ministry of Justice and Legal Affairs
Ministry of Sustainable Development
Department of Gender Affairs (St Kitts)
Department of Social Services (Nevis)
Social Security Board
National Advisory Council on HIV and AIDS (NACHA)
Human Resource Department (Government)
Community of Persons Living with HIV and AIDS
2. Definitions and Abbreviations

**HIV** refers to the Human Immunodeficiency Virus, a virus (germ) that infects cells of the human immune system and destroys or impairs their function. Infection can be prevented by appropriate measures.

**AIDS** refers to the Acquired Immunodeficiency Syndrome which results from advanced stages of HIV infection and is characterised by a range of medical conditions that occurs when a person’s immune system is seriously weakened by infection with HIV. People living with AIDS are susceptible to a wide range of unusual and potential life-threatening diseases and infections.

**Chronic Disease** refers to any illness or condition for which there is no cure but can be managed by lifestyle changes and daily therapy or medication and which has the potential to result in the death of an individual if untreated. Examples include Hypertension, Heart Disease, Diabetes Mellitus, HIV and AIDS, Cancers, Asthma and Alcoholism.

**Discrimination** means any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, as referred to in the ILO Discrimination (Employment and Occupation) Convention, 1958 (C.111) and its accompanying Recommendation, 1958 (R.111).

**Employer** refers to the Government of St Kitts and Nevis as represented by Permanent Secretaries, Private Sector as represented by Chief Executive Officers and Managers, Heads of Departments and anyone who offers wages/salaries or gives instructions to persons under their direct supervision.

**Employee/worker** refers to any person working under any form or arrangement, be they voluntary, temporary or permanent.

**Public Sector** is that entity which manages and regulates the affairs of the country under the Government of St Kitts and Nevis.

**Reasonable Accommodation** means any modification or adjustment to a job or to the workplace that is reasonably practicable and enables a qualified and competent person living with HIV and AIDS or any other Chronic Disease to have access to, or participate or advance in, employment and to enjoy benefits and privileges of employment, equal to those enjoyed by other employees without these diseases.

**Right to confidentiality** is the right of every person to have their health and personal information kept private.
**Stigma** means the social mark, that when associated with a person, usually causes marginalisation or presents an obstacle to the full enjoyment of social life by the person infected or affected by HIV or any other Chronic Disease.

**Undue Burden** refers to the financial or other constraints imposed on the business due to the provision of reasonable accommodation for employees living with HIV or other Chronic Diseases and this should be aligned with the UN Convention on the Rights of Persons with Disabilities, 2006.

**Universal Precautions** refers to a simple standard of infection control precautions that must be used at all times to minimise the risk of blood and fluid borne pathogens. These precautions consist of:

- Hand-washing before eating, after using the bathroom and as soon as possible after exposure to blood and other bodily fluids
- Careful handling and disposal of needles and other sharp objects in specially prepared and marked bins
- Use of disposable gloves when handling cuts, bruises, wounds or potential for body fluid contact
- Use of ‘freshly’ diluted bleach (1 part bleach to 9 parts water) to clean spilled blood and bodily fluids
- Proper disinfection of instruments, equipment and soiled linen.

**Workplace** refers to any place in which workers perform their activity.

**ART**-Antiretroviral therapy

**EAP**-Employee Assistance Programme

**CHBC**-Community Home-Based Care

**CHAA**-Caribbean HIV and AIDS Alliance

**FACTTS**-Facilitating Access to Confidential Testing, Treatment and Support, peer support group

**ILO** –International Labour Organization

**PEP**-Post Exposure Prophylaxis

**PMTCT**-Prevention of Mother to Child Transmission

**TB**-Tuberculosis

**VCT**-Voluntary Counselling and Testing
3. Introduction

HIV is now considered to be a Chronic Disease. After thirty years of the worldwide HIV and AIDS epidemic, ninety percent of those living with HIV are of productive working age. The situation analysis for St Kitts and Nevis reveals that persons aged fifteen (15) to forty-nine (49) years are the most severely affected by this disease. This age group represents the reproductive and most productive sector of the society. It is for this reason that the workplace can play a vital role as an entry point to reach this population with HIV prevention information as well as with treatment, care and support services. HIV/AIDS and HIV-related transmissible diseases including tuberculosis continue to be a major concern, since they have the potential to erode the social and economic gains of a small developing state. This creates an imperative for the development of effective strategies to prevent new infections and provide care, treatment and support to persons infected and affected by these diseases.

In addition, other chronic non communicable diseases like Diabetes, Hypertension, Cancers, Asthma and Alcoholism account for significant absenteeism from work, sickness and hospitalisation and include the leading causes of death in this developing nation. They place unsustainable strain on the health care system and social services networks. As the country becomes more prosperous, people have the potential to live longer with chronic illnesses because of better access to health care, nutrition and medication availability and these are the people who make up our workforce. Life expectancy in St Kitts and Nevis is 74 years.

The majority of individuals living with HIV and AIDS and other Chronic Diseases are actively engaged in the world of work and spend the greater portion of their waking day at the workplace. The workplace therefore holds enormous potential to implement change that will lessen the impact of these diseases on the country. Without such change, workplaces will feel the impact of these chronic diseases most clearly through their workforce and productivity, with direct and indirect financial consequences for the economy.

4. Policy Statement

The Government of St Kitts and Nevis in collaboration with Employers, Workers and Civil Society including organisations representing persons living with HIV, all partners in the world of work, is committed to the reduction of new HIV infections, the prevention of the spread of HIV, the elimination of HIV-related stigma and discrimination and the mitigation of the impact of HIV and other Chronic Diseases in and through the workplace.

HIV and AIDS and other Chronic Diseases are a major challenge for St Kitts and Nevis with serious socio-economic and human rights implications. The gender dimension in the workplace dictates that gender specific language and programmes form part of the policy in order to lessen the impact on men and women since they are often affected in different ways by chronic
diseases. It is recommended that workplaces adopt a policy of “zero tolerance” of HIV-related stigma and discrimination.

5. Purpose

This policy is guided by the ILO Recommendation Concerning HIV and AIDS and the World of Work, 2010 (No.200), the ILO Code of Practice on HIV/AIDS and the World of Work (2001), the National Health Policy, the United Nations Convention on the Elimination of all Forms of Discrimination against Women (1979), the National HIV and AIDS Strategic Framework and other relevant international labour standards. It seeks to:

• Promote the development of a supportive, ethical and human rights-based work environment that protects the fundamental rights and freedoms of workers, including job applicants, living with or affected by all chronic diseases including HIV and AIDS and ensures that there is no stigma or discrimination against employees on the basis of real or perceived illness and HIV status

• Provide guidelines for the workplace in its effective management of people living with HIV and AIDS and other Chronic Diseases

• Ensure equal treatment in dealing with all workers, including job applicants living with or affected by HIV and AIDS and other Chronic Diseases.

6. Scope

This policy shall apply to:

a) all workers working under all forms or arrangements and at all workplaces, including:
   i. Persons in any employment or occupation
   ii. Those in training, including interns and apprentices
   iii. Volunteers
   iv. Jobseekers and job applicants
   v. Laid-off and suspended workers

b) All sectors of economic activity, including the private and public sectors and the formal and informal economies

c) Armed forces and uniformed services

d) Migrant workers

Workers, as well as their families and dependants should have access to and benefit from prevention, treatment, care and support measures and the workplace should play a role in facilitating access to these services.
7. Implementation

All workplaces should establish mechanisms, inclusive of annual plans and dedicated resources, to ensure the effective implementation and dissemination of the policy through the management and workers’ representatives and at the same time ensuring the right to privacy. This implementation should be integrated into the established planning and budgeting cycles of the workplace.

Permanent Secretaries, Heads of Departments, Chief Executive Officers, Managers and other persons who are charged with the responsibility for maintaining all personal data including medical information will be required to:

- Promote the development of a supportive, ethical and human rights-based work environment that protects the fundamental rights of workers living with HIV and AIDS and other Chronic Diseases
- Ensure that all workers are made aware of the policy and be given a personal copy of the document
- Display the policy in a prominent location and ensure it is accessible at all times.

All forms of communication normally used in the workplace, for example, posters, circulars to workers, staff meetings, notice boards and electronic mail, should be used to make the policy known and help ensure its implementation.

The right to privacy must be protected. Consequently, the officer responsible for human resource management information system should be trained in the principles and application of personal data collection and be fully aware of the consequences of breaches of confidentiality and the legislative framework that governs data management.

8. Guiding Principles

8.1 Recognition of HIV and AIDS and Chronic Diseases as Workplace Issues

HIV and AIDS and other Chronic Diseases are workplace issues, not only because they affect the workforce, but also because the workplace can play a vital role in education and prevention of these diseases and the promotion of healthy lifestyle choices, limiting the spread and effects of HIV and the proliferation of Chronic Diseases, many of which are determined by or made worse by lifestyle choices. This role of the workplace should include the provision of information on accessing treatment, care and support services for workers, their families and dependants.
8.2 Non-discrimination

HIV and AIDS and other Chronic Diseases are not transmissible in the workplace environment by casual physical contact and the presence of a person living with HIV or any other Chronic Disease should not be considered a workplace hazard.

As a result, there should be no discrimination or stigmatisation against workers, including job applicants, on the basis of real or perceived HIV status or any other chronic health condition. Real or perceived HIV status should not be a ground of discrimination preventing the recruitment or continued employment, or the pursuit of equal opportunities consistent with the provisions of the ILO Discrimination (Employment and Occupation) Convention, 1958.

The Employer should undertake to protect the rights of persons living with or affected by HIV and other Chronic Diseases in the workplace with respect to job applications, hiring, upgrading, promotion, discharge, discipline, layoffs, compensation, training, transfers or other terms and conditions of employment. There should be no discrimination in access to employment and occupations, terms and conditions of employment during the employment relationship, or in retention in employment.

8.3 Gender Dimensions

Unequal treatment of male or female workers infected with or affected by HIV or other Chronic Diseases is not to be tolerated in St Kitts and Nevis.

Women are more likely to become infected and more often more adversely affected by HIV and AIDS than men due to biological, socio-cultural or economic reasons.

Women may also be more vulnerable due to unequal gender relations, in particular when faced with sexual harassment by the more influential males in the workplace setting. Any discrimination and or action that may put an employee of any gender at risk of HIV because of their gender, strictly violates the basic principles of this policy.

Measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by the promotion of more equal gender relations through education programmes. Such programmes should address:

- the roles and responsibilities of men in promoting gender equality and the empowerment of women
- actions to prevent and prohibit violence and harassment in the workplace
- the active participation of both women and men in the response to HIV and AIDS
Corrective behavioural change measures should be promoted with emphasis placed, wherever necessary, on correction of conditions placing women at greater risk, for example in the case of women and girls where the feminization of poverty has been shown to be inextricably linked to HIV and AIDS.

Women are also affected differently to men because many women continue to be the primary care givers in the society and therefore whether infected themselves or not, have to continue to care for and provide for other members of their families who may also be infected with HIV or suffering from another Chronic Disease.

Application of this Policy is designed to take account of these unequal gender relations and enable all employees to successfully avoid risks, the spread of HIV infection and to cope with the impact of HIV and AIDS.

8.4 Safe and Healthy Work Environment

Recognising that a safe and healthy work environment facilitates optimal physical and mental health in relation to work, the Employer will establish and maintain a safe, hazard free and healthy work environment, adapted to the state of health and capabilities of all workers.

While there is no risk of HIV transmission through normal casual contact, where there is an occupational risk of HIV transmission, for example in a health care setting, special safety and health measures should include universal precautions, accident and hazard prevention measures, such as organizational measures, engineering and work practice controls, personal protective equipment, as well as environmental control measures, Post Exposure Prophylaxis (PEP) and other safety measures to minimize the risk of HIV and TB transmission at work.

Where a direct link can be established between an occupation and the risk of infection, infection by HIV and AIDS, should be recognised as an occupational disease or accident, in accordance with national procedures and definitions, and with reference to the ILO List of Occupational Diseases Recommendation, 2002, (No 194) as well other relevant ILO instruments.

8.5 Social Dialogue

A successful workplace policy and the implementation, monitoring and evaluation of such a programme on HIV and AIDS and other Chronic Diseases requires cooperation, trust and dialogue between employers, all workers and Government and should, where possible, actively involve workers infected with HIV and affected by Chronic Diseases, without discrimination.
Time should be allocated for social dialogue and workers’ participation and engagement in the design, implementation and evaluation of workplace programmes should be recognised and reinforced.

8.6 Screening for purposes of employment

The employer shall not undertake any mandatory screening for employment purposes. In addition, the worker shall not be required to divulge any information regarding their HIV or health status or that of any other person. Furthermore, co-workers should not be obligated to reveal personal health information about fellow workers who are living with a Chronic Disease including HIV and AIDS.

The Employer should not include on any application form or ask at any interview for initial employment or promotion any question seeking information on whether applicants have HIV or any other Chronic Diseases.

Employers may offer health insurance as a benefit but it should not be a condition of one’s employment. Moreover, workers should be given the right to accept, decline or choose an insurance company that is comparable.

Any testing must be genuinely voluntary and free of any coercion, and testing programmes must respect international and national guidelines on confidentiality, counselling and consent.

8.7 Confidentiality

All workers, their families and dependents should enjoy the protection of their privacy including confidentiality about their health status.

Any results of HIV testing should be kept confidential and should not endanger access to jobs, tenure, job security or opportunities for advancement. Access to personal data relating to a worker’s HIV or health status should be bound by the rules of confidentiality consistent with existing ILO codes of practice and other national and international guidelines.

Any information volunteered by an employee that he or she is living with HIV or any other Chronic Disease should not be disclosed without the written consent of the employee.

The employer must put measures in place to guard against breaches of security and ensure that the right to privacy of all employees must be respected. To ensure strict confidentiality, the accountable officer should ensure that all conversations occur in a private setting, that personnel files are kept in a secure place with limited access and the same officer should be held responsible for any breach of confidence. The violation of medical privacy should be cause for disciplinary action to be taken against the responsible officer.
There should be in place an easily accessible dispute resolution procedure to ensure redress for any alleged violation of the right to confidentiality of health information.

8.8 Prevention

The social partners are in a unique position to promote prevention efforts through information and education; and support changes in attitude and behaviour.

It is important for workers to understand that HIV and AIDS and many Chronic Diseases are preventable. Therefore, all workers should be exposed to information, education and training. Management, employees, their families and dependents, should have access to timely, accurate and up-to-date information on HIV and AIDS and other Chronic Diseases including how they are acquired and lifestyle changes that reduce the risk of getting ill.

The prevention of all means of HIV transmission and prevention of the development of Chronic Diseases are fundamental priorities for St Kitts and Nevis.

Such prevention measures may include but are not limited to:

- Encouraging regular exercise e.g. exercise groups from work, membership to gyms
- Providing healthy meal choices at on site cafeterias
- Providing education sessions, training sessions and the time to attend these sessions when offered, along with written materials to help women and men understand and reduce the risk of all modes of HIV transmission including mother-to-child transmission, and understand the importance of changing risk behaviours related to infection at the workplace and in the home environment
- Peer education
- Measures to encourage workers to know their own HIV status through VCT
- Promotion of all strategies for prevention including abstinence, being faithful and the correct use of male and female condoms
- Harm reduction strategies based on international and national guidelines
- Encouraging regular checks of weight, blood pressure, blood glucose and blood cholesterol
- Effective occupational safety and health measures
- Education on personal hygiene and proper nutrition for infected and affected employees and adherence to the agreed Universal Precautions for the handling of accidents in the workplace.

All strategies employed to prevent further increase in the number of persons living with HIV and AIDS and the number of persons developing other serious Chronic Diseases should be adapted to national conditions and the type of workplace and should take into account gender, cultural, social and economic concerns and be appropriately targeted for greatest impact.
8.9 **Counselling, Care, Treatment and Support**

Solidarity, care, treatment and support should guide the response to persons living with and affected by HIV and other Chronic Diseases in the workplace.

In this regard, employers will create an environment that is conducive to encouraging employees, their family members and dependants to seek assistance and counselling from the appropriate agencies and established community counselling facilities, groups and services for on-going support and care. The employer may invite representatives from these agencies to participate in the workplace health education programme as well as encouraging the active engagement of workers and persons infected and affected by HIV or any other Chronic Disease to work together with the employers in ensuring an encouraging environment for seeking assistance, support and counselling.

Some examples of available services in the community are:

- Programme for Prevention of Mother to Child Transmission (PMTCT)
- Voluntary Counselling and Testing (VCT)
- Access to antiretroviral therapy (ART) as part of integrated care programme
- Community Home-Based Care (CHBC)
- Peer Support Groups like Facilitating Access to Confidential Testing, treatment and Support (FACTTS) and Caribbean HIV and AIDS Alliance (CHAA)
- Hypertension Clinics
- Diabetic Clinics
- Cervical Smear Clinics
- Sexual and Reproductive Health Services
- Mammography Screening
- Employee Assistance Programmes (EAP)

Access to all of these services is available in both the public and private health care sectors in St Kitts and Nevis.

8.10 **Reasonable Accommodation**

The employer should, if having been informed by the employee that he or she is living with or affected by HIV or any other Chronic Disease, carry out any work modifications to allow the employee to perform his/her job for as long as medically determined.

Such individually determined modifications may include but are not limited to:

- Flexible hours
- Greater frequency of breaks
• Time off work for medical treatment
• Job restructuring or job transfer
• Work at home (e.g. provision of computer)
• Job sharing or job rotation
• Reassignment of tasks.

Workers should not be fearful of disclosing their HIV or Chronic Disease Health Status to their employer. The working environment should be supportive of those who disclose. All HIV and health-related information disclosed by the worker in relation to a request for reasonable accommodation should be kept confidential.

However, any modifications should not cause undue burden on the employer.

8.11 Responsibility of Employees

Employees undertake:

• To take advantage of opportunities offered by the Employer in any programme designed to provide information on all aspects of HIV and AIDS and any other Chronic Disease
• To refrain from engaging in behaviour, including inappropriate words, comments and actions, that annoys, slanders or offends those persons living or perceived to be living with or affected by HIV and AIDS or any other Chronic Diseases
• To adhere to Universal Precautions for the handling of accidents or any situation which may result in an exposure to body fluids, while at the workplace
• To ensure that the respect and dignity to be shown to co-workers is not adversely affected by the knowledge that the co-worker is living with HIV or any other Chronic Diseases
• To safeguard work colleagues by refraining from behaviour detrimental to the health and safety of others.

Disciplinary action will be considered justified against employees who create fear and stigmatise co-workers with HIV or other Chronic Diseases, in accordance with rules of conduct for the workplace, local anti-discrimination laws, the Protection of Employment Act of 2002 (Cap 18.27 Sections 8 and 10) and the St. Kitts and Nevis Constitution.

8.12 Continuing the employment relationship

The Policy recognizes that being HIV positive is not an illness and that there is a therapeutic importance of actively participating in working life.
HIV does not prevent people from continuing to work productively. Employees living with or affected by HIV or any other Chronic Diseases who desire to and are able to work, should not be denied the possibility of continuing to carry out their work, with reasonable accommodation if necessary, for as long as they are medically fit to do so. They should be facilitated on a case by case basis in accordance with the rules and regulations that govern the workplace.

Temporary absences from work due to illness or care-giving duties related to HIV and AIDS or any other Chronic Diseases should be treated in the same way as absences for other health reasons. In addition, in accordance with international labour standards, medical examination for employment purposes should only establish fitness to carry out the work in question.

8.13 Protection from Victimisation and Unfair Termination of Employment

Real or perceived HIV status or having any Chronic Disease should not be a cause for termination of employment. It is a violation of human rights and should be treated as a legal offence.

As long as an employee is medically fit to carry out their work, with reasonable accommodation if necessary, they shall enjoy equal opportunities and treatment as any other employee.

There should be no discrimination against workers or their dependants, based on real or perceived HIV status or their having any other Chronic Disease, in access to social security systems and occupational insurance schemes, or in relation to benefits under such schemes, including for health care and disability, and death and survivor’s benefits.

Violence and harassment in the workplace is prohibited and employers and employees should take actions to prevent their occurrence.

Where an employee with an AIDS-related condition or advanced, severe Chronic Disease is too ill to continue to work and where alternative working arrangements, including extended sick leave have been exhausted, termination of employment may be considered in accordance with non-disciplinary national labour laws and other applicable national policies.

9. Disciplinary Procedures and Grievance Resolution

Employers should ensure that the rights of employees with regard to HIV and AIDS and any other Chronic Diseases, and the remedies available to them in the event of a breach of such rights become integrated into existing grievance procedures.
Employers should create an awareness and understanding of the grievance procedures and how employees can utilise them.

The procedures for discipline and grievance resolution for employees in relation to HIV and AIDS and any other Chronic Diseases should be carried out in accordance with the relevant legislation, workplace policy and regulations and negotiated/collective bargaining agreements. Complainants may have recourse to normal appeal procedures related to unfair dismissal, denial or unjustified restriction of employment or work related rights and benefits, and may refer in this regard to the provisions and related jurisprudence of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No.111).

Employers should develop special measures to ensure the confidentiality of the complainant during such proceedings, including ensuring that such proceedings are held in private.

There is no justification for refusing to work or be present in a workplace with persons living with or affected by HIV or any other Chronic Diseases since they cannot be transmitted or acquired through casual contact. Employees, who are not prepared to work with a person living with or affected by HIV or any other Chronic Diseases, should be offered education and counselling by the workplace or from the relevant community services. If after counselling, the worker refuses to carry out contractual duties or to participate in the learning programmes, the workplace’s disciplinary procedures concerning refusal to work should be followed.

Where discrimination occurs in the form of physical or verbal abuse, the worker who has experienced any form of discrimination will have recourse to existing mechanisms for redress, including regulations governing physical attacks and bullying. The appropriate workers’ representative and the agency responsible for monitoring the implementation of the Policy should be informed to ensure that proper measures are taken.

10. Legal Framework

In the absence of law specifically to protect the rights of persons living with HIV and AIDS against discrimination in St Kitts and Nevis, this policy is guided by and conforms to the international principles articulated in the ILO Recommendation Concerning HIV and AIDS and the World of Work, 2010 (No.200), the ILO Code of Practice on HIV/AIDS and the World of Work (2001), and in other relevant international labour standards and international human rights instruments.

The Government of St Kitts and Nevis conducted a National Assessment on Law, Ethics and Human Rights in 2007, but there is not yet any principal legislation specifically related to the St Kitts and Nevis Workplace Policy on HIV and AIDS and other Chronic Diseases.
There is a need to ensure that existing legislation related to the rights of workers is harmonised with this policy and that equal concern is shown for the needs and rights of workers as well as employers.

11. Dissemination

The St Kitts and Nevis Workplace Policy on HIV and AIDS and other Chronic Diseases will be disseminated through representative of its tripartite partners (Government, Employers and Employees), with the Ministry of Labour being the lead agency.

Tripartite partners should take every opportunity to disseminate information about the National Workplace Policy and programmes on HIV and AIDS and other Chronic Diseases and the world of work through organisations of employers and workers, other relevant entities like the HIV support group, FACTTS and Diabetic Association and public information channels to ensure its widest possible dissemination. Printed copies and links to relevant Government and other stakeholder websites should be made available.

12. Revision of Policy

This Policy should be reviewed by the Ministry of Labour in collaboration with its Core Committee on Workplace Policy every five (5) years or sooner as deemed necessary, for changes and improvements, which may be needed as a result of new medical developments, new policies relating to HIV and AIDS and other Chronic Diseases and new legislation.

13. Monitoring and Evaluation

The Ministry of Labour as the lead agency, along with its partners in the world of work, will be responsible for monitoring and evaluating the effective implementation of the Workplace Policy and the impact of the Policy, as needed.
Appendix 1

ILO Code of Practice on HIV/AIDS and the World of Work (2001)

Key Principles:

1. **Recognition of HIV/AIDS as a workplace issue**
   HIV/AIDS is a workplace issue, not only because it affects the workforce, but also because the workplace can play a vital role in limiting the spread and effects of the epidemic.

2. **Non-discrimination**
   There should be no discrimination or stigmatisation against workers on the basis of real or perceived HIV status.

3. **Gender equality**
   More equal gender relations and the empowerment of women are vital to preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.

4. **Healthy work environment**
   The work environment should be healthy and safe, and adapted to the state of health and capabilities of workers.

5. **Social Dialogue**
   A successful HIV/AIDS policy and programme requires cooperation, trust and dialogue between employers, workers, and governments.

6. **Screening for the purposes of exclusion from employment or work processes**
   HIV/AIDS screening should not be required of job applicants or persons in employment, and testing for HIV should not be carried out at the workplace except as specified in this code.

7. **Confidentiality**
   Access to personal data relating to a worker’s HIV status should be bound by the rules of confidentiality consistent with ILO codes of practice.

8. **Continuation of employment relationship**
   HIV infection is not a cause for termination of employment. Persons with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.

9. **Prevention**
   The social partners are in a unique position to promote prevention efforts through information and education; and support changes in attitude and behaviour.

10. **Care and support**
    Solidarity, care and support should guide the response to HIV/AIDS in the workplace. All workers are entitled to affordable health services and to benefits from statutory and occupational schemes.

Source: [www.ilo.org](http://www.ilo.org)
Appendix 2


General Principles

1. Personal data should be processed lawfully and fairly, and only for reasons directly relevant to the employment of the worker.

2. Personal data should, in principle, be used only for the purposes for which they were originally collected.

3. If personal data are to be processed for the purposes other than those for which they were collected, the employer should ensure that they are not used in a manner incompatible with the original purpose, and should take the necessary measures to avoid any misinterpretations caused by change of context.

4. Personal data collected in connection with technical or organisational measures to ensure the security and proper operation of automated information systems should not be used to control the behaviour of workers.

5. Decisions concerning a worker should not be based solely on the automated processing of that worker’s personal data.

6. Personal data collected by electronic monitoring should not be the only factors in evaluating worker performance.

7. Employers should regularly assess their data processing practices:
   (a) to reduce as far as possible the kind and amount of personal data collected;
   and
   (b) to improve ways of protecting the privacy of workers.

8. Workers and their representatives should be kept informed of any data collection process, the rules that govern that process and their rights.

9. Persons who process personal data should be regularly trained to ensure an understanding of the data collection process and their role in the application of the principles in this code.

10. The processing of personal data should not have the effect of unlawfully discriminating in employment or occupation.

11. Employers, workers and their representatives should cooperate in protecting personal data and in developing policies on workers’ privacy consistent with the principles in this code.
12. All persons, including employers, workers’ representatives, employment agencies and workers, who have access to personal data, should be bound to a rule of confidentiality consistent with the performance of their duties and the principles in this code.

13. Workers may not waive their privacy rights.

Source: www.ilo.org
Appendix 3

Extract from the St Christopher (St Kitts) and Nevis Protection of Employment Act (2002) - PART II (Cap 18.27)

1.5. Termination of employment.

(1) Except under paragraph (f) of this section, employment may be terminated in writing by the employer in the following circumstances:

(a) Without notice during the probationary period of the employee except as may otherwise be provided in writing in a contract of employment;

(b) Without notice where the employee is guilty of serious misconduct in or in relation to his or her employment;

(c) Without notice where the employee is guilty of misconduct in or in relation to his or her employment or the employee is no longer performing his or her duties satisfactorily;

(d) Where a medical practitioner certifies that an employee is suffering from infirmity of the mind or body which is likely to be permanent, provided such infirmity has lasted for a period of at least three (3) months;

(e) Where the employee has become redundant for the reason that

   (i) the employer has discontinued or ceased to carry on all or part of his or her business,

   (ii) the employer has modernised, automated or mechanised all or part of his or her business,

   (iii) the employer has reorganised his or her business to improve efficiency,

   (iv) the employer finds that it is impossible for him or her to carry on his or her business at the usual rate or level due to shortage of material or a mechanical breakdown or for any cause beyond his or her control,

   (v) the employer is forced to reduce his or her business due to lack of or change in markets;

   (f) Where the employer dies and his or her business ceases to operate; or

   (g) Where the business is liquidated by bankruptcy or otherwise.

(2) Subsection (c) of section 5(1) shall apply only when the employer has warned the employee in writing on at least two occasions within the six months preceding the termination of employment, indicating the nature of the misconduct or unsatisfactory performance of duties and in the case of the last warning, the intention of the employer to terminate the services of the employee if similar misconduct is repeated or the unsatisfactory performance of duty persists.
8. **Employee to give Notice of termination of employment.**

(1) An employee shall give his or her employer notice of termination of employment equivalent to the period such employee is entitled to receive from his or her employer under section 7 for the termination of his or her employment.

(2) Where the contract of employment is not in writing the period of notice of termination of employment by the employee shall not exceed four weeks.

(3) An employee may terminate his or her services without notice if the conduct of his or her employer is of such a nature that the employee cannot reasonably be expected to continue his or her employment and any such termination shall be deemed to be termination by the employer.

(4) The burden of proof in any termination under subsection (3) shall be on the employer.

10. **Continuity of employment not interrupted.**

The cessation of employment of an employee for the following reasons shall not constitute a break in continuity of a contract of employment:

(a) a trade dispute;

(b) accident, sickness, injury or for absence during maternity period as certified by a medical practitioner;

(c) operation of any other law;

(d) an Act of God;

(e) any agreement with the employer;

(f) absence permitted or condoned by the employer;

(g) suspension or temporary lay-off where there is no severance payment to which an employee would normally be entitled as a result.

11. **Prohibition against termination of employment.**

An employer shall not terminate the contract of an employee on any of the following grounds:

(a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;

(b) seeking office as, or acting or having acted in the capacity of a worker’s representative;

(c) making a complaint or participating in proceedings against an employer involving an alleged violation of laws or regulations;
(d) race, place of origin, birth out of wedlock, political opinions or affiliations, colour, sex or creed, marital status or family responsibilities;

(e) absence from work during maternity period as certified by a medical practitioner;

(f) temporary absence from work due to injury or illness as certified by a medical practitioner and provided that the employee submits the certificate to his employer within 48 hours of his or her absence;

(g) absence from work in the performance of Jury service as required under the Jury Act, Cap. 3.15;

(h) absence from work to attend a court hearing in response to a summons, provided prior notice has been given to the employer.