



**AN ACT TO PROVIDE FOR THE PREVENTION AND MANAGEMENT OF HIV
AND AIDS IN ZANZIBAR ACT NO. 18 OF 2013**

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- (a) is related to, or is associated with, a person who is, or is perceived to be, living with HIV; or
- (b) is, or is perceived to be, a member of or associated with a group, activity or occupation, or living in an environment, which is commonly associated with, or perceived to be associated with infection, or transmission of HIV;

“anonymous testing” means an HIV testing procedure under which the person who tests shall not reveal the person’s true identity;

“Body fluid” means all fluids or watery substances within the human body.

“Child” means any person below the age of 18 years as defined under Children’s Act No. 6 of 2011.

“Commission” means the Zanzibar AIDS Commission established under the Zanzibar Aids Commission Act No. 3 of 2002;

“community and home-based care” means the range of care and support services provided to persons living and affected with HIV by family members within the home and by care providers from community and home-based programmes including prevention education, psychosocial support, palliative care, nursing care administration of remedies and treatments, and guidance on social, economic, legal and human rights issues;

“compel”, in relation to any action under this Act, refers to an action imposed upon a person characterized by the lack of consent through the, use of physical force, intimidation, coercion or any other form of compulsion;

“Board” means the board established or any other institution instituted by the Ministry of Health to conduct research as mentioned under section 36(2) of this Act.

“Counsellor” means a person who has undergone training on HIV and AIDS counselling and approved by the Minister under section 18(1) of this Act.

“disability” means a state of restricted participation that results from the interaction between persons of impairments, conditions and health needs or similar situations and environmental, social and attitudinal barriers, where the impairments, conditions, health needs or similar situations may be permanent, temporary, intermittent or imputed, and include those that are inter-lia, physical, sensory, cognitive, psychosocial neurological, medical or intellectual or a combination of those as defined under Persons with Disabilities (Rights and Privileges) Act No, 9 of 2006.



“discrimination” means a distinction, exclusion or restriction made on the basis of the actual or perceived HIV status of a person living with or affected by HIV which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by that person on a basis of equality with other members of the community, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field;

“employee” means a person employed for wages or a salary and includes a temporary employee, a casual worker, an apprentice, an indentured learner and a volunteer;

“Government” means the Revolutionary Government of Zanzibar;

“harmful cultural practices” includes behaviour, norms, attitudes or practices which negatively affect the health or rights of persons or groups of persons in society and increase the risk of HIV infection;

“healthcare provider” includes a hospital, nursing home, maternity home, health centre, dispensary, pharmacy or other institution, whether private or public, traditional or conventional, where healthcare services are rendered; and an individual providing those services;

“healthcare service” rendered to a person or Ministry includes but not limited to:-

- (a) the physical or mental examination of that person;
- (b) the treatment or prevention of any physical or mental defect, illness or deficiency and the giving of advice in relation to that defect, illness or deficiency;
- (c) the performing of any surgical or other invasive procedure;
- (d) the giving of advice in relation to treatment of any condition arising out of a pregnancy;
- (e) the prescribing, dispensing, supplying or applying of any medicine, appliance or apparatus in relation to any defect, illness or pregnancy X-ray, laboratory and other investigative and diagnostic procedures;
- (f) physiotherapy, speech therapy, occupational therapy and other types and variations of similar rehabilitative treatment;
- (g) nursing or midwifery in health institutions and other places where nursing and midwifery services may be rendered, including home-based nursing and midwifery services by duly qualified registered nurses and midwives;
- (h) the supply of accommodation in any institution established or registered in terms of any law as a health institution or any other institution or place



where surgical or other medical procedures necessitated by any physical or mental defect, illness, deficiency or a pregnancy are performed; and

- (i) the provision of pre-test or post-test counselling services.

“HIV” means the Human Immunodeficiency Virus;

“HIV test” means a validated, medically recognised procedure for determining the presence or absence of HIV in a person;

“human biomedical research” includes-

- (a) any research that involves direct interference or interaction with the physical body of a human subject and that involves a concomitant risk of physical injury or harm however remote;
- (b) any research programme that involves the administration of any drug on a human subject whether it is for the purpose of testing the effects or efficacy of the drug, or whether as a means for establishing any other objective of the research programme;
- (c) any research that involves the trial or use of a medical device on a human subject;
- (d) any research that involves carrying out a test on a human subject's physiological, emotional or mental responses, such test not being conducted for diagnostic purposes with a view to the therapeutic management of the human subject; and
- (e) any research involving human tissue, or medical, personal or genetic information relating to both identifiable and anonymous human subjects for the purpose of generating data about medical, genetic or biological processes, diseases or conditions in human subjects.

“Human rights issues” means human rights issues as prescribed under Chapter III of the Zanzibar Constitution of 1984;

“Key populations at higher risk” means any groups of persons who because of their particular personal, behavioural, situational or environmental characteristics are, or perceived to be at an increased level of risk of exposure to infection of HIV;

“Medical practitioner” means a person who is entitled under the Medical Practitioners and Dentists Act No. 12 of 1999 or any other law in force in Zanzibar to practice as a medical practitioner in Zanzibar;



“Medical Waste” means any material that is unwanted in the body or thrown out of the body or material taken out of the body due to any other medical or surgical reason or material used during medical or surgical intervention or invasion;

“Minister” means the Minister responsible for coordination of matters relating to HIV and AIDS;

“Ministry” means the Ministry for the time being responsible for overall coordination of matters related to HIV and AIDS ;

“Organ” means any functional structure or system in the body of a human being that contains at least two different tissues;

“person” means any word or expression descriptive of a person, and it includes a corporation as defined under Interpretation of Laws and General Provisions Act No.7 of 1984.

“person living with HIV” refers to a person whose HIV test results and or reveal the presence of HIV or HIV antibodies;

“Post-exposure prophylaxis” means the procedure of administering antiretroviral drugs to a person after a high-risk exposure in order to help prevent potential HIV infection in that person;

“post-test counselling” means the process of providing risk-reduction information and emotional support to a person to whom a test result is released;

“pre-test counselling” means the process of providing information to a person on the biomedical and other aspects of HIV and AIDS before the person is subjected to a HIV test and includes emotional support to the person on the psychological implications of undergoing HIV testing and receiving the test results.

“prevention of mother to child transmission” means taking all approved medical measures intended to minimize possibility of transmission of HIV/AIDS from mother to a child during pregnancy, birth and thereafter;

“reasonable accommodation” means any modification or adjustment to a job or to the workplace that is reasonably practicable to enable a person living with HIV to have access to, participate or advance in the person’s employment;

“self testing” in relation to HIV infection, means a prescribed test or series of tests for determining whether a person is infected with HIV, which is carried out entirely by a person himself without the involvement of another person;

“Tissue” means a collection of similar cells in the human body that perform a specialized function including blood;



“trainee of an Offenders Education Centre” includes a person who is in lawful custody awaiting trial or serving sentence;

“universal precautions” means a set of precautions designed to prevent the transmission of HIV and other blood-borne pathogens from one person to another in the workplace or any other place by considering the blood and certain body fluids of all persons to be potentially infectious for HIV and other blood-borne pathogens;

“vulnerable group” means any group whose members may have special needs or may experience poorer outcomes or be at higher risk of exposure to infection of HIV if their needs are not reasonably addressed and includes persons with disabilities, children, women and girls, elder persons and refugees.

PART II GENERAL DUTIES

General duty of
the Commission.

3. In addition to the functions and powers of the Commission prescribed under Aids Commission Act No.3 of 2002, the Commission shall take appropriate measures to:

- (a) inform and educate all population groups including persons with disabilities about HIV, including its modes of transmission and means of prevention and management;
- (b) adopt and implement a national HIV prevention, treatment and management strategy;
- (c) promote and protect the rights of persons living with or affected by HIV;
- (d) ensure, in relation to HIV and AIDS, equitable access to relevant information on goods and services including essential medicines without discrimination;
- (e) ensure provision of HIV and AIDS prevention, treatment, care and support without discrimination;
- (f) promote awareness of the rights and duties imposed on persons under this Act;
- (g) ensure the involvement of persons living with HIV and AIDS related campaigns, programmes and decisions;
- (h) create an institutional framework for an integrated and multi-sectoral approach to the prevention and management of HIV and AIDS;
- (i) strengthen institutions working with persons living with or affected by HIV;



- (j) undertake, coordinate and regulate research on HIV matters including AIDS;
- (k) support mainstreaming of HIV and AIDS programmes in all Government sectors;
- (l) mobilize resources for HIV and AIDS programmes;
- (m) develop policies and guidelines to ensure a supportive environment for the prevention, control and management of HIV and AIDS;
- (n) protect the rights of all persons on matters related to HIV; and
- (o) generally facilitate the implementation of this Act.

General duty of persons.

4. Every person living, registered, operating in, or otherwise present within Zanzibar, has a duty to:-

- (a) take the necessary steps to know his HIV status;
- (b) take reasonable steps and precautions to protect themselves and other persons from HIV infection and in particular to use recognized protective measures to protect themselves and others from infection with HIV during sexual intercourse or other activities; and
- (c) refrain from harmful cultural practices and negative traditions and usages which may enhance the spread of HIV.

PART III HIV AND AIDS INFORMATION, EDUCATION AND COMMUNICATION

HIV and AIDS Education and information.

5.-(1) The Commission shall promote public awareness about the nature, causes, modes of transmission, consequences and means of prevention, control and management of HIV and AIDS for all persons and groups.

(2) The education and information campaigns referred to in subsection (1) of this section shall:-

- (a) employ scientifically proven and evidence-based approaches;
- (b) encourage the voluntary HIV testing of individuals;
- (c) be adapted to the age, gender, disability, nature of activities; sexual practices and literacy levels of target groups;



- (d) address social, cultural attitudes, beliefs and practices that bring about negative consequences and unequal gender relations on HIV prevention, gender-based violence and gender equality and challenge traditional dominant conceptions of masculinity;
- (e) be carried out in schools and other institutions of learning, prisons and places of detention, places of worship, workplaces, amongst the police and military forces in rural and urban communities;
- (f) be guided by evidence on potential opportunities for and barriers to behaviour change;
- (g) include effective measures to ensure that information, education and communication translate into behaviour change;
- (h) fight against stigma and discrimination and address misinformation about HIV and AIDS, persons living with HIV and members of vulnerable groups and key populations at higher risk;
- (i) specially target persons living with HIV and members of vulnerable groups and key populations at higher risk;
- (j) present messages in formats that facilitate the inclusion of the different categories of persons with disabilities.

(3) In conducting the education and information campaigns referred in this section, the Commission shall cooperate with civil society, community based organisations, private sector and other stakeholders and ensure the effective involvement and participation of persons living with HIV.

HIV and AIDS
Education in
learning institu-
tions.

6.-(1) The Ministry responsible for education shall, after consultation with the Commission and other relevant stakeholders update and utilizing an official curriculum it has developed, including the instruction on the nature, causes, modes of transmission, means of prevention, control and management of HIV and AIDS and other sexually transmitted infections, in public and private institutions at pre-primary, primary, secondary, and tertiary levels, including in specialized training institutions focusing on persons with disabilities and in non-formal, vocational, life skills and cultural learning systems.

(2) In realizing the provisions of subsection (1) of this section, the Ministry responsible for education shall ensure that:-

- (a) the content, scope and methodology of HIV and AIDS prevention, control and management courses at each educational level are based on appropriate age, scientifically accurate, evidence-informed and human rights based information; and



- (b) every teacher or instructor of an HIV and AIDS prevention, control and management course referred to in paragraph (a) of this sub-section is adequately trained and updated and duly qualified to teach such a course.

HIV and AIDS
Education and
information as a
health care
service.

7.-(1) The provision of HIV and AIDS education and information shall form part of the delivery of health care services by all health care providers at public and private health care facilities.

(2) For the purposes of subsection (1) of this section, the Ministry responsible for Health shall ensure that all health care providers are trained on providing information and education on HIV and AIDS.

(3) The training to health care providers under subsection (2) of this section shall include education on HIV and AIDS related ethical and human rights issues including confidentiality, attitudes towards persons living with or affected by HIV and informed consent and the duty to provide treatment.

HIV and AIDS
Education and
information at
the work place.

8.-(1) The Commission in consultation with other appropriate public and private stakeholders, shall ensure that HIV and AIDS education and information and instruction on HIV and AIDS prevention, control and management is provided to:-

- (a) all employees of the Public Service; and
- (b) employees of private and informal sectors and civil society.

(2) The information provided under subsection (1) of this section shall cover such issues as non-discrimination, reasonable accommodation, confidentiality in the work-place and attitudes towards employees living with HIV.

9. The Commission shall promote and encourage the development by relevant institutions of policies and codes of conduct for the media and the advertising industry, that:-

- (a) increase sensitivity to HIV and AIDS as human rights issues;
- (b) challenge gender inequality, gender-based violence and attitudes of discrimination and stigmatization against persons living with or affected by HIV;
- (c) prevent the sensitization of HIV and AIDS-related issues; and
- (d) prevent the use of inappropriate language and stereotypes in reporting and advertising, especially in relation to persons living with HIV and of vulnerable groups and key populations at higher risk.



HIV and AIDS
Education and
information in
communities.

10.-(1) The Commission and other relevant stakeholders, including civil society and religious, cultural and other community leaders, shall sensitize communities on the dangers of cultural practices that are harmful to health and contribute to HIV transmission and shall take steps, including working with cultural structures to eradicate or transform these practices in the affected communities.

(2) Pursuant to subsection (1) of this section, every local authority, in collaboration with the relevant Ministry, shall conduct education and information campaigns on HIV and AIDS targeting all persons in grassroots communities within its area of jurisdiction.

PART IV HIV AND AIDS PREVENTION MEASURES, PRACTICES AND PROCEDURES

Prevention
measures.

11. The Commission shall take measures and promote practices and procedures that prevent, or reduce the risk of, HIV transmission and shall, in particular:-

- (a) provide clear policy guidelines to all public and private healthcare institutions to ensure total protection from facility based HIV transmission in matters relating to blood transfusion, tissue, organ or other transplant;
- (b) ensure that recognized protective methods and devices, are available and accessible to the population, and in particular to members of vulnerable groups and key populations at higher risk;
- (c) take appropriate measures to protect patients and health careworkers against any risk of infection in the course of surgical and other medical procedures, including measures related to the use of universal precautions, and ensure timely and free access to post-exposure prophylaxis in the event of any such exposure;
- (d) ensure access to effective and proven harm reduction programmes for drug users to minimize HIV infection; and
- (e) promote any other scientifically-proven measures or practices that have been shown to be effective in reducing or eliminating transmission of HIV.

Testing of
donated body
products.

12.-(1) A person who offers to donate any tissue or organ shall:-

- (a) before such donation, be requested to provide informed consent to an HIV test; and
- (b) if the person consents to undergo an HIV test, be provided with pre-test and post-test counselling.



(2) A health care provider shall not accept or use any blood or other body fluid or product unless:-

- (a) the donor has undergone an HIV test he or she shall pursuant to subsection (1) of this section and has tested HIV negative and also negative for other blood born infections; or
- (b) in the case of blood or other body fluid, it has been subjected to an HIV test and the result of such test is negative.

(3) The HIV test result of a potential donor of any blood or body fluid or product shall be confidential and shall not be communicated to the proposed recipient of the body fluid or product.

(4) The proposed recipient of any body fluid or product or his guardian has a right to demand a guarantee of an HIV test on the body fluid or product before a transfusion, transplant or other use.

(5) Where any body fluid or product is tested under subsection (1) and (2) of this section found to be HIV positive, the body fluid or product shall be disposed of in accordance with the prescribed guidelines on the disposal of medical waste and a potential recipient shall be informed only that the body fluid or product was not suitable for transfusion or transplant.

(6) A person who contravenes subsection (2), (3) or (5) of this section, commits an offence and upon conviction shall be liable to a fine of not less than two Million Shillings and not more than three Millions Shillings or imprisonment for three years or to or both such fine and imprisonment.

Prevention of
mother to child
transmission.

13. In order to prevent or reduce the risk of mother-to-child transmission of HIV, the Minister responsible for health shall ensure that:-

- (a) comprehensive information and education on mother-to child-transmission of HIV is provided to all men and women and specially targeted to couples of reproductive age and their communities;
- (b) HIV counselling and testing is made available and offered to all pregnant women and their partners as part of ante-natal care services;
- (c) women living with HIV have access to counselling, information and education services to enable them to make informed and voluntary choices in matters affecting their health and reproduction and the health of their children;
- (d) programmes on the prevention of mother-to-child transmission of HIV are integrated into reproductive health services and are made available



to all pregnant women living with HIV and that such programmes may include the administration of antiretroviral drugs, psychosocial support, follow-up services and nutritional support for the needy;

- (e) pregnant women living with HIV are provided with relevant and scientifically proven information regarding breastfeeding and alternatives to breastfeeding; and
- (f) a child born of a woman living with HIV receives all relevant scientifically proven services for the prevention of HIV transmission in accordance with relevant national and international guidelines for the prevention of HIV transmission to the infants.

Guidelines on surgical and similar procedures.

14.-(1) Minister responsible for health shall in consultation with the Commission and registered professional associations of healthcare providers, prescribe guidelines on-

- (a) precautions against HIV transmission during surgical, dental, child delivery, embalming and similar procedures; and
- (b) the handling and disposal of cadavers, body fluids or wastes.

(2) The Minister responsible for health shall, at all times, ensure provision of appropriate protective equipment and post exposure prophylaxis to all public healthcare providers and other personnel exposed to the risk of HIV infection.

(3) A person who, whether in the course of professional practice or otherwise, knowingly or negligently causes another to be infected with HIV through unsafe or unsanitary practices or procedures or contrary to any guidelines prescribed in accordance with this section, commits an offence and upon conviction shall be liable to imprisonment for a period of not less than five years or to a fine of not less than Four Million Shillings or both such fine and imprisonment.

PART V HIV AND AIDS COUNSELLING AND TESTING

Pre-testing and post-testing HIV counselling.

15.-(1) A testing facility or a person carrying out an HIV test shall in all cases provide pre-test and post-test counselling to a person undergoing an HIV test, or in the case of a child or a person with a disability which renders the person incapable of understanding the meaning or consequences of the test result, to the parents or the guardian of that child or that person, and with the informed consent of that person or the parent or guardian of that child or that person, to any other person who is likely to be affected by the results of the test.



(2) For the purposes of subsection (1) of this section, any person who is the owner, manager or otherwise in charge of a testing centre shall ensure that:-

- (a) there are trained and authorized personnel to provide pre-test and post-test HIV test counselling; and
- (b) appropriate arrangements are made to meet the special needs of persons with disabilities; and
- (c) the facilities are user-friendly for vulnerable groups and key populations at higher risk.

(3) A person who contravenes subsection (2) (a) of this section, commits an offence and upon conviction, shall be liable to a fine not less than one million Shillings or one year imprisonment or both such fine and imprisonment.

Contents of pre-test counselling.

16. The pre-test counselling required under section 15 of this Act shall, at a minimum, include, information on:-

- (a) the nature of HIV and AIDS;
- (b) the nature and purpose of an HIV test;
- (c) the clinical and prevention benefits of testing, and the potential risks, such as discrimination, abandonment or violence;
- (d) the services that are available in the case of either an HIV-negative or an HIV positive test result;
- (e) the fact that the test result shall be treated confidentially and shall not be disclosed contrary to the provisions of this Act;
- (f) the fact that the patient has the right to decline the test or to decline to receive the test result;
- (g) the fact that declining an HIV test shall not affect the patient's access to services that do not depend upon knowledge of HIV status;
- (h) the importance of disclosure of an HIV-positive test result to other persons who may be at risk of exposure to HIV transmission; and
- (i) the opportunity to ask the health care provider questions.

Contents of post-test HIV counselling.

17.-(1) The post-test counselling required under section 15 of this Act shall be provided after every HIV test.



(2) Where the result of a test is HIV negative, a counsellor shall provide post-test counselling to the tested person which shall include, at a minimum:-

- (a) the test results and the implication;
- (b) importance of further testing; and
- (c) the continuing necessity of taking protective measures to avoid infection with HIV.

(3) Where the result of a test is HIV positive, a counsellor shall:-

- (a) provide post-test counselling to the tested person or in the case of a child or a person with a disability which renders the person incapable of understanding the meaning or consequences of the test result, the parents or the guardian of that child or that person, on appropriate matters, including at a minimum-
 - (i) the medical consequences of living with HIV;
 - (ii) the modes of prevention and transmission of HIV and other opportunistic infections;
 - (iii) the importance of disclosure of the person's status to the person's spouse or spouses or sexual partner or partners;
 - (iv) the importance of positive living and the prevention of transmission of HIV and AIDS; and
 - (v) the medical treatment and other social facilities available.
- (b) refer the tested person to an appropriate health service provider for follow up or treatment.

(4) A testing facility shall, where the result of a test is HIV positive, offer to the tested person, continuous counselling sessions in order to help such person to effectively cope with the condition.

Testing for HIV.

18.-(1) A person shall not carry out an HIV test on another person unless the person carrying out the test is a healthcare provider approved by the Minister responsible for Health for that purpose.

(2) A person shall not provide pre-test and post-test HIV Counselling under Section 15 of this Act unless he is a healthcare provider approved by the Minister.



(3) A person who contravenes subsections (1) or (2) of this section commits an offence and upon conviction shall be liable to a fine not less than One Million Shillings and not more than two Million Shillings or imprisonment for a period of one year or both such fine and imprisonment.

Provision of testing facilities.

19. The Ministry responsible for health shall ensure that facilities for HIV testing are made available and accessible:-

- (a) free of charge for public services, to persons who voluntarily request an HIV test in respect of themselves; and
- (b) to persons who are required to undergo an HIV test under this Act or any other written law.

Prohibition of compulsory testing.

20.-(1) Subject to this Act, no person shall compel another to undergo an HIV test.

(2) Without prejudice to the generality of subsection (1) of this section, no consent shall be required on HIV testing:-

- (a) under a court order
- (b) on donating human organs and tissue,
- (c) to sexual offenders, and
- (d) for the pregnant women.

(3) Unless otherwise provided under this Act, every HIV test shall be confidential.

(4) Without prejudice to the generality of subsection (1) and (2) of this section, no person shall compel another to undergo an HIV test as a precondition to, or for continued enjoyment of:-

- (a) any employment;
- (b) admission into any educational institution;
- (c) entry into or travel out of Zanzibar; or
- (d) the provision of healthcare, insurance cover or any other service.

(5) Notwithstanding the provision of subsection (1) of this section, a court may, for reasons stated on the record, order that a person convicted of an offence of a sexual nature to undergo an HIV test.



(6) A person who contravenes this section commits an offence and upon conviction shall be liable to a fine of not less than One Million Shillings or imprisonment for one year or both such fine and imprisonment.

Consent to testing HIV.

21.-(1) Unless otherwise provided under this Act, the informed consent of the person to be tested shall be obtained prior to any HIV test.

(2) Subject to subsection (3) of this section, the informed consent to an HIV test to be performed on a child or a person with disability which renders the person incapable of giving informed consent to the test, shall be the informed consent of the parents or the legal guardian of the child or of that person.

(3) In determining the guardian of a child for the purposes of subsection (2) of this section, the system of foster care or other similar arrangement under any applicable religious or customary law to which the child may be subject shall be taken into account.

(4) A child may be tested if the consent has been obtained from either a medical practitioner, or a court, or a parent, or a guardian or the Minister responsible for children or a child himself who is 16 years or above and if he understands the implications of testing.

(5) If the consent to be tested has been unreasonably withheld without sufficient reason, the absence of the person under subsection (4) of this section shall not constitute an obstacles to testing and counselling if the person testing is satisfied with reason for testing in writing that:

- (a) it is for the best interests of a child;
- (b) If the child is engaged or has been engaged in risky behavior; and
- (c) if there are reasonable and sufficient grounds for the test to be undertaken.

(6) Where special circumstances so require, a child aged at least 16 years or above may, subject to subsection (5) of this section, be tested without the consent or notification of any person.

HIV test results.

22.-(1) Subject to subsection (3) and (4) of this section, the result of an HIV test shall be confidentially and directly communicated to the person concerned or, if the person is a child or a person with disability which renders the person incapable of understanding the meaning or consequences of the test result, to the parents or the guardian of that child or of that person.

(2) A person providing treatment, care or counselling services to a person living with HIV shall encourage that person to inform the test result to person's spouse or spouses or sexual partner or partners or any other third party who is at significant risk of HIV transmission from the person living with HIV.



(3) Except where subsection (4) of this section is applicable, a person providing treatment, care or counselling services to a person living with HIV may notify a third party of the HIV status of that person only where the notifying person is requested by the person living with HIV to do so.

(4) A person providing treatment, care or counselling services to a person living with HIV may notify a third party of the HIV status of that person if:-

- (a) in the opinion of the person providing treatment, care or counselling services, after discussion of the matter with the person living with HIV, that person is not at risk of serious harm from the third party or from other persons as a consequence of such notification;
- (b) the person living with HIV, after appropriate counselling, does not personally inform the third party at risk of HIV transmission; and
- (c) the person providing treatment, care or counselling services has properly and clearly informed the person living with HIV of the intention to notify the third party; or
- (d) the person with HIV is dead, unconscious or otherwise unable to give consent to the notification and is unlikely to regain consciousness or the ability to give consent; and
- (e) there is a significant risk of transmission of HIV by the person living with HIV to the third party.

(5) In the case of a notification provided under subsection (4) of this section, the person providing treatment, care or counselling services shall ensure that follow up services in the form of counselling are provided to a third party so notified.

PART VI GENERAL PROTECTION OF THE RIGHTS OF PERSONS LIVING WITH OR AFFECTED BY HIV

General prohibition of discrimination.

23.-(1) Persons living with or affected by HIV are entitled to enjoy, without any form of discrimination, all human rights under the law.

(2) No person may directly or indirectly discriminate a person living with or affected by HIV on the basis of that person's actual or perceived HIV status.

(3) A person who suffers an act of discrimination based on the person's actual or perceived HIV status may institute legal proceedings against the person who committed the discriminatory act to claim damages.



Privacy and confidentiality of HIV status.

24.-(1) Every person is entitled to privacy and confidentiality regarding the person's HIV status.

(2) A person in possession of information relating to the HIV status of any person shall observe confidentiality in the handling of that information.

(3) No person shall disclose any information concerning a person's HIV status to another person, except:-

- (a) in the cases provided for under section 22 of this Act;
- (b) to a healthcare provider who is directly involved in providing healthcare to that person, where knowledge of the patient's HIV infection is necessary to making clinical decisions in the best interests of the person;
- (c) for the purpose of an epidemiological study, where the release of information cannot be expected to identify the person to whom it relates; or
- (d) upon an order of a court, where the information is directly relevant to the proceedings before the court.

(4) In legal proceedings commenced under section 23 (3) of this Act, a court shall on the request of the person living with or perceived to be living with HIV order that the case be conducted *in camera* and where a court so orders, the reporting of such a case shall be done anonymously and no identifying facts related to the parties shall be revealed.

(5) A person who contravenes subsection (2), (3) or (4) of this section, commits an offence and upon conviction shall be liable to a fine not less than One Million and Five Hundred Thousand Shillings or imprisonment for a period of Eighteen months or both such fine and imprisonment.

Discrimination in employment.

25.-(1) Subject to subsection (2) of this section, no person shall be:-

- (a) denied access to any employment for which the person is qualified; or
- (b) given transfer which affect his health, denied training or promotion or have the person's employment terminated; or
- (c) subjected to any other form of discriminatory policies or practices on the ground only of the person's actual, perceived or suspected HIV status.

(2) In addition to any other remedies that may be available at law, it is a disciplinary breach for which an employer shall initiate disciplinary procedures for an



employee to discriminate against another employee on the basis of that other employee's actual, perceived or suspected HIV status.

(3) Every employer shall take all necessary measures to reduce the risk of HIV infection through accidental exposure to HIV in the workplace and in the event of such accidental exposure to HIV infection occurring in the workplace, the employer shall ensure free access to post-exposure prophylaxis and counselling for the affected employee in accordance with such guidelines as the Minister responsible for health may prescribe.

(4) Every employer shall, in consultation with the employee take measures in the work place, including rearrangement of working time and provision of special equipment, opportunities for rest breaks and time off for medical appointments, in order to reasonably accommodate employees with HIV-related illnesses.

(5) An employee living with HIV who, on account of an AIDS-related illness, is medically certified as no longer able to fulfill the employment duties, is entitled to all benefits accruing to employees who retire on grounds of ill health.

Discrimination
in educational
institutions.

26.-(1) An educational institution shall not deny admission or expel, discipline, segregate, deny participation in any event or activity, or deny any benefits or services to a person on the grounds of the person's actual, perceived or suspected HIV status unless it may lead a high risk to a third party.

(2) The administration of an educational institution shall keep confidential the HIV status of a learner or that of a learner's parents or close relatives if it becomes aware of such information.

(3) A person who contravenes subsection (2) of this section, commits an offence and upon conviction shall be liable to a fine of not less than One Million and Five Hundred Thousand Shillings or imprisonment for a period of one year or both such fine and imprisonment.

Restriction on
travel and
habitation.

27.-(1) A person's freedom of abode, lodging, or travel, within or outside Zanzibar, shall not be denied or restricted on the grounds only of the person's actual, perceived or suspected HIV status.

(2) No person shall be quarantined, placed in isolation, refused lawful entry or deported from Zanzibar on the grounds only of the person's actual, perceived or suspected HIV status.

Inhibition from
public service.

28. No person shall be denied the right to seek an elective or other public office on the grounds only of the person's actual, perceived or suspected HIV status.



Exclusion from credit and insurance services.

29.-(1) Subject to this Act, no person shall be compelled to undergo an HIV test or to disclose the person's HIV status for the purpose of gaining access to any credit or loan services, medical, accident or life insurance or the extension or continuation of any such services.

(2) The actual or perceived HIV status of a person shall not constitute reason to deny or exclude a person from gaining access to any credit or loan services, medical, accident or life insurance or the extension or continuation of any such services.

(3) A person who contravenes this section, commits an offence and upon conviction shall be liable to a fine not less than two Million Shillings or imprisonment for a period of one year or both such fine and imprisonment.

Discrimination in health institutions.

30.-(1) A person shall not be denied access to healthcare services in any health institution, or be charged a higher fee for any such services, on the grounds only of the person's actual, perceived or suspected HIV status.

(2) For the purposes of subsection (1) of this section, "denial of access to healthcare services" includes outright refusal of services, delay, withholding of care or treatment or premature discharge of a patient.

(3) A person who contravenes this section commits an offence and upon conviction shall be liable to a fine of not less than Two Million Shillings or imprisonment for period of one year or both such fine and imprisonment.

Access to health care services.

31.-(1) Person living with HIV has the right of access to health care services.

(2) The Ministry responsible for health shall take appropriate measures to provide treatment, care and support to persons living with HIV, including access to affordable anti-retroviral therapy and other essential medicines and prophylaxis to treat or prevent HIV or opportunistic infections.

(3) A health institution, whether public or private, and every health management organization or medical insurance provider shall facilitate access to healthcare services to persons with HIV without discrimination on the basis of HIV status.

PART VII PROTECTION OF VULNERABLE GROUPS AND KEY POPULATIONS AT HIGHER RISK

Children living with or affected by HIV.

32.-(1) A child living with or affected by HIV shall enjoy all the rights under the law.



(2) The Commission shall make all efforts to enable a child whose parents or guardians are living with HIV to continue to live with them by ensuring access by the parents or guardians to appropriate treatment and healthcare so that they survive and protect the family.

(3) A child shall not be subjected to any discrimination on account of the child's actual or perceived HIV status or the actual or perceived status of the child's parents, guardians or relatives.

(4) A child shall not be denied access to, excluded from, discriminated against or stigmatized when exercising the right to education, treatment, services, justice or from any programme or institution on account of the child's actual or perceived HIV status or the actual or perceived status of the child's parents, guardians or relatives.

(5) The Commission shall take specific measures to ensure the protection and best interests of children living with or affected by HIV against all forms of abuse, violence and exploitation including:-

- (a) provision of psycho-social support for children living with HIV;
- (b) appropriate care and treatment of parents living with HIV;
- (c) adoption of measures to safeguard the inheritance and property rights for such children;
- (d) ensuring that orphaned and vulnerable children are given appropriate care including alternative care, through community based foster care or adoption or where these are not available, are cared for in public or private institutions registered with and regulated by the Government; and
- (e) ensuring that children living in child-headed households receive assistance and support by way of access to healthcare, education and access to other available social assistance and are protected from all forms of abuse, violence or exploitation.

(6) Notwithstanding any other provision of this Act, a child who is living with or affected by HIV has the right to:-

- (a) access all the services contained in this Act including the right to comprehensive and appropriate information and education on HIV prevention and treatment; and
- (b) know of decisions affecting the child, and to express an opinion and have that opinion taken into account in the decisions, taking into consideration the age and maturity and evolving capacities of the child and the nature of the decision.



Protections of women and girls.

33.-(1) Notwithstanding the generality of other provisions of this Act, the Commission shall ensure that women and girls, regardless of their marital status:-

- (a) have equal access to adequate gender sensitive HIV-related information and education programmes, means of prevention and health services including women-specific and youth-friendly sexual and reproductive health services for all women of reproductive age and women living with HIV;
- (b) are protected against all forms of violence, as well as against traditional practices that may negatively affect their health; and
- (c) have equal legal rights and are not discriminated against on the ground of their sex, or their actual, perceived or suspected HIV status.

(2) The Ministries responsible for matters relating to human rights and health in collaboration with the Commission and other key stakeholders, shall develop and implement strategies, policies and programmes that respect, protect and fulfill the human rights of women and girls in the context of HIV and that address, in particular-

- (a) the equality of women and men, and girls and boys in all aspects of public and private life;
- (b) the sexual and reproductive rights and responsibilities of women and men, including women's right to refuse sex and the right and ability to negotiate safer sex and the right to access health and reproductive services independently;
- (c) men's responsibilities to take equal responsibility for sexual and reproductive health and outcomes and to avoid rape, sexual assault and domestic violence, inside and outside marriage;
- (d) strategies for increasing educational, economic, employment and leadership opportunities for women;
- (e) sensitizing service providers and improving health care and social support services for women; and
- (f) strategies for reducing inequalities entrenched in formal, customary and personal laws and customs with respect to marriage, divorce, property, custody of children, inheritance and others.

Persons with disabilities.

34.-(1) Notwithstanding the generality of other provisions of this Act, the Commission shall ensure that persons with disabilities living with or affected by HIV are protected



from all forms of discrimination and are provided with appropriate support, care and treatment.

(2) The Commission in collaboration with the Ministry responsible for health and other relevant stakeholders shall develop and implement strategies, policies and programmes to promote and protect the health of persons with disabilities living with or affected by HIV including:-

- (a) increasing access by persons with disabilities to reproductive health information, programmes and services;
- (b) recognizing different types of disabilities and their different requirements as pertains to HIV related information, prevention, treatment, care and support services;
- (c) adopting a framework, policies and strategies to support persons with disabilities in the design, development, implementation and review of HIV and AIDS programmes and services;
- (d) ensuring active participation of persons with disabilities in the design, development, implementation and review of HIV and AIDS programmes and services;
- (e) maintaining up to date gender and age disaggregated data on persons with disabilities in order to adequately plan for them; and
- (f) putting in place measures that challenge negative concepts and attitudes about disability and working to eradicate the marginalization of persons with disabilities.

Trainees
Offenders of
Education
Centres.

35.-(1) Notwithstanding the generality of other provisions of this Act:-

- (a) every trainee of an Offenders Education Centre shall be protected from all forms of violence that may lead to HIV transmission;
- (b) the rules related to informed consent and pre-test and post-test counselling in this Act shall, subject to this Act, apply equally to trainees of Offenders Education Centres and the authorities of each Offenders Education Centre shall ensure access by all its trainees to information and education about the causes, modes of transmission, means of prevention and management of HIV and AIDS;
- (c) a trainee of an Offenders Education Centre living with HIV shall enjoy the same rights recognised to trainees living with other illnesses and shall receive free healthcare services including antiretroviral therapy and medication for the management of opportunistic infections;



- (d) all information on the health status and health care of a trainee of an Offenders Education Centre shall be confidential and may be disclosed only in accordance with this Act; and
- (e) no trainee of an Offenders Education Centre may be isolated from other trainees on the basis of actual or perceived HIV positive and that trainee living with HIV shall be provided with reasonable accommodation and facilities.

(2) A child trainee of an Offenders Education Centre shall be accorded particular care and attention, in respect of the matters provided for under this section.

(3) The Ministries responsible for matters relating to health and Offenders Education Centre in consultation with the Commission and other appropriate stakeholders shall formulate and ensure the effective implementation of policies and guidelines to address HIV in Offenders Education Centres in accordance with this Act.

PART VIII HIV AND AIDS RELATED HUMAN BIOMEDICAL RESEARCH

Research and clinical trials.

36.-(1) No person shall undertake HIV related human biomedical, clinical, social or other research on another person, on any tissue including blood removed from such person unless such research conforms to the requirements under this Act and any other written law for the time in force.

(2) Any person who intends to conduct HIV related human biomedical research must obtain a written consent of the Board instituted or any other Institution instituted by the Ministry responsible for health.

Consent to research.

37.-(1) No person shall undertake HIV related human biomedical, clinical, social or other research on another person or on any tissue or blood removed from such person except:-

- (a) with the written informed consent of that other person; or
- (b) if that other person is a child or a person with disability which renders the person incapable of giving informed consent, with the written informed consent of a parent or the guardian of the child or that person;
- (c) on the prior understanding clearly communicated to the subject that the subject may decline to participate in the research and may opt out at any time.



(2) The person whose consent is sought to be obtained under subsection (1) shall be adequately informed, in language that the person understands, of the aims, methods, anticipated benefits and the potential risks and discomforts of the research.

(3) A person who contravenes this section, commits an offence.

PART IX OTHER OFFENCES RELATING TO HIV AND AIDS

Offences relating to breach of confidentiality.

38. A health practitioner or other person referred to under section 17 and 18 of this Act who:-

- (a) breaches medical confidentiality; or
- (b) otherwise unlawfully discloses information regarding the HIV status of any person,

commits an offence.

Misleading statements or information.

39.-(1) A person shall not make or cause to be made any statements or issue, or cause to be issued any information regarding status and the cure of HIV unless the statement or information is accurate and scientifically verifiable.

(2) Statements or information claiming a cure for HIV in terms of sub section (1) of this section, shall be accompanied with scientific evidence of both pre- and post- cure HIV test results.

(3) A person who contravenes this section, commits an offence.

Offences relating to obstruction.

40. A person who obstructs or prevents any activity related to the implementation of provisions of this Act in any manner, commits an offence.

PART X MISCELLANEOUS PROVISIONS

Support to organisations of persons living with or affected by HIV.

41.-(1) In support of organizations of persons living with or affected by HIV, the Ministry in consultation with the Commission shall:-

- (a) encourage and support the creation and functioning of support groups, community and home-based care groups and other organisations of persons living with or affected by HIV;



- (b) ensure the meaningful involvement of persons living with HIV in the design and implementation of HIV-related legislation, programmes and policies at both national and local levels.

Support to community and home-based care givers.

42. The Commission in collaboration with the Ministry of Health and other relevant stakeholders, shall take measures to promote and support community and home-based care, and shall in particular:-

- (a) develop a framework for the regulation and support of community and home-based programmes to ensure the respect of human rights and the provision of quality services;
- (b) ensure the active participation of care providers in the design, development, implementation and review of community and home-based care programmes; and
- (c) promote collaboration, including cross referral services, between traditional health practitioners and conventional healthcare providers in responses to prevention and management of HIV and AIDS .

General penalty.

43. Any person who contravenes the provisions of this Act, where no specific punishment is prescribed, is liable to a fine of not less than two Millions Shillings or imprisonment for a term of not less than two years or both such a fine and imprisonment.

General provisions relating to penalties.

44.-(1) Notwithstanding the provisions of any other written law for the time being in force, a court may, in addition to any penalty imposed on a person convicted under this Act:-

- (a) in the case of an institution, order the revocation of any business permit or license in respect thereof; or
- (b) in the case of a natural person, order the revocation of a licence to practice such person's profession;
- (c) Order compensation to victims.

(2) No provision of this Act shall be construed as relieving any person of the civil liability that the person's wrongful act or omission would attract under any law or as requiring an aggrieved person to forego any claim for damages.

Regulations.

45. The Minister may make Regulations generally for the better carrying out of the provisions of this Act.



Overriding power. **46.** This Act shall override the provisions of any other Act in the prevention and management of HIV to the extent that they contradict the provisions of this Act.

Passed on the Zanzibar House of Representatives on 16th December, 2013.

YAHYAKHAMIS HAMAD
CLERK OF THE HOUSE OF REPRESENTATIVES
OF ZANZIBAR