

THE OFFICIAL GAZETTE 14TH DECEMBER, 2013
LEGAL SUPPLEMENT — B

GUYANA

No. 9 of 2013

REGULATIONS

Made Under

OCCUPATIONAL SAFETY AND HEALTH ACT
(Cap. 99:10)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 75 OF THE
OCCUPATIONAL SAFETY AND HEALTH ACT, I MAKE THE FOLLOWING
REGULATIONS:-

ARRANGEMENT OF REGULATIONS

REGULATION

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- Citation. 1. These Regulations may be cited as the Occupational Safety and Health (HIV and AIDS) Regulations 2013.
- Interpretation. 2. In these Regulations –
- (a) “AIDS” means Acquired Immunodeficiency Syndrome;
 - (b) “HIV” means the Human Immunodeficiency Virus;
 - (c) “National HIV and AIDS Workplace Policy ” means the National HIV and AIDS Workplace Policy developed in 2008 and agreed to in 2009 by the Government, the Private Sector and Union Representatives, and which may be amended from time to time;
 - (d) “testing”, in relation to HIV, includes an analysis of the blood of a person to determine the presence of HIV or antibodies of HIV.
- Workplace policy. 3. Every workplace, at which more than five workers are regularly employed, shall have a written policy on HIV and AIDS that is developed by the employer in consultation with employees and including, where they exist, union representatives, and such policy shall be in consonance with the National HIV and AIDS Workplace Policy.

Education of
employees on HIV
and AIDS.

4.(1) Every employer shall provide for the benefit of every person employed by him, at such place and time during normal working hours, education and information relating to-

- (a) the promotion of safe sex and risk reducing measures in relation to sexually transmitted diseases;
- (b) the acquiring and transmission of HIV;
- (c) the prevention of the spread of HIV and AIDS;
- (d) counselling facilities on HIV and AIDS;
- (e) confidentiality referral to supportive services for employees and their dependants affected by HIV and AIDS; and
- (f) social support services to help employees effectively manage their health needs in HIV and AIDS.

(2) The employer shall appoint persons who –

- (a) have proven, well defined knowledge and expertise in matters relating to HIV and AIDS; and
- (b) are able to communicate information with consistency and accuracy,

to provide the education and information stated under paragraph (1).

(3) The design of the education programmes shall be in accordance with the National HIV and AIDS Workplace Policy.

(4) The provision of education and information shall be done quarterly or at such intervals to be mutually agreed by the employer and the employees.

(5) The employer shall give to each new employee at the time of his employment a basic information kit on HIV and AIDS containing the following documents –

- (a) a copy of the workplace's HIV and AIDS policy;
- (b) a basic facts sheet on the transmission and prevention of HIV;
- (c) a list of referral services for workers and their dependants.

Testing not a precondition to employment.

5. No employer shall require, whether directly or indirectly, any person to undergo any form of testing for HIV as a precondition to the offer of employment.

Testing of employees for HIV and confidentiality.

6. (1) No employer shall require or make it compulsory for any employee to undergo, whether directly or indirectly, any form of testing for HIV.

(2) An employer shall not require or make it compulsory for any employee to disclose any information regarding his HIV status in connection with his employment.

(3) No person shall, except with the knowledge and written consent of the employee to whom the information relates, disclose any information relating to –

- (a) the HIV status; or
- (b) any medical examination,

of any employee acquired by that person in the course of his duties unless the information is acquired to be disclosed in terms of any other law or by order of any court.

Job status and training.

7. (1) An employer shall not terminate the services of any employee on the grounds of that employee's HIV status or perceived HIV status.

(2) No employee shall suffer prejudice, based on his HIV status or perceived HIV status, in relation to –

- (a) promotion;
- (b) transfer;
- (c) any training or other employee development programme subject to any other law to the contrary;
- (d) remuneration and working conditions; and
- (e) any other terms and conditions of employment.

Eligibility for employee benefits.

8. (1) Notwithstanding any other law to the contrary, the HIV status of an employee shall not affect his eligibility for any occupational or other benefit schemes provided for employees.

(2) Where in terms of any law, the eligibility of a person for any occupational or other benefit scheme is conditional upon an HIV test, the conditions attached to HIV and AIDS shall be the same as those applicable in respect to comparable chronic diseases.

(3) Where HIV testing is necessary under paragraph (2), the employer shall ensure that the employee undergoes appropriate, confidential pre and post HIV test counselling.

(4) Where an employee decides not to undergo an HIV test for the purpose of paragraph (2), no inferences concerning the HIV status of the

employee shall be taken from such a refusal as the employee is exercising his option not to take the test.

(5) Where an employee undergoes an HIV test for the purpose of paragraph (2) the employer shall not, unless the employer operates the occupational or other benefit scheme, be entitled to information concerning the HIV status of the employee concerned.

(6) Where the employer operates the occupational or other benefit scheme, the employer shall treat all information on the HIV status of an employee with utmost confidentiality.

Sick and
compassionate
leave.

9. Any employee living with HIV shall be subject to the same conditions relating to sick leave as any other employee with comparable chronic diseases.

HIV risk
management.

10. (1) Where a person is employed in an occupation or is required to provide services where there may be a risk of transmitting or acquiring HIV and other blood-borne infections, the employer shall provide appropriate training together with clear and accurate information and guidelines on minimizing the risks of infection and the spread of HIV and other blood-borne diseases.

(2) The working conditions and procedures, in relation to an occupation referred to in paragraph (1), shall be designed to ensure optimal hygiene precautions and universal infection control procedures to prevent the spread of HIV and other blood-borne diseases to employees and members of the public.

(3) The employer shall provide personal protective equipment, free of cost, along with the necessary user training, to persons employed in an occupation referred to in paragraph (1).

(4) The employer shall cause to be reviewed biannually, for safety and efficacy, use of any equipment, devices and procedures in an occupation referred to in paragraph (1).

Copy of
Regulations for
each employee.

11. An employer shall -

- (a) provide free of cost to each employee, a copy of these Regulations; and
- (b) place copies of these Regulations at strategic points in the workplace.

Offence and
penalty.

12. Any person who contravenes any provision of these Regulations commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

Made this 28 day of November, 2013


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Minister of Labour