

EXTRAORDINARY

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PART-I

GOVERNMENT OF SINDH

LAW DEPARTMENT

NOTIFICATION

Karachi, dated 22nd May, 2013.

No.S.Legis:1(07)/2013. The following Ordinance made by the Governor of Sindh is hereby published for general information:-

THE SINDH HIV AND AIDS CONTROL TREATMENT AND PROTECTION ORDINANCE, 2013.

Sindh Ordinance No. VII of 2013.

**AN
ORDINANCE**

to control the transmission and spread of HIV in the Province of Sindh and to provide measures for the treatment, care and support of the People Living With HIV and AIDS.

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Preamble.

WHEREAS there is an urgent need to control the transmission of HIV and AIDs and to undertake measures for the treatment, care and support of people living with HIV and AIDS, and to provide for matters ancillary thereto;

AND WHEREAS the Provincial Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary to take immediate action.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, 1973, the Governor is pleased to make and promulgate the following Ordinance.

**CHAPTER I
PRELIMINARY**

**Short title,
extent and
commencement.**

1. (1) This Ordinance may be called the Sindh HIV and AIDS Control Treatment and Protection Ordinance, 2013.

(2) It extends to the whole of the Province of Sindh.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context -

(a) "AIDS" means Acquired Immune Deficiency Syndrome and is a condition characterized by a combination of signs and symptoms, caused by HIV, which attacks and weakens the body's immune system making the HIV-positive person susceptible to other life threatening infections or conditions, or as may be defined by the Sindh AIDS Commission from time to time;

(b) "blood bank" includes a private, Government or Armed Forces blood bank maintained for the purpose of receiving, preserving, storing, analyzing and processing blood and blood products registered under the Sindh Transfusion of

Safe Blood Act, 1997;

- (c) "children" or "child" means a person up to the age of eighteen years;
- (d) "Commission" means the Sindh AIDS Commission constituted under section 4;
- (e) "discrimination" includes any act or omission including a policy, law, rule, practice, custom, tradition, usage, condition or situation which directly or indirectly, expressly or by effect, immediately or over a period of time imposes burdens, obligations, liabilities, disabilities or disadvantages on, or denies or withholds benefits, opportunities or advantages, from, or compels or forces the adoption of a particular course of action by any person or category of persons, based solely on a person's HIV status, actual or perceived;
- (f) "Government" means the Government of Sindh;
- (g) "health care facility" or "health care facilities" means any basic health unit, rural health centre, any hospital including a Tehsil, District, or a teaching hospital, and any private medical facility, supervised by a medical practitioner;
- (h) "health workers" means any person providing services as a medical practitioner, homeopath practitioner, nurse, nutritionist, midwife, traditional birth attendant, pharmacist or dispensing chemist, hospital administrator or employee, whether professional or not, paid or not, and any other person providing such services as may be notified by Government in the official Gazette;
- (i) "HIV" means Human Immunodeficiency Virus which causes AIDS in humans, by infecting the cells of the human immune system and destroying their function, resulting in the progressive depletion of the immune system;
- (j) "HIV-positive" means the presence of HIV infection as documented by the presence of

HIV or HIV antibodies in the sample being tested;

- (k) "HIV screening" means a systematic application of a medical procedure or the conducting of surveys and or interviews by addressing questions to a pre-identified population, with the intent to determine the presence or absence of HIV or HIV virus and antibodies, on the basis of the results and or the response to such surveys and or interviews to a defined population, for a broad public health purpose;
- (l) "HIV test" means a medical procedure used to determine the presence or absence of HIV or HIV antibodies in an individual, administered typically for diagnostic or clinical purposes;
- (m) "HIV transmission" refers to the transfer of HIV from an infected person to an uninfected individual, most commonly, but not limited to, through -
 - (i) unprotected sexual contact;
 - (ii) direct blood contact, including injection drug needles, blood transfusion, accidents in health care settings, or certain blood products; and
 - (iii) mother to baby: before or during birth or through mothers milk;
- (n) "HIV and AIDS prevention harm reduction services" means all quality assured, training measures designed to mitigate the risk of HIV infection and other health, social, economic consequences of illicit drug taking and other behaviors, including but not restricted to information and promotion of Voluntary Confidential Counseling and Testing, and referrals for treatment of opportunistic infections and for Anti-Retroviral Therapy; establishment of 'drop in' and mobile outreach centers for the Most at Risk Populations;
- (o) "informed consent" means voluntary and continuing permission of the person,

whether written or oral, or if the person is a minor, his guardian, for assessment or to receive a particular treatment based on an adequate knowledge of the purpose, nature, likely effects, and risks of that treatment, including the likelihood of its success and any alternatives to it and the cost of treatment;

- (p) "involuntary HIV Testing" refers to HIV testing imposed upon a person attended or characterized by the lack of consent, use of physical force, intimidation or any form of compulsion;
- (q) "Most at Risk Populations" means such populations that are considered to be at disproportionately high risk for HIV due to behaviours and practices that heighten their vulnerability to the virus;
- (r) "people livingWith HIV and AIDS" means people living with asymptomatic HIV infection and AIDS confirmed by different diagnostic tests;
- (s) "person" means one or more individuals, partnerships, associations, unincorporated organizations, companies, cooperatives, trustees, agents or any group of persons;
- (t) "prescribed" means prescribed by rules;
- (u) "rules" means rules made under this Ordinance;
- (v) "post-test counseling" refers to the process of providing to the person who took the HIV test, whether result is positive or negative, at the time that the test result is released, risk-reduction information, partner notification and emotional support counseling, referral to relevant Non-governmental organizations and establishments dealing with the issue of HIV, and other social and health safety net mechanisms;
- (w) "pre-test counseling" means the process of providing individual information on the biomedical aspects of HIV and AIDS, assessing and evaluating the persons concerned threshold to

the consequences of being positive; emotional support to any psychological implications of undergoing HIV testing and the test result itself before the person takes the test;

- (x) "Program" means the Sindh AIDS Control Program;
- (y) "safe blood" means human blood or blood product which is healthy and free from HIV, Hepatitis B and C viruses or other viruses or infective agents, like malarial parasites and treponema pallidum (syphilis) and or such other viruses or infective agents as Government may, by notification in the official Gazette, specify;
- (z) "universal precautions" means infection control measures that prevent exposure to or reduce the risk of transmission of pathogenic agents including HIV and includes education, training, personal protective equipment such as gloves, gowns and masks, hand washing, and employing safe work practices, transportation of bio-medical material and disposal of waste; and
- (aa) "voluntary HIV testing" refers to HIV testing done on an individual who, after having undergone pre-test counseling, willingly submits himself to such test.

CHAPTER II ESTABLISHMENT OF SINDH AIDS COMMISSIONS

Implementation and Monitoring.

3. (1) Government shall be responsible for the implementation and enforcement of this Ordinance and shall have the following powers and functions:-

- (a) to promulgate such rules as are necessary or proper for the implementation of this Ordinance and the accomplishment of its purposes and objectives;
- (b) to call for consultations with the interested persons to ensure implementation and compliance with the provisions of this Ordinance and the rules; and

- (c) to exercise such other powers and functions that may be necessary for, incidental or ancillary to, the attainment of any purposes and objectives of this Ordinance, or the rules.

(2) Government may, by notification in the official Gazette, direct that all or any of its powers and functions under this Ordinance may, subject to such limitations, restrictions or conditions, if any, it may from time to time impose, be exercised or performed by the Commission.

4. (1) Government shall within fifteen days from the date of promulgation of this Ordinance, by notification in the official Gazette, establish a Commission for the prevention, control, care, support and treatment of HIV and AIDS in the Province of Sindh.

Sindh AIDS
Commission.

(2) The Commission shall comprise of -

- (a) Working Body, that will be responsible for undertaking and implementing projects HIV and AIDS related projects in the province of Sindh that fulfill the objectives of this Ordinance; and
- (b) a Governing Body that shall meet every six months to evaluate the progress of the - Working Body.

(3) The Working Body of the Commission shall comprise of -

- (a) two persons representing Non-governmental organizations working in the field of HIV and AIDS, one of whom shall be from Injecting Drug Users (IDU) and other from the Most at Risk High Group on basis of integrated behavioral and biological surveillance;
- (b) two medical practitioners working in the field of HIV and AIDS, one from public sector and other from private sector;
- (c) one lawyer with experience in HIV and AIDS;
- (d) one person representing non-governmental organizations working with social issues to be nominated by Government;
- (e) three members of Most at Risk community, one of whom shall be a woman;

- (f) one retired member of the law enforcement agencies or a retired Judge,
- (g) Provincial Program Manager, Sindh AIDS Control Program.

(4) The Governing body of the Commission shall comprise of five (5) eminent members to be nominated by the Government.

(5) A non-official member of the Commission shall hold office for a period of two years from the date of his appointment, and shall be eligible for re-appointment for such duration as Government may determine.

(6) A non-official member may at any time, before the expiry of his term, resign from his office, or be removed from office without assigning any reason.

(7) Any person appointed on a casual vacancy in the office of non-official member shall hold office for the unexpired portion of the term of such vacancy.

(8) The Commission may invite an expert to take part in its meetings as an observer; and may constitute committees, or hire the services of experts, consultants, or employees, for the purposes of detailed study of any specific matter before it.

(9) The members of the Commission shall exercise such powers as may be prescribed.

(10) No act or proceedings of the Commission shall be invalid on the ground of the existence of any vacancy in the Commission.

**Administration of
Sindh AIDS
Commission.**

5. (1) The Commission shall be located within the Health Department, Government of Sindh.

(2) The Chairperson of the Commission and the Secretary of the Commission shall be elected by the Governing Body.

(3) The Commission shall meet as often as considered necessary by the Chairperson but no less than every six months at such time and place as may be intimated by its Secretary.

(4) The majority of the members of the Commission shall constitute a quorum for a meeting.

(5) The decision of the Commission shall be taken by the majority of its members present and, in case of a tie, the member presiding a meeting shall have a casting vote.

(6) All orders, determination and decisions of the Commission shall be taken in writing by the Secretary of the Commission.

(7) The Commission shall establish a fund in such name as the Commission may determine which shall vest in the Commission and to which shall be credited—

- (a) grants made by the Government and the Federal Government and Local Bodies;
- (b) income from investments made by the Commission;
- (c) donations and endowments;
- (d) revolving funds placed by the Government at the disposal of the Commission; and
- (e) all other sums received by the Commission and incomes from other sources.

6. (1) Subject to the provisions of this Ordinance, the Commission shall have the following powers and functions:-

**Powers and
Functions of
Commission.**

- (a) to formulate, institute and implement provincial HIV and AIDS related public awareness programs;
- (b) to formulate and implement HIV and AIDS policy, which shall be reviewed and amended, if necessary, every three years after widespread consultation;
- (c) to make rules providing protocols for counseling, testing, care, support, treatment tailored specifically and separately for all members of Most at Risk Populations, for children, and for women who are vulnerable and at risk for HIV infection;
- (d) to monitor the Sindh AIDS Control Programme and their performance;
- (e) to recommend changes or amendments in the Program designs on the basis of data and results of integrated behavioral and biological surveillance and changing scenario in HIV and AIDS epidemic;

- (f) to recommend for inclusion of reproductive health and HIV and AIDS in the curriculum for higher secondary education;
- (g) to monitor compliance with this Ordinance in the prescribed manner;
- (h) to receive reports of violations or other matters concerning this Ordinance;
- (i) to recommend investigation or initiation of cases against health workers and other sections of the population as prescribed in this Ordinance and the rules;
- (j) to plan for and coordinate the dissemination of informational, educational and communication materials on the topics of HIV and AIDS in a method as may be prescribed, and to plan continuing education courses for health workers, and others including the general public, on topics related to this Ordinance;
- (k) to advise Government on all matters relating to the prevention, control, care, support and treatment of HIV and AIDS, particularly through education campaigns and to organize such campaigns;
- (l) to register NGOs and CBOs providing HIV and AIDS prevention harm reduction services; and
- (m) such other powers and functions that may be deemed necessary, incidental or ancillary to, the attainment of any purposes and objectives of this Ordinance.

(2) In proceedings and inquiries before the Commission, it shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (V of 1908) in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of witnesses and examine them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office; and

