

# GHANA AIDS COMMISSION REGULATIONS, 2020 (L.I. 2403)

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Ghana Aids Commission Regulations, 2020

IN exercise of the power conferred on the Minister responsible for the Commission by section 40 of the Ghana AIDS Commission Act, 2016 (Act 938) and on the advice of the Board, these Regulations are made this 28th day of April, 2020.

## Preliminary

### Regulation 1—Purpose

The purpose of these Regulations is to provide for

- (a) matters relating to committees established by the Board;
- (b) the regulation of test facilities and test kits;
- (c) the regulation of prevention services;
- (d) the regulation of antiretroviral drugs and treatment services;
- (e) matters related to the Fund; and
- (f) the effective implementation of the Act.

### Establishment, Governance and Administration of Committees

#### Regulation 2—Establishment of committees of the Commission

The Board may establish committees in accordance with section 8 of the Act.

#### Regulation 3—Chairperson of a committee of the Commission

- (1) The Board shall select a member of a committee as chairperson of that committee.
- (2) A chairperson shall hold office for a period of four years renewable for another term only.

#### Regulation 4—Tenure of office of members of a committee of the Commission

- (1) A member of a committee other than a person who is a member by virtue of office shall hold office for a term of not more than four years and is eligible for re-appointment for another term only.
- (2) A member of a committee, other than a person who is a member by virtue of office, may at any time resign from office in writing addressed to the chairperson of the committee.
- (3) A member of a committee, other than a person who is a member of the committee by virtue of office, who is absent from three consecutive meetings of the committee without sufficient cause ceases to be a member of the committee.
- (4) The Board may, by letter addressed to a member, revoke the appointment of that member.
- (5) Where a member of a committee is, for a sufficient reason, unable to act as a member, the chairperson of that committee shall determine whether the inability would result in the declaration of a vacancy for the unexpired tenure of office of that member.
- (6) Where there is a vacancy
  - (a) under subregulation (2) or (3), or
  - (b) by reason of the death of a member, the Board shall appoint a person to fill the vacancy.

#### Regulation 5—Meetings of a committee of the Commission

- (1) A committee shall meet at least once every quarter for the despatch of business.
- (2) The chairperson shall convene a meeting of the committee at the time and place determined by the chairperson.
- (3) Despite subregulation (1), the chairperson shall, at the request in writing of the chairperson of the Board, convene a special meeting of the committee within fourteen days from the date of receipt of the request, at the time and place determined by the chairperson.
- (4) The chairperson may co-opt a person to attend a meeting of the committee but that person shall not vote on a matter for decision at the meeting.
- (5) A committee may establish sub-committees or task teams in accordance with the thematic or operational areas of the work of the committee.
- (6) The chairperson shall preside at a meeting of the committee and in the absence of the chairperson, a member of the committee, elected by the members present shall preside.
- (7) Matters before the committee shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote.
- (8) Where a member of a committee is, for a sufficient reason, unable to attend a meeting of the committee, that member shall notify the chairperson of the committee through the secretary to the committee, not less than two days before the date of the meeting.

#### Programmes Committee

#### Regulation 6—Membership of the Programmes Committee

- (1) The Programmes Committee consists of
  - (a) one member of Parliament nominated by the Speaker;
  - (b) the Director-General of the Commission;
  - (c) the Director-General of the Ghana Health Service or a representative of the Ghana Health Service not below the rank of a Director nominated by the Director-General of the Ghana Health Service;
  - (d) the Director for Technical Services of the Commission;
  - (e) the President of the Ghana HIV and AIDS Network or a representative of the Ghana HIV and AIDS Network nominated by the President of the Ghana HIV and AIDS Network;
  - (f) the Programme Manager of the National AIDS and Sexually Transmitted Infections Control Programme, or a representative of the National AIDS and Sexually Transmitted Infections Control Programme nominated by the Programme Manager;
  - (g) the Programme Manager of the National Tuberculosis Control Programme, or a representative of the National Tuberculosis Control Programme nominated by the Programme Manager;

- (h) the President of the Chamber of Pharmacy, Ghana or a representative of the Chamber of Pharmacy, Ghana nominated by the President of the Chamber of Pharmacy Ghana;
  - (i) the Dean of the School of Public Health of a public university or a representative of the School of Public Health of a public university nominated by the Dean of the School;
  - (j) the President of the Society of Private Medical and Dental Practitioners, Ghana, or a representative of the Society of Private Medical and Dental Practitioners, Ghana nominated by the President of the Society of Private Medical and Dental Practitioners, Ghana;
  - (k) two representatives from civil society comprising
    - (i) one person nominated by an HIV-focused civil society network; and
    - (ii) one person nominated by the Business Coalition on Employee Wellbeing; and
    - (l) one representative of the Christian Health Association of Ghana, nominated by the Association.
- (2) The Secretary to the Board is the secretary to the Programmes Committee.
- (3) The quorum at a meeting of the Programmes Committee is seven members of the Committee including the chairperson.

#### Regulation 7—Functions of the Programmes Committee

The Programmes Committee shall

- (a) review and make recommendations to the Board for approval of national policies and priorities in respect of the health and non-health sector responses to HIV and AIDS;
- (b) collaborate with the relevant public sector agency on matters relating to HIV commodity security and make recommendations to the Board;
- (c) review a sub-grant report prepared for the award of a grant to an implementing partner before the sub-grant report is submitted to the Entity Tender Committee by the Directors of the Commission;
- (d) make recommendations to the Board on reports on the status of the implementation of sub-grants, and provide guidance to the Board on the reports for the efficient implementation of projects at the national, regional and district levels of the Commission for approval;
- (e) make recommendations on reports on the operations of the Technical Support Units of the Commission and provide guidance to the Board on the reports for the efficient operation of the Technical Support Units;
- (f) oversee and make recommendations to the Board in respect of the operations of the Technical Working Groups at the Secretariat of the Commission;
- (g) oversee the technical and programme-related aspects of the national response to HIV and AIDS; and
- (h) perform any other functions incidental to the functions of the Committee.

Research, Monitoring and Evaluation Committee

## Regulation 8—Membership of the Research, Monitoring and Evaluation Committee

(1) The Research, Monitoring and Evaluation Committee consists of

(a) the Director-General of the Commission, or a representative of the Commission not below the rank of a Director nominated by the Director-General of the Commission;

(b) the Executive Director of the National Population Council or a representative of the National Population Council not below the rank of a Director nominated by the Executive Director of the National Population Council;

(c) the Government Statistician or a representative of the Statistical Service not below the rank of a Director nominated by the Government Statistician;

(d) the Director of Policy, Planning, Monitoring and Evaluation of the Ghana Health Service or a representative of the Ghana Health Service not below the rank of a Deputy

Director nominated by the Director of Policy, Planning, Monitoring and Evaluation;

(e) the Director of Research and Development of the Ghana Health Service or a representative of the Ghana Health Service not below the rank of a Deputy Director nominated by the Director of Research and Development;

(f) the Director of Monitoring and Evaluation of the National Development Planning Commission or a representative of the National Development Planning Commission, not below the rank of a Deputy Director nominated by the Director of Monitoring and Evaluation;

(g) one representative of civil society organisations nominated by the Board of the Commission in consultation with the civil society organisations;

(h) the Director of the Noguchi Memorial Institute for Medical Research or a representative of the Noguchi Memorial Institute nominated by the Director of the Noguchi Memorial Institute for Medical Research;

(i) the Director for Research, Monitoring and Evaluation of the Commission;

(j) the Dean of the School of Public Health of a public university or a representative of the School of Public Health of a public university, nominated by the Dean of the School;

(k) one representative of the Joint United Nations Team on AIDS nominated by the Joint United Nations Team on AIDS;

(l) one representative of the President's Emergency Plan for AIDS Relief nominated by the President's Emergency Plan for AIDS Relief; and,

(m) one representative of the School of Medical Sciences of a public university nominated by the Dean of the School.

(2) The Secretary to the Board is the secretary to the Research, Monitoring and Evaluation Committee.

(3) The quorum at a meeting of the Research, Monitoring and Evaluation Committee is seven members of the Committee including the chairperson.

## Regulation 9—Functions of the Research, Monitoring and Evaluation Committee

The Research, Monitoring and Evaluation Committee shall

- (a) develop guidelines for the effective implementation of a unified and coherent National HIV and AIDS monitoring and evaluation system;
- (b) establish mechanisms to improve co-ordination and communication among HIV partners and stakeholders; and
- (c) perform any other function incidental to the functions of the Committee.

Legal and Ethics Committee

Regulation 10—Membership of the Legal and Ethics Committee

(1) The Legal and Ethics Committee consists of

- (a) the Minister responsible for Gender, Children and Social Protection or a representative of the Ministry responsible for Gender, Children and Social Protection, not below the rank of a Director nominated by the Minister responsible for Gender, Children and Social Protection;
- (b) the President of the Network of Persons Living with HIV or a representative of the Network of Persons Living with HIV nominated by the President of the Network of Persons Living with HIV;
- (c) the Director for Policy and Planning of the Commission;
- (d) one representative of the Trades Union Congress of Ghana nominated by the Trades Union Congress of Ghana;
- (e) one representative of the Commission on Human Rights and Administrative Justice not below the rank of a Director nominated by the Commissioner for Human Rights and Administrative Justice;
- (f) the HIV Co-ordinator or a representative of the HIV Co-ordinator of the
  - (i) Ghana Police Service nominated by the Inspector- General of Police; and
  - (ii) Ghana Prisons Service nominated by the Director- General of Prisons;
- (g) one representative of the Office of the Attorney-General not below the rank of a Principal State Attorney, nominated by the Attorney-General;
- (h) one private legal practitioner nominated by the Ghana Bar Association;
- (i) the Registrar of the Psychology Council or a representative of the Psychology Council nominated by the Registrar; and
- (j) one representative of a human rights and HIV-focused civil society network nominated by the network.

(2) The Secretary to the Board is the secretary to the Legal and Ethics Committee.

(3) The quorum at a meeting of the Legal and Ethics Committee is five members of the Committee including the chairperson.

Regulation 11—Functions of the Legal and Ethics Committee

The Legal and Ethics Committee shall

- (a) ensure the effective implementation of the provisions of the Act and the National HIV and AIDS Policy which relate to human rights;
- (b) provide technical guidance to address
  - (i) HIV-related stigma and discrimination; and
  - (ii) human rights developments that affect the national response to HIV;
- (c) advise the Board on policies aimed at providing adequate services to persons living with HIV and key populations in the national response to HIV in accordance with the Act;
- (d) collaborate with relevant institutions on matters relating to the protection of the rights of persons living with HIV;
- (e) create public awareness on HIV and AIDS related matters to maintain an enabling environment for the implementation of HIV and AIDS interventions;
- (f) liaise with other Committees of the Board to ensure the effective monitoring of the implementation of HIV and AIDS related policies, guidelines and plans; and
- (g) perform any other function incidental to the functions of the Committee.

Resource Mobilisation Committee

Regulation 12—Membership of the Resource Mobilisation Committee

- (1) The Resource Mobilisation Committee consists of
  - (a) one member of Parliament nominated by the Speaker of Parliament;
  - (b) the Director-General of the Commission;
  - (c) the Director of Finance of the Commission;
  - (d) one representative of the Ministry responsible for Finance not below the rank of a Director, nominated by the Minister responsible for Finance;
  - (e) the President of a Christian Group or a representative of the Christian Group nominated by the President;
  - (f) the President of the Federation of Muslim and Ahmaddiyya Mission or a representative of the Federation of the Muslim and Ahmadiyya Mission nominated by the President;
  - (g) the President of the Ghana Employers Association or a representative of the Ghana Employers Association nominated by the President; and
  - (h) the President of the Association of Ghana Industries or a representative of the Association of Ghana Industries nominated by the President;
  - (i) one representative of the Ghana Chamber of Telecommunications, nominated by the Ghana Chamber of Telecommunications;
  - (j) one representative of the Ghana Chamber of Mines nominated by the Ghana Chamber of Mines; and



(k) one representative of the Ghana Oil and Gas Service Providers Association nominated by the Ghana Oil and Gas Service Providers Association.

(2) The Secretary to the Board is the secretary to the Resource Mobilisation Committee.

(3) The quorum at a meeting of the Resource Mobilisation Committee is five members of the Committee including the chairperson.

#### Regulation 13—Functions of the Resource Mobilisation Committee

The Resource Mobilisation Committee shall

(a) provide reliable mechanisms to sustain long-term financial, technical and material resources with respect to

(i) resource requirements of the Commission; and

(ii) contributions received from donor partners and the Government;

(b) ensure adequate provision of services related to the prevention, treatment, care and support to key and general populations in furtherance of the object of the Commission; and

(c) perform any other functions incidental to the functions of the Committee.

#### National HIV and AIDS Fund Management Committee

#### Regulation 14—Performance of functions of the National HIV and AIDS Fund Management Committee

For the effective performance of the functions of the National HIV and AIDS Fund Management Committee provided for in subsection (3) of section 25 of the Act, the Committee shall

(a) draw, make, accept, endorse, discount, execute or issue a

(i) promissory note;

(ii) bill of exchange;

(iii) bill of lading;

(iv) security; and

(v) any other negotiable or transferable instrument; and

(b) insure against a loss, damage, risk or liability which the Commission may incur in the performance of the functions of the Commission.

#### Regulation 15—Quorum for a meeting of the National HIV and AIDS Fund Management Committee

The quorum at a meeting of the National HIV and AIDS Fund Management Committee is four members of the Committee including the chairperson.

#### Regulation 16—Secretary to the National HIV and AIDS Fund Management Committee

The Secretary to the Board is the secretary to the National HIV and AIDS Fund Management Committee.

#### National HIV and AIDS Fund

##### Regulation 17—Investment of the Fund

(1) The National HIV and AIDS Fund Management Committee shall, on the advice of the Board, invest the moneys of the Fund which are not required for immediate use in Government Treasury Bills for periods not longer than the expected date of utilisation of the amount.

(2) The National HIV and AIDS Fund Management Committee shall ensure that the amount of money invested does not affect the liquidity of the Fund and the discharge of future liabilities when due for payment.

##### Regulation 18—Donation to the Fund

A donation to the Fund by a corporate entity or an individual shall be treated as a charitable donation.

##### Regulation 19—Revenue collection

(1) The National HIV and AIDS Fund Management Committee shall regulate the procedures for collection of revenue for the Fund in accordance with the Public Financial Management Act, 2016 (Act 921).

(2) The Director-General shall recognise

(a) revenue in the form of cash when the cash is duly received by the Commission; and

(b) donations other than cash when the title of ownership in the item is transferred to the Fund and the Commission can measure the cost of the item.

(3) The Director-General shall, in acknowledging receipt of moneys, issue an official receipt or a letter of acknowledgement signed by the chairperson of the National HIV and AIDS Fund Management Committee or any other officer of the Commission authorised for the purpose.

(4) The Director-General shall pay into the bank account for the Fund moneys received on behalf of the Fund on the same day as the day on which the moneys are received and where circumstances render the payment impracticable, the Director-General shall pay the moneys into the account on the next available working day.

(5) The Director-General shall

(a) issue a cash credit voucher endorsed by the Director-General and the Director of Finance of the Commission, in respect of moneys received into the Fund, within two days of receipt of the moneys; and

(b) enter into the HIV and AIDS Funds Cash Book, information relating to the issuance of a cash credit voucher, on the same day on which the cash credit voucher is issued.

(6) The Director of Finance of the Commission shall prepare and submit to the National HIV and AIDS Fund Management Committee for consideration,

- (a) a monthly reconciliation statement in respect of the Fund; and
- (b) a summary monthly return of revenue.

#### Regulation 20—Disbursement of funds

(1) The National HIV and AIDS Fund Management Committee shall regulate the procedures for the disbursement of the Fund in accordance with the Public Financial Management Act, 2016 (Act 921).

(2) The Director of Finance of the Commission shall capture all expenditures in the accounting system of the Commission.

(3) Where goods are received by the Commission, the Director of Administration of the Commission shall, with the assistance of the Stores Officer of the Commission, inspect the goods and validate the quantity, price and quality of the goods to ensure that the goods comply with the agreed specifications.

(4) The Director of Administration of the Commission shall issue to a supplier a stores received advice and attach a copy of the stores received advice to the invoice of the supplier for payment of the cost of the goods.

(5) A supplier shall, in making a request for payment in respect of goods received under subregulation (3), submit the request to the Director-General of the Commission for approval, together with relevant supporting documentation.

(6) Where the Director-General approves the request under subregulation (5), the Director-General shall approve payment in respect of the request.

(7) The Director of Finance shall raise a disbursement voucher in respect of the amount and issue to a supplier, a cheque covering the amount payable.

(8) The Director of Finance of the Commission shall certify a disbursement voucher by signing the voucher.

(9) The Director-General shall review the disbursement voucher and cheque and shall, if satisfied, sign the disbursement voucher and cheque.

(10) A supplier or a service provider shall issue a receipt in the form of a Value Added Tax Invoice for a cheque paid to that supplier or service provider in accordance with this regulation.

(11) Where a payment for supply of goods is made electronically, the Director-General and the Director for Finance shall, in their capacities as signatories to the accounts, issue directives in writing to the bankers of the Fund to effect the electronic transfer.

(12) The Director of Finance of the Commission shall, in accordance with the Public Financial Management Act, 2016 (Act 921), prepare and submit to the National HIV and AIDS Fund Management Committee for review, monthly, quarterly and annual financial reports on the Fund.

(13) The Commission shall, in accordance with the Public Procurement Act, 2003 (Act 663), regulate the procedures for the procurement of

- (a) goods;

- (b) works;
- (c) a consultancy; or
- (d) a service.

## HIV Testing and Prevention

### Regulation 21—General rules for HIV testing and prevention

The Commission shall take steps to generate a demand for HIV testing services through the promotion of the following activities in collaboration with relevant service agencies and implementing partners:

- (a) providing testing services for HIV at
  - (i) the workplace of a person;
  - (ii) an out-patient department;
  - (iii) an admission ward in a health facility;
  - (iv) an accident and emergency department;
  - (v) an antenatal care clinic;
  - (vi) a maternal and child health clinic;
  - (vii) a tuberculosis directly observed treatment short course site;
  - (viii) a sexually-transmitted infection clinic;
  - (ix) an educational institution;
  - (x) a family planning clinic;
  - (xi) a drop-in-centre;
  - (xii) a licensed pharmaceutical outlet;
  - (xiii) a person in a restricted setting;
  - (xiv) a hot spot; and
  - (xv) any other appropriate location;
- (b) providing testing services for HIV at outreach programmes including
  - (i) routine outreach activities;
  - (ii) community HIV testing services;
  - (iii) sports and traditional festivals; and
  - (iv) religious events;
- (c) providing testing services for HIV on special days in designated communities; and
- (d) advocating for self-testing and peer-led HIV testing and counselling programmes.

#### Regulation 22—Consent mandatory for HIV testing

- (1) A person shall not conduct an HIV test on another person without the consent of that person.
- (2) A person who is to be tested for HIV has the right to decline the test.
- (3) A person who conducts an HIV test shall, before the conduct of the test,
  - (a) inform the person who is to be tested of the proposed test; and
  - (b) provide information about the test
    - (i) by informing the person to be tested that there are various treatment and care centres available for a person who tests positive for HIV, and
    - (ii) by advising the person to be tested that should the result of the test be negative for HIV, that person should avoid practices or lifestyles that could lead to the contraction of HIV or sexually transmitted infections.

#### Regulation 23—Age of consent for HIV testing

- (1) A person of the age of sixteen years or above may give consent to be tested for HIV.
- (2) A trained service provider shall assist a person of the age of sixteen years or above who consents to be tested, to know the HIV status of that person.
- (3) A parent, a legal guardian or the next of kin of a person who
  - (a) is below the age of sixteen years; or
  - (b) has a mental incapacitymay give consent for that person to be tested for HIV.
- (4) Despite subregulation (3), where the person is below the age of sixteen years and it is in the best interest of the person, a trained service provider shall assist that person to
  - (a) know the HIV status of that person; and
  - (b) have access to follow-up services available.
- (5) Where the person who is below the age of sixteen years is a student at a residential educational institution, the head of the institution, or a representative of the head of the institution may, if the parents of that person or the next of kin of that person are unavailable, give consent to the test.

#### Regulation 24—Record of consent

Where a person, or a parent or guardian of a person accepts or declines a test for HIV, a health care provider shall record that fact in the medical file of that person.

#### Regulation 25—Consent not required to test a cadaver

These Regulations do not preclude a medical examiner or a medical practitioner from ordering or performing a test to detect HIV on a cadaver when an autopsy is performed or body parts are donated.

#### Regulation 26—HIV testing kit

- (1) A trained and accredited personnel shall provide information and guidance on the use of an HIV testing kit for testing by a person.
- (2) The Commission shall, in collaboration with the Ministry responsible for Health and the National AIDS and Sexually Transmitted Infections Control Programme of the Ghana Health Service, issue guidelines for the sale and use of HIV testing kits in designated locations.

#### Regulation 27—Ante-natal testing of HIV

- (1) A health care provider engaged in the ante-natal care of a female, or who attends to a female at the time of labour or delivery, shall inform the female of the need to conduct an HIV test where the medical records of the female indicate that an HIV test has not been conducted.
- (2) The health care provider shall, before the conduct of the test, ensure that the female is informed of
  - (a) the intent to perform the test;
  - (b) the routine nature of the test;
  - (c) the purpose of the test;
  - (d) the risks and benefits of the test;
  - (e) the risk of perinatal transmission of HIV; and
  - (f) the appropriate treatment and care available which is known to decrease the risk of perinatal transmission of HIV
- (3) The health care service provider shall
  - (a) ensure that the blood is tested by a method that ensures the earliest possible results, and
  - (b) communicate the results of the test to
    - (i) the medical practitioner or any other person engaged in the prenatal care of the female or attending to the female at the time of delivery; and
    - (ii) the female tested.
- (4) After the results of the tests are communicated to the persons specified in subregulation (3), the medical practitioner or any other person attending to the female at the time of labour, delivery or engaged in the post-partum care of the female at the time the results are received, shall ensure that the female receives information and counselling as appropriate in order to explain the results and the implications for the health of the mother and infant including any follow-up testing that is indicated.
- (5) Where the female tests positive for HIV, the health care provider shall ensure that the female is linked to an HIV Treatment Centre.
- (6) A health care provider shall not vary the standard optimal care for a pregnant female who is HIV positive to the disadvantage of that pregnant female due to the HIV status of the pregnant female.

(7) A health care provider shall offer all the necessary care to a pregnant female who is HIV positive to ensure a successful outcome in accordance with the National Guidelines for the Elimination of Mother- To-Child Transmission in the country.

#### Regulation 28—Health care worker and HIV

(1) A person in charge of a health facility shall institute safety and health measures to prevent the exposure of a health care worker to HIV at work including

- (a) universal precautions;
- (b) accident and hazard prevention measures;
- (c) the provision of personal protective equipment and post exposure prophylaxis; and
- (d) the issuance of technical guidelines for infection prevention and control of HIV.

(2) A person in charge of a health facility shall ensure that the HIV Workplace Policy of the health facility contains technical guidelines for infection control and prevention.

(3) A person in charge of a health facility shall disseminate the National HIV Workplace Policy and Guidelines to a health care worker at the facility to ensure compliance.

(4) A health care worker responsible for the treatment or care of an individual who is HIV positive shall follow the Universal Precaution Guidelines issued by the Ministry responsible for Health.

(5) A person in charge of a health facility shall ensure

(a) the availability of information, counselling and care to a health care worker who may have been exposed to HIV through risk behaviour, exposure to contaminated blood or blood products or occupational accidents; and

(b) that infection control training is made an integral part of pre-employment training for all health care workers who may come into contact with blood or body fluids.

(6) A person in charge of a health facility shall ensure that HIV counselling and testing is voluntary and confidential.

(7) A health care worker who fails to use appropriate infection control techniques to protect a patient is liable for professional misconduct subject to the code of conduct of the appropriate institution.

(8) Where a health personnel has counselled a colleague on the failure to use appropriate infection control techniques, and the health personnel is aware that the advice is not being followed by the colleague and patients are put at risk, the health personnel has a duty to inform the head of the institution.

(9) A person in charge of a health facility shall keep the HIV status of a health care worker confidential and in the event that a modification is required, that person shall make reasonable efforts to make arrangements for alternative work, with provision for retraining and redeployment.

#### Antiretroviral Drugs and Treatment of HIV

#### Regulation 29—Procurement and distribution of antiretroviral drugs

- (1) A person who wishes to procure antiretroviral drugs shall procure the drugs in accordance with the Public Procurement Act, 2003 (Act 663) and other relevant procurement laws,
  - (a) from a pre qualified manufacturer only, and
  - (b) through the Ministry responsible for Health and the Ghana Health Service.
- (2) The antiretroviral drug shall be
  - (a) on the list of drugs recommended in the guidelines for antiretroviral treatment issued by the Ministry responsible for Health and the Ghana Health Service; and
  - (b) imported only after the antiretroviral drug has been registered and certified by the Food and Drugs Authority.
- (3) A person who clears and distributes antiretroviral drugs to an end-user shall do so
  - (a) within the Ministry responsible for Health and the procurement, supply and management mechanism of the Ghana Health Service; and
  - (b) in accordance with the National Logistics Management Information System.
- (4) A person who procures antiretroviral drugs in accordance with this regulation shall not sell the antiretroviral drugs.
- (5) A person who contravenes subregulation (4) commits an offence and is liable on summary conviction to a fine not less than five hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not less than twelve months and not more than twenty-four months or to both.

#### Regulation 30—Administration of antiretroviral drugs

A person shall only administer antiretroviral drugs which are recommended by the Antiretroviral Therapy Delivery Guidelines developed by the Ministry responsible for Health and the Ghana Health Service.

#### Regulation 31—Treatment for HIV

- (1) Only a public or private health facility accredited by the Health Facility Regulatory Authority and the National AIDS and Sexually Transmitted Infection Control Programme of the Ghana Health Service and in good standing shall provide treatment for HIV in the country.
- (2) The treatment shall be through community channels approved by the Ministry responsible for Health and the Ghana Health Service.
- (3) A health facility specified under subregulation (1) shall be guided in the treatment of HIV by
  - (a) the current National Standard Treatment Guidelines and protocols in accordance with World Health Organisation recommendations, and
  - (b) international best practice.



(4) A health facility specified under subregulation (1) shall offer antiretroviral therapy and related services free of charge to a person living with HIV who has registered with the National Health Insurance Scheme.

#### Anti-Stigma, Anti-Discrimination and Workplace Rights

##### Regulation 32—Disclosure of HIV status to partner

(1) A health care provider may inform the partner of a person under the direct care of the health care provider of the HIV status of that person only if the following conditions are met:

(a) the health care provider reasonably believes in good faith that the partner is at significant risk of transmission of HIV from the person;

(b) the person living with HIV has been counselled to inform the partner;

(c) the health care provider is satisfied that the person living with HIV does not intend to inform the partner;

(d) the health care provider has informed the person living with HIV of the intention to disclose the HIV positive status of that person to the partner; and

(e) the disclosure to the partner is made in person and with appropriate counselling or referral for counselling

(2) Subregulation (1) shall not apply where the health care provider reasonably believes that the disclosure of the information may result in

(a) violence;

(b) abandonment; or

(c) an action that may have a severe negative effect on the physical or mental health and safety of the

(i) person living with HIV,

(ii) children of a person living with HIV, or

(iii) someone who is close to the person living with HIV.

##### Regulation 33—Protection of confidential data

Subject to the Right to Information Act, 2019 (Act 989), the Data Protection Act, 2012 (Act 843) and any other relevant law, data on HIV and AIDS cases reported to a public institution or a private entity for any purpose are confidential data.

##### Regulation 34—Reasonable accommodation for employee

(1) In furtherance of section 32 of the Act and in accordance with the Labour Act, 2003 (Act 651), an employer shall, in consultation with employees and representatives of the employees of the employer, take measures to reasonably accommodate an employee with an AIDS-related illness including

(a) the rearrangement of working time;

- (b) the provision of special equipment for the employee;
- (c) opportunities for rest breaks;
- (d) time off for a medical appointment;
- (e) flexible sick leave;
- (f) part-time work; and
- (g) return-to-work arrangements.

(2) An employer shall be guided by the National Workplace Policy on HIV and AIDS in the negotiation of terms and conditions of employment with regard to, HIV and AIDS matters with employees and the representatives of the employees.

(3) An employer shall be guided by the provisions of national policies on HIV and AIDS in the preparation of workplace policies and manuals.

#### Miscellaneous

#### Regulation 35—Interpretation

In these Regulations, unless the context otherwise requires,

“antenatal period” means the period from the onset of pregnancy, through labour to the period immediately before the commencement of the postnatal period;

“cash credit voucher” means a standard form used to record cash payments;

“disbursement voucher” means a standard form used to record cash withdrawals;

“drop-in centre” means a safe place that

- (a) provides key populations with access to information, education, resources and services in the prevention of HIV and sexually transmitted infections;
- (b) offers compassionate support services for persons affected by HIV; and
- (c) supports community building activities in a confidential environment;

“Food and Drugs Authority” means the Authority established under section 80 of the Public Health Act, 2012 (Act 851);

“Ghana Health Service” means the Service established under the Ghana Health Service and Teaching Hospitals Act, 1996 (Act 525);

“HIV commodity security” means the provision of essential HIV commodities to clients at a time and place in the right quantity, formulation, cost and quality;

“HIV and AIDS Funds Cash Book” means a book which is used to record cash receipts and cash withdrawals related to the HIV and AIDS Fund;

“hot spot” means a geographical area or location with evidence of a high prevalence of HIV, sexually transmitted infections or behaviours that put people at risk of being infected with HIV;

“key populations” means groups of persons who due to specific higher risk behaviours are at an increased risk of HIV and sexually transmitted infections;

“Medical and Dental Council” means the Council established under section 25 of the Health Professions Regulatory Bodies Act, 2013 (Act 857);

“medical examiner” means a person certified and trained to perform a medical examination on a client;

“medical practitioner” means a person who is licensed to practice medicine under the Health Professions Regulatory Bodies Act, 2013 (Act 857);

“monthly reconciliation statement” means the process of comparing internal financial records against an external source such as a bank, a credit card company or other financial institution;

“National AIDS and Sexually Transmitted Infections Control Programme” means a programme under the Disease Control and Prevention Department of the Public Health Division of the Ghana Health Service responsible for the

(a) delivery of package services for the prevention of new HIV and sexually transmitted infections;

(b) delivery of comprehensive treatment, care and support services;

(c) provision of technical assistance to Ministries, Departments and Agencies and all stakeholders in the national HIV and AIDS response; and

(d) generation of strategic information to guide the national HIV and AIDS response;

“National Logistics Management Information System” means a reporting system for the procurement and supply chain management of commodities in the health sector;

“National Workplace Policy on HIV and AIDS” means guidelines that stipulate the framework for the provision of HIV and AIDS services within the work environment;

“return-to-work arrangement” means a flexible arrangement in which an employee who has been off duty for a long time due to illness is gradually introduced to the normal work schedule of the employee; and

“stores received advice” means a document which is produced after inspecting delivery of proof of order received.

**HONOURABLE CECILIA ABENA DAPAAH**

**Minister responsible for the Commission**

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