



## **International Labour Conference**

**Presentation of the Recommendation on HIV and AIDS (Recommendation, 2010 (No. 200)) adopted at the 99<sup>th</sup> Session of the International Labour Conference (2010)**

**Presented to Parliament by the Secretary of State for Work and Pensions by Command of Her Majesty**

**October 2011**

**Cm 8206**



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This publication is available for download at [www.official-documents.gov.uk](http://www.official-documents.gov.uk).

ISBN: 9780101820622

Printed in the UK by The Stationery Office Limited on behalf of the Controller of Her Majesty's Stationery Office

ID 2459171 10/11 15469 19585

Printed on paper containing 75% recycled fibre content minimum.

## **Recommendation 200**

### **Recommendation Concerning HIV and AIDS and the World of Work**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 99th Session on 2 June 2010, and

Noting that HIV and AIDS have a serious impact on society and economies, on the world of work in both the formal and informal sectors, on workers, their families and dependants, on the employers' and workers' organizations and on public and private enterprises, and undermine the attainment of decent work and sustainable development, and

Reaffirming the importance of the International Labour Organization's role in addressing HIV and AIDS in the world of work and the need for the Organization to strengthen its efforts to achieve social justice and to combat discrimination and stigmatization with regard to HIV and AIDS in all aspects of its work and mandate, and

Recalling the importance of reducing the informal economy by attaining decent work and sustainable development in order to better mobilize the world of work in the response to HIV and AIDS, and

Noting that high levels of social and economic inequality, lack of information and awareness, lack of confidentiality and insufficient access to and adherence to treatment, increase the risk of HIV transmission, mortality levels, the number of children who have lost one or both parents and the number of workers engaged in informal work, and

Considering that poverty, social and economic inequality and unemployment increase the risk of lack of access to prevention, treatment, care and support, therefore increasing the risk of transmission, and

Noting that stigma, discrimination and the threat of job loss suffered by persons affected by HIV or AIDS are barriers to knowing one's HIV status, thus increasing the vulnerability of workers to HIV and undermining their right to social benefits, and

Noting that HIV and AIDS have a more severe impact on vulnerable and at-risk groups, and

Noting that HIV affects both men and women, although women and girls are at greater risk and more vulnerable to HIV infection and are disproportionately affected by the HIV pandemic compared to men as a result of gender inequality, and that women's empowerment is therefore a key factor in the global response to HIV and AIDS, and

Recalling the importance of safeguarding workers through comprehensive occupational safety and health programmes, and

Recalling the value of the ILO code of practice *An ILO code of practice on HIV/AIDS and the world of work*, 2001, and the need to strengthen its impact given that there are limits and gaps in its implementation, and

Noting the need to promote and implement the international labour Conventions and Recommendations and other international instruments that are relevant to HIV and AIDS and the world of work, including those that recognize the right to the highest attainable standard of health and to decent living standards, and

Recalling the specific role of employers' and workers' organizations in promoting and supporting national and international efforts in response to HIV and AIDS in and through the world of work, and

Noting the important role of the workplace as regards information about and access to prevention, treatment, care and support in the national response to HIV and AIDS, and

Affirming the need to continue and increase international cooperation, in particular in the context of the Joint United Nations Programme on HIV/AIDS, to support efforts to give effect to this Recommendation, and

Recalling the value of collaboration at the national, regional and international levels with the structures dealing with HIV and AIDS, including the health sector and with relevant organizations, especially those representing persons living with HIV, and

Affirming the need to set an international standard in order to guide governments and organizations of employers and workers in defining their roles and responsibilities at all levels, and

Having decided upon the adoption of certain proposals with regard to HIV and AIDS and the world of work, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this seventeenth day of June of the year two thousand and ten the following Recommendation, which may be cited as the HIV and AIDS Recommendation, 2010.

## **I. Definitions**

1. For the purposes of this Recommendation:

- a) "HIV" refers to the human immunodeficiency virus, a virus that damages the human immune system. Infection can be prevented by appropriate measures;

- b) “AIDS” refers to the acquired immunodeficiency syndrome which results from advanced stages of HIV infection, and is characterized by opportunistic infections or HIV-related cancers, or both;
- c) “persons living with HIV” means persons infected with HIV;
- d) “stigma” means the social mark that, when associated with a person, usually causes marginalization or presents an obstacle to the full enjoyment of social life by the person infected or affected by HIV;
- e) “discrimination” means any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, as referred to in the Discrimination (Employment and Occupation) Convention, 1958, and Recommendation, 1958;
- f) “affected persons” means persons whose lives are changed by HIV or AIDS owing to the broader impact of the pandemic;
- g) “reasonable accommodation” means any modification or adjustment to a job or to the workplace that is reasonably practicable and enables a person living with HIV or AIDS to have access to, or participate or advance in, employment;
- h) “vulnerability” means the unequal opportunities, social exclusion, unemployment or precarious employment, resulting from the social, cultural, political and economic factors that make a person more susceptible to HIV infection and to developing AIDS;
- i) “workplace” refers to any place in which workers perform their activity; and
- j) “worker” refers to any persons working under any form or arrangement.

## **II. Scope**

- 2. This Recommendation covers:
  - a) all workers working under all forms or arrangements, and at all workplaces, including:
    - (i) persons in any employment or occupation;
    - (ii) those in training, including interns and apprentices;
    - (iii) volunteers;
    - (iv) jobseekers and job applicants; and
    - (v) laid-off and suspended workers;
  - b) all sectors of economic activity, including the private and public sectors and the formal and informal economies; and
  - c) armed forces and uniformed services.

## **III. General principles**

- 3. The following general principles should apply to all action involved in the national response to HIV and AIDS in the world of work:
  - a) the response to HIV and AIDS should be recognized as contributing to the realization of human rights and fundamental freedoms and gender equality for all, including workers, their families and their dependants;
  - b) HIV and AIDS should be recognized and treated as a workplace issue, which should be included among the essential elements of the national, regional and

- international response to the pandemic with full participation of organizations of employers and workers;
- c) there should be no discrimination against or stigmatization of workers, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection;
  - d) prevention of all means of HIV transmission should be a fundamental priority;
  - e) workers, their families and their dependants should have access to and benefit from prevention, treatment, care and support in relation to HIV and AIDS, and the workplace should play a role in facilitating access to these services;
  - f) workers' participation and engagement in the design, implementation and evaluation of national and workplace programmes should be recognized and reinforced;
  - g) workers should benefit from programmes to prevent specific risks of occupational transmission of HIV and related transmissible diseases, such as tuberculosis;
  - h) workers, their families and their dependants should enjoy protection of their privacy, including confidentiality related to HIV and AIDS, in particular with regard to their own HIV status;
  - i) no workers should be required to undertake an HIV test or disclose their HIV status;
  - j) measures to address HIV and AIDS in the world of work should be part of national development policies and programmes, including those related to labour, education, social protection and health; and
  - k) the protection of workers in occupations that are particularly exposed to the risk of HIV transmission.

#### **IV. National policies and programmes**

4. Members should:
  - a) adopt national policies and programmes on HIV and AIDS and the world of work and on occupational safety and health, where they do not already exist; and
  - b) integrate their policies and programmes on HIV and AIDS and the world of work in development plans and poverty reduction strategies, including decent work, sustainable enterprises and income-generating strategies, as appropriate.
5. In developing the national policies and programmes, the competent authorities should take into account the ILO code of practice on HIV/AIDS of 2001, and any subsequent revision, other relevant International Labour Organization instruments, and other international guidelines adopted on this subject.
6. The national policies and programmes should be developed by the competent authorities, in consultation with the most representative organizations of employers and workers, as well as organizations representing persons living with HIV, taking into account the views of relevant sectors, especially the health sector.

7. In developing the national policies and programmes, the competent authorities should take into account the role of the workplace in prevention, treatment, care and support, including the promotion of voluntary counselling and testing, in collaboration with local communities.

8. Members should take every opportunity to disseminate information about their policies and programmes on HIV and AIDS and the world of work through organizations of employers and workers, other relevant HIV and AIDS entities, and public information channels.

### Discrimination and promotion of equality of opportunity and treatment

9. Governments, in consultation with the most representative organizations of employers and workers should consider affording protection equal to that available under the Discrimination (Employment and Occupation) Convention, 1958, to prevent discrimination based on real or perceived HIV status.

10. Real or perceived HIV status should not be a ground of discrimination preventing the recruitment or continued employment, or the pursuit of equal opportunities consistent with the provisions of the Discrimination (Employment and Occupation) Convention, 1958.

11. Real or perceived HIV status should not be a cause for termination of employment. Temporary absence from work because of illness or caregiving duties related to HIV or AIDS should be treated in the same way as absences for other health reasons, taking into account the Termination of Employment Convention, 1982.

12. When existing measures against discrimination in the workplace are inadequate for effective protection against discrimination in relation to HIV and AIDS, Members should adapt these measures or put new ones in place, and provide for their effective and transparent implementation.

13. Persons with HIV-related illness should not be denied the possibility of continuing to carry out their work, with reasonable accommodation if necessary, for as long as they are medically fit to do so. Measures to redeploy such persons to work reasonably adapted to their abilities, to find other work through training or to facilitate their return to work should be encouraged, taking into consideration the relevant International Labour Organization and United Nations instruments.

14. Measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by:

- a) ensuring respect for human rights and fundamental freedoms;
- b) ensuring gender equality and the empowerment of women;
- c) ensuring actions to prevent and prohibit violence and harassment in the workplace;
- d) promoting the active participation of both women and men in the response to HIV and AIDS;



- e) promoting the involvement and empowerment of all workers regardless of their sexual orientation and whether or not they belong to a vulnerable group;
- f) promoting the protection of sexual and reproductive health and sexual and reproductive rights of women and men; and
- g) ensuring the effective confidentiality of personal data, including medical data.

## Prevention

15. Prevention strategies should be adapted to national conditions and the type of workplace, and should take into account gender, cultural, social and economic concerns.
16. Prevention programmes should ensure:
- a) that accurate, up to date, relevant and timely information is made available and accessible to all in a culturally sensitive format and language through the different channels of communication available;
  - b) comprehensive education programmes to help women and men understand and reduce the risk of all modes of HIV transmission, including mother-to-child transmission, and understand the importance of changing risk behaviours related to infection;
  - c) effective occupational safety and health measures;
  - d) measures to encourage workers to know their own HIV status through voluntary counselling and testing;
  - e) access to all means of prevention, including but not limited to guaranteeing the availability of necessary supplies, in particular male and female condoms and, where appropriate, information about their correct use, and the availability of post-exposure prophylaxis;
  - f) effective measures to reduce high-risk behaviours, including for the most at-risk groups, with a view to decreasing the incidence of HIV; and
  - g) harm reduction strategies based on guidelines published by the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the United Nations Office on Drugs and Crime (UNODC) and other relevant guidelines.

## Treatment and care

17. Members should ensure that their national policies and programmes on workplace health interventions are determined in consultation with employers and workers and their representatives and are linked to public health services. They should offer the broadest range of appropriate and effective interventions to prevent HIV and AIDS and manage their impact.

18. Members should ensure that workers living with HIV and their dependants benefit from full access to health care, whether this is provided under public health, social security systems or private insurance or other schemes. Members should also ensure the education and awareness raising of workers to facilitate their access to health care.

19. All persons covered by this Recommendation, including workers living with HIV and their families and their dependants, should be entitled to health services.

These services should include access to free or affordable:

- a) voluntary counselling and testing;
- b) antiretroviral treatment and adherence education, information and support;
- c) proper nutrition consistent with treatment;
- d) treatment for opportunistic infections and sexually transmitted infections, and any other HIV-related illnesses, in particular tuberculosis; and
- e) support and prevention programmes for persons living with HIV, including psychosocial support.

20. There should be no discrimination against workers or their dependants based on real or perceived HIV status in access to social security systems and occupational insurance schemes, or in relation to benefits under such schemes, including for health care and disability, and death and survivors benefits.

### Support

21. Programmes of care and support should include measures of reasonable accommodation in the workplace for persons living with HIV or HIV-related illnesses, with due regard to national conditions. Work should be organized in such a way as to accommodate the episodic nature of HIV and AIDS, as well as possible side effects of treatment.

22. Members should promote the retention in work and recruitment of persons living with HIV. Members should consider extending support through periods of employment and unemployment, including where necessary income-generating opportunities for persons living with HIV or persons affected by HIV or AIDS.

23. Where a direct link can be established between an occupation and the risk of infection, AIDS and infection by HIV should be recognized as an occupational disease or accident, in accordance with national procedures and definitions, and with reference to the List of Occupational Diseases Recommendation, 2002, as well as other relevant International Labour Organization instruments.

### Testing, privacy and confidentiality

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

25. HIV testing or other forms of screening for HIV should not be required of workers, including migrant workers, jobseekers and job applicants.

26. The results of HIV testing should be confidential and not endanger access to jobs, tenure, job security or opportunities for advancement.

27. Workers, including migrant workers, jobseekers and job applicants, should not be required by countries of origin, of transit or of destination to disclose HIV-related information about themselves or others. Access to such information should be

governed by rules of confidentiality consistent with the ILO code of practice on the protection of workers' personal data, 1997, and other relevant international data protection standards.

28. Migrant workers, or those seeking to migrate for employment, should not be excluded from migration by the countries of origin, of transit or of destination on the basis of their real or perceived HIV status.

29. Members should have in place easily accessible dispute resolution procedures which ensure redress for workers if their rights set out above are violated.

### Occupational safety and health

30. The working environment should be safe and healthy, in order to prevent transmission of HIV in the workplace, taking into account the Occupational Safety and Health Convention, 1981, and Recommendation, 1981, the Promotional Framework for Occupational Safety and Health Convention, 2006, and Recommendation, 2006, and other relevant international instruments, such as joint International Labour Office and WHO guidance documents.

31. Safety and health measures to prevent workers' exposure to HIV at work should include universal precautions, accident and hazard prevention measures, such as organizational measures, engineering and work practice controls, personal protective equipment, as appropriate, environmental control measures and post-exposure prophylaxis and other safety measures to minimize the risk of contracting HIV and tuberculosis, especially in occupations most at risk, including in the health-care sector.

32. When there is a possibility of exposure to HIV at work, workers should receive education and training on modes of transmission and measures to prevent exposure and infection. Members should take measures to ensure that prevention, safety and health are provided for in accordance with relevant standards.

33. Awareness-raising measures should emphasize that HIV is not transmitted by casual physical contact and that the presence of a person living with HIV should not be considered a workplace hazard.

34. Occupational health services and workplace mechanisms related to occupational safety and health should address HIV and AIDS, taking into account the Occupational Health Services Convention, 1985, and Recommendation, 1985, the *Joint ILO/WHO guidelines on health services and HIV/AIDS*, 2005, and any subsequent revision, and other relevant international instruments.

### Children and young persons

35. Members should take measures to combat child labour and child trafficking that may result from the death or illness of family members or caregivers due to AIDS and to reduce the vulnerability of children to HIV, taking into account the ILO Declaration on Fundamental Principles and Rights at Work, 1998, the Minimum Age Convention, 1973, and Recommendation, 1973, and the Worst Forms of Child

Labour Convention, 1999, and Recommendation, 1999. Special measures should be taken to protect these children from sexual abuse and sexual exploitation.

36. Members should take measures to protect young workers against HIV infection, and to include the special needs of children and young persons in the response to HIV and AIDS in national policies and programmes. These should include objective sexual and reproductive health education, in particular the dissemination of information on HIV and AIDS through vocational training and in youth employment programmes and services.

## **V. Implementation**

37. National policies and programmes on HIV and AIDS and the world of work should:

- a) be given effect, in consultation with the most representative organizations of employers and workers and other parties concerned, including relevant public and private occupational health structures, by one or a combination of the following means:
  - (i) national laws and regulations;
  - (ii) collective agreements;
  - (iii) national and workplace policies and programmes of action; and
  - (iv) sectoral strategies, with particular attention to sectors in which persons covered by this Recommendation are most at risk;
- b) involve the judicial authorities competent in labour issues, and labour administration authorities in the planning and implementation of the policies and programmes, and training in this regard should be provided to them;
- c) provide for measures in national laws and regulations to address breaches of privacy and confidentiality and other protection afforded under this Recommendation;
- d) ensure collaboration and coordination among the public authorities and public and private services concerned, including insurance and benefit programmes or other types of programmes;
- e) promote and support all enterprises to implement the national policies and programmes, including through their supply chains and distribution networks, with the participation of organizations of employers and workers and ensure that enterprises operating in the export processing zones comply;
- f) promote social dialogue, including consultation and negotiation, consistent with the Tripartite Consultation (International Labour Standards) Convention, 1976, and other forms of cooperation among government authorities, public and private employers and workers and their representatives, taking into account the views of occupational health personnel, specialists in HIV and AIDS, and other parties including organizations representing persons living with HIV, international organizations, relevant civil society organizations and country coordinating mechanisms;
- g) be formulated, implemented, regularly reviewed and updated, taking into consideration the most recent scientific and social developments and the need to mainstream gender and cultural concerns;

- h) be coordinated with, among others, labour, social security and health policies and programmes; and
- i) ensure that Members make reasonable provision for the means of their implementation, with due regard to national conditions, as well as to the capacity of employers and workers.

### Social dialogue

38. Implementation of policies and programmes on HIV and AIDS should be based on cooperation and trust among employers and workers and their representatives, and governments, with the active involvement, at their workplace, of persons living with HIV.

39. Organizations of employers and workers should promote awareness of HIV and AIDS, including prevention and non-discrimination, through the provision of education and information to their members. These should be sensitive to gender and cultural concerns.

### Education, training, information and consultation

40. Training, safety instructions and any necessary guidance in the workplace related to HIV and AIDS should be provided in a clear and accessible form for all workers and, in particular, for migrant workers, newly engaged or inexperienced workers, young workers and persons in training, including interns and apprentices. Training, instructions and guidance should be sensitive to gender and cultural concerns and adapted to the characteristics of the workforce, taking into account the risk factors for the workforce.

41. Up to date scientific and socio-economic information and, where appropriate, education and training on HIV and AIDS should be available to employers, managers and workers' representatives, in order to assist them in taking appropriate measures in the workplace.

42. Workers, including interns, trainees and volunteers should receive awareness-raising information and appropriate training in HIV infection control procedures in the context of workplace accidents and first aid. Workers whose occupations put them at risk of exposure to human blood, blood products and other body fluids should receive additional training in exposure prevention, exposure registration procedures and post-exposure prophylaxis.

43. Workers and their representatives should have the right to be informed and consulted on measures taken to implement workplace policies and programmes related to HIV and AIDS. Workers' and employers' representatives should participate in workplace inspections in accordance with national practice.

### Public services

44. The role of the labour administration services, including the labour inspectorate, and of the judicial authorities competent in labour issues, in the response to HIV and AIDS, should be reviewed and, if necessary, strengthened.

45. Public health systems should be strengthened and follow the Joint ILO/WHO guidelines on health services and HIV/AIDS, 2005, and any subsequent revision, to help ensure greater access to prevention, treatment, care and support, and reduce the additional strain on public services, particularly on health workers, caused by HIV and AIDS.

### International cooperation

46. Members should cooperate, through bilateral or multilateral agreements, through their participation in the multilateral system or through other effective means, in order to give effect to this Recommendation.

47. Measures to ensure access to HIV prevention, treatment, care and support services for migrant workers should be taken by countries of origin, of transit and of destination, and agreements should be concluded among the countries concerned, whenever appropriate.

48. International cooperation should be encouraged between and among Members, their national structures on HIV and AIDS and relevant international organizations and should include the systematic exchange of information on all measures taken to respond to the HIV pandemic.

49. Members and multilateral organizations should give particular attention to coordination and to the necessary resources to satisfy the needs of all countries, especially high prevalence countries, in the development of international strategies and programmes for prevention, treatment, care and support related to HIV.

50. Members and international organizations should seek to reduce the price of supplies of any type, for the prevention, treatment and care of infection caused by HIV and other opportunistic infections and HIV-related cancers.

### VI. Follow-up

51. Members should establish an appropriate mechanism or make use of an existing one, for monitoring developments in relation to their national policy on HIV and AIDS and the world of work, as well as for formulating advice on its adoption and implementation.

52. The most representative organizations of employers and workers should be represented, on an equal footing, in the mechanism for monitoring developments in relation to the national policy. In addition, these organizations should be consulted under the mechanism as often as necessary, taking into consideration the views of organizations of persons living with HIV, expert reports or technical studies.

53. Members should, to the extent possible, collect detailed information and statistical data and undertake research on developments at the national and sectoral levels in relation to HIV and AIDS in the world of work, taking into account the distribution of women and men and other relevant factors.

54. In addition to the reporting under article 19 of the Constitution of the International Labour Organization, a regular review of action taken on the basis of this Recommendation could be included in national reports to UNAIDS and reports under relevant international instruments.



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